

States-based enterprises to compete with foreign-based enterprises. Further, for the same reasons, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have a significant economic impact on a substantial number of small entities.

The Department certifies that this final rule does not represent a government action capable of interference with constitutionally protected property rights. No provision in the rule relates to a taking of property or interests in property. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

#### List of Subjects for 43 CFR Part 3260

Environmental protection, Geothermal energy, Government contracts, Public lands—mineral resources, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, and under the authorities cited below, part 3260, group 3200, subchapter C, chapter II of title 43 of the Code of Federal Regulations is amended as set forth below.

#### PART 3260—GEOTHERMAL RESOURCES OPERATIONS

1. The Authority citation for 43 CFR part 3260 is revised to read as follows:

Authority: 30 U.S.C. 1001–1025.

#### Subpart 3266—Appeals

2. Section 3266.1 is revised to read as follows:

##### § 3266.1 Appeals.

(a) A party adversely affected by a decision of the authorized officer may appeal that decision to the Interior Board of Land Appeals as set forth in part 4 of this title.

(b) All decisions or approvals of the authorized officer under this part shall remain effective pending appeal unless the Interior Board of Land Appeals determines otherwise upon consideration of the standards stated in this paragraph. The provisions of 43 CFR 4.21(a) shall not apply to any decision or approval of the authorized officer under this subpart. A petition for a stay of a decision or approval of the authorized officer shall be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, Department of the Interior, and shall show sufficient

justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

Dated: June 4, 1992.

Richard Roldan,

Deputy Assistant Secretary of the Interior.

[FR Doc. 92-15627 Filed 7-2-92; 8:45 am]

BILLING CODE 4310-84-M

#### 43 CFR Part 4700

[WO-250-4370-02-24 1A; Circular No. 2637]

RIN 1004-AB87

#### Protection, Management, and Control of Wild Free-Roaming Horses and Burros; Prohibited Acts, Administrative Remedies, and Penalties; Administrative Remedies

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

**SUMMARY:** This final rule allows the authorized officer of the Bureau of Land Management (BLM) to place in full force and effect, pending appeal, decisions to remove excess wild free-roaming horses and burros from public or private land. The timely removal of excess animals will maintain appropriate management levels, prevent injury to, or death of, wild horses and burros, reduce damage to public land resources, and reduce future costs associated with removal and disposition.

**EFFECTIVE DATE:** August 5, 1992.

**ADDRESSES:** Suggestions or inquiries should be sent to Director (250), Bureau of Land Management, 1849 C Street NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Vernon R. Schulze, (202) 653-9215.

**SUPPLEMENTARY INFORMATION:** A proposed rule to amend 43 CFR part 4700 to allow decisions on gathering excess wild free-roaming horses and burros from public or private lands to be placed in full force and effect pending appeal was published in the *Federal Register* on July 2, 1991. Public comments were invited for 30 days, until August 1, 1991. The BLM received 15 letters concerning the proposed rule during the 30-day public comment period. Three of the letters came from private individuals, nine from associations, and three from State

government agencies. Of the 15 letters received, 8 expressed opposition and 5 expressed support for the proposed rule. The remaining two letters contained no comments addressing provisions of the proposed rule. The specific comments contained in these letters and the responses to the comments are provided below.

Two comments suggested that the proposed rule is in conflict with the Wild Free-Roaming Horse and Burro Act (the Act). Neither comment indicated in what way the rule was inconsistent with the Act. Therefore, it is difficult to respond directly to these comments. However, the Act states: "Where the Secretary determines \* \* \* that an overpopulation exists on a given area of public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels." The rule provides a mechanism for complying with this section of the Act by assuring that excess animals can be removed immediately when that action is needed to protect individual excess animals or the habitat of the remaining population.

