

MCRP and in the FERC record. If the Department's modified conditions were primarily based on new information that was not available when the applicant commented on the Department's preliminary conditions and prescriptions, a clear identification of the condition or prescription that was modified and the new information on which it was based;

(c) A summary of consultation with the Department, including a statement of disagreements regarding studies, resource impacts, or proposed protection, mitigation, or enhancement measures, as appropriate to the matter or matters being appealed;

(d) A proposed alternative for the appealed condition or prescription which is supported by substantial evidence in the record, is set forth in at least the same level of detail as the appealed condition or prescription, and is reasonably related to alternatives raised during the MCRP and in the FERC record;

(e) An assessment of the effects of the proposed alternative on fish, wildlife, and Indian trust resources; and

(f) Supplementary information that includes the following, as applicable:

(1) The most recent Form 1 filing (if investor-owned utility) or Form 412 filing (if publicly-owned applicant) filing; and if all or part of the basis of the appeal is adverse effect on electricity generation, power revenues, and/or the economic viability of the project,

(i) Data on the most recent five years of system load for the project, including an explanation of any anomalies attributable to a specific time frame or hydrologic condition; and

(ii) An analysis that demonstrates, using historic cost and load data and documented *pro forma* adjustments for future operations, the impacts of the Department's proposed condition or prescription on the cost and operational characteristics of the system, and which provides a comparison to the applicant's proposal.

(2) [Reserved]

#### **§ 25.57 Who may comment on an appeal?**

Indian tribes, States, Federal agencies, and the public may comment on an appeal. Comments shall be sent to OEPC at the address specified in § 25.55(a), and must be received by OEPC not later than 21 calendar days from the date on which the appeal was served, as documented in the certification of service submitted by the applicant pursuant to § 25.55(b).

#### **§ 25.58 Who will review the appeal?**

The Assistant Secretary (or Assistant Secretaries) with supervisory authority over the bureau establishing the modified condition or prescription will review the appeal. If an applicant appeals the modified conditions or prescriptions of more than one bureau in the same licensing project, then the Assistant Secretaries with supervisory authority over the bureaus shall coordinate their consideration of appeals to assure consistency. If more than one Assistant Secretary is involved and agreement among them is not reached, the appeal will be resolved by the Secretary or the Secretary's designee.

#### **§ 25.59 How will the appeal be reviewed?**

(a) The Assistant Secretary's review authority is *de novo*.

(b) The Assistant Secretary will resolve the appeal after considering, among other things, the materials submitted by the applicant pursuant to § 25.56, any substantive assessment prepared by the professional review team designated pursuant to § 25.55(a), any comments submitted pursuant to § 25.57, and any Federal, State, or tribal conditions, prescriptions, or water quality certifications, and pertinent portions of the administrative record filed with FERC in support of the modified conditions or prescriptions.

(c) The Assistant Secretary will assess whether the applicant has demonstrated that:

(1) The modified conditions or prescriptions conflict with conditions or prescriptions of another Department, or conflict with those of another bureau (or bureaus); or

(2) An alternative mitigation measure, preferred by the applicant, is as effective as that of the Department; or

(3) The modified conditions or prescriptions are not reasonably related to the impacts of the project because they mandate a level of mitigation that is inappropriate given the level of impacts attributable to the project.

(d) Before an Assistant Secretary adopts an alternative condition or prescription, he or she must also find that the alternative:

(1) Is supported by the technical and scientific record submitted with the appeal or compiled in the FERC proceeding;

(2) Provides protection consistent with the Department's trustee responsibilities for Indian trust resources;

(3) Provides protection consistent with the Department's responsibilities for fish, wildlife, and cultural resources; and

(4) Will not conflict with conditions or prescriptions of another Department, or conflict with those of another bureau (or bureaus).

(e) The Assistant Secretary will resolve the appeal and file new modified conditions or prescriptions or a notice that the previously filed conditions or prescriptions will not be changed with FERC within 60 days of receipt by OEPC of the appeal.

#### **§ 25.60 How will results of the review be made available?**

(a) Findings and results of the review of the Assistant Secretary will be collected and saved by OEPC in a retrievable format, and made available to the public.

(b) Applicants and FERC will be informed promptly by the Department of findings made by the Assistant Secretary (or Assistant Secretaries). All relevant supporting information, to the extent not already part of the FERC administrative record, will be filed with FERC within 15 calendar days of the Assistant Secretary's filing of the results of the review with FERC.

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 73**

[DA 04-2672; MB Docket No. 04-338; RM-11061]

### **Radio Broadcasting Services; Nevada City, CA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Dana J. Puopolo requesting the allotment of Channel 297A at Nevada City, California as that community's first FM commercial broadcast service. The coordinates for Channel 297A at Nevada City are 39-18-00 NL and 121-00-00 WL. There is a site restriction 4.5 kilometers (2.8 miles) north of the community.

**DATES:** Comments must be filed on or before October 18, 2004, and reply comments on or before November 2, 2004.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Dana J.

Puopolo, 2134 Oak Street, Unit C, Santa Monica, California 90405.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 04-338, adopted August 25, 2004, and released August 27, 2004. The full text of this Commission notice is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 Twelfth Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

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 and 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Nevada City, Channel 297A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04-20360 Filed 9-8-04; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 04-2674; MB Docket No. 04-342; RM-10732]

#### Radio Broadcasting Services; Paducah, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Charles Crawford requesting the allotment of Channel 234C3 at Paducah. The reference coordinates for Channel 234C3 at Paducah are 34-03-25 NL and 100-18-36 WL.

**DATES:** Comments must be filed on or before October 18, 2004, and reply comments on or before November 2, 2004.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205 and Gene A. Bechtel, Law office of Gene Bechtel, 1050 17th Street, NW., Suite 600, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 04-342, adopted August 25, 2004, and released August 27, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth 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>.

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 and 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Paducah, Channel 234C3.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04-20359 Filed 9-8-04; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 04-2677; MB Docket No. 04-343; RM-10799]

#### Radio Broadcasting Services; Cridersville, OH

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Dana J. Puopolo requesting the allotment of Channel 257A at Cridersville, Ohio. The coordinates for Channel 257A at Cridersville are 40-45-20 and 84-06-39. There is a site restriction 11.8 kilometers (7.3 miles) north of the community. Canadian concurrence will be requested for the allotment at Cridersville.

**DATES:** Comments must be filed on or before October 18, 2004, and reply comments on or before November 2, 2004.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Dana J. Puopolo, 2134 Oak Street, Unit C, Santa Monica, California 90405.