

Dated: June 3, 1992.

Victor J. Kimm,

Acting Assistant Administrator for
Prevention, Pesticides and Toxic Substances.

Therefore it is proposed that 40 CFR
part 372 be amended to read as follows:

PART 372—[AMENDED]

1. The authority citation for part 372
would continue to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

2. In § 372.65(c), by alphabetically
adding the category,
hydrochlorofluorocarbons to read as
follows:

§ 372.65 Chemicals and chemical categories to which the part applies.

* * * * *
(c) * * *

Category Name	Effective Date
Hydrochlorofluorocarbons $C_nH_xCl_yF_z$ Where: $n = 1-3$; x, y, z , do not equal 0; and $x+y+z = 2n+2$	1/1/94

[FR Doc. 92-14099 Filed 6-23-92; 8:45 am]
BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-126, RM-7993]

Radio Broadcasting Services; White Stone, VA

AGENCY: Federal Communications
Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests
comments on a petition by Windmill
Communications seeking the
substitution of Channel 285A for
Channel 261A at White Stone, Virginia,
and the modification of Station WNDJ-
FM's construction permit to specify
operation on Channel 285A. Channel
285A can be allotted to White Stone in
compliance with the Commission's
minimum distance separation
requirements with a site restriction of
6.7 kilometers (4.2 miles) northwest to
accommodate Windmill's desired
transmitter site. The coordinates for
Channel 285A at White Stone are North
Latitude 37-42-00 and West Longitude
76-26-00.

DATES: Comments must be filed on or
before August 10, 1992, and reply
comments on or before August 25, 1992.

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: Richard F. Swift, Esq.,
Tierney & Swift, 1200 Eighteenth Street
NW., Suite 210, Washington, DC 20036
(Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT:
Pamela Blumenthal, Mass Media
Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a
synopsis of the Commission's Notice of
Proposed Rule Making, MM Docket No.
92-126, adopted June 4, 1992, and
released June 19, 1992. The full text of
this Commission decision is available
for inspection and copying during
normal business hours in the FCC
Dockets Branch (Room 230), 1919 M
Street NW, Washington, DC. The
complete text of this decision may also
be purchased from the Commission's
copy contractor, Downtown Copy
Center, (202) 452-1422, 1714 21st Street
NW., Washington, DC 20036.

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 broadcasting.
Federal Communications Commission.

Beverly McKittrick,
Assistant Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 92-14863 Filed 6-23-92; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-130, RM-8007]

Radio Broadcasting Services; Canyon City, OR

AGENCY: Federal Communications
Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests
comments on a petition filed by Blue
Mountain Broadcasting seeking the
allotment of Channel 233A to Canyon
City, Oregon, as the community's first
local FM service. Channel 233A can be
allotted to Canyon City in compliance
with the Commission's minimum
distance separation requirements
without the imposition of a site
restriction, at coordinates North
Latitude 44-23-18 and West Longitude
118-56-54.

DATES: Comments must be filed on or
before August 10, 1992, and reply
comments on or before August 25, 1992.

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: J. Dominic Monahan, Esq.,
Dow, Lohnes & Albertson, 1255-23rd
Street NW., suite 500, Washington, DC
20037 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT:
Leslie K. Shapiro, Mass Media Bureau,
(202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a
synopsis of the Commission's Notice of
Proposed Rule Making, MM Docket No.
92-130, adopted June 10, 1992, and
released June 19, 1992. The full text of
this Commission decision is available
for inspection and copying during
normal business hours in the FCC
Dockets Branch (Room 230), 1919 M
Street NW., Washington, DC. The
complete text of this decision may also
be purchased from the Commission's
copy contractor, Downtown Copy
Center, (202) 452-1422, 1714 21st Street,
NW., Washington, DC 20036.

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 broadcasting.

