

are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 28, 2011.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2011-28247 Filed 10-31-11; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 11-168; RM-11642, DA 11-1712]

#### Radio Broadcasting Services; Llano, Texas

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document sets forth a proposal to amend the FM Table of Allotments. The Commission requests comment on a petition filed by Bryan King, proposing to amend the Table of Allotments by substituting Channel 242C3 for vacant Channel 293C3, at Llano, Texas. The proposal is part of a contingently filed "hybrid" application and rule making petition. Channel 242C3 can be allotted at Llano in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.1 km (11.9 miles) north of Llano, at 30-55-34 North Latitude and 98-43-24 West Longitude. Concurrence is required for the allotment of Channel 242C3 at Llano, Texas, because the proposed allotment is located within 320 kilometers (199 miles) of the U.S.-Mexican border. See **SUPPLEMENTARY INFORMATION** *infra*.

**DATES:** Comments must be filed on or before December 5, 2011. Reply comments must be filed on or before December 20, 2011.

**ADDRESSES:** You may submit comments, identified by docket no. 11-168 to Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Lee J. Peltzman, *Esq.*, Shainis & Peltzman, Chartered, 1850 M Street, NW., Suite 240, Washington, DC 20036.

**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. 11-168, adopted October 12, 2011, and released October 14, 2011. 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.  
Federal Communications Commission.  
**Nazifa Sawez,**  
*Assistant Chief, Audio Division, Media Bureau.*

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, and 339.

#### § 73.202 [Amended]

2. In section 73.202(b), the Table of FM Allotments under Texas, is amended by removing 293C3 and adding 242C3 at Llano.

[FR Doc. 2011-27744 Filed 10-31-11; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 79

[CG Docket No. 11-175; FCC 11-159]

#### Anglers for Christ Ministries, Inc., New Beginning Ministries; Petitioners; Interpretation of Economically Burdensome Standard

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission proposes to continue utilizing the factors used for the "undue burden" exemption standard when evaluating future petitions seeking individual exemptions under the new economically burdensome standard contained in the CVAA. In addition, the Commission proposes to replace all current references to "undue burden" in the Commission's closed captioning rules with the term "economically burdensome" to correspond with the new language reflected in the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). The intended effect of this action is to ensure that the Commission's rules conform to section 202 of the CVAA.

**DATES:** Comments are due on or before December 1, 2011. Reply comments are due on or before December 16, 2011.

**ADDRESSES:** You may submit comments identified by [CG Docket No. 11-175], by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the

transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket No. 11–175.

- *Paper filers:* Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, or via email to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

**FOR FURTHER INFORMATION CONTACT:**

Traci Randolph, Consumer and Governmental Affairs Bureau at (202) 418–0569, or email: [Traci.Randolph@fcc.gov](mailto:Traci.Randolph@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rulemaking (*NPRM*), document FCC 11–159, adopted October 20, 2011, and released October 20, 2011, in CG Docket No. 11–175, seeking comment on (1) continuing to utilize the factors used for the “undue burden” exemption standard contained in section 713(e) of the Act and codified in § 79.1(f)(2) of the Commission's rules, when evaluating future petitions seeking individual exemptions under the new economically burdensome standard contained in the CVAA and (2) replacing all current references to “undue burden” in section 79.1(f) of the rules with the term “economically burdensome” to correspond with the new language reflected in the CVAA.

Simultaneously, with the *NPRM*, the Commission also issued a Memorandum Opinion and Order (*MO&O*) and *Order* in CG Docket No. 06–181. The full text of FCC 11–159 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. FCC 11–159 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at its Web site, <http://www.bcpiweb.com>, or by calling 1–(800) 378–3160. FCC 11–159 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.caption>.

Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments and reply comments must include a short and concise summary of the substantive discussion and questions raised in the document FCC 11–159. The Commission further directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. Comments and reply comments must otherwise comply with 47 CFR 1.48 and all other applicable sections of the Commission's rules.

Pursuant to 47 CFR 1.1200 *et seq.*, this matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments,

memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

**Initial Paperwork Reduction Act of 1995 Analysis**

Document FCC 11–159 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified 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).

