

comments and material received during the comment period.

How Can I Get Additional Information, Including Copies of This Notice or Other Related Documents?

The Docket Management Facility maintains the public docket for this notice. The docket number for this notice is USCG-2000-8569. Comments, and other documents related to this notice will become part of this docket and will be available for inspection or copying as follows:

- *In person:* You may access the docket in room PL-401, on the Plaza Level of the Nassif Building at the same address, between 9 a.m. and 5 p.m., Monday through Friday. The facility is closed on Federal holidays.
- *Electronically:* You may access the docket on the Internet at <http://dms.dot.gov>.

Where Can I Get Information on Service for Individuals With Disabilities?

To obtain information on facilities or services for individuals with disabilities or to request that we provide special assistance at the public meeting, please contact Mr. Tom Lawler as soon as possible. You will find his address and phone number in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Why Is the Coast Guard Holding This Public Meeting?

This meeting is in response to requests for a comprehensive review to improve the safety, reliability, and efficiency of the Great Lakes pilotage system. The requests came from all facets of the marine industry operating on the Great Lakes. We are holding the meeting to discuss ways to design a safer, more reliable and efficient pilotage system for the Great Lakes.

What Issues Should I Discuss at the Meeting or Address in Written Comments?

The public meeting on January 30, 2001 will provide a forum for members of the public to discuss ways to improve the safety, reliability and efficiency of the Great Lakes Pilotage System. You can discuss or comment on any ideas you have for improving the safety, reliability, and efficiency of the Great Lakes pilotage system. Interested parties are strongly encouraged to submit issues for discussion at the public meeting to the docket prior to January 22, 2001.

What Is the Agenda for the Public Meeting?

Agenda

The agenda for the meeting on January 30, 2001 is as follows:

- Session I—Introduction and Overview.
- Session II—Presentation and discussion of Concept Papers on centralized dispatch, centralized billing, and the possible advantages and disadvantages of combining the existing three pilotage Districts into one District or one Pilots' Association.
- Session III—Discussion of issues submitted to the docket.

Dated: December 21, 2000.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00-33077 Filed 12-27-00; 8:45 am]

BILLING CODE 4910-15-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 00-244; FCC 00-427]

Broadcast Services; Radio Stations, Television Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise the Commission's methodologies for defining radio markets, counting the number of stations in a radio market, and determining the number of stations that a party owns in a radio market for the purposes of determining compliance with its multiple ownership rules. Experience in applying those methodologies since the enactment of the Telecommunications Act of 1996, has indicated that the Commission's current framework may be having results that may frustrate the structure of the Telecommunications Act and that are not in the public interest.

DATES: Comments are due by January 26, 2001; reply comments are due by February 12, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554

FOR FURTHER INFORMATION CONTACT: Roger Holberg, Mass Media Bureau, Policy and Rules Division, (202) 418-2134 or Dan Bring, Mass Media Bureau, Policy and Rules Division, (202) 418-2170.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Notice of Proposed Rule

Making ("NPRM") in MM Docket No. 00-244, FCC 00-427, adopted December 6, 2000, and released December 13, 2000. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, International Transcription Service (202)857-3800, 445 12th Street, SW., Room CY-B402, Washington, DC. The NPRM is also available on the Internet at the Commission's website: <http://www.fcc.gov>.

Synopsis of Notice of Proposed Rule Making

1. We are adopting this NPRM to seek comment on whether and how we should modify the way in which we determine the dimensions of radio markets and count the number of stations in them. We are also seeking comment on whether and how we should amend the method by which we determine the number of radio stations owned by a party in a radio market for the purpose of applying our multiple ownership rules.

Overview

2. In 1991, we commenced a proceeding to relax our local and national radio ownership rules. We ultimately established two market sizes that would determine the number of radio stations in which an entity could have an attributable interest in a local area. One tier included markets with 15 or more commercial radio stations. The other market tier consisted of markets with fewer than 15 stations. A party could have attributable interests in a different number of stations depending on the tier into which its market fell. This decision required that we establish both how we would define a market and, because of the different treatment of markets with less than 15 stations and those with 15 or more, how we would count the number of stations in a market. We determined that:

we will define the radio market as that area encompassed by the principal community contours (*i.e.*, predicted or measured 5 mV/m for AM stations and predicted 3.16 mV/m for FM stations) of the mutually overlapping stations proposing to have common ownership.

