

supply, distribution, or use of energy. Therefore, the FHWA certifies that a Statement of Energy Effects under Executive Order 13211 is not required.

#### Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

#### Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action will not cause an environmental risk to health or safety that may disproportionately affect children.

#### Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### List of Subjects in 23 CFR Part 772

Highways and roads, Noise control.

Issued on: August 11, 2004.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend part 772 of title 23, Code of Federal Regulations, as follows:

#### PART 772—PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

1. The authority citation for part 772 continues to read as follows:

**Authority:** 23 U.S.C. 109(h) and (i); 42 U.S.C. 4331, 4332; sec. 339(b), Pub. L. 104–59, 109 Stat. 568, 605; 49 CFR 1.48(b).

2. In § 772.13 revise paragraphs (c) introductory text, (c)(1), (c)(4), and (d) to read as follows:

#### § 772.13 Federal participation.

\* \* \* \* \*

(c) The noise abatement measures listed below may be incorporated in Type I and Type II projects to reduce traffic noise impacts. The costs of such measures may be included in Federal-aid participating project costs with the Federal share being the same as that for the system on which the project is located.

(1) Traffic management measures (*e.g.*, traffic control devices and signing for prohibition of certain vehicle types, time-use restrictions for certain vehicle types, modified speed limits, and exclusive lane designations).

\* \* \* \* \*

(4) Construction of noise barriers (including landscaping for aesthetic purposes) whether within or outside the highway right-of-way.

\* \* \* \* \*

(d) There may be situations where severe traffic noise impacts exist or are expected, and the abatement measures listed above are physically infeasible or economically unreasonable. In these instances, noise abatement measures other than those listed in paragraph (c) of this section may be proposed for Types I and II projects by the highway agency and approved by the FHWA on a case-by-case basis when the conditions of paragraph (a) of this section have been met.

3. Revise § 772.17(a) to read as follows:

#### § 772.17 Traffic noise prediction.

(a) Any analysis required by this subpart must use the FHWA Traffic Noise Model (FHWA TNM), which is described in “FHWA Traffic Noise Model” Report No. FHWA–PD–96–010,<sup>5</sup> including Revision No. 1, dated April 14, 2004, or any other model determined by the FHWA to be consistent with the methodology of the FHWA TNM. This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is on file at the National Archives and Record Administration (NARA). For information on the availability of this material at NARA call (202) 741–6030,

<sup>5</sup> “FHWA Traffic Noise Model” (Report No. FHWA–PD–96–010), February 1998, is available for inspection and copying at the FHWA Headquarters Office, located at 400 Seventh Street, SW., Washington, DC 20590, as prescribed at 49 CFR part 7.

or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). It is available for copying and inspection at the Federal Highway Administration, 400 Seventh Street, SW., Room 3240, Washington, DC 20590, as provided in 49 CFR part 7.

\* \* \* \* \*

[FR Doc. 04–18850 Filed 8–19–04; 8:45 am]

BILLING CODE 4910–22–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[FRL–7802–7]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to partially delete the Davenport and Flagstaff Smelters Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 is issuing a notice of intent to partially delete the Davenport and Flagstaff Smelters Superfund Site (Site), located in Salt Lake County, Utah, from the National Priorities List (NPL) and requests public comments on this notice of intent. Specifically, EPA intends to delete 23 residential properties within the Site. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended. The EPA and the state of Utah, through the Utah Department of Environmental Quality, have determined that all appropriate response actions under CERCLA have been completed for the properties subject to the partial deletion. However, this partial deletion does not preclude future actions under Superfund.

In the “Rules and Regulations” section of today’s **Federal Register**, we are publishing a direct final notice of partial deletion of the Davenport and Flagstaff Smelters Superfund Site without prior notice of intent to partially delete because we view this as a non-controversial revision and anticipate no adverse comment. We have explained our reasons for this partial deletion in the preamble to the

direct final partial deletion. If we receive no adverse comment(s) on this notice of intent to partially delete or the direct final notice of partial deletion, we will not take further action on this notice of intent to partially delete. If we receive adverse comment(s), we will withdraw the direct final notice of partial deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final partial deletion notice based on this notice of intent to partially delete. We will not institute a second comment period on this notice of intent to partially delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of partial deletion that is located in the "Rules and Regulations" section of this **Federal Register**.

**DATES:** Comments concerning this notice must be received by September 20, 2004.

**ADDRESSES:** Written comments should be addressed to: Britta Copt, Community Involvement Coordinator (80CPI), U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466, (303) 312-6229, *copt.britta@epa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Stanley Christensen, Remedial Project Manager (8EPR-SR), U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466, (303) 312-6694.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final Notice of Partial Deletion, which is located in the "Rules and Regulations" section of this **Federal Register**.

*Information Repositories:*

Comprehensive information on the Davenport and Flagstaff Smelters Superfund Site as well as information specific to this proposed partial deletion is available for review at the following addresses:

U.S. Environmental Protection Agency  
Region 8 Records Center, 999 18th St.,  
Suite 300, Denver, CO 80202 (303)  
312-6473

Hours: M-F, 8:30 a.m. to 4:30 p.m.  
Sandy Branch, Salt Lake County  
Library, 10100 S. Petunia Way, Sandy,  
UT 84092, (801) 944-7574

Hours: M-Th, 10 a.m. to 9 p.m.; F-Sat.,  
10 a.m. to 6 p.m.

Utah Department of Environmental  
Quality, 168 North 1950 West 1st  
Floor, Salt Lake City, UT 84116, (801)  
536-4400

Hours: M-F, 8 a.m. to 5 p.m.

**List of Subjects in 40 CFR Part 300**

Environmental Protection, Air  
pollution control, Chemicals, Hazardous

waste, Hazardous substances,  
Intergovernmental relations, Penalties,  
Reporting and recordkeeping  
requirements, Water pollution control,  
Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR 1987 Comp., p. 193.

Dated: July 28, 2004.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

[FR Doc. 04-18965 Filed 8-19-04; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS  
COMMISSION**

**47 CFR Part 73**

**[DA 04-2500; MB Docket No. 04-318, RM-11040]**

**Radio Broadcasting Services; Culebra,  
PR**

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Audio Division requests comments on a petition filed by La Gigante Radio Corporation proposing the substitution of Channel 291A for Channel 254A at Culebra, Puerto Rico, as the community's first local aural transmission service. To accommodate the allotment, petitioner also proposes the deletion of vacant Channel 291B at Vieques, Puerto Rico. Channel 291A can be allotted at Culebra in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.2 kilometers (1.4 miles) northwest at petitioner's presently authorized STA site. The coordinates for Channel 291A at Culebra are 18-19-19 North Latitude and 65-17-59 West Longitude. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 291A at Culebra, Puerto Rico.

**DATES:** Comments must be filed on or before October 4, 2004, reply comments on or before October 19, 2004.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott C. Cinnamon, Esq., Law Offices of Scott C. Cinnamon, PLLC, 1090 Vermont Ave., NW., Suite 800, #144, Washington, DC 2005 (Counsel for Petitioner).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 04-318, adopted August 10, 2004, and released August 12, 2004. 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. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054.

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 Puerto Rico, is amended by adding Channel 291A and by removing Channel 254A at Culebra; and by removing Vieques, Channel 291B.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04-19143 Filed 8-19-04; 8:45 am]

**BILLING CODE 6712-01-P**