

defective because it proposes to allot Channel 282C3 at Atlanta, Michigan as a "backfill" replacement for the loss of the community's sole local transmission service. This document therefore terminates the proceedings in MB Docket Nos. 02-106 and 02-108.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Helen McLean, Media Bureau (202) 418-2738.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket Nos. 02-106 and 02-108, adopted December 14, 2005 and released December 16, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. 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>.

This document is not subject to the Congressional Review Act. The Commission, is, therefore, not required to submit a copy of this Report and Order to Government Accountability Office, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) since this proposed rules are dismissed, herein.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E5-8252 Filed 1-3-06; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 05-3213; MB Docket No. 05-328; RM-10577]

#### Radio Broadcasting Services; Millerton, OK

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Audio Division seeks comment on a petition filed by Jeraldine Anderson proposing the allotment of Channel 265A at Millerton, Oklahoma, as the community's first local aural transmission service. Channel 265A can be allotted to Millerton in compliance

with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 265A at Millerton are 33-59-09 North Latitude and 95-00-48 West Longitude.

**DATES:** Comments must be filed on or before February 6, 2006, and reply comments on or before February 21, 2006.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve on Petitioner, as follows: Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 05-328, adopted December 14, 2005, and released December 16, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, 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>. 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 and 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Millerton, Channel 265A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E5-8253 Filed 1-3-06; 8:45 am]

**BILLING CODE 6712-01-P**

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### 48 CFR Part 9903

#### Cost Accounting Standards Board; T&M Contracts for Commercial Items

**AGENCY:** Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

**ACTION:** Proposed rule with request for comment.

**SUMMARY:** The Cost Accounting Standards (CAS) Board is proposing to revise the CAS by providing an exemption for time-and-materials (T&M) and labor-hour (LH) contracts for the acquisition of commercial items.

**DATES:** Comments upon this proposed rule must be in writing and must be received by March 6, 2006.

**ADDRESSES:** Due to delays in OMB's receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. Electronic comments may be submitted to [casb2@omb.eop.gov](mailto:casb2@omb.eop.gov). Please put the full body of your comments in the text of the electronic message and also as an attachment readable in either MS Word or Corel WordPerfect. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to (202) 395-5105.

**FOR FURTHER INFORMATION CONTACT:** Rein Abel, Director of Research, Cost Accounting Standards Board (telephone: 202-395-1062).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On July 29, 1996, the Board implemented the Federal Acquisition Reform Act (FARA) by promulgating an interim rule providing an exemption from CAS for contracts for the acquisition of commercial items that are firm fixed price and fixed price with economic price adjustment (except when the adjustment is made on the basis of actual costs). The Board's final rule was implemented on June 6, 1997. At the time the CAS Board implemented this exemption, FAR limited the permissible contract types for the acquisition of commercial items to firm fixed price and fixed price with economic price adjustment.

Section 1432 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136, referred to as SARA) amended the Federal Acquisition Streamlining Act (FASA) to expressly authorize the use of time-and-materials (T&M) and labor-hour (LH) contracts for the acquisition of certain categories of commercial services under specified conditions. As part of the process to implement this amendment, the Federal Acquisition Regulation (FAR) Council published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on September 20, 2004 (69 FR 56316) to amend the FAR. The ANPRM requested comments on the impact of applying CAS. Public comments were received from 23 respondents. Eight of those respondents provided comments on the impact of applying CAS. The comments focused on whether the statute requires an exemption from CAS and the value of applying CAS to T&M/LH contracts for commercial items.

The FAR Council reviewed the public comments and drafted a proposed rule to amend the FAR. Based on the methodology in the draft proposed FAR rule that will be used to price and reimburse T&M and LH contracts (summarized below), the CAS Board has determined that an exemption from CAS is appropriate:

**Pricing.** Under the provisions of SARA and the requirements of the draft proposed FAR rule, T&M and LH contracts for commercial items must be awarded on a competitive basis. In addition, the contracting officer is precluded from obtaining cost or pricing data in accordance with FAR 15.403-1(c)(3). Therefore, the application of CAS, from a pricing standpoint, is

similar to a firm fixed-price contract awarded on the basis of competition without submission of certified cost or pricing data. Such firm-fixed price contracts are exempt from CAS under 48 CFR 9903.201-1(b)(6).

**Reimbursement.** In regards to cost reimbursement, the draft proposed FAR rule provides for the following:

- Reimbursement of direct labor will be on the basis of fixed labor rates in the contract schedule. The fixed labor rates will be established based on competition, since SARA requires award on a competitive basis.
- Reimbursement of indirect costs will be at a fixed amount established at the time of contract award. This fixed amount will be part of the price evaluation, and thus is part of the competitive award process.
- Materials. If the materials are a commercial item, reimbursement will be at price. If the materials are not a commercial item, reimbursement will be at actual cost.
- Other Direct Costs will be reimbursed on the basis of actual costs incurred. Reimbursement is limited to the specific cost elements listed in the contract.
- Subcontracts will be reimbursed at either (a) cost (to the extent the costs are incurred in accordance with the terms and conditions of the subcontract agreement and evidenced by actual payment) or (b) the fixed labor rates in the contract schedule (if specifically provided for in the contract).

Under the draft proposed FAR rule, direct labor and indirect costs are reimbursed on a fixed price basis. Thus, for LH contracts, all reimbursement is on a fixed price basis (based on the number of labor hours expended).

For T&M contracts, materials, other direct costs, and subcontract costs may be reimbursed at cost. The preamble to the draft proposed FAR rule indicates that (a) Most of the material costs are anticipated to be for commercial items reimbursed at price, (b) the material and other direct costs should be a minor portion of the total contract costs, and (c) subcontract costs are either reimbursed at cost or at the fixed labor rates in the contract schedule.