With regard to how we would count the number of stations in a market, we stated:

[t]he number of stations in the market will be determined based on the principal community contours of all commercial stations whose principal community contours overlap or intersect the principal

community contours of the commonly-owned stations.

In section 202(b)(1) of the Telecommunications Act of 1996 (Public Law 104-104, 110 Stat. 56 (1996) ("1996 Act"), Congress directed the Commission to increase the number of stations in a market in which a party could have a cognizable ownership interest, providing that in the largest markets a single entity could own up to eight stations. The number of stations in which it could have such an interest would depend upon the number of commercial stations in the market. Our methods of defining a radio market and determining the number of stations in a market, however, were not altered by the 1996 Act or by our Orders implementing that statute.

3. Using this methodology, we evaluate whether a proposed transaction complies with our ownership rules by first determining the boundaries of each market created by the transaction. Thus, we look to all stations that will be commonly owned after the proposed transaction is consummated and group these stations into "markets" based on which stations have mutually overlapping signal contours. A market is defined as the area within the combined contours of the stations to be commonly owned that have a common overlap. For example, suppose an applicant proposes to own stations A, B, C and D. The contours of stations A, B and C each overlap the contours of the other two stations—that is, there is some area which the contours of all three stations have in common. Station D, on the other hand, overlaps the principal community contour of station A, but not those of stations B or C. Under our current definitions, the area encompassed by the combined contours of stations A, B and C form one "market" and the area within the combined contours of stations A and D form another market.

4. To determine the total number of stations "in the market," as defined above, we count all stations whose principal community contours overlap the principal community contour of *any* one or more of the stations whose contours define the market. Thus, in the market formed by the contours of stations A, B and C, any station whose contour overlapped the contour of A, B or C would be counted as "in the market." We use a different methodology, however, to determine the number of stations that any single entity is deemed to own in a given market. For this purpose, we only count those stations whose principal community contours overlap the common overlap area of *all* of the stations whose

contours define the market. Thus, a station owned by the applicant that is counted as being "in the market" because its contour overlaps the contour of at least one of the stations that create the market will not be counted as a station owned by the applicant in the market unless its contour overlaps the area which the contours of *all* of the stations that define the market have in common. Referring to our example of the market formed by the contours of stations A, B and C, station D would be counted as "in the market" because its contour overlaps the contour of station A. But, station D would not be counted as a station owned by the applicant in the ABC market because station D's contour does not also overlap the contours of stations B and C. In short, the applicant's ownership of station D would not be counted against it in determining compliance with the ownership cap in the ABC market.

5. Our experience has led us to conclude that this framework may be having results that may frustrate the structure of the statute and that are not in the public interest. For example, under the existing policies and rules, the Commission's Mass Media Bureau recently determined that Wichita, KS, is a market containing 52 stations and granted the assignment application for station KOEZ(FM) from Kansas Radio Assets to Journal Broadcasting Corporation, giving Journal six stations, including 5 FM stations, in the Wichita market. This is well within the eight stations that a single owner would be permitted to own in a market with more than 45 stations under our rules implementing the 1996 Act. Yet Arbitron, which defines radio markets for commercial purposes, classifies Wichita as a 24-station market in which, under these rules, a single entity could only have an interest in six radio stations, no more than 4 of which could be in the same service. Similarly, under the existing policies and rules, BIA data show that one party seeks to own nine stations in Youngstown, OH. (Appendix B describes how our radio definitions and counting methodologies may be applied in Youngstown.) Yet Arbitron data show only 23 commercial radio stations in the Youngstown metropolitan area. In another transaction, using the Commission's methodology, an applicant was able to show that Ithaca, NY, was a market with at least 32 commercial radio stations. Yet Arbitron data show only 9 commercial radio stations in the Ithaca metropolitan area.