Several comments suggested that the BLM already has the authority to expedite the removal of excess animals, when needed, under provisions of 43 CFR 4.21(a). This section of the Code of Federal Regulations (CFR) states "a decision will not be effective during the time in which a person adversely affected may file a notice of appeal, and the timely filing of a notice of appeal will suspend the effect of the decision appealed from pending the decision on appeal. However, when the public interest requires, the Director (Office of Hearings and Appeals) or an Appeals Board may provide that a decision or any part of it shall be in full force and effect immediately." Although this provision allows the Director of the Office of Hearings and Appeals, or the IBLA, to place a decision to remove animals in full force and effect, the time needed to file a brief explaining the need for an expedited decision and receiving a decision from the Director or the IBLA normally exceeds 2 months. In emergency situations, a delay of 2 months or more could cause severe or permanent injury to the animals and/or the habitat. In addition, the authority for determining the need for placing a decision in full force and effect should rest with the BLM field official who is accountable for the action and is in the best position to judge the need for immediate action to remove excess animals to protect the health of both the



removed and remaining animals and to maintain a thriving ecological balance. For these reasons, the provisions of 43 CFR 4.21(a) are not an adequate substitute for the proposed regulations. The comment is not adopted in the final rule.

Several comments suggested the proposed rule would invalidate or inhibit the appeals process. The proposed rule would in no way reduce the public's opportunity to file an appeal nor would it increase the appellant's burden of proof to show why the agency's action was incorrect. Nonetheless, unless the appellant is granted a stay of the agency's decision, the excess animals would normally be removed prior to a ruling on the merits of the appeal by the Interior Board of Land Appeals (IBLA). If, upon appeal, the IBLA were to subsequently rule that a BLM removal action was incorrect, there are at least two courses of action for mitigating the effects of erroneously removing animals. First, a similar number of animals from another herd area could be moved to the area where animals were removed in error. Second, as suggested by the IBLA in its decision in *Animal Protection Institute of America, et al*, 118 IBLA 63 (1991), future removals could be deferred until the herd size increases through normal reproduction and population levels again are consistent with maintenance of a thriving natural ecological balance. Thus even if a BLM full force and effect removal action was invalidated by the IBLA, an appellant would still receive the full benefit from filing an appeal.

However, even if an appeal is given expedited review, an IBLA ruling in favor of the BLM can come 6 months after the BLM removal decision is issued. In such cases, BLM's removal of the excess animals may not be completed before another generation of foals is added to the wild horse population. Resulting delays increase the Government's cost to remove the excess animals and allow an additional season of overgrazing to occur before corrective action can be taken to re-establish a thriving natural ecological balance. Such costs cannot be recovered, and the damages can only be mitigated at great additional cost.

Two comments suggested that the proposed rule will require an appellant to file a Petition for a Stay of Decision with the IBLA whenever the appellant wishes to prevent removal of animals after the BLM has placed a decision to remove excess wild horses or burros in full force and effect. We agree that the proposed rule would require filing a Petition for Stay of a removal decision if

the appellant wished to stop a planned removal action prior to the IBLA's final decision on the merits of the appeal. Because the damage to the animals or their habitat and the extra cost to the Government caused by a delay in removing excess animals far outweigh the costs of filing a Petition for Stay, requiring the appellant to file a Petition for Stay of a removal decision with the IBLA is both reasonable and in the public interest.

Another comment stated that, because IBLA rules do not provide for expedited consideration of a Petition for a Stay of Decision, most removal actions would be completed before a Stay could be issued. We agree that this is a possibility. However, even if the IBLA were to ultimately find the BLM removal decision to be incorrect, animals that were removed in error could either be replaced with animals from another herd area having excess animals or the herd could be allowed to increase through normal reproduction until the population again reached a thriving natural ecological balance. Consequently, no permanent or significant damage would result from failure of the IBLA to hear a Petition for Stay of a Decision prior to completion of a removal action. Nonetheless, if a Petition for Stay were denied by the IBLA, the appellant could request a judicial review of the BLM's removal action in Federal court.

Three of the comments suggested that the proposed rule would encourage the BLM to remove animals without proper data and justification. In 1988 and 1989, several BLM wild horse and burro removal plans in Nevada were appealed to the IBLA. In their two rulings partially overturning the BLM removal decisions, the IBLA concluded that BLM has "not established that removal is warranted in order to restore the range to a thriving natural ecological balance and prevent a deterioration of the range threatened by an overpopulation of wild horses." *Animal Protection Institute of America*, 109 IBLA 112, 115 (1989), and *Animal Protection Institute of America*, 116 IBLA 239, 243 (1990). The IBLA rulings outlined the requirements the BLM must satisfy for proper justification of removal decisions. The requirements outlined in these two rulings have been incorporated in BLM policy and all subsequent BLM decisions have been consistent with this policy. In addition, the IBLA has upheld all of the BLM removal decisions on which appeals have been filed since November 1990. As a result, we believe the present policy requiring current resource data be used to support removal decisions is

sound and in full compliance with the Act. This policy will continue to be applied for all removal decisions whether or not the decisions are placed in full force and effect. For that reason, we disagree with the comments suggesting that the proposed rule will encourage removal of wild horses and burros without data and justification.