Federal Communications Commission,
Beverly McKittrick,
Assistant Chief, Policy and Rules Division,
Mass Media Bureau.
 [FR Doc. 92-14864 Filed 6-23-92; 8:45 am]
 BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-131, RM-8005]

Radio Broadcasting Services; Copenhagen, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Tia A. Soliday seeking the substitution of Channel 294C3 for Channel 294A at Copenhagen, New York, and the modification of Station WWLF-FM's construction permit to specify the higher class channel. Channel 294C3 can be allotted to Copenhagen in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.3 kilometers (7 miles) northeast to avoid a short-spacing to Station WPCX, Channel 295B, Auburn, New York, at coordinates North Latitude 43-56-30 and West Longitude 75-33-00. Canadian concurrence has been requested since Copenhagen is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before August 10, 1992, and reply comments on or before August 25, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel, of consultant, as follows: Tia A. Soliday, 6481 Newport Road, Warners, New York 13164 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-131, adopted June 10, 1992, and released June 19, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 475-1422, 1714 21st Street, NW., Washington, DC 20036.

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 not 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 broadcasting.

Federal Communications Commission,
Beverly McKittrick,
Assistant Chief, Policy and Rules Division,
Mass Media Bureau.
 [FR Doc. 92-14865 Filed 6-23-92; 8:45 am]
 BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-129, RM-8006]

Radio Broadcasting Services; Grundy Center, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Grundy Broadcasting Company seeking the substitution of Channel 249C3 for Channel 249A at Grundy Center, Iowa, and the modification of Station KGCI-FM's license to specify operation on the higher class channel. Channel 249C3 can be allotted to Grundy Center with a site restriction of 18.2 kilometers (11.3 miles) east to avoid a short-spacing to Station KHBT, Channel 249A, Humboldt, Iowa, and to accommodate petitioner's desired transmitter site, at coordinates North Latitude 42-21-25 and West Longitude 92-33-14. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of the channel at Grundy Center or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before August 10, 1992, and reply comments on or before August 25, 1992.

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: Cary S. Tepper, Esq., Putbren, Hunsaker & Ruddy, 6800 Fleetwood Road, suite 100, P.O. Box 539, McLean, Virginia 22101 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-129, adopted June 10, 1992, and released June 19, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

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* 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 broadcasting.

Federal Communications Commission,
Beverly McKittrick,
Assistant Chief, Policy and Rules Division,
Mass Media Bureau.
 [FR Doc. 92-14866 Filed 6-23-92; 8:45 am]
 BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-221; FCC 92-209]

Television Broadcast Services; Video Marketplace

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rule Making proposes alternative means of lessening the regulatory burden on television broadcasters as they seek to adapt to the multichannel video marketplace. Last year the Commission released a Notice of Inquiry, 56 FR 40847

(August 16, 1991), which sought comment on whether existing television ownership rules and related policies should be revised in order to allow television licensees greater flexibility to respond to enhanced competition in the distribution of video programming. This inquiry was prompted by the FCC Office of Plans and Policy Working Paper No. 26 (June 1991) (OPP report), which found that the policies of the Commission and the entire federal government has spawned new competition to broadcast services that resulted in a plethora of new services and choices for video consumers. As a result of the comments received in response to the Notice of Inquiry, the Commission adopts this Notice of Proposed Rule Making to consider changes to several of the structural rules that have governed the television industry for many years.

DATES: Comments are due on or before August 24, 1992, and replay comments are due on or before September 23, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Beverly McKittrick, Policy and Rules Division, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, in MM Docket No. 91-221 adopted May 14, 1992, and released June 12, 1992. The complete text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street, NW., Washington, DC 20036.

Synopsis of Notice of Proposed Rule Making

1. The Commission issues this Notice of Proposed Rule Making ("Notice") in response to comments to its Notice of Inquiry, 56 FR 40847 (August 16, 1991), which was initiated by the Commission's Office of Plans and Policy Working Paper #26, Broadcast Television in a Multichannel Marketplace (June 1991) (OPP report). In the Notice of Inquiry, the Commission sought comment on the report and also asked about rules and policies that could be revised in order to allow television licensees greater flexibility to respond to enhanced competition in the distribution of video programming. The report documented enormous changes in the market for video programming over the period between 1975 and 1990 and

found that the policies of the Commission and the entire federal government (e.g. the 1984 Cable Act) had spawned new competition to broadcast services that resulted in a plethora of new services and choices for video consumers. The report further suggested that these competitive forces were affecting the ability of over-the-air television to contribute to a diverse and competitive video programming marketplace.