6. Given such results, we question whether the use of overlapping signal contours is an appropriate means of

defining market boundaries and counting the number of stations in a market. Our methodology sometimes leads to results that are completely at odds with commercial market definitions and economic reality, and may undermine the structure of the statute to allow levels of ownership that increase commensurately with the size of the market. Additionally, our methodology may encourage applicants to structure transactions to fragment what are commercially considered single markets into a number of smaller markets. While a licensee may be within our ownership limit as to each of these fragmented markets, in the aggregate it owns more stations than our rules would permit were these markets considered to be a single market, as they are by commercial rating services and would be under any economically meaningful market definition.

7. The Commission has used this methodology for defining markets and counting stations in markets since 1992. While the methodology has produced some odd results since its inception, it was not until the ownership limits were substantially increased in 1996 that the methodology's potential to cause results at odds with economic reality became clearly discernible. Until then, the number of problems and their impact were constrained, by the more modest numerical ownership limits and by a 25 percent audience share cap in markets with 15 or more stations.

8. Another problem with this methodology was highlighted in the Commission's recent *Pine Bluff* decision. (*In re Application of Pine Bluff Radio, Inc.*, 14 FCC Rcd 6594 (1999).) In that case, Seark Radio, Inc., sought to purchase one AM and two FM stations in Pine Bluff, Arkansas. Seark already had direct or attributable interests in three other stations in Pine Bluff and environs. A petitioner (Bayou Broadcasting, Inc.) filed a Petition to Deny claiming, in part, that the relevant market contained 11 stations and that grant of the subject application would give Seark direct or attributable interests in 6 of those stations. Were this the case, it would have caused Seark to exceed the "cap" that one party can have in an 11-station market because it would give it interests in more than 5 of the stations in the market. In a decision which we recently affirmed on review, the Mass Media Bureau determined that, under the Commission's method for defining markets and counting the number of stations in a market, the stations involved actually formed three separate markets. Market 3 was formed by two mutually overlapping stations attributable to Seark. Two other stations

were determined to contribute to this market. One of those two stations was owned by Seark. However, because this station's principal community contour did not overlap the principal community contours of both of the stations whose overlapping principal community contours established the market, it was not counted as an attributable interest of Seark's in this market. Thus, application of our existing methodologies led to the determination that this Seark station would be counted as being "in the market" for purposes of determining the base number of stations in that market. But, the same station would not be considered to be "in the market" for the purposes of determining how many stations in the market were and would be owned by Seark, and thus whether Seark complied with the numerical station caps. Seark could not have owned three stations in this market because that would have given it an attributable interest in more than half of the four stations considered to be in Market 3. Section 73.3555(a)(1)(iv) allows a party to own, operate, or control up to 5 commercial stations in markets with 14 or fewer stations provided that "a party may not own, operate, or control more than 50 percent of the stations in such market." Accordingly, strict compliance with our precedents in this area led to the conclusion that Seark had an attributable interest in only two of the four stations in this market, notwithstanding its attributable interest in a third station which counted as a station in the market for the purpose of determining the total number of stations in the market. (We recognized that this appeared to be an anomalous result but pointed out that it was produced by methodology that had been consistently used since 1992 and that subsequent events in the market had rendered harmless the impact of this anomaly in that case.)

Options

9. Several options or approaches present themselves as possible means of addressing the definitional issues raised in the preceding discussion. With respect to the counting consistency issue exemplified by the *Pine Bluff* case, the most direct solution might be simply to alter our counting methodology and count against an applicant's ownership allowance in a given market any station that it owned and that was included in determining how many stations were "in the market" for purposes of assessing compliance with the local radio ownership rules. Under this proposed approach, the applicant in the

Pine Bluff case would have been charged with ownership of three stations in a four-station market, rather than two, and the transaction would not have complied with the numerical limits in our rules. This would clearly and logically resolve the inconsistency in our present approach and produce more rational results. Moreover, this approach may better reflect the statute's structure, and lend consistency and predictability to the commercial marketplace. We invite comment on this approach. Alternatively, we could exclude from the count of the number of stations in a market, any stations owned by the applicant, except the commonly owned stations that form the market. We seek comment on this approach.