One comment suggested that the proposed rule should include a requirement to conduct inventories and monitoring. The present regulations state at 43 CFR 4720.1, "Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately in the following order. \* \* \* Consequently, the suggested requirement exists in the current regulations. We agree that data collection is needed to determine if a thriving natural ecological balance is being maintained and if there are excess wild horses or burros. Because of its importance, this requirement is being further defined and expanded in the proposed revision of the BLM Management Considerations Manual Section 4710. Thus, there is no need to incorporate further requirements for data collection in this final rule.

Another comment suggested adding a requirement that full force and effect wild horse or burro removal decisions be issued as multiple-use decisions incorporating all other grazing uses such as livestock and wildlife found in an area. We agree to a certain extent. When decisions about forage and habitat usage are being made for a herd area, a single multiple-use decision addressing all proposed forage and habitat changes for each major species should be issued rather than individual decisions for each grazing species. Guidance concerning this process is included in the latest revision of the BLM Management Considerations Manual, section 4710. Under this guidance, decisions that propose changes in the forage or habitat use of more than one species will almost always be issued as multiple-use decisions. However, in many circumstances where full force and effect decisions are contemplated, a multiple-use decision would not be appropriate. The BLM expects that many wild horse or burro removal decisions placed in full force and effect will be issued in response to emergency situations such as sudden habitat loss (fire, deep snow, drought), when other grazing species are not using the area, or when data indicate that removal of only wild horses or burros is needed to re-



establish a thriving natural ecological balance. Therefore, the final rule does not require wild horse or burro removal decisions placed in full force and effect to be issued as multiple-use decisions.

Three comments suggested that the final rule should incorporate criteria developed by the BLM Nevada State Office for declaring an emergency, which would require placing decisions for removal of wild horses or burros in full force and effect. We agree criteria should be established for designation of emergency conditions. However, these criteria are more appropriate for inclusion in the BLM's Manuals and Handbooks. For that reason, the final rule contains no criteria for declaring an emergency. While the Nevada State Office guidelines for declaring an emergency are very good, they are not all-inclusive and do not include criteria for placing decisions in full force and effect when no emergency exists. As indicated in the preamble to the proposed rule, the BLM intends to place decisions to remove wild horses or burros in full force and effect in situations where damage to public or private land is expected to be significant or when failure to remove animals expeditiously will cause an unacceptable expenditure of public funds. The criteria for assessing the need for immediate removal of excess animals under these circumstances or emergency conditions will be issued as a draft policy prior to being incorporated in the BLM directive system. Nonetheless, it is not possible to anticipate all conditions that may require immediate removal of wild horses or burros. Therefore, after the final guidance has been issued, local managers will have the authority to determine the need for placing in full force and effect decisions to remove excess wild horses or burros.

Two comments suggested that the increased cost of removals associated with delays caused by appeals to removal plans is not sufficient reason for implementation of the proposed rule. The ability to remove excess wild horses and burros quickly, in accordance with the proposed rule, provides the public at least the following major benefits: (1) Protects the health and welfare of wild horses, (2) protects the habitat from damage caused by overgrazing, (3) reduces the cost of removal and placement of excess wild horses. At the present rate of appeals being filed and funding capability the proposed rule could prevent delays in removal of over 5,000 animals annually. Assuming that an appeal can be resolved in one year or less, the cost of

removal of 5,000 animals would increase by at least \$277,000 due to the increased number of animals that would have to be removed the following year. In addition to the increased cost of removal, the Government would be faced with an increased number of animals to prepare for adoption, ship to adoption centers, adopt, and convey title. Using the average adoption cost in fiscal year 1991, placing the additional animals would cost at least \$660,000. A Government savings of almost \$1,000,000 annually is a major benefit resulting from implementation of the proposed regulations. If resolution of an appeal required more than one year, savings would be substantially large. While the cost savings may by themselves not be sufficient justification for the proposed rule, they are certainly a major benefit or implementing the rule.

