

Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action under Executive Order 12866.

Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs on the States, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. This proposed SIP call is required by the Clean Air Act because the current SIP is substantially inadequate to attain the 24-hour PM-10 standard. Arizona's direct compliance costs will not be substantial because the SIP call requires Arizona to submit only those revisions necessary to address the SIP deficiency and applicable Clean Air Act requirements. Finally, EPA has consulted with the State and local agencies prior to making this proposal.

This proposed rule, if finalized, will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it is in keeping with the relationship and the distribution of power and responsibilities between EPA and the States as established by the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal

implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." Executive Order 13175 does not apply to this proposed rule because the proposed rule, if finalized, will not effect any tribal government or any tribal lands and thus will have no tribal implications.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any proposed rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule, if finalized, will not have a significant economic impact on a substantial number of small entities. Courts have interpreted the RFA to require a regulatory flexibility analysis only when small entities will be subject to the requirements of the rule. *See, Motor and Equip. MFRS. Ass'n v. Nichols*, 142 F.3d 449 (D.C. Cir. 1985).

This proposed SIP call, if finalized, will not establish requirements applicable to small entities. Instead, it will require Arizona to develop, adopt, and submit an attainment demonstration and related requirements but will leave entirely to Arizona the tasks of determining how to obtain the emission reductions necessary to show attainment, including which entities to regulate, and of adopting the necessary regulations. Because the rule, if finalized, will not establish requirements applicable to small entities, I certify that this action does not have a significant impact on a substantial number of small entities.

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements for any rule requiring a budgetary impact statement. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be

significantly or uniquely impacted by the rule.

EPA has determined that this proposed rule does not include a Federal mandate that may result in estimated costs of \$100 million or more in any one year to either State, local, or tribal governments in the aggregate, or to the private sector and has therefore not prepared a budgetary impact statement. This proposed rule, if finalized, will not significantly or uniquely impact any small governments.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In making a finding of SIP deficiency, EPA's role is to review existing information against previously established standards (in this case, what constitute a violation of the 24-hour PM-10 standard). In this context, there is no opportunity to use VCS. Thus, the requirements of NTTAA section 12(d) (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 10, 2002.

Nora L. McGee,

Acting Regional Administrator, Region IX.
[FR Doc. 02-9494 Filed 4-17-02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-784, MM Docket No. 00-136, RM-9898]

Digital Television Broadcast Service; Birmingham, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: The Commission, at the request of the Alabama Educational Television Commission, licensee of noncommercial station WBIQ-TV, dismisses its petition for rule making seeking the substitution of DTV channel

*5 for DTV channel *53 at Birmingham, Alabama. See 65 FR 51278, August 23, 2000.

With its action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-136, adopted April 8, 2002, and released April 15, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-770; MM Docket No. 01-36; RM-10047]

Radio Broadcasting Services; Jamestown, Alfred and Canaseraga, NY; and Du Bois, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: At the request of Vox Allegany, LLC, the Commission dismisses the petition for rule making proposing the substitution of Channel 270B1 for Channel 270A at Jamestown, and the modification of Station WHUG(FM)'s license accordingly. To accommodate the upgrade, petitioner also proposed (a) the substitution of Channel 246A for Channel 270A at Alfred New York, and the modification of Station WZKZ(FM)'s license accordingly; (b) the substitution of Channel 270A for vacant Channel 246A at Canaseraga, New York; and (c) the modification of the reference coordinates of Station WMOU-FM, Channel 271B, Du Bois, Pennsylvania. See 66 FR 11130, February 22, 2001. A showing of continuing interest is

required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. Therefore, we will grant the joint request to dismiss the instant proposal.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-36, adopted March 27, 2002, and released April 5, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20054.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-9378 Filed 4-17-02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 030102C]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: NMFS has made a preliminary determination that an application to issue EFPs to three gillnet vessels, submitted by the North Carolina Division of Marine Fisheries (NCDMF), contains all the information required by the regulations governing exempted experimental fishing under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and warrants further consideration. NMFS has also made a preliminary

determination that the activities authorized under these EFPs would be consistent with the goals and objectives of the Monkfish Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. Therefore, NMFS announces that it intends to issue EFPs that would allow up to three gillnet vessels to conduct fishing operations otherwise restricted by the regulations governing fisheries of the northeastern United States (i.e., to land monkfish in excess of amounts authorized under a monkfish incidental catch permit, Category E).

Regulations under the Magnuson-Stevens Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this notification must be received at the appropriate address or fax number (see **ADDRESSES**) on or before April 30, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelop "Comments on Monkfish EFP Proposal." Comments may also be sent via facsimile to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Policy Analyst, 978-281-9103.

SUPPLEMENTARY INFORMATION: NCDMF submitted an industry cooperative proposal on January 22, 2002, to conduct an experimental blackfin monkfish (*Lophius gastrophysus*) fishery in the area extending from Avon, NC, to Chincoteague, VA, from 3 to 30 nautical miles seaward of the coast. The study would take place from May 1 to June 30, 2002. The purpose of this study is to collect biological and environmental data to identify the blackfin monkfish component of the commercial monkfish fishery, and to identify the abundance, distribution, and migration patterns of monkfish off the coasts of North Carolina and Virginia. The data to be collected would include, but would not be limited to: catch identified by species, including target species and bycatch; water depth, sea-surface temperature, catch location, gillnet mesh size, net length and net soak times. In addition, the experimenters would report observed gear interactions with marine mammals, sea turtles, and marine birds to NMFS. The primary objective of the study is to collect temporal and spatial data to