

takings implications under this Executive Order.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the proposed rule is not a significant regulatory action. As such, the proposed rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author

The principal author of this rule is Frank Burno, Bureau of Land Management, Regulatory Affairs Group, Room 401LS, 1849 C. Street, N.W., Washington, D.C. 20240; Telephone: 202-452-0352 (Commercial or FTS).

List of Subjects in 43 CFR Part 4200

Administrative practice and procedure, Alaska, Grazing lands, Livestock, Range management.

Dated: February 18, 1998.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

For the reasons set forth above, and under the authority of 43 U.S.C. 316n, BLM proposes to revise part 4200, Group 4200, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations to read as follows:

PART 4200—GRAZING ADMINISTRATION; ALASKA; LIVESTOCK

Authority: 43 U.S.C. 316, 316a–316o; 43 U.S.C. 1701 *et seq.*

§ 4200.1 The Bureau of Land Management (BLM) is authorized under the Alaska Livestock Grazing Act (The Act of March 4, 1927, 43 U.S.C. 316, 316a–316o) to lease the grazing privileges on the grazing districts established in Alaska to qualified applicants. BLM previously had regulations governing this program [See Code of Federal Regulations (CFR), 43 CFR Parts 1000 to End, revised as of October 1, 1997]. Due to a lack of interest in the program, BLM removed these regulations. For applicants wishing to apply for permits to graze livestock other than reindeer, BLM may issue special use permits.

[FR Doc. 98-7328 Filed 3-19-98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MM Docket 97-182; DA No. 98-458]

Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Transmission Facilities

AGENCY: Federal Communications Commission.

ACTION: Supplemental proposed rule.

SUMMARY: The Commission has received a petition from the National Audubon Society ("Audubon") requesting the preparation of an Environmental Impact Statement pursuant to the National Environmental Policy Act, in connection with the Commission's *Notice of Proposed Rule Making* in the Matter of Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Transmission Facilities. By this Public Notice, interested parties are invited to file comments as to whether the rule proposed would have a significant environmental impact and what that impact would be.

DATES: Comments must be filed on or before April 14, 1998, Reply Comments must be filed on or before April 29, 1998.

ADDRESSES: All comments should be addressed to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Amy Nathan or Susanna Zwerling, Policy and Rules Division, Mass Media Bureau (202) 418-2130.

SUPPLEMENTARY INFORMATION: This is a summary of the Mass Media Bureau's Public Notice. Also included in this notice is the Initial Regulatory Flexibility Analysis for the NPRM. The full text of this Notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street N.W., Washington, D.C. The complete text of this Notice may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of Notice

The Commission has received a petition from Audubon requesting the preparation of an Environmental Impact Statement pursuant to the National Environmental Policy Act ("NEPA"), 42

U.S.C. 4332, in connection with the Commission's *Notice of Proposed Rule Making* In the Matter of Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Transmission Facilities (FCC No. 97-296, MM Docket No. 97-182) ("NPRM"). Pursuant to 47 CFR 1.1307(c), Audubon is entitled to file such petition, and the Mass Media Bureau is required to "review the petition and consider the environmental concerns that have been raised." This Public Notice addresses only the environmental issues raised by Audubon's petition, and represents just one part of the Commission's ongoing proceeding in MM Docket No. 97-182.

The NPRM requested comment on whether and in what circumstances the Commission should preempt certain state and local actions on zoning and land use ordinances which present an obstacle to the rapid implementation of digital television service. The Commission released the NPRM on August 19, 1997 published September 2, 1997 (62 FR 46241), comments were due October 30, 1997, and reply comments were due December 1, 1997.