2. After reviewing the comments filed in response to the Notice of Inquiry, the Commission is opening this proceeding to consider changes to several of the structural rules that have governed the television industry for many years. These include rules that establish national and local limits for the number of television stations in which one entity may hold an attributable interest, as well as certain rules governing the three national networks. The Commission will also reexamine the radio-television cross-ownership rule, which generally prohibits one entity from owning both a radio and a television station that serve substantially the same area. Through its review of the comments filed in response to the proposals the Commission presents in this Notice of Proposed Rule Making, the Commission expects to identify specific rule changes designed to assure that Commission policy will facilitate the further development of competition in the video marketplace and the attendant advantages to consumers in increased choice.

3. The comments received in response to the Notice of Inquiry generally concur that the television industry has undergone significant changes in the past decade and a half, as reflected in the current state of the video programming market. In particular, the industry has experienced an enormous expansion in the number of video outlets available to most viewers and in the alternative sources of video programming. Since 1975 the number of broadcast television stations has increased by 50 percent, with independent television stations accounting for three-quarters of that growth. Today, more than half of all households receive ten or more over-the-air television signals. At the same time, cable television has grown explosively as a competing force. By 1990, approximately 90 percent of television households were passed by cable; of all television households approximately 60 percent subscribed to cable. With cable channels included, more than half of all households now receive at least 30 channels. In addition, new program networks have emerged. Other

multichannel video providers such as home satellite dish systems and home videocassette recorders also provide alternative sources of video programming.

4. As more program choices and a wider variety of programming have emerged, viewers have begun to mitigate from traditional broadcast services to other program sources. The percentage of total viewing captured by broadcast television stations fell from 81 percent in the 1984-1985 television season to 70 percent during the 1989-1990 season. This decline in broadcast share results in large part from both increased cable penetration and increased cable viewing in cable households. Declining audience shares have been reflected in declining advertising revenues for broadcast television stations and networks.

5. Just as the record reflects consensus concerning the current state of the market, there appears to be general agreement that the competitive structure of the broadcast television industry has changed for the long term and that over-the-air television will face increasing competitive pressure from multichannel media with dual revenue streams. Regulations adopted before the advent of such competition may reduce the ability of broadcasters to respond competitively and to continue offering services that advance the public interest. These conclusions lead the Commission to reexamine and to propose revisions to certain of the rules governing the television industry's market structure.

6. National Ownership Limitations: Section 73.3555(d) of the Commission's Rules limits the number and audience reach of television stations in which a person may hold an attributable interest to 12 stations and 25 percent of total television households. The rule allows ownership of interests in up to two additional stations reaching an additional 5 percent of total television households if those stations are minority controlled. In view of the many changes in the video marketplace, the Commission seeks comment on whether to relax the national ownership rule to allow capture of increased economies of scale, which could permit the production of new and diverse, including locally-produced, programming. Moreover, the Commission believes that the primary concern underlying the national ownership rule—preventing economic concentration and consequent harm to diversity—may have abated with the proliferation of television stations and alternative sources of video programming. If, by altering the current national ownership restrictions, the

Commission could permit broadcast television stations to compete more effectively without permitting undue economic concentration or loss of programming diversity, the Commission believes it should consider such action.

7. With these considerations in mind, the Commission invites comment on amending the national numerical limit to permit common ownership of 20 or perhaps 24 television stations instead of 12 and altering the national reach restriction to permit a group owner to reach 35 percent instead of 25 percent of the national audience. This moderate approach would allow some growth in the size of group owners and provide the Commission an opportunity to assess over time the benefits and any costs of increased station ownership. The Commission also seeks comment on whether a smaller increase in the limits, e.g. from 12 to 18 stations and 25 to 30 percent reach, would adequately serve its goals. Finally, the Commission seeks comment on whether it should modify only the numerical limit (and retain the 25 percent reach limit) to address the concern that it is the numerical limit that unduly restricts group owners wishing to invest in smaller market stations, because such owners will reach substantially fewer television households when they reach the numerical cap than will group owners investing in larger market stations. The Commission also invites comment on any other proposals commenters believe would be consistent with its stated objectives. In addition, the Commission seeks comment on including a similar minority incentive should it modify the national ownership limitations pursuant to any of the proposals outlined above. In particular, commenters are asked to address how such an incentive should be structured.

