

physical objects, or any documents believed to be involved in the accident, or in any way relevant to the accident and/or the CSB investigation. With respect to records of any type, the Notice shall specify that an owner/operator is required to preserve relevant records that may be stored at a different location. The Notice will also indicate that such items shall also be made readily available to CSB personnel at the first reasonable opportunity.

(c) Upon receipt of a Notice of Accident Investigation Initiation and Order to Preserve signed by a CSB IIC, an owner and/or operator must acknowledge receipt in writing and post a copy of the Notice of Accident Investigation Initiation and Order to Preserve in a conspicuous place such as in the immediate area of, adjacent to, or at the entrance to, the machine(s), device(s), apparatus(es), process(es), control(s), equipment, sample(s), or substance(s) and any other physical objects or documents that are believed to be relevant in determining the cause(s) of the accident. An owner/operator should post additional copies of the notice at different areas of the scene if that would aid site preservation. In addition, the owner and/or operator must comply with the Order to the maximum extent possible, and must refrain from any activity that would affect the accident scene/site, or potential evidence contained therein, except to the extent necessary to respond to a qualifying emergency as defined in § 1604.2.

(d) When it appears it will become necessary to disturb an accident scene/site or any evidence contained therein in any way prior to the arrival of CSB personnel due to the existence of a qualifying emergency, the owner or operator of the facility shall notify the CSB as soon as possible of the existence of a qualifying emergency and allow the CSB the opportunity to: (1) Comment on the nature and extent of proposed alteration to the evidence or scene/site; (2) attempt to document the evidence/site through appropriate means, as quickly as possible, including through the use of a third party; or (3) seek other appropriate actions, including but not limited to an emergency court order in federal court to prohibit the proposed alteration to the evidence/site.

(e) If advance notice to the CSB is not possible under the circumstances prior to the alteration of the accident site or evidence due to existence of a qualifying emergency, post-action written notice must be given to the CSB as soon as possible after the alteration, which must include the following: (1) A complete explanation as to why advance

notice could not be provided to the CSB prior to altering the evidence/site; (2) a complete description of all actions taken, and by whom, to rectify the emergency; (3) a chronological timeline of events that includes all actions from the original accidental release through the termination of responsive activities required by the qualifying emergency; and (4) photographic or video evidence, and any other documentation (i.e., descriptive notes, sketches, or other such documentation) indicating the original position and condition of any evidence which had to be moved or altered, as well as any changes to the accident site itself.

(f) A Notice of Accident Investigation Initiation and Order to Preserve shall remain in effect until the owner and/or operator of the facility in question receives written notice from the IIC or other CSB official designated by the Chairperson that the original Order to Preserve has been rescinded. A signed site control agreement does not negate or otherwise nullify a previously issued Notice of Accident Investigation Initiation and Order to Preserve unless such agreement contains a specific provision rescinding that Order.

(g) This regulation shall not be interpreted to mean that the CSB is authorized to bar any party from entering an accident site to pursue their own independent investigation when that party is authorized by relevant law to enter the site and conduct an investigation. However, owners and/or operators of facilities that have suffered an accidental release, upon receipt of a CSB Notice of Accident Investigation Initiation and Order to Preserve, shall ensure that its employees, its contractors, and any third parties that might seek access to the owner's and/or operator's property, wherever it may be located, have been provided a copy of the Notice of Accident Investigation Initiation and Order to Preserve.

(h) This regulation shall not be interpreted to abrogate or supersede the designation of the National Transportation Safety Board as the lead agency with respect to chemical accidents in the transportation sector, pursuant to 49 U.S.C. 1101 et seq.

(i) This regulation shall not be interpreted to abrogate or supersede any other Federal, State, or local agencies' ability to provide emergency response or to perform their duties arising under law. In most instances, the actions taken by emergency responders should not conflict with the requirement to preserve relevant evidence. In the event that the owner and/or operator of a facility determines that preserving an accident scene or protecting relevant

evidence under this rule is incompatible with the lawful demands of other governmental responders, the owner/operator must provide notice to the CSB under paragraph (d) of this section prior to altering the scene so that the CSB may attempt to resolve the issue, or if advance notice is not possible, document the condition of the site as provided under paragraph (e) of this section.

