

Safety Standards Act (the Construction Safety Act) (40 U.S.C. 333); section 41, the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 5-2002 (67 FR 65008); and 29 CFR part 1911.

Signed at Washington, DC, on March 24, 2004.

**John L. Henshaw,**

*Assistant Secretary of Labor.*

[FR Doc. 04-7074 Filed 3-29-04; 8:45 am]

**BILLING CODE 4510-26-M**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 917

[KY-244-FOR]

#### Kentucky Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** We are reopening the public comment period on a proposed amendment to the Kentucky regulatory program (the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky has submitted additional information in the form of an actuarial report. The report is an actuarial analysis of the Kentucky Bond Pool Fund performed by the Madison Consulting Group.

**DATES:** We will accept written comments on this amendment until 4 p.m., e.s.t., April 14, 2004.

**ADDRESSES:** You should mail or hand deliver written comments to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, this amendment, the actuarial report, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260-8400, Fax: (859) 260-8410.

Department for Natural Resources, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940.

**FOR FURTHER INFORMATION CONTACT:** William J. Kovacic, Telephone: (859) 260-8400.

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Kentucky Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures

#### I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a) (1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21434). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

#### II. Description of the Proposed Amendment

By letter dated May 22, 2003, Kentucky sent us a proposed amendment to its program ([KY-244], Administrative Record No. KY-1580) under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky submitted a portion of House Bill 269, the executive branch budget bill, promulgated by the 2003 Kentucky General Assembly.

Specifically, Kentucky proposes to transfer \$3,000,000 from the Bond Pool Fund (the Fund) established in Kentucky Revised Statute 350.700 to the Commonwealth's General Fund for the 2002-2003 fiscal year. The transfer appears on page 225, line 21 and is listed under Part V, Section J, item 5 of House Bill 269. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

We announced receipt of the proposed amendment in the July 16, 2003, **Federal Register** (68 FR 41980), and in the same document invited public comment and provided an opportunity for a public hearing on the

adequacy of the proposed amendment. The public comment period closed on August 15, 2003. Please refer to the July 16, 2003, **Federal Register**, for additional background information.

By letter dated July 10, 2003, we requested additional information from Kentucky in the form of a financial analysis (Administrative Record No. KY-1584). We asked that the analysis specifically demonstrate that the transfer of funds would not adversely impact the Fund's ability to complete the reclamation plan for any area which may be in default at any time as required by 30 CFR 800.11(e). By letter dated August 14, 2003, Kentucky responded by stating the Madison Consulting Group would perform an actuarial review of the Fund (Administrative Record No. KY-1599). By letter dated March 3, 2004, the Department for Natural Resources (formerly the Department for Surface Mining Reclamation and Enforcement) transmitted the Kentucky Bond Pool Actuarial Report to us (Administrative Record No. KY-1615). The actuarial review covers the time period July 1, 2000, through June 30, 2003. The full text is available for you to read at the locations listed above at **ADDRESSES**. The key findings of the report are summarized here. The report concluded that the Fund:

1. Should be able to "reasonably withstand the failure of any two of its member companies" to be actuarially sound and viable on a long-term basis (p. 7);

2. is "currently not able to reasonably provide for the 'two failure' funding scenario up to a 75 percent confidence level" (p. 8);

3. needs to increase its assets "so as to provide for potential liabilities and future growth" (p. 8); and

4. is in a less favorable financial situation than the last analysis completed for the period ending June 30, 2000 (p. 8).

#### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the program.

##### Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not

necessarily consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office.

#### *Availability of Comments*

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. 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 review in their entirety.

#### **List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 10, 2004.

**Michael K. Robinson,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 04-6985 Filed 3-29-04; 8:45 am]

**BILLING CODE 4310-05-P**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 73**

[DA 04-548; MM Docket No. 01-105; RM-10104]

#### **Radio Broadcasting Services; Shiner, TX**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal.

**SUMMARY:** The Commission dismisses the petition for rulemaking filed by Stargazer Broadcasting, Inc., proposing the allotment of Channel 232A at Shiner, Texas. We find that the proposal conflicts with a prior-filed counterproposal requesting the allotment of Channel 232A at Flatonia, Texas. Moreover, the petition is untimely filed to be considered as a counterproposal in the context of that proceeding (MM Docket No. 00-148).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report

and Order, MM Docket No. 01-105, adopted March 10, 2004, and released March 12, 2004. 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.

The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04-7100 Filed 3-29-04; 8:45 am]

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 73**

[DA 04-675; MB Docket No. 04-69; RM-10859]

#### **Radio Broadcasting Services; Dexter, GA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed by Broadcast Equities Corp. ("Petitioner") to add a Class A FM channel to Dexter, Georgia. This proposal would provide Dexter with its first local aural transmission service. Although Petitioner originally proposed to allot Channel 300A to Dexter, that proposal was returned as unacceptable for consideration because it was short spaced to a licensed FM station. Petitioner filed a petition for reconsideration of that dismissal, which this document dismisses as moot in light of the fact that the Commission has found another Class A FM channel, Channel 276A, which complies with the Commission's technical requirements and can be allotted to Dexter, Georgia. The coordinates for that allotment are 32-25-59 NL and 83-01-33 WL, with a site restriction of 3.3 kilometers (2.1 miles) east of Dexter.

**DATES:** Comments must be filed on or before May 6, 2004, and reply comments on or before May 21, 2004.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC,

interested parties should serve the petitioner's counsel, as follows: Dan J. Alpert, Esq., The Law Office of Dan J. Alpert; 2120 N. 21st Road; Arlington, Virginia 22201.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 04-69, adopted March 12, 2004, and released March 15, 2004. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

The 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, 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 Georgia, is amended by adding Dexter, Channel 276A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04-7096 Filed 3-29-04; 8:45 am]

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