**Synopsis**

1. In document FCC 11–159, the Commission proposes to continue utilizing the factors used for the “undue burden” exemption standard contained in section 713(e) of the Act and codified in § 79.1(f)(2) of the Commission's rules, when evaluating future petitions seeking individual exemptions under the new economically burdensome standard contained in the CVAA. The Commission tentatively concludes that Congress intended no substantive change in these factors and that, notwithstanding the change in nomenclature from an “undue burden” to an “economically burdensome” standard, Congress intended for the Commission to continue using the undue burden factors. The Commission seeks comment on this tentative

conclusion. The Commission also seek comment on any other interpretations of the term “economically burdensome” that the Commission should consider in evaluating requests for individual exemptions from the closed captioning requirements.

2. At present, the Commission’s rules, at § 79.1(f), contain various references to the prior undue burden standard. The Commission proposes to replace all current references to “undue burden” in § 79.1(f) of its rules with the term “economically burdensome” to correspond with the new language reflected in the CVAA and to make clear that petitioners seeking individual exemptions from the captioning rules must now show that providing captions on their programming would be “economically burdensome.” The Commission seeks comment on this proposed action.

#### Initial Regulatory Flexibility Certification

3. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” 5 U.S.C. 605(b). The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” 5 U.S.C. 601(6). In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. 5 U.S.C. 601(3). 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 Small Business Administration (SBA). 15 U.S.C. 632.

4. In document FCC 11–159, the Commission proposes to revise the references to “undue burden” contained in § 79.1(f) of its rules—“*Procedures for exemptions based on undue burden*”—to “economically burdensome” as required by the. No substantive changes to the existing rule beyond this change in terminology are proposed. Since the change is only a change in terminology, there is no burden of compliance on regulated entities subject to these rules. No action is required that would impose any monetary costs or burdens of compliance on any regulated entity. The Commission concludes there will be no economic impact by this rule change on small business entities or consumers.

Therefore, since there will be no economic impact of any kind, the Commission certifies that the proposals in document FCC 11–159, if adopted, will not have any significant economic impact on a substantial number of small entities. Therefore, the question about impact to small entities is moot.

5. The Commission will send a copy of document FCC 11–159, including a copy of the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

#### Ordering Clauses

Pursuant to the authority contained in sections 4, 5, 303, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 155, 303, and 613, and §§ 1.115 and 1.411 of the Commission’s rules, 47 CFR 1.115, 1.411, FCC 11–159 *is adopted*.

The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of document FCC 11–159, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 79

Cable television operators, Multichannel video programming distributors (MVPDs), Satellite television service providers, Television broadcasters.

Federal Communications Commission.

Marlene H. Dortch,  
Secretary.

#### Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 79 as follows:

#### PART 79—CLOSED CAPTIONING AND VIDEO DESCRIPTION OF VIDEO PROGRAMMING

1. The authority citation for part 79 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 613.

2. Section 79.1 is amended by revising paragraphs (f)(1), (2), (3), (4), (10), and (11) to read as follows:

##### § 79.1 Closed captioning of video programming.

\* \* \* \* \*

(f) *Procedures for exemptions based on economic burden.* (1) A video programming provider, video programming producer or video programming owner may petition the Commission for a full or partial exemption from the closed captioning

requirements. Exemptions may be granted, in whole or in part, for a channel of video programming, a category or type of video programming, an individual video service, a specific video program or a video programming provider upon a finding that the closed captioning requirements will be economically burdensome.

(2) A petition for an exemption must be supported by sufficient evidence to demonstrate that compliance with the requirements to closed caption video programming would be economically burdensome. The term “economically burdensome” means significant difficulty or expense. Factors to be considered when determining whether the requirements for closed captioning are economically burdensome include:

- (i) The nature and cost of the closed captions for the programming;
- (ii) The impact on the operation of the provider or program owner;
- (iii) The financial resources of the provider or program owner; and
- (iv) The type of operations of the provider or program owner.

(3) In addition to these factors, the petition shall describe any other factors the petitioner deems relevant to the Commission’s final determination and any available alternatives that might constitute a reasonable substitute for the closed captioning requirements including, but not limited to, text or graphic display of the content of the audio portion of the programming. The extent to which the provision of closed captions is economically burdensome shall be evaluated with regard to the individual outlet.

(4) An original and two (2) copies of a petition requesting an exemption based on the economically burdensome standard, and all subsequent pleadings, shall be filed in accordance with § 0.401(a) of this chapter.

\* \* \* \* \*

(10) The Commission may deny or approve, in whole or in part, a petition for an economically burdensome exemption from the closed captioning requirements.

(11) During the pendency of an economically burdensome determination, the video programming subject to the request for exemption shall be considered exempt from the closed captioning requirements.

\* \* \* \* \*

[FR Doc. 2011–28181 Filed 10–31–11; 8:45 am]

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