

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: January 31, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00-3523 Filed 2-14-00; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket 00-1; DA 00-12]

Amendment of List of Major Television Markets and Their Designated Communities

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document requests comment on a proposal to amend the Commission's rules which list the major television markets and their designated communities by adding the communities of Merced and Porterville, California to the hyphenated market of Fresno-Visalia-Hanford-Clovis, California (the "Fresno-Visalia market"). A joint petition was filed on March 16, 1988 and at least one of the petitioners has expressed continued interest in the Commission acting on this petition. The joint petitioners seek to add Merced and Porterville to the Fresno-Visalia market apparently to be able to assert network non-duplication rights and syndicated programming exclusivity on a hyphenated market basis. The requested action would also permit the acquisition of broadcast territorial exclusivity rights against television stations operating in Merced and in Porterville. In a related proceeding, Capital Cities/ABC, Inc. ("CC/ABC"), licensee of television station KFSN, Fresno, California, filed a request for amendment or waiver of § 76.51 of the Commission's rules to add the community of Merced to the Fresno-Visalia market. We address both petitions in this proceeding.

DATES: Comments are due on or before February 7, 2000 and reply comments are due on or before February 22, 2000.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of documents in Rulemaking Proceedings*, 63 FR 24, 121 (Friday, January 2, 1998). Comments filed through the ECFS can be sent as an

electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>.

Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail addresses.>" A sample form and directions will be sent in reply.

FOR FURTHER INFORMATION CONTACT:

Carolyn Fleming at (202) 418-7200 or via Internet at cfleming@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, DA 00-12, CS Docket No. 00-1, adopted January 4, 2000 and released January 7, 2000 ("Notice"). The full text of this Notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW, Washington, DC 20554, or may be purchased from the Commission's copy contractor, International Transcription Service ("ITS"), (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036, or may be reviewed via Internet at http://www.fcc.gov/Bureaus/Cable/News_Releases/2000/nrcb8022.html. For copies in alternative formats, such as Braille, audio cassette or large print, please contact Sheila Ray at ITS. This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under § 1.1206(b) of the Commission's rules. (47 CFR 1.1206(b), as revised). Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. (See 47 CFR 1.206(b)(2), as revised.) Additional rules pertaining to oral and written presentations are set forth in 47 CFR 1.1206(b).

Synopsis of Notice of Proposed Rule Making

Introductory Background

1. In this proceeding, we respond to a petition for rulemaking filed by Pappas Telecasting Incorporated ("Pappas"), licensee of television station KMPH(TV), Visalia, California, Retlaw Enterprises, Inc. ("Retlaw"), licensee of television station KJEO(TV), Fresno, California, and San Joaquin Communications Corp. ("San Joaquin"), licensee of television station KSEE(TV), Fresno, California, (collectively, the "Joint Petitioners") to amend § 76.51 of the Commission's rules to add the communities of Merced and Porterville to the "Fresno-Visalia" market. (See 47 CFR 76.51). In a related proceeding, Capital Cities/ABC, Inc. ("CC/ABC"), licensee of television station KFSN, Fresno, California, filed a request for amendment or waiver of § 76.51 of the Commission's rules to add the community of Merced to the Fresno-Visalia market. In this proceeding, we also address CC/ABC's petition and consider it a request for amendment of the applicable rules as it raises the same issue raised by the Joint Petitioners with regard to the community of Merced. At the time the petition was filed, there were applications on file with the Commission to commence television service in the communities of Merced and Porterville. Subsequent to the filing of the joint petition, television station KNSO, Channel 51, was licensed to Merced and television station KPXF, Channel 61, was licensed to Porterville.

2. Section 76.51 of the Commission's Rules enumerates the top 100 television markets and the designated communities within those markets. Among other things, this market list is used to determine territorial exclusivity rights under § 73.658(m) and helps define the scope of compulsory copyright license liability for cable operators. (See 47 CFR 73.658) Certain cable television syndicated exclusivity and network non-duplication rights are also determined by the presence of broadcast station communities of license on this list. Some markets consist of more than one named community (a "hyphenated market"). Such "hyphenation" of a market is based on the premise that stations licensed to any of the named communities in the hyphenated market do, in fact, compete with all stations licensed to such communities. (See *CATV-Non-Network Agreements*, 46 FCC 2d 892, 898 (1974). Market hyphenation "helps equalize competition" where portions of the market are located beyond the Grade B

contours of some stations in the area yet the stations compete for economic support. (See *Cable Television Report & Order*, 36 FCC 2d 143, 176 (1972)).

3. In their petition, Joint Petitioners argue that the communities of Merced and Porterville are geographically and economically part of the Fresno-Visalia market. The communities are part of the Fresno-Visalia "area of dominant influence" or ADI and the Fresno-Visalia "designated market area" or DMA. Joint Petitioners maintain the communities in the Fresno-Visalia ADI consist of farming communities and the local agri-business results in a common social, cultural, and commercial market among them.