Two comments suggested amendments of the proposed rule to clarify the Secretary's authority concerning removal of wild horses or burros from private lands. One comment suggested that full force and effect removal decisions be limited to situations when the "owner(s) of these private lands have requested removal of horses from their lands pursuant to section 4 of Public Law 92-195, and have stated in writing that they are in agreement with the removal decision, if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship as determined in the Land Use Plan." Requiring the Secretary to obtain a written agreement from the landowner prior to removal of wild horses or burros from private land would be contrary to the Act which gives the Secretary sole authority to manage wild horses and burros. However, if removal operations require entry upon private lands, the BLM will first secure the landowner's permission.

On the other hand, the second comment suggested that authority to remove wild horses or burros from private land was not needed because the present regulation (Section 4720.2-1) "grants the Secretary the authority to immediately remove horses from private lands." We agree that the Secretary has the authority to remove wild horses and burros from private lands. The proposed rule was written to state clearly that decisions could be placed in full force and effect to remove animals from private lands when necessary to protect the animals or to maintain a thriving natural ecological balance on the public lands without the landowner's permission or a written request to remove wild horses or burros. Such

removals would be accomplished without entry of private land by helicopter herding. As stated in the previous paragraph, if transporting the animals or conducting capture operations requires BLM presence on private land, BLM will first obtain permission from the landowner.

An editorial change has been made in paragraph (c) added in the proposed rule to make it clear that the criteria stated in the paragraph relate to removal of horses and burros rather than to placing such removal in full force and effect pending appeal. Also, a new § 4700.0-9 is added in the final rule to contain the information formerly stated in the "Note" at the beginning of part 4700. This addition is nonsubstantive and does not add any regulatory requirements.

The principal author of this final rule is Vernon R. Schulze of the BLM Division of Wild Horses and Burros, assisted by the staff of the Division of Legislation and Regulatory Management.

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this final rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual (DM), chapter 2, appendix 1, Item 1.10, and that the rule would not significantly affect the 10 criteria for exceptions listed in 516 DM 2, appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

The Department of the Interior has determined under Executive Order 12291 that this document is not a major rule. A major rule is any regulation that is likely to result in an annual effect on the economy of \$100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment,



productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Reducing delays in removals of excess animals will result in smaller numbers of animals requiring removal and adoption, and concomitant savings by both the United States and members of the adopting public. Based on average delays and associated population increases, and average annual removals of 5,000 animals, annual savings would be at least \$1,000,000. In no case could the effect on the economy approach \$100,000,000. Further, for the same reasons, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have a significant economic impact on a substantial number of small entities.

The Department certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. No private property would be affected without permission. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not because a taking of private property.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* However, the collections of information contained in Group 4700 have been approved by the OMB under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004-0042.

#### List of Subjects in 43 CFR Part 4700

Advisory committees, Aircraft, Animal welfare, Intergovernmental relations, Penalties, Public lands, Range management, Reporting and recordkeeping requirements, Wild horses and burros, Wildlife.

For the reasons stated in the preamble, and under the authorities cited below, part 4700, subchapter D, chapter II, title 43 of the Code of Federal Regulations is amended as set forth below.

#### PART 4700—PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS

1. The authority citation for part 4700 is revised to read as follows:

Authority: 16 U.S.C. 1331-1340, 43 U.S.C. 1701 *et seq.*, 18 U.S.C. 47, 43 U.S.C. 315.

2. Section 4700.0-9 is added to read as follows:

#### § 4700.0-9 Collections of information.

(a) The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004-0042. The information will be used to permit the authorized officer to remove wild horses and burros from private lands and to determine whether an application for adoption of and title to wild horses or burros should be granted. Response is required to obtain benefits under 16 U.S.C. 1333 and 1334.

(b) Public reporting burden for this information is estimated to average 0.1652 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004-0042, Washington, DC 20503.

3. Section 4770.3 is amended by adding paragraph (c) to read as follows:

#### § 4770.3 Administrative remedies.

\* \* \* \* \*

(c) The authorized officer may place in full force and effect decisions to remove wild horses or burros from public or private lands if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship. Full force and effect decisions shall take effect on the date specified, regardless of an appeal. Appeals and petitions for stay of decisions shall be filed with the Interior Board of Land Appeals as specified in this part.

Dated: June 5, 1992.  
Dave O'Neal,  
Assistant Secretary of the Interior.