8. Contour Overlap ("Duopoly"): Section 73.3555(a)(3) of the Commission's Rules prohibits ownership of cognizable interests in television stations with overlapping Grade B contours. The duopoly rule is the oldest and, as far as diversity is concerned, perhaps the most important of the Commission's ownership restrictions. Yet, it is common ownership of precisely those co-located, same-service facilities now governed by the duopoly rule that may hold the most promise for the greatest economic efficiencies. As the Commission recently stated in its decision to relax the radio ownership rules, Report and Order, MM Docket No. 91-140, 57 FR 18089 (April 29, 1992), allowing ownership of more than one station in a market (or region) would permit beneficial merger of

administrative, newsgathering, and production functions. Offering a wider audience to advertisers and sharing joint and common costs, regional networks composed of stations under common ownership could also compete more effectively. Moreover, relaxing the rule may enable financially troubled stations to remain on the air or improve their service, thus promoting the Commission's goals of diversity and localism. Finally, the Commission notes that the level of competition in local markets has greatly increased since the duopoly rule was adopted in 1964. Nonetheless, given the fundamental importance of the contour overlap limitation in protecting the Commission's interest in diversity, the Commission believes caution is counseled in amending this rule.

9. Accordingly, the Commission seeks comment on whether and how it might modify the contour overlap rule to afford broadcasters greater flexibility, yet avoid undue harm to the Commission's underlying competition and diversity concerns. First, the Commission invites comment on whether it should change the signal contour used to determine whether prohibited overlap occurs from the Grade B to the Grade A. This change would narrow the geographic area in which common ownership of television stations would trigger the Commission's rules to an area that more accurately reflects a station's core market. In addition, the rule revision would permit common ownership of stations in neighboring communities, thus facilitating increased operating efficiencies. The Commission seeks comment on whether, given the substantial increase in video programming services available to the public and the increasing competition faced by broadcast television, the proposed change would promote competition without threatening local diversity.

10. The Commission also seeks comment on whether it should further modify its local ownership rules to permit common ownership of television stations with overlapping contours under certain limited circumstances. For example, the Commission could permit combinations involving only UHF stations, thus allowing the licensees of such stations to capture significant economies of scale with respect to administrative, newsgathering, and production functions. This alternative would limit mergers to the class of stations that are often handicapped by less favorable signal propagation characteristics and higher technical operating costs than VHF stations and

that tend to be less profitable than their VHF competitors. On the other hand, limiting the rule change to UHF stations alone would prevent mergers between strong VHF and weak UHF stations. Permitting such mergers might be effective in preserving or improving the service of UHF stations. Accordingly, the Commission also seeks comment on whether it should permit the combination of any two stations where one of the stations is a UHF facility and where a minimum number of separately owned television stations would remain after the proposed combination. The Commission invites comment on these and other proposals that might encourage innovative business arrangements that increase the competitiveness of stations but do not undermine the Commission's interest in diversity.

11. Time Brokerage Agreements: In the radio ownership proceeding, the Commission adopted new rules designed to limit time brokerage agreements that appear to thwart the purpose of its national and local radio ownership rules. The Commission seeks comment on the extent to which time brokerage or LMAs are a pervasive phenomenon in television, whether they present the same competitive concerns the Commission found in the radio industry and whether the Commission similarly should restrict them in the television station context if the Commission substantially relaxes the television local ownership rules.