The Board has concluded that a CAS exemption is appropriate for both T&M and LH contracts for the following reasons:

- (a) The pricing is based on adequate competition without the submission of cost data;
- (b) For other than subcontracts, reimbursement based on actual cost is anticipated to be very limited;
- (c) Reimbursement of subcontracts based on actual costs requires that the

costs be (i) incurred in accordance with the terms and conditions of the subcontract agreement, and (ii) evidenced by actual payment; and

(d) Reimbursement of subcontracts on other than actual costs will be on a fixed price basis (based on the fixed labor rates in the contract schedule).

**B. Paperwork Reduction Act**

The Paperwork Reduction Act, Public Law 96-511, does not apply to this rulemaking, because this rule imposes no paperwork burden on offerors, affected contractors and subcontractors, or members of the public which requires the approval of OMB under 44 U.S.C. 3501, *et seq.*

**C. Executive Order 12866 and the Regulatory Flexibility Act**

The economic impact of this rule on contractors and subcontractors is expected to be minor. As a result, the Board has determined this rule is not significant under the provisions of Executive Order 12866, and that a regulatory impact analysis will not be required. Furthermore, this rule will not have a significant impact on a substantial number of small businesses because small businesses are exempt from the application of the Cost Accounting Standards. Therefore, this rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

**D. Public Comments**

Interested persons are invited to participate by submitting data, views or arguments with respect to this proposed rule. All comments must be in writing and submitted to the address indicated in the **ADDRESSES** section.

**List of Subjects in 48 CFR Part 9903**

Accounting, Government procurement.

**Joshua B. Bolten,**  
*Director.*

For the reasons set forth in this preamble, chapter 99 of title 48 of the Code of Federal Regulations is proposed to be amended as set forth below:

**PART 9903—CONTRACT COVERAGE**

1. The authority citation for part 9903 is revised to read as follows

**Authority:** Public Law 100-679, 102 Stat 4056, 41 U.S.C. 422.

**Subpart 9903.2—CAS Program Requirements**

2. Section 9903.201-1(b)(6) is revised to read as follows:

**§ 9903.201-1 CAS Applicability.**

\* \* \* \* \*

(b) \* \* \*

(6) Firm fixed-priced, fixed-priced with economic price adjustment (provided that price adjustment is not based on actual costs incurred), time-and-materials, and labor-hour contracts and subcontracts for the acquisition of commercial items.

\* \* \* \* \*

[FR Doc. E5-8237 Filed 1-3-06; 8:45 am]

BILLING CODE 3110-01-P

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Northern Mexican Gartersnake as Threatened or Endangered With Critical Habitat**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the northern Mexican gartersnake, *Thamnophis eques megalops*, as threatened or endangered with critical habitat under the Endangered Species Act of 1973, as amended (Act). The petitioners provided three listing scenarios for consideration by the Service: (1) Listing the United States population as a Distinct Population Segment (DPS); (2) listing the species throughout its range in the United States and Mexico based on its range-wide status; or (3) listing the species throughout its range in the U.S. and Mexico based on its status in the United States. We find the petition has presented substantial information that the northern Mexican gartersnake is a listable entity, and we find that the petition presents substantial scientific and commercial data indicating that listing may be warranted. Therefore, we are initiating a status review to determine if listing this species is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species. Any determinations on critical habitat will be made if and when a listing action is initiated for this species.

**DATES:** The finding announced in this document was made on December 13, 2005. To be considered in the 12-month

finding for this petition, comments and information should be submitted to us by March 6, 2006.

**ADDRESSES:** Data, information, comments, or questions concerning this petition and our finding should be submitted to the Field Supervisor, Arizona Ecological Services Field Office, 2321 West Royal Palm Drive, Suite 103, Phoenix, Arizona. The petition, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

If you wish to comment or provide information, you may submit your comments and materials by any one of the following methods:

1. You may submit written comments and information by mail to: Field Supervisor, Arizona Ecological Services Field Office, 2321 West Royal Palm Drive, Suite 103, Phoenix, Arizona.

2. You may hand-deliver written comments and information to our Field Supervisor, Arizona Ecological Services Field Office, 2321 West Royal Palm Drive, Suite 103, Phoenix, Arizona.

3. You may fax your comments to 602-242-2513.

4. You may send your comments by electronic mail (e-mail) directly to the Service at [MexGsnake@fws.gov](mailto:MexGsnake@fws.gov), or to the Federal Rulemaking Portal at <http://www.regulations.gov>. Please include "Attn: northern Mexican gartersnake" in the beginning of your message, and do not use special characters or any form of encryption. Electronic attachments in standard formats (such as .pdf or .doc) are acceptable, but please name the software necessary to open any attachments in formats other than those given above. Also, please include your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please submit your comments in writing using one of the alternate methods described above. In the event that our internet connection is not functional, please submit your comments by the alternate methods mentioned above.

**FOR FURTHER INFORMATION CONTACT:** Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office (telephone 602-242-0210 and facsimile 602-242-2513).

**SUPPLEMENTARY INFORMATION:****Public Information Solicited**

When we make a finding that substantial information is presented to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review

is complete and based on the best available scientific and commercial information, we are soliciting information on the northern Mexican gartersnake. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of the northern Mexican gartersnake. We are seeking information regarding the species' historical and current status and distribution, its biology and ecology, ongoing conservation measures for the species and its habitat, and threats to the species and its habitat. If you wish to comment or provide information, you may submit your comments and materials concerning this finding to the Field Supervisor (see **ADDRESSES** section).

Our practice is to make any comments and materials provided, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your submission. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**Background**

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on all information available to us at the time we make the finding. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of