Audubon filed its petition on December 1, 1997, requesting that the Commission prepare an Environmental Impact Statement ("EIS") and solicit public comment on that EIS. Audubon alleges that the rule proposed by the NPRM constitutes a major federal action affecting the environment, and therefore requiring the preparation of an EIS pursuant to NEPA. In addition, Audubon alleges that the Commission's regulations require an environmental analysis of any action that may affect a listed species or may lead to construction in wetlands. 47 CFR 1.1307(c)

By this Public Notice, we seek comment as to first, whether the proposal contained in the NPRM would have a significant environmental effect such that an EIS should be prepared; and second, what would be the environmental effect of the proposal.

The initiation of this proceeding is not intended to affect in any way the expeditious processing of digital television construction permit applications. This proceeding also will not affect the current requirement that licensees represent that their applications meet the requirements of NEPA. The Mass Media Bureau takes very seriously the responsibilities conferred by NEPA to evaluate the effects of its actions on the quality of the environment. The Bureau continues to review applicants' representations of

compliance with section 1.1307 and with NEPA.

Comments on this Public Notice must be filed on or before April 14, 1998, and reply comments must be filed by April 29, 1998. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. All comments should reference FCC Docket No. 97-296 and MM Docket No. 97-182 and should be addressed to: Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

Initial Regulatory Flexibility Analysis

The **Federal Register** notice for the NPRM, released August 19, 1997, omitted the Initial Regulatory Flexibility Analysis ("IRFA") connected with the NPRM. A synopsis of that IRFA follows.

As required by section 603 of the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 603, the Commission is incorporating an IRFA of the expected impact on small entities of the policies and proposals in the NPRM. Written public comments concerning the effect of the proposals in the NPRM including the IRFA, on small businesses are requested. Comments must be identified as responses to the IRFA and must be filed by the deadlines for the submission of comments in this proceeding. The Office of Public Affairs shall send a copy of the NPRM, including the IRA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

Reasons Why Agency Action is Being Considered

In its *Fifth Report and Order* in its digital television proceeding (MM Docket No. 87-268) the Commission adopted an accelerated roll-out schedule for digital television stations. That schedule requires the top four network affiliates in the top ten television markets to construct their digital television facility and begin emitting signals by May 1, 1999. Affiliates of these four networks in markets 11-30 must be on the air by November 1, 1999. All other commercial stations will have to construct their DTV facilities by May 1, 2002, and noncommercial stations by May 1, 2003. The Commission found this accelerated schedule necessary to promote the success of DTV and allow for spectrum recovery, a goal shared by Congress. In a rule making petition filed by the National Association of Broadcasters and the Association of Maximum Service Television the

Petitioners claim that state and local zoning and land use laws, ordinances, and procedures may have a delaying effect on the siting, placement and construction of new television towers that will be needed for DTV. Additionally, they contend, the antennas of many FM radio stations will need to be displaced from existing towers to enable them to support new DTV antenna arrays and these FM stations will have to build new towers to enable them to continue to serve the public. Accordingly, they ask the Commission to adopt a rule preempting state and local laws, ordinances and procedures that could work to delay the inauguration of DTV service. The Commission believes the prompt deployment of DTV is essential to several goals, and that compliance with such local requirements may, at least in some cases, both make compliance with both these procedures and the roll-out schedule impossible. Additionally, it believes that some of these state and local regulations may stand as obstacles to the accomplishment of the rapid transition to DTV service and the spectrum recovery that it will permit. This recovery is also an important congressional purpose as evidenced by its 1996 adoption of 47 U.S.C. 336.

Need for and Objectives of the Proposed Rule Changes

Petitioners have demonstrated that at least some state and local zoning and land use laws, ordinances and procedures may, unless preempted by the Commission, prevent television broadcasters from meeting the construction schedule for DTV stations established by the Commission, retarding the recovery of frequency spectrum by the government for reallocation and delaying digital service to the public. Additionally, in some cases they may result in discontinuation of FM radio service to the public should displaced FM antennas be unable to relocate to new antenna towers.

