

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 98-116; RM-9281]

Radio Broadcasting Services; Lovell, WY**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Windy Valley Broadcasting proposing the allotment of Channel 296C at Lovell, Wyoming, as the community's first local aural transmission service. Channel 296C can be allotted to Lovell in compliance with the Commission's minimum distance separation requirements with a site restriction of 25.4 kilometers (15.8 miles) south at petitioner's requested site. The coordinates for Channel 296C at Lovell are North Latitude 44-36-23 and West Longitude 108-23-30.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 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: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, McLean, Virginia 22102-3807 (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. 98-116, adopted July 1, 1998, and released July 10, 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. 98-19303 Filed 7-17-98; 8:45 am]

BILLING CODE 6712-01-F

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 98-112, RM-9027, RM-9268]

Radio Broadcasting Services; Anniston and Ashland, AL, College Park, Covington and Milledgeville, GA**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on two mutually exclusive petitions. Preston W. Small, licensee of Station WLRR, Channel 264A, Milledgeville, GA, requests the substitution of Channel 264C3 for Channel 264A, the reallocation of Channel 264C3 from Milledgeville to Covington, GA, as the community's second local aural and first local FM service, and the modification of Station WLRR's license to specify Covington as its community of license. WNNX License Investment Co., licensee of Station WHMA, Channel 263C, Anniston, AL, requests the substitution of Channel 263C3 for Channel 263C and its reallocation to College Park, GA, as the community's first local aural service, and the modification of Station WHMA's license accordingly. In addition, WNNX requests that Channel 261C3 be allotted to Anniston as the community's fifth local aural service and that Channel 264A be allotted to Ashland, AL, as the community's second local FM service.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the

FCC, interested parties should serve the petitioners, or their counsel or consultants, as follows: Timothy E. Welch, Hill & Welch, 1330 New Hampshire Avenue, NW, Suite 113, Washington, DC 20036 (Counsel to Small); Mark N. Lipp, Ginsburg, Feldman & Bress, 1250 Connecticut Avenue, NW, Washington, DC 20036 (Counsel to WNNX).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: Channel 264C3 can be allotted to Covington in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.3 kilometers (10.2 miles) southeast, at coordinates 33-28-34 NL; 83-45-34 WL, to avoid a short-spacing to Station WUSY, Channel 264C, Cleveland, Tennessee and to accommodate petitioner's desired transmitter site. Channel 263C3 can be allotted to College Park with a site restriction of 12.0 kilometers (7.5 miles) northwest, at coordinates 33-45-32 NL; 84-30-10 WL, to accommodate petitioner's desired transmitter site, Channel 261C3 can be allotted to Anniston with a site restriction of 3.0 kilometers (1.9 miles) north, at coordinates 33-40-51; 85-48-56, to avoid a short-spacing to Station WDXN, Channel 261C2, Selma, Alabama, and Channel 264A can be allotted to Ashland with a site restriction of 5.9 kilometers (3.7 miles) south, at coordinates 33-13-15; 85-49-35, to avoid a short-spacing to Station WUSY, Cleveland, Tennessee.

This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-112, adopted July 1, 1998, and released July 10, 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 Services, 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. 98-19300 Filed 7-17-98; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[FHWA Docket No. FHWA-98-3639]

RIN 2125-AE37

Safety Fitness Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: On November 6, 1997, the FHWA published a final rule incorporating the safety fitness rating methodology (SFRM) into 49 CFR 385 as appendix B. In that document the FHWA identified its ultimate goal as creating a more performance-based means of determining the fitness of carriers to conduct commercial motor vehicle (CMV) operations in interstate commerce. The final rule announced that the FHWA would publish an ANPRM shortly which would request comments on the future evolution of a rating system that could be used both in making safety fitness determinations and meeting the demands of shippers, insurers and other present and potential users interested in evaluating motor carrier performance. Since the final rule, legislation was enacted that substantially heightens the importance of unsatisfactory ratings. Accordingly, at this time the FHWA is seeking comments and supporting data on what issues should be considered in constructing a rating system for the future.

DATES: Comments must be received on or before September 18, 1998.

ADDRESSES: Submit written, signed comments to the docket number that appears in the heading of this document to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW.,

Washington, DC 20590. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Hill, Office of Motor Carrier Research and Standards, (202) 366-4009, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590, Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the **Federal Register's** home page at: <http://www.nara.gov/nara/fedreg> and the Government Printing Office's database at: http://www.access.gpo.gov/su_docs.

Background

Safety ratings for interstate motor carriers have been in use by the Department of Transportation (DOT) since 1966 when Congress transferred the responsibility for regulating motor carrier safety to the Department from the Interstate Commerce Commission (ICC). Congress delegated the authority to regulate qualifications and maximum hours-of-service of drivers, and the safety of operations and equipment of motor carriers in interstate commerce to the FHWA, an operating administration of the DOT. Pub. L. 89-670, § 6(f)(3)(B), Oct. 15, 1966, 80 Stat. 940, repealed and recodified by Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2415, 49 U.S.C. 104(c). Section 215 of the Motor Carrier Safety Act (MCSA) of 1984 (Pub. L. 98-554, 98 Stat. 2844, 49 U.S.C. 31144) required the Secretary of Transportation to prescribe by regulation procedures for determining the safety fitness of owners and operators of CMVs in interstate commerce, including those seeking new or additional operating authority from

the ICC. It also stated that "rules adopted under this section shall supersede all Federal rules regarding safety fitness and safety rating of motor carriers in effect on the date of enactment of this Act." The final rule implementing the new safety fitness procedures mandated by the MCSA of 1984 became effective in 1989 (53 FR 50968, Dec. 19, 1988, 49 CFR Part 385). The procedures and rating methodology implementing the 1989 final rule were recently modified in a rulemaking concluding in a final rule issued on November 6, 1997, (62 FR 60035). This action was necessitated by a ruling of the U.S. Court of Appeals for the D.C. Circuit in *MST Express et al. v. Department of Transportation (FHWA)*, 108 F.3d 401 (D.C. Cir. 1997), to the effect that the rating methodology had not been adopted through notice and comment rulemaking as required by the Administrative Procedure Act (5 U.S.C. 553).

In the Transportation Efficiency Act for the 21st Century (TEA-21), Pub. L. 105-178, enacted June 9, 1998, Congress amended 49 U.S.C. 31144 to prohibit transportation of any property in interstate commerce by motor carriers with unsatisfactory ratings, and provides such carriers 60 days within which to improve the rating (extendable another 60 days) before the prohibition takes effect. This provision will be incorporated into the current regulations in a subsequent rulemaking.

Safety Rating System

A safety fitness rating system was first used by the FHWA to provide safety information to the ICC to assist in screening applicants seeking operating authority. It evolved into a means to identify motor carriers most likely to benefit from on-site compliance reviews (CRs). Presently, safety ratings are made available to anyone upon request. Shippers, including governmental agencies, use the ratings in making carrier selections and insurers use them in making decisions regarding coverage.

Safety ratings are developed in part through an on-site CR of a motor carrier's records, operations and, when available, equipment. The review is used to assess whether a commercial motor carrier's safety management controls are functioning effectively to ensure acceptable compliance with § 385.5, safety fitness standard. Safety rating factors are used in determining a safety rating. Four rating factors relate to the regulatory requirements of the Federal Motor Carrier Safety Regulations (FMCSRs) (general, driver, operational, vehicle) and one to the Hazardous Materials Regulations