4. Joint Petitioners further argue that Porterville is served by television stations KMPH and KSEE, both of which place a Grade A signal over the community. Joint Petitioners maintain that the proposed television station would place a predicted Grade B signal over the communities of Clovis and Sanger and a significant portion of Fresno, a Grade A signal over Hanford, and a City Grade signal over Visalia. Joint Petitioners further state that each of the Fresno-Visalia commercial television stations, except KMSG-TV, Sanger, is carried on the Porterville cable system and all are received off-air by the system. Thus, the Joint Petitioners argue that the proposed television station belongs in the Fresno-Visalia market and would necessarily compete with other Fresno-Visalia stations for programming, advertising revenues, and audience share.

5. Similarly, with regard to Merced, Joint Petitioners state that the proposed television station would compete with television stations in the Fresno-Visalia market. The Joint Petitioners state that the proposed television station would place a predicted Grade A signal over a significant portion of the communities of Fresno and Clovis and would place a predicted Grade B signal over the community of Sanger and the remaining portion of Fresno. The Joint Petitioners concede that the Grade B signal would not cover the communities of Hanford and Visalia but maintain that the propagation characteristics of the terrain permits a strong signal in those communities. The Joint Petitioners further state that each of the television stations in the Fresno-Visalia market places a predicted Grade B signal over Merced, with the exception of KMPH. With regard to KMPH, the Joint Petitioners assert that the station evidences significant viewership in Merced because it has a net weekly circulation of over 50 percent in Merced County. The Joint Petitioners further

assert that the three network affiliates, KFSN-TV, KJEO, and KSEE, and independent station KMPH, are carried on the Merced cable systems and are received off-air. Thus, the Joint Petitioners conclude that the proposed television station would be part of the Fresno-Visalia market and would compete with other Fresno-Visalia market stations for programming, advertising revenues, and audience share.

CC/ABC'S Petition

6. In this proceeding, we also address the petition filed by CC/ABC. CC/ABC, licensee of television station KFSN, Fresno, California, requests that the Commission add the community of Merced to the Fresno-Visalia market for, among other reasons, purposes of the network non-duplication and syndicated exclusivity rules. CC/ABC maintains that Merced is geographically part of the greater Fresno area and shares common social, cultural, trade, and economic interests with other Fresno-Visalia market communities. UA Cable Systems of California ("UA") filed an opposition to CC/ABC's petition arguing that Merced is 55 miles southeast of Fresno and thus geographically distant, and that Merced is not in the same market as Fresno-Visalia. To support its assertion that Merced and Fresno are in different markets, UA states that the two communities are in different areas according to data from the Metropolitan Statistical Areas ("MSAs") and the Rand McNally Map of Trading Areas ("Trading Areas"). UA further states the television stations in the two communities do not compete for advertising revenues as evidenced by the fact that the *Merced Sun-Star* television update, which covers the community of Merced, did not include any advertisements for Fresno for the week of January 2 through January 8, 1993. Conversely, UA states that, KFSN's quarterly reports, which summarizes the Fresno station's newscasts, did not identify any newscast which specifically mentions issues or programs related to the community of Merced for the two year period 1990 through 1992 and does not serve the area.

7. In the Notice, the Commission states its belief that a sufficient case for redesignation of the subject market has been set forth so that the proposal should be tested through the rulemaking process, including the comments of interested parties. In addition, the Commission states that the proposal and CC/ABC's request appears to be consistent with the Commission's

policies regarding redesignation of a hyphenated television market.

Paperwork Reduction Act

The requirements proposed in this Notice have been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and do not impose new or modified information collection requirements on the public.

OMB Approval: None.

Title: In the Matter of Amendment of § 76.51 of the Commission's Rules to include Merced and Porterville, California in the Fresno-Visalia-Hanford-Clovis Television Market.

Type of Review: None.

Initial Regulatory Flexibility Analysis: We certify that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by § 603 of the Regulatory Flexibility Act. A few cable television system operators will be affected by the proposed rule amendment. The Secretary shall send a copy of this Notice, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

A. *Reasons Why Agency Action Is Being Considered.* We undertake this proceeding to address the proposal by the Joint Petitioners to add the communities of Merced and Porterville, California to the Fresno-Visalia-Hanford-Clovis television market. The proposal, if granted, could help equalize competition in that hyphenated market where portions of the market are located beyond the Grade B contours of some stations in the area yet the stations compete for economic support.

B. *Legal Basis.* The authority for the action proposed for this rulemaking is contained in §§ 4(i)-(j), (f), (g), and (r), and 309(j) of the Communications Act of 1934, as amended.

C. *Description and Estimate of the Number of Small Entities Impacted.* None.

D. *Reporting, Recordkeeping, and Other Compliance Requirements.* The Commission is not proposing to impose additional reporting or recordkeeping requirements.

E. *Significant Alternatives Which Minimize the Impact on Small Entities and Are Consistent With Stated Objectives.* The Notice certifies that there is no significant impact on small entities.

F. *Federal Rules Which Overlap, Duplicate, or Conflict With the Commission's Proposal.* None.

G. *Report to Congress.* The Commission shall send a copy of this IRFA along with this Notice in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1998, codified at 5 USC 801(a)(1)(A). A copy of this IRFA will also be published in the **Federal Register**.

