

*Legal Basis:* 47 U.S.C. 154 and 303.  
*Section Number and Title:*

97.303(r) Frequency sharing requirements.

### Part 101—Fixed Microwave Services

#### Subpart A—General

*Brief Description:* The Part 101 rules prescribe the manner in which portions of the radio spectrum may be made available for private operational, common carrier, Local Television Transmission Service (LTTS), 24 GHz Service, Local Multipoint Distribution Service (LMDS), 39 GHz, Multiple Address Service (MAS), Multichannel Video Distribution and Data Service (MVDDS) and 70–80–90 GHz fixed, microwave operations that require transmitting facilities on land or in specified offshore coastal areas within the continental shelf. Subpart A sets forth the scope of and authority for the remaining rules in Part 101, as well as setting forth definitions of certain terms used in the remaining rules.

*Need:* The identified rule is necessary to refer to the rules of practice and procedure in Part 1 of the rules that are applicable to services regulated under Part 101 of the rules.

*Legal Basis:* 47 U.S.C. 154 and 303.  
*Section Number and Title:*

101.1(a) Scope and authority.

#### Subpart B—Applications and Licenses

*Brief Description:* The Part 101 rules prescribe the manner in which portions of the radio spectrum may be made available for private operational, common carrier, Local Television Transmission Service (LTTS), 24 GHz Service, Local Multipoint Distribution Service (LMDS), 39 GHz, Multiple Address Service (MAS), Multichannel Video Distribution and Data Service (MVDDS) and 70–80–90 GHz fixed, microwave operations that require transmitting facilities on land or in specified offshore coastal areas within the continental shelf. Subpart B sets forth the rules governing applications and licenses in those fixed microwave services subject to Part 101.

*Need:* The identified rules are necessary to establish service areas and performance requirements for the 38.6–40.0 GHz band, allow partitioning and disaggregation in that band, define the general filing requirements for licensees in the private operational, common carrier, LTTS, 24 GHz, LMDS, MAS, MVDDS and 70–80–90 GHz Services and to provide specific procedures for the licensing, operation, and modification of facilities in those services.

*Legal Basis:* 47 U.S.C. 154 and 303.  
*Section Number and Title:*

101.17 Performance requirements for the 38.6–40.0 GHz frequency band.

101.31(e)(1)(viii) Temporary and conditional authorizations.

101.56 Partitioned service areas (PSAs) and disaggregated spectrum.

101.64 Service areas.

#### Subpart C—Technical Standards

*Brief Description:* The Part 101 rules prescribe the manner in which portions of the radio spectrum may be made available for private operational, common carrier, Local Television Transmission Service (LTTS), 24 GHz Service and Local Multipoint Distribution Service (LMDS), 39 GHz, Multiple Address Service (MAS), Multichannel Video Distribution and Data Service (MVDDS) and 70–80–90 GHz fixed, microwave operations that require transmitting facilities on land or in specified offshore coastal areas within the continental shelf. Subpart C sets forth the technical requirements for such services.

*Need:* The identified rules are necessary to assign frequencies for systems in the 38.6–40 GHz band on an Economic Area service area basis and to clarify that non-LMDS operations in the 31,000–31,300 MHz band licensed after March 11, 1997 are secondary to Local Multipoint Distribution Service operations and are unprotected with respect to each other.

*Legal Basis:* 47 U.S.C. 154 and 303.

*Section Number and Title:*

101.103(b)(3) Frequency coordination procedures.

101.147(v)(2) Frequency assignments.

#### Subpart N—Competitive Bidding Procedures for the 38.6–40.0 GHz Band

*Brief Description:* The part 101 rules prescribe the manner in which portions of the radio spectrum may be made available for private operational, common carrier, Local Television Transmission Service (LTTS), 24 GHz Service and Local Multipoint Distribution Service (LMDS), 39 GHz, Multiple Address Service (MAS), Multichannel Video Distribution and Data Service (MVDDS) and 70–80–90 GHz fixed, microwave operations that require transmitting facilities on land or in specified offshore coastal areas within the continental shelf. Subpart N sets forth the rules governing the use of competitive bidding to resolve mutually exclusive applications for initial licenses in the 38.6–40.0 GHz Band.

*Need:* These rules are needed to implement the Commission's competitive bidding authority under 47 U.S.C. 309(j). The provisions in 47 CFR 101.1208 and 101.1209 are necessary to administer the Commission's designated

entity program under which small businesses meeting certain eligibility criteria may receive bidding credits on their winning bids.

*Legal Basis:* 47 U.S.C. 154, 303, and 309.

*Section Number and Title:*

101.1201 38.6–40.0 GHz subject to competitive bidding.

101.1208 Bidding credits for small businesses.

101.1209 Definitions.

[FR Doc. E9–15928 Filed 7–6–09; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09–1362; MB Docket No. 09–98; RM–11536]

### Radio Broadcasting Services; Leupp, AZ

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document sets forth a proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules, 47 CFR Section 73.202(b). The Commission requests comment on a petition filed by Cochise Broadcasting LLC, licensee of FM Station KZXX, Doney Park, Arizona. Petitioner proposes the substitution of FM Channel 293C2 for vacant Channel 255C2 at Leupp, Arizona. The purpose of the requested channel substitution at Custer is to allow FM Station KZXX to go from being a short-spaced station authorized pursuant to Section 73.215 of the Commission's rules and using a directional antenna to a fully-spaced station using an omnidirectional antenna. Channel 293C2 can be allotted at Leupp in compliance with the Commission's minimum distance separation requirements without site restriction at 35–17–02 North Latitude and 110–57–52 West Longitude. See **SUPPLEMENTARY INFORMATION** *infra*.

**DATES:** Comments must be filed on or before August 10, 2009, and reply comments on or before August 25, 2009.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve petitioner's counsel as follows: Susan A. Marshall, Esq., Ann Goodwin Crump, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 N. 17th Street—Eleventh Floor, Arlington, Virginia 22209.

**FOR FURTHER INFORMATION CONTACT:** Deborah A. Dupont, Media Bureau (202) 418-7072.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 09-98, adopted June 17, 2009, and released June 19, 2009. 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 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.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).

The 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, 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 Arizona, is amended by removing Channel 255C2 and by adding Channel 293C2 at Leupp.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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