[FR Doc. 92-15628 Filed 7-2-92; 8:45 am]  
BILLING CODE 4310-84-M

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[MM Docket No. 92-56; RM-7551]

#### Radio Broadcasting Services; Bay City and Edna, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** This document substitutes Channel 269C1 for Channel 241C2 at Bay City, Texas, and modifies the construction permit of Station KXGJ, Bay City, Texas, to specify operation on Channel 269C1. In order to accommodate this upgrade, this document also substitutes Channel 241A for Channel 269A at Edna, Texas. See 57 FR 11058, published April 1, 1992. The reference coordinates for the Channel 269C1 allotment at Bay City, Texas are 28-45-58 and 96-04-11. The reference coordinates for the Channel 241A allotment at Edna, Texas are 28-58-42 and 96-38-48. With this action, this proceeding is terminated.

**DATES:** Effective: August 13, 1992.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 92-56, adopted June 17, 1992, and released June 29, 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 contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 241C2 and adding Channel 269C1 at Bay City, and removing Channel 269A and adding Channel 241A at Edna.



Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-15637 Filed 7-2-92; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 89-469; RM-6815, RM-7513]

#### Radio Broadcasting Services; Naples Park, Solana, and Cypress Lake, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** This document substitutes Channel 288C3 for Channel 288A at Naples Park, Florida, and modifies the license of Station WIXL, Naples Park, Florida to specify operation on Channel 288C3. In order to accommodate this upgrade, this document also substitutes Channel 285A for Channel 287A at Solana, Florida, and modifies the construction permit of Station WMMY, Solana, Florida, to specify operation on Channel 285A. See 54 FR 46633, published November 6, 1989. Both of these actions are conditioned on the final outcome of the judicial appeal in *Edens Broadcasting, Inc. v. FCC*, Case No. 91-1387 (D.C. Cir.). Finally, this document dismisses a counterproposal by FW Communications, Inc. for a Channel 285A allotment at Cypress Lake, Florida, and denies a counterproposal by West Florida Media, Inc. for a Channel 285C3 substitution at Solana, Florida. The reference coordinates for Channel 288C3 at Naples Park, Florida, are 26-13-56 and 81-45-10. The reference coordinates for the Channel 285A allotment at Solana, Florida, are 26-50-41 and 82-02-15. With this action, the proceeding is terminated.

**DATES:** Effective August 13, 1992.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 89-469, adopted June 17, 1992, and released June 29, 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 contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 288A and adding Channel 288C3 at Naples Park, and removing Channel 287A and adding Channel 285A at Solana.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 92-15639 Filed 7-2-92; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 90-164; RM-6814, RM-6926, RM-7706, RM-7707]

#### Radio Broadcasting Services; St. Augustine, St. Augustine Beach, and Gainesville, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** This document allots Channel 288A to St. Augustine Beach, Florida, as the community's first local FM service. At the request of WSOS-FM, this document also substitutes Channel 231C3 for Channel 288A at St. Augustine, Florida. See 55 FR 12390, April 3, 1990, and Supplemental Information, *Infra*.

**DATES:** Effective August 13, 1992, the window period for filing applications at St. Augustine Beach, Florida, will open on August 14, 1992, and close on September 14, 1992.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-164, adopted June 12, 1992, and released June 29, 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 contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Channel 288A can be allotted to St. Augustine Beach in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 288A at St. Augustine Beach are North Latitude 29-50-52 and West Longitude 81-19-42. Channel 231C3 can be allotted to St. Augustine in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.6 kilometers (4.7 miles) west-northwest. The coordinates for St. Augustine are North Latitude 29-55-05 and West Longitude 81-23-26. This document also denies a petition for rule making seeking the allotment of Channel 231A to St. Augustine Beach, Florida (RM-6926), it denies the petition for rule making requesting the allotment of Channel 231C3 to St. Augustine Beach, Florida (RM-7706), and the petition for rule making requesting the substitution of Channel 288C3 for Channel 288A at St. Augustine, and the substitution of Channel 287A for Channel 288A at Gainesville, Florida (RM-7707). With this action, this proceeding is terminated.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding St. Augustine Beach, Channel 288A, and by removing Channel 288A and adding Channel 231C3 at St. Augustine.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 92-15638 Filed 7-2-92; 8:45 am]

BILLING CODE 6712-01-M

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 285

[Docket No. 910102-1312]

#### Atlantic Tuna Fisheries; Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.