12. Radio-Television Cross-Ownership Rule: Section 73.3555(b) of the Commission's Rules prohibits a party from holding cognizable ownership interests in a radio station and a television station located in the same market. Note 7 to this rule states that it is the Commission's policy to look favorably upon requests for waiver of this rule if the combination would occur in one of the top 25 television markets and 30 separately owned, operated, and controlled broadcast licensees would remain after the combination, or if the request involves a "failed" station. Given the growth of cable services and the increase in the number of both radio and television stations, the Commission's local ownership rules alone may be sufficient to ensure competitive and diverse radio and television markets. Accordingly, one approach to modifying the Commission's local ownership rules would be to permit consolidation of radio and television ownership under the respective rules for each service without the additional limitation of a "one-to-a-market" rule. The Commission invites

comment on whether this approach would best serve the Commission's public interest goals. At the same time, given that the Commission has just relaxed the radio ownership rules and is considering in this proceeding proposals to relax the duopoly rule for television, the Commission also seeks comment on a more moderate approach which would permit ownership of one AM, one FM, and one television station in a market. This alternative would allow broadcasters to achieve efficiencies from consolidated operation but also would limit local cross-service ownership. A third, more cautious approach would be to eliminate the one-to-a-market rule only for TV/AM combinations. This option would provide benefits of consolidation to both television stations and the AM service. A fourth approach would be to codify the waiver criteria adopted in 1989 and apply them to any market, not just the top 25, in which 30 "independent voices" would remain. Codifying the waiver criteria in this manner would give broadcasters greater flexibility and save both Commission and applicant resources that are now spent on such waiver requests. Finally, commenters are invited to propose other approaches to modifying this rule, indicating how their proposal would promote a financially healthy and diverse set of competitors in the local media distribution market.

13. **Dual Network Rule:** Under § 73.658(g) of the Commission's rules, a television station cannot affiliate with a network that operates more than one network if the networks operate simultaneously and serve substantially overlapping geographic areas. This rule was adopted in 1941, when the Commission found that operation of two radio networks gave NBC excessive control over its affiliates because their contracts did not specify whether a station was part of the Red or Blue network. The rule was extended to television networks in 1946. In 1977, the Commission repealed the rule for radio after concluding that the tremendous increase in the number of radio stations, the greatly lessened economic importance of networks, and the change in the type of network programming (from half-hour or longer entertainment programming to periodic news and information segments of five minutes) rendered the rule an arbitrary restraint on stations' freedom to schedule network programming.

14. As the Commission's review of the changing video environment indicates, one of the principal developments taking place is the growth of multiple channel

service providers, which enjoy certain economics of scale and marketing advantages.

15. The Commission notes that, with the advancement of satellite technology and associated video compression, the television networks could become multichannel competitors by introducing a multiple channel network and making more efficient use of their existing network distribution facilities. To the extent the dual network rule forestalls such innovations that would enhance program diversity and competition and increase the efficiency of spectrum usage, the rule may be disserving the public interest, especially since the television networks have the resources to invest in technological development and the ability to supply programming for additional channels. In the context of this multiplicity of network and other program sources, the Commission believes that repeal of the dual network rule might expand the flexibility available to existing broadcast program providers with little risk to diversity. The Commission seeks comment, however, on the possibility that eliminating the rule would prevent entry of new, independent programming sources, which are more likely to lack (or to require more time to arrange for) the funds needed to create a full complement of programming for new distribution channels. The Commission also seeks comment on the possible effect of this proposal on network-affiliated broadcast television stations and whether any safeguards are needed to counteract possible anticompetitive conduct.

16. **Network ownership of stations:** Section 73.658(f) of the Commission's rules provides that a network or an entity controlled by a network cannot own television stations in areas where there are few television stations or the stations are of such unequal desirability that competition would be restrained by allowing such licensing. The Commission found that ownership of stations by networks renders them inaccessible to competing networks, and this "bottling up" of the best facilities discouraged the creation and growth of new networks. In view of the radical changes in the television marketplace, the Commission requests comment on repealing this rule. In this regard, the Commission notes that even stations in the smallest markets are subject to significant competition today, whether from other broadcast stations, cable, satellite dishes, other multichannel competition, or VCRs. The Commission thus seeks comment on the following questions: (1) Is there any basis to

assume that a network could achieve an unfair competitive advantage over the other station owners, including large group owners, that are not subject to this restriction? (2) Would allowing networks into the smallest markets bring better service to the public? (3) Is there a need for this separate rule in addition to the Commission's duopoly and one-to-a-market rules?