Ordering Clauses

Pursuant to §§ 4(i)–(j) of the Communications Act of 1934, as amended, 47 USC 154(i)–(j), 303(c), (f), and (r), and 309(j), notice is hereby given of the proposed amendment to Part 76 of the Commission's rules, in accordance with the proposals, discussions, and statements of issues contained in this Notice of Proposed Rulemaking, and that comment is sought regarding such proposals, discussions, and statements of issues. It is further ordered that the Commission's Office of Public Affairs, Reference Operations division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 USC 601 *et seq.* (1981).

Federal Communications Commission.
Magalie Roman Salas,
Secretary.

[FR Doc. 00–2618 Filed 2–14–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 222 and 229

[Docket Nos. FRA–1999–6439, Notice No. 2 and FRA–1999–6440]

RIN 2130–AA71

Use of Locomotive Horns at Highway-Rail Grade Crossings

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public hearings.

SUMMARY: On January 13, 2000, FRA published a Notice of Proposed Rulemaking (NPRM) on the Use of Locomotive Horns at Highway-Rail Grade Crossings (Docket No. FRA–1999–6439). On the same date FRA released a Draft Environmental

Assessment (DEIS) (Docket No. FRA–1999–6440) pertaining to the proposals contained in the NPRM. In both documents, FRA stated that public hearings would be held in a number of locations throughout the country. This notice provides information regarding combined hearings on the NPRM and DEIS to be held in: Washington, DC; Los Angeles, California; Pendleton, Oregon; Ft. Lauderdale, Florida; and Salem, Massachusetts. Further notices will be published and posted on FRA's web site (<http://fra.dot.gov>) regarding hearings to be held in the remaining locations listed in the NPRM: Berea, Ohio; South Bend, Indiana; and Chicago, Illinois.

DATES: Public Hearings: Public hearings will be held in:

1. Washington, DC on March 6, 2000;
2. Los Angeles area, California on March 15, 2000;
3. Pendleton, Oregon on March 17, 2000;
4. Ft. Lauderdale, Florida on March 28, 2000; and
5. Salem, Massachusetts on April 3, 2000.

All hearings will begin at 9:00 am. Please see Supplementary Information for further information concerning participation in the public hearings.

ADDRESSES: Public Hearings: Public hearings will be held at the following locations:

1. *Washington DC:* Federal Aviation Administration Auditorium, Third Floor, Federal Office Building 10A, 800 Independence Avenue, SW, Washington, DC 20591.
2. *Los Angeles area:* Doubletree Hotel, Catalina II Room, 3050 Bristol Street, Costa Mesa, CA 92626.
3. *Pendleton, Oregon:* City Council Chambers, Pendleton City Hall, 500 Southwest Dorian Avenue, Pendleton, OR 97801.
4. *Ft. Lauderdale, Florida:* Doubletree Oceanfront Hotel, 440 Seabreeze Blvd, Fort Lauderdale, FL 33316.
5. *Salem, Massachusetts:* National Park Service Visitor Center—Auditorium, 2 New Liberty Street, Salem, MA 01970.

FRA Docket Clerk: Docket Clerk, Office of Chief Counsel, Mail Stop 10, FRA, 1120 Vermont Avenue, NW, Washington, DC 20590. E-mail address for the FRA Docket Clerk is renee.bridgers@fra.dot.gov.

FOR FURTHER INFORMATION CONTACT: Ron Ries, Office of Safety, FRA, 1120 Vermont Avenue, SW., Washington, DC 20590 (telephone: 202–493–6299); or Mark Tessler, Office of Chief Counsel, FRA, 1120 Vermont Avenue, SW., Washington, DC 20590 (telephone: 202–493–6038).

SUPPLEMENTARY INFORMATION: Any person wishing to provide testimony at one of the public hearings should notify FRA's Docket Clerk at the address above at least three working days prior to the date of the hearing. The notification should also provide either a telephone number or e-mail address at which the person may be contacted. If a participant will be representing an organization, please indicate that name of the organization.

FRA will attempt to accommodate all persons wishing to provide testimony, however depending on the number of people wishing to participate, FRA may find it necessary to limit the length of oral comments to accommodate as many people as possible. Participants may wish to submit a complete written statement for inclusion in the record, while orally summarizing the points made in that statement.

Issued in Washington, DC, on February 11, 2000.

S. Mark Lindsey,

Acting Deputy Administrator, Federal Railroad Administration.

[FR Doc. 00–3653 Filed 2–14–00; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF67

Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period on the Proposed Rule To Remove the Northern Populations of the Tidewater Goby From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Notice of reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provide notice of the reopening of the comment period for the proposed delisting of the northern populations of the tidewater goby (*Eucyclogobius newberryi*) from the list of endangered and threatened wildlife. The comment period has been reopened in response to new information regarding tidewater goby marine dispersal. This proposal would remove the northern populations of the Tidewater goby from protection under the Act.