

includes, but is not limited to, the following:

(i) Is in a location that is accessible to the public, Medicare beneficiaries, CMS, NSC, and its agents. (The location must not be in a gated community or other area where access is restricted.)

(ii) Is accessible and staffed during posted hours of operation.

(iii) Maintains a permanent visible sign in plain view and posts hours of operation. If the supplier's place of business is located within a building complex, the sign must be visible at the main entrance of the building.

(iv) May be a "closed door" business, such as pharmacies or suppliers providing services only to beneficiaries residing in a nursing home, that complies with all applicable Federal, State, and local laws and regulations. "Closed door" businesses must comply with all the requirements in § 424.57(c)(7).

(8) Permits CMS, the NSC, or agents of CMS or the NSC to conduct on-site inspections to ascertain supplier compliance with the requirements of this section.

(9) Maintains a primary business telephone that is operating at the appropriate site listed under the name of the business locally or toll-free for beneficiaries. The use of cellular phones, beeper numbers, and pagers is prohibited. Additionally, DMEPOS suppliers are prohibited from forwarding calls from the primary business telephone listed under the name of the business to a cellular phone, or a beeper/pager. The exclusive use of answering machines, answering services or facsimile machine (or combination of these options) cannot be used as the primary business telephone during posted operating hours.

(10) Has a comprehensive liability insurance policy and meets the following insurance-related requirements:

(i) The comprehensive liability insurance is at least \$300,000 per incident that covers both the supplier's place of business and all customers and employees of the supplier. If the supplier manufactures its own items, the insurance must also cover product liability and completed operations. Self insurance may be used to demonstrate compliance with the comprehensive liability insurance as long as CMS or the NSC can verify the policy and its coverage provisions with an independent underwriter. Failure to maintain required insurance at all times beginning with the date of filing will result in denial or revocation of the supplier's billing privileges retroactive to the date the insurance lapsed.

DMEPOS suppliers are responsible for providing the contact information of an individual employed with the underwriter.

(ii) List the NSC as a certificate holder on the policy.

(iii) Notify the NSC in writing within 30 days of any policy changes or cancellations.

(11) Agree not to directly solicit patients, which includes, but is not limited to, a prohibition on telephone, computer e-mail or instant messaging, coercive response internet advertising on sites unrelated to DMEPOS products, or in-person contacts. The DMEPOS supplier may only contact the Medicare beneficiary when supplying a Medicare-covered item and only when one or more of the following applies:

(i) The individual has given written permission to the supplier to contact them concerning the furnishing of a Medicare-covered item that is to be rented or purchased.

(ii) The supplier has furnished a Medicare-covered item to the individual and the supplier is contacting the individual to coordinate the delivery of the item.

(iii) If the contact concerns the furnishing of a Medicare-covered item other than a covered item already furnished to the individual, the supplier has furnished at least one covered item to the individual during the 15-month period preceding the date on which the supplier makes such contact.

(12) Has met the following delivering and beneficiary instruction requirements:

(i) Maintains proof of the delivery in the beneficiary's file.

(ii) Furnishes information to the beneficiary at the time of delivery of items on how the beneficiary can contact the supplier by telephone.

(iii) Provides the beneficiary with instructions on how to safely and effectively use the equipment or contract this service to a qualified individual.

(iv) Completes and documents beneficiary instruction on the safe and effective use of the equipment at the time of delivery or other appropriate time.

\* \* \* \* \*

(26) [Reserved]

(27) Must obtain oxygen from a State-licensed oxygen supplier (applicable only to those suppliers in States that require oxygen licensure.)

(28) Is required to maintain ordering and referring documentation, including the National Provider Identifier, received from a physician, nurse practitioner, physician assistant, clinical

social worker, or certified nurse midwife, for 7 years after the claim has been paid.

(29) Is prohibited from sharing a practice location with any other Medicare supplier.

(30) Is open to the public a minimum of 30 hours per week, except for those DMEPOS suppliers who are working with custom made or fitted orthotics and prosthetics.

(31) Does not have an Internal Revenue Service (IRS) or a State taxing authority tax delinquency.