10. Another, broader approach might address both the counting anomaly and the discontinuity between the Commission's and commercial rating services' definition of radio markets generally. Under this approach, we would eliminate our current market definition and, instead, rely on commercially determined market definitions. For example, we could adopt Arbitron radio metro market definitions and simply rely on these commercial delineations to determine the total number of stations in any given market and how many stations an applicant would control in that market. Arbitron-defined markets have the advantage that they attempt to reflect accurately the location of a station's listeners and the identity of stations that are actually perceived by advertisers to be in a market. Additionally, the Department of Justice utilizes Arbitron markets in its competition analysis of radio station mergers. However, the use of Arbitron markets has the disadvantage that many radio stations are not in an Arbitron market. Out of 3100 counties in the United States, slightly less than 850 (containing, however, nearly 80 percent of the nation's population) are in Arbitron markets. Arbitron defines a geographic area based on county lines. We recognize that Arbitron metros do not encompass all the counties that can receive some of the radio signals of the metro radio stations. However, the radio stations included in the Arbitron metro do a significant portion of their business in the counties that are included in the Arbitron metro.

11. In our 1992 decision (on reconsideration) concerning radio markets we decided not to utilize Arbitron markets to define radio markets. The Commission accepted petitioners' arguments that Arbitron markets change regularly, the number of

rated stations continually fluctuate and that Arbitron tends to undercount the number of stations in a market because it has minimum reporting standards or overcount them because it counts out-of-market stations with reportable shares in the market. See *Memorandum Opinion and Order and Further Notice of Proposed Rule Making in MM Docket No. 91-140, supra* at 6394-95, 57 FR 42701 (September 16, 1992). We do not believe these to be insurmountable problems and, for the reasons discussed above, we believe the use of Arbitron markets or equivalent commercial measures of the number of stations in a market than do our current methodologies.

12. We seek comment on whether we should use Arbitron or other commercially defined markets. How should we determine the dimensions of a market when the stations involved are not located in a commercially defined market? If we use Arbitron or another commercially defined market, what should we do when a market changes? For example, population growth might result in a county that was in a single market to later be split between two markets. This could cause the number of stations in the market to drop, placing some existing ownership combinations above the local ownership limits. One approach to such changes would be to disregard them (effectively grandfathering existing combinations) until such time as a relevant application is filed, at which point we would apply the market definitions in effect at the time of the application's filing or grant. We seek comment on these and on alternative proposals.

13. Alternatively, should we determine the number of stations in a market using a different contour overlap standard? For example, we could count as being in a market only those stations whose principal community contours overlap or intersect the overlap area of the principal city contours of the stations whose ownership is to be merged. This might provide a superior gauge relative to the area with which we are most concerned in merger situations with respect to both competition and diversity. However, this standard might be too restrictive and thus inappropriately thwart the relaxation of the ownership rules that the 1996 Act contemplated. Is there some other overlap standard that might more accurately provide a count of the number of stations in a market? Perhaps counting only those stations that overlap a certain percentage of the contour of one or more of the mutually overlapping stations would provide

accurate results. What percentage would be appropriate? Another option would be simply to count only those stations that are actually heard in a market. What methodology should we use in the event we adopt this option? We invite comment on all of these alternatives.

Procedural Matters

14. We do not propose that any rules and policies we adopt herein should be applied retroactively to existing ownership combinations. Those ownership arrangements were granted as being in the public interest and in accordance with applicable Commission rules and policies. There is no reason to disturb these ownership combinations.

15. Merger applications now pending or filed after the adoption of this NPRM but before our final decision in this proceeding present another case. As a general matter, we will continue to process applications under the existing standards, unless and until they are changed in this proceeding. In cases raising concerns about how we count the number of stations a party owns in a market, however, we will defer decision pending resolution of that issue in this proceeding. As we concluded in the 1998 Biennial Review Report, the "shifting market definition" in our counting methodology "appears illogical and contrary to Congress' intent." Given this conclusion, it would be inappropriate to continue to apply this standard to pending and newly filed applications. We believe that the harm caused by application of this standard outweighs any harm caused by the deferment of decision on these applications. We intend to act expeditiously in this proceeding to ensure that any such deferments are few in number and short in duration.

Administrative Matters

16. *Comments and Reply Comments.* Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments on before January 26, 2001, and reply comments on or before February 12, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

17. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking

number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address.>" A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., TW-A325, Washington, DC 20554.

18. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Wanda Hardy, 445 Twelfth Street, SW., Room, 2-C207, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using MS Word 97 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case, MM Docket No. 00-244, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 445 Twelfth Street, SW., CY-B402, Washington, DC 20554.

19. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, SW., CY-A257, Washington, DC 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418-0270, (202) 418-2555 TTY, or bcline@fcc.gov. Comments and reply comments also will be available electronically at the Commission's

Disabilities Issues Task Force web site: <http://www.fcc.gov/df>. Comments and reply comments are available electronically in ASCII text, Word 97, and Adobe Acrobat.

20. This document is available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Martha Contee at (202) 4810-0260, TTY (202) 418-2555, or mcontee@fcc.gov.

21. *Ex Parte Rules.* This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

22. *Initial Regulatory Flexibility Analysis.* As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following IRFA of the possible significant economic impact on small entities of the proposals contained in this NPRM. Written public comments are requested on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions in our IRFA regarding the prevalence of small businesses in the radio broadcasting industry. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the NPRM, but they must have a distinct heading designating them as responses to the IRFA.

23. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above in paragraph 16. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). See 5 U.S.C. 603(a). In addition, the NPRM and the IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

24. Section 202(h) of the Telecommunications Act of 1996 (1996 Act) requires the Commission to review all of its broadcast ownership rules

every two years commencing in 1998, and to determine whether any of these rules are necessary in the public interest as the result of competition. The 1996 Act also requires the Commission to repeal or modify any regulation it determines to be no longer in the public interest. The Commission adopted a *Notice of Inquiry* (63 FR 15353, March 31, 1998) in 1998 in compliance with this requirement. The Commission believes that its present method of determining the dimensions of radio markets and/or of counting the stations available in those markets may be having results that do not reflect the structure of the Telecommunications Act with regard to local radio station ownership and are not in the public interest. Present methodology may result in radio markets whose dimensions do not reflect actual listening patterns or availability, artificially enhance the number of stations in those markets or artificially fragment what may be single individual markets into several independent smaller markets, thereby allowing a single owner to own a number of stations in a market in excess of what Congress intended. Our methodology sometimes leads to results that are completely at odds with commercial market definitions and economic reality, and thus does not advance the statutes structure which allows levels of ownership that increase commensurately with the size of the market. Additionally, the Commission determined in its biennial review proceeding (MM Docket No. 98-35) that it appears that the way in which it determines the number of radio stations that a party owns in a market may have lead to unintended results. This NPRM is designed to solicit comment on proposals to assure that our definitions and methodologies more closely reflect commercial realities and the intent of Congress. Because Section 202(h) of the 1996 Act directs the Commission to repeal or modify any broadcast ownership regulation it finds no longer in the public interest the Commission has adopted this NPRM to solicit comment on the modification of the subject policies and rules.

B. Legal Basis

25. This NPRM is adopted pursuant to sections 1, 2(a), 4(i), 303, 307, 309, 310, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, and Section 202(h) of the Telecommunications Act of 1996.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

26. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 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 SBA.

27. The SBA defines a radio broadcasting station that has \$5 million or less 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. The 1992 Census indicates that 96 percent of 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 September 30, 2000, Commission records indicate that 12,717 radio stations (both commercial and noncommercial) were operating of which 2,140 were noncommercial educational FM radio stations. (Our multiple ownership rules, however, do not apply to noncommercial educational radio stations.) Applying the 1992 percentage of station establishments producing less than \$5 million in revenue (*i.e.*, 96 percent) to the number of commercial radio stations in operation, (*i.e.*, 10,577) indicates that 10,154 of these radio stations would be considered "small businesses" or "small organizations."

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

28. There currently are no recordkeeping or other compliance requirements associated with the subject rule and policies. The NPRM proposes no new recordkeeping or other compliance requirements.

