

contingent application to modify the facilities of Station KIMX(FM) from Channel 244C2 to Channel 245A and to change that station's community of license from Laramie, Wyoming, to Nunn, Colorado. This *Notice of Proposed Rule Making* requests comments on a petition for rule making filed by Petitioner proposing the substitution of Channel 286A for vacant Channel 247A at Wheatland, Wyoming. This channel substitution would accommodate Petitioner's contingent modification application. In addition, to accommodate that application, Petitioner requests that FM Channel 246C1 be involuntarily substituted for Channel 245C1 at Station KCMi(FM), Terrytown, Nebraska. *See* **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be filed on or before February 28, 2008, and reply comments on or before March 14, 2008.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for Petitioner as follows: Barry A. Friedman, Esq., Thompson Hine LLP, 1920 N Street, NW., Suite 800, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 08-3, adopted January 2, 2008, and released January 7, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

Channel 247A at Wheatland was allotted in MB Docket No. 05-98. *See* 71 FR 4527, published January 27, 2006. This vacant FM channel was inadvertently removed from the FM Table of Allotments. *See* 71 FR 76208, published December 20, 2006. This rulemaking proceeding is now proposing to remove Channel 247A at Wheatland and add Channel 286A at Wheatland to accommodate the change of community application for Station KIMX from Laramie to Nunn, Colorado.

This document does not contain proposed information collection

requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

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* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Wheatland, Channel 286A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300, 600 and 697

[Docket No. 070717337-7338-01]

RIN 0648-AV78

General Provisions for Domestic Fisheries; Specifications for Boarding Ladders

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments, reopening of comment period.

SUMMARY: NMFS reopens the comment period for proposed regulations to require the operators of certain domestic fishing vessels to provide a U.S. Coast Guard-approved pilot ladder as a safer and more enforceable means for authorized personnel to board.

DATES: Comments must be received at the following address by February 25, 2008.

ADDRESSES: You may submit comments, identified by "RIN 0648-AV78," by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- Fax: 301-713-1175, Attn: William D. Chappell.

- Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comments on Boarding Ladder Rule."

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: William D. Chappell, 301-713-2337.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act established U.S. management authority over the fishery resources in the exclusive economic zone (EEZ). NMFS is responsible for implementation of the Magnuson-Stevens Act and the Fishery Management Plans (FMPs) prepared by eight Regional Fishery Management Councils (Councils) and for the FMP governing Atlantic Highly Migratory Species. While each Council prepares FMPs for those fishery resources within the Council's area of authority that require conservation, NMFS implements certain requirements common to all fisheries, such as facilitation of enforcement. Associated regulations are

codified at 50 CFR parts 600 through 697.

On December 11, 2007, NMFS published this proposed rule with a comment period ending January 10, 2008. Because the comment period extended through the December holiday period, many affected members of the fishing industry were unaware of the proposed rule until late in the comment period. As a result, NMFS received several requests to extend the comment period. Although the comment period ended before NMFS could publish an extension to this comment period, NMFS now reopens the comment period for an additional 30 days to allow the public adequate time to understand the rule, its effects on their circumstances, and provide their comments.

Clarifications

Comments received to date identified some misunderstandings and questions that need clarification. The most important misunderstanding is that the proposed rule would require fishing vessels to provide boarding ladders for the first time. Fishing vessel operators have been required to provide authorized officers "a safe ladder" since before 1988, when all facilitation of enforcement regulations were consolidated in one part. The intent of

this proposed rule was to specify the type of ladder to meet the requirement, not to change the requirement to provide a ladder. Experience in many boardings has shown that ladders offered by many fishing vessel operators are, in reality, not safe. This negatively affects the ability of an authorized officer to safely board the fishing vessel at sea, resulting in an unacceptable safety hazard. In some instances, authorized officers entered the water as a direct result of ladder failures or inadequacies. Under current regulations, the safety of the ladder can only be determined unsafe after the fact, a situation that is unacceptable from both a safety and enforcement aspect. NMFS proposes to amend the existing regulation to require that a standard and safe ladder be made available. These commonly used ladders are available from many maritime suppliers, and can be constructed to meet the size of the vessel and can be rolled up to use minimal storage space.

Another important misconception is that the proposed rule would require all fishing vessels to carry a Coast Guard approved ladder. The current regulations do not require vessels with a freeboard of 4 feet (1.25 m) or less to carry a ladder. The proposed rule will

not alter this distinction. Instead, the proposed rule would define the term freeboard for the purposes of the rule as the working distance between the top rail of the gunwale of a vessel to the water's surface. This is somewhat different from the typical usage of the term freeboard, which usually means the difference between the lowest exposed or weather deck and the water.

Several commenters asked whether the proposed rule would apply to recreational fishing vessels. The answer is yes, this proposed rule would apply to both recreational and commercial fishing vessels fishing under Federal fishing regulations.

NMFS also received comments regarding alternative freeboard heights, purpose built ladders, and exemptions from the provision of a safe ladder based on vessel length, as well as other comments. All comments will be addressed in any final rule published for this rulemaking.

Dated: January 18, 2008

Samuel D. Rauch III,

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service*

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