17. **Broadcast of the programs of more than one network:** Section 73.658(1) of the Commission's rules provides that in television markets in which two stations have already affiliated with two of the three major networks and in which there are one or more independent stations with reasonably comparable facilities, the network without an affiliate in that market must first offer its programming to the independent station before offering it to the affiliated stations. This rule was adopted in 1971 to prevent network bias against primary affiliations with independent stations (particularly UHF stations) in favor of secondary VHF affiliations. The practical effect of the rule is to force the third network to affiliate with the UHF station, thus providing independent stations enhanced access to programming. Given the great increase in the supply of programming since the rules' adoption in 1971, the Commission questions whether any reason remains for a rule limiting the options of networks as "sellers" of network programming and local television stations as "buyers" of that programming. On the other hand, network programming may be so commercially valuable that providing independent stations access to such programming in the circumstances covered by this rule may be viewed as enhancing to their ability to compete. The Commission thus seeks comment on whether market changes now warrant its repealing the rule.

Initial Regulatory Flexibility Analysis

18. **Reason for the action:** This proceeding was initiated to review and update the Commission's national and local television ownership rules, certain television cross-ownership rules, and certain rules governing the television broadcast networks.

19. **Objective of this action:** The actions proposed in this Notice are intended to relax some of the national and local ownership and cross-ownership restrictions on television broadcasters, and certain business restrictions on the broadcast television networks, to enable them to adjust to the changing communications

marketplace, and to better respond to the needs of the public.

20. Legal basis: Authority for the actions proposed in this Notice may be found in sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303.

21. Reporting, recordkeeping, and other compliance requirements inherent in the proposed rule: None.

22. Federal rules which overlap, duplicate, or conflict with the proposed rule: None.

23. Description, potential impact and number of small entities involved: Approximately 2700 existing television broadcasters of all sizes may be affected by the proposals contained in this decision.

24. Any significant alternatives minimizing the impact on small entities and consistent with the stated objectives: The proposals contained in this Notice of Proposed Rule Making are meant to simplify and ease the regulatory burden currently placed on commercial television broadcasters.

25. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, by they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981)).

Ex Parte

26. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

27. Pursuant to applicable procedures set forth in 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before August 24, 1992, and reply comments on or before September 23, 1992. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file

an original and four copies of comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-14867 Filed 6-23-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-128, RM-8002]

Radio Broadcasting Services; South Hill and Lawrenceville, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Old Belt Broadcasting Corporation seeking the exchange of channels between Station WSHV-FM, Channel 288A, South Hill, Virginia, and Station WHFD-FM, Channel 255A, Lawrenceville, Virginia, and the modification of the authorizations of both stations, accordingly. Channel 255A and Channel 288A can be allotted to South Hill and Lawrenceville in compliance with the Commission's minimum distance separation requirements and can be used at the transmitter sites specified in Station WSHV-FM's and WHFD-FM's, respectively. The coordinates for Channel 255A at South Hill, Virginia, are 36-44-39 and 78-09-42. The coordinates for Channel 288A at Lawrenceville, Virginia, are 36-45-10 and 77-51-49.

DATES: Comments must be filed on or before August 10, 1992, and reply comments on or before August 25, 1992.

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: Earl R. Stanley, Esq., Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-128, adopted June 10, 1992, and released June 18, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

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 broadcasting.

Federal Communications Commission,

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-14868 Filed 6-23-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-Day Findings on Petitions to List the Corral Beach Sand Dune Weevil and to Delist the San Joaquin Kit Fox

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces 90-day findings on a petition to add the Corral Beach sand dune weevil to the List of Endangered and Threatened Wildlife and on a petition to delist the San Joaquin kit fox. The Service finds that the petitions have not presented substantial information indicating that