Legal Basis

Authority for the actions proposed in this NPRM may be found in sections 4(i), 303(r), and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 336. Recording, Recordkeeping, and Other Compliance Requirements The Commission is not proposing any new or modified recordkeeping or information collection requirements in this proceeding. Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules: The initiatives and proposed rules raised in this proceeding do not overlap, duplicate or conflict

with any other rules. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply: Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. The RFA generally defines the term small business as having the same meaning as the term small business concern under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." The proposed rules and policies will apply to television broadcasting licensees, radio broadcasting licensees and potential licensees of either service. The Small Business Administration defines a television broadcasting station that has no more than \$10.5 million in annual receipts as a small business. Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number. There were 1,509 television stations operating in the nation in 1992. That number has remained fairly constant as indicated by the approximately 1,558 operating television broadcasting stations in the nation as of May 31, 1997. For 1992 the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.

Additionally, the Small Business Administration defines a radio broadcasting station that has no more than \$5 million in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs

by radio to the public. Included in this industry are commercial religious, educational, and other radio stations. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number. The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than \$5 million in revenue in 1992. Official Commission records indicate that 11,334 individual radio stations were operating in 1992. As of May 31, 1997, official Commission records indicate that 12,156 radio stations were operating, of which 7,342 were FM stations.

Thus, the proposed rules will affect many of the approximately 1,558 television stations; approximately 1,200 of those stations are considered small businesses. Additionally, the proposed rules will affect some of the 12,156 radio stations, approximately 11,670 of which are small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies.

In addition to owners of operating radio and television stations, any entity who seeks or desires to obtain a television or radio broadcast license may be affected by the proposals contained in this item.

The number of entities that may seek to obtain a television or radio broadcast license is unknown. We invite comment on this number.

Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent with the Stated Objectives

This NPRM solicits comment on a variety of alternatives discussed herein. Any significant alternatives presented in the comments will be considered. The Commission believes that the proposed rules and policies may be necessary to promote the speedy deployment of digital television service and the prompt recovery of broadcast frequency spectrum for reallocation. We seek comment on this belief.

Report to Small Business Administration

The Commission shall send a copy of this Initial Regulatory Flexibility Analysis along with this Notice to the

Small Business Administration pursuant to the RFA.

List of Subjects in 47 CFR Part 1

Television, Radio broadcasting.
Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 98-6861 Filed 3-19-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-33; RM-9232]

Radio Broadcasting Services; Richwood, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by J&B Broadcasting, Inc., proposing the allotment of Channel 288A at Richwood, West Virginia, as the community's first local FM transmission service. Channel 288A can be allotted to Richwood in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 288A at Richwood are North Latitude 38-13-42 and West Longitude 80-31-48.

DATES: Comments must be filed on or before May 4, 1998, and reply comments on or before May 19, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Timothy E. Welch, Esq., Hill & Welch, 1330 New Hampshire, Ave., NW., Suite 113, Washington, DC 20036 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-33, adopted March 4, 1998, and released March 13, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-

3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98-7320 Filed 3-19-98; 4:55 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-95, RM-8787; RM-8838]

Radio Broadcasting Services; Plattsmouth and Papillion, NE, and Osceola, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Order to show cause.

SUMMARY: The Commission, in response to a counterproposal filed by LifeStyle Communications Corporation, proposes the allotment of Channel 295A to Papillion, Nebraska, as the community's first local aural transmission service, and the substitution of Channel 299A for Channel 295A at Plattsmouth, Nebraska. An Order to Show Cause is directed to Platte Broadcasting Company, Inc., licensee of Station KOTD-FM, as to why its license should not be modified to specify the alternate Class A channel. Channel 299A can be allotted at Plattsmouth at Station KOTD-FM's licensed transmitter site, at coordinates 41-05-28 North Latitude and 95-48-15 West Longitude. Channel 295A can be allotted to Papillion with a site restriction of 11.5 kilometers (7.1 miles) northeast, at coordinates 41-12-08; 95-55-35, to avoid a short-spacing to Stations KEZG, Channel 297C1, Lincoln, Nebraska, KEXL, Channel