E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

29. The RFA requires an agency to describe any significant alternatives that

it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

30. In fashioning its *Report* in the Commission's Biennial Review Proceeding (MM Docket No. 98-35) the Commission considered a number of alternatives to the subject counting methodology policy. These alternatives were: (1) Retention of the existing radio market definition policy; (2) modification of the existing radio market definition policy; (3) retention of the existing rule (47 CFR 73.3555(a)(3)(ii)) concerning counting the number of stations in the radio market; (4) modification of the existing rule concerning counting the number of stations in the radio market; (5) retention of the existing policy for counting the number of stations a party owns in a radio market; and (6) modification of the existing policy for counting the number of stations a party owns in a radio market. *The Biennial Review Report* tentatively concluded that the existing policy for determining radio markets and counting methodology rule and policy should be modified. An alternative considered in this item is to maintain the *status quo*. However, the NPRM does propose to modify the current method of defining radio markets and to modify our station-counting methodologies. Alternatives (2), (4), and (6) may have a beneficial effect on small entities. A more accurate and predictable definition of radio markets, and improved counting methodologies may more precisely determine the size of markets and the number of stations in them and allow the Commission to achieve the results intended by Congress in passing the 1996 Act. This could result in some small radio stations facing competition from commonly owned local station groups that are more of the size Congress intended than is the case under current Commission rules and policies. Any significant alternatives presented in the comments received in response to the instant NPRM will certainly be considered.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

31. None.

32. *Authority.* This NPRM is issued pursuant to authority contained in sections 4(i), 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 307, and Section 202(h) of the Telecommunications Act of 1996.

Ordering Clauses

33. Pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310, and Section 202(h) of the Telecommunications Act of 1996, this NPRM is adopted.

34. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Shirley Suggs,

Chief, Publications Group.

[FR Doc. 00-33209 Filed 12-27-00; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00-2884; MM Docket No. 99-352; RM-9786]

Radio Broadcasting Services; Gaviota, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: This document denies a petition filed by on behalf of Brian Costello (RM-9786), proposing the allotment of FM Channel 266A to Gaviota, California, as that locality's first local aural transmission service. See 64 FR 73461, December 30, 1999. The proposal is denied based upon the petitioner's failure to demonstrate that Gaviota constitutes a *bona fide* community, as that term is defined for purposes of Section 307(b) of the Communications Act, for allotment objectives.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99-352, adopted December 13, 2000, and released December 22, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC.

The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00-33213 Filed 12-27-00; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Designation of the Gunnison Sage Grouse as a Candidate Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of designation of a candidate species.

SUMMARY: In this document, we present information on the recent addition of the Gunnison sage grouse (*Centrocercus minimus*) found in Colorado and Utah to the list of candidates for listing under the Endangered Species Act of 1973, as amended. Identification of candidate taxa can assist environmental planning efforts by providing advance notice of potential listings, allowing resource managers to alleviate threats and, thereby, possibly remove the need to list taxa as endangered or threatened. Even if we subsequently list this candidate species, the early notice provided here could result in fewer restrictions on activities by prompting candidate conservation measures to alleviate threats to this species.

We also announce the availability of the candidate and listing priority assignment form for this candidate species. This document describes the status and threats that we evaluated to determine that Gunnison sage grouse warrants consideration for listing, and to assign a listing priority to this species.

We request additional status information that may be available for the Gunnison sage grouse. We will consider this information in evaluating, monitoring, and developing conservation strategies for this species.

DATES: We will accept comments on this document at any time.

ADDRESSES: Submit written comments and data regarding the Gunnison sage grouse to the U.S. Fish and Wildlife Service, Western Colorado Field Office, 764 Horizon Drive, South Annex A, Grand Junction, Colorado 81506-3946.

FOR FURTHER INFORMATION CONTACT: Terry Ireland, at the above address, e-mail <terry_ireland@fws.gov>, or telephone (970) 243-2778.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that we list taxa of wildlife and plants that are endangered or threatened, based on the best available scientific and commercial information. As part of this program, we also identify taxa that we regard as candidates for listing. Candidate taxa are those taxa for which we have on file sufficient information to support issuance of a proposed rule to list under the Act. In addition to our annual review of all candidate taxa (64 FR 57534; October 25, 1999), we have an on-going review process, particularly to update taxa whose status may have changed markedly.

Section 3 of the Act generally defines an endangered species as any species which is in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act.

(A) The present or threatened destruction, modification, or curtailment of the species' habitat or range;

(B) Overutilization of the species for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation affecting the species;

(D) The inadequacy of existing regulatory mechanisms to protect the species; and

(E) Other natural or manmade factors affecting the species' continued existence.

We are required to make the listing determination "solely on the basis of the