(d) *Failure to meet standards.* (1) *Revocation.* CMS revokes a supplier's billing privileges if it is found not to meet the standards in paragraphs (b) and (c) of this section. The revocation is effective 15 days after the entity is sent notice of the revocation, as specified in § 405.874 of this subchapter.

(2) *Overpayments associated with adverse legal action and felony convictions.* CMS, the NSC or a CMS-designated contractor establishes a Medicare overpayment from the date an adverse legal action or felony conviction (including felony convictions within the 10 years preceding enrollment or revalidation of enrollment) that precludes payment.

**Authority:** (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: May 31, 2007.

**Leslie V. Norwalk,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Approved: August 21, 2007.

**Michael O. Leavitt,**

*Secretary.*

**Editor's note:** This document was received by the Office of the Federal Register on January 22, 2008.

[FR Doc. E8-1346 Filed 1-24-08; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 08-27; MB Docket No. 08-3; RM-11407]

#### Radio Broadcasting Services; Wheatland, WY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

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**SUMMARY:** Appaloosa Broadcasting Company, Inc. ("Petitioner"), the licensee of Station KIMX(FM), Channel 244C2, Laramie, Wyoming, has filed a

contingent application to modify the facilities of Station KIMX(FM) from Channel 244C2 to Channel 245A and to change that station's community of license from Laramie, Wyoming, to Nunn, Colorado. This *Notice of Proposed Rule Making* requests comments on a petition for rule making filed by Petitioner proposing the substitution of Channel 286A for vacant Channel 247A at Wheatland, Wyoming. This channel substitution would accommodate Petitioner's contingent modification application. In addition, to accommodate that application, Petitioner requests that FM Channel 246C1 be involuntarily substituted for Channel 245C1 at Station KCMJ(FM), Terrytown, Nebraska. *See*

**SUPPLEMENTARY INFORMATION.**

**DATES:** Comments must be filed on or before February 28, 2008, and reply comments on or before March 14, 2008.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for Petitioner as follows: Barry A. Friedman, Esq., Thompson Hine LLP, 1920 N Street, NW., Suite 800, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 08-3, adopted January 2, 2008, and released January 7, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. 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>.

Channel 247A at Wheatland was allotted in MB Docket No. 05-98. *See* 71 FR 4527, published January 27, 2006. This vacant FM channel was inadvertently removed from the FM Table of Allotments. *See* 71 FR 76208, published December 20, 2006. This rulemaking proceeding is now proposing to remove Channel 247A at Wheatland and add Channel 286A at Wheatland to accommodate the change of community application for Station KIMX from Laramie to Nunn, Colorado.

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, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Wheatland, Channel 286A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E8-1331 Filed 1-24-08; 8:45 am]

**BILLING CODE 6712-01-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 300, 600 and 697**

[Docket No. 070717337-7338-01]

**RIN 0648-AV78**

**General Provisions for Domestic Fisheries; Specifications for Boarding Ladders**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule, request for comments, reopening of comment period.

**SUMMARY:** NMFS reopens the comment period for proposed regulations to require the operators of certain domestic fishing vessels to provide a U.S. Coast Guard-approved pilot ladder as a safer and more enforceable means for authorized personnel to board.

**DATES:** Comments must be received at the following address by February 25, 2008.

**ADDRESSES:** You may submit comments, identified by "RIN 0648-AV78," by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- Fax: 301-713-1175, Attn: William D. Chappell.

- Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comments on Boarding Ladder Rule."

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** William D. Chappell, 301-713-2337.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Act established U.S. management authority over the fishery resources in the exclusive economic zone (EEZ). NMFS is responsible for implementation of the Magnuson-Stevens Act and the Fishery Management Plans (FMPs) prepared by eight Regional Fishery Management Councils (Councils) and for the FMP governing Atlantic Highly Migratory Species. While each Council prepares FMPs for those fishery resources within the Council's area of authority that require conservation, NMFS implements certain requirements common to all fisheries, such as facilitation of enforcement. Associated regulations are