#### § 1604.4 Enforcement.

Upon a written showing by the IIC that relevant evidence may be altered or destroyed, the IIC may, with the concurrence of the General Counsel, immediately issue a subpoena for such evidence to the owner/operator of the facility. If a person disobeys a subpoena issued by the IIC under this section, the Attorney General, acting on behalf of the CSB, may bring a civil action in a district court of the United States to enforce the subpoena. Instances of any knowing failure to comply with these regulations and/or the express terms contained in any Notice sent out pursuant to these regulations may also be referred to the U.S. Department of Justice, a local United States Attorney, or any State's Attorney General, for investigation and possible enforcement under applicable Federal or State law.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 05-3209, Docket No. 02-106, RM-10416 and Docket No. 02-108, RM-10418]

#### Radio Broadcasting Services; Harrisville and Presque Isle, MI

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule, dismissal.

**SUMMARY:** This document dismisses at the request of Petitioner Northern Paul Bunyan Radio Company its pending petitions for rulemaking to allot Channel 227A at Presque Isle, Michigan in MB Docket No. 02-106, RM-10416 and to allot Channel 226A at Harrisville, Michigan in MB Docket No. 02-108, RM-10418. See 67 FR 39933, published June 11, 2002. This document also dismisses a counterproposal filed by Northern Michigan Radio, Inc. which proposes *inter alia* to reallocate Channel 223C1 from Atlanta, Michigan to Vanderbilt, Michigan, and conflicts with both the proposals for Presque Isle and Harrisville. The counterproposal is

defective because it proposes to allot Channel 282C3 at Atlanta, Michigan as a "backfill" replacement for the loss of the community's sole local transmission service. This document therefore terminates the proceedings in MB Docket Nos. 02-106 and 02-108.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Helen McLean, Media Bureau (202) 418-2738.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket Nos. 02-106 and 02-108, adopted December 14, 2005 and released December 16, 2005. 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. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

This document is not subject to the Congressional Review Act. The Commission, is, therefore, not required to submit a copy of this Report and Order to Government Accountability Office, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) since this proposed rules are dismissed, herein.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E5-8252 Filed 1-3-06; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 05-3213; MB Docket No. 05-328; RM-10577]

#### Radio Broadcasting Services; Millerton, OK

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Audio Division seeks comment on a petition filed by Jeraldine Anderson proposing the allotment of Channel 265A at Millerton, Oklahoma, as the community's first local aural transmission service. Channel 265A can be allotted to Millerton in compliance

with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 265A at Millerton are 33-59-09 North Latitude and 95-00-48 West Longitude.

**DATES:** Comments must be filed on or before February 6, 2006, and reply comments on or before February 21, 2006.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve on Petitioner, as follows: Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 05-328, adopted December 14, 2005, and released December 16, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

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* contact.

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, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Millerton, Channel 265A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E5-8253 Filed 1-3-06; 8:45 am]

**BILLING CODE 6712-01-P**

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### 48 CFR Part 9903

#### Cost Accounting Standards Board; T&M Contracts for Commercial Items

**AGENCY:** Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

**ACTION:** Proposed rule with request for comment.

**SUMMARY:** The Cost Accounting Standards (CAS) Board is proposing to revise the CAS by providing an exemption for time-and-materials (T&M) and labor-hour (LH) contracts for the acquisition of commercial items.

**DATES:** Comments upon this proposed rule must be in writing and must be received by March 6, 2006.

**ADDRESSES:** Due to delays in OMB's receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. Electronic comments may be submitted to [casb2@omb.eop.gov](mailto:casb2@omb.eop.gov). Please put the full body of your comments in the text of the electronic message and also as an attachment readable in either MS Word or Corel WordPerfect. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to (202) 395-5105.