

proposed clarifications and modifications to § 64.4002 of the Commission's rules. The proposed clarifications and modifications are in the nature of technical corrections to the Commission's customer account record exchange rules that, if adopted, would not have a significant economic impact on entities subject to those rules. For example, the Coalition asserts that its proposed modification to § 64.4002(d) would make this provision consistent with similar notification requirements adopted in the *Order* simply by requiring a LEC to confirm its receipt of a particular IXC-initiated notification with an appropriate response. The Coalition similarly proposes modifications to §§ 64.4002(e) and (g) to include within the information exchanges prescribed by those subsections, the same standard categories of information that carriers routinely must provide in connection with other notification obligations adopted in the *Order*. If the Commission were to adopt the proposed modifications and clarifications, we believe that the compliance burden, and resulting economic impact on entities subject thereto, would be *de minimus*. Therefore, the Commission certifies for purposes of the RFA that the proposals in this document, if adopted, will not have a significant economic impact on a substantial number of small entities.

The Commission will send a copy of this document, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. This initial certification will also be published in the **Federal Register**.

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 05-17704 Filed 9-6-05; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05-2300, MM Docket No. 00-9, RM-9526]

Radio Broadcasting Services; Beaumont and Dayton, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: At the request of Liberman Broadcasting of Houston License Corp., the Audio Division dismisses a rulemaking petition to reallocate and

change the community of license for Station KQQK(FM), Channel 300C, from Beaumont to Dayton, Texas, and terminates this rulemaking proceeding. See 65 FR 4401, January 27, 2000. The withdrawal of the rulemaking petition complies with Section 1.420(j) of the Commission's rules. See also **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT:

Andrew J. Rhodes, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-9, adopted August 17, 2005, and released August 19, 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. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054, 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 GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

A continuing interest is required before a channel will be allotted. Because the rulemaking petition and the expression of interest in the proposed allotment at Dayton have been withdrawn, no allotment at Dayton or change of community of license will be made.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-17521 Filed 9-6-05; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AU22; 1018-AI48

Endangered and Threatened Wildlife and Plants; Proposed Rule To Remove the Arizona Distinct Population Segment of the Cactus Ferruginous Pygmy-owl From the Federal List of Endangered and Threatened Wildlife; Proposal To Withdraw the Proposed Rule To Designate Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce that we will hold a public hearing (see **DATES** and **ADDRESSES** sections) on our proposed rule to remove the Arizona distinct population segment (DPS) of the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) (pygmy-owl) from the Federal List of Endangered and Threatened Wildlife, eliminate its currently designated critical habitat, and to withdraw its proposed new critical habitat. This public hearing will allow all interested parties an opportunity to comment on our proposed actions.

DATES: Comments must be submitted directly to the Service (see **ADDRESSES**) on or before October 3, 2005, or at the public hearing. Any comments received after the closing date may not be considered in the final determination on the proposal.

We will hold a public hearing on September 20, 2005, from 6:30 p.m. to 9 p.m.

ADDRESSES: *Public Hearing.* The public hearing will be held in Tucson, Arizona, at the Tucson Convention Center, Apache—Greenlee meeting rooms, 260 South Church Avenue, Tucson, AZ 85710.

Comments. If you wish to provide comments/and or information, you may submit your comments and materials by any one of several methods:

1. You may submit written comments and information by mail or hand-delivery to the Field Supervisor, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021.

2. Written comments may be sent by facsimile to (602) 242-2513.

3. You may send your comments by electronic mail (e-mail) to: cfpo_comments@fws.gov.

For directions on how to submit electronic comments, as well as information on requesting reasonable accommodations to attend the public hearing, see the "Public Comments Solicited" section below.

FOR FURTHER INFORMATION CONTACT:

Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office (telephone, 602-242-0210; facsimile, 602-242-2513; or electronic mail, *steve_spangle@fws.gov*). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Background

The Arizona DPS of the pygmy-owl was listed as endangered on March 10, 1997 (62 FR 10730), and critical habitat was designated on July 12, 1999 (64 FR 37419). On January 9, 2001, a coalition of plaintiffs filed a lawsuit with the District Court of Arizona challenging the validity of our listing of the pygmy-owl as a DPS and the designation of its critical habitat. After the District Court of Arizona remanded the designation of critical habitat (*National Association of Home Builders et al. v. Norton*, Civ.-00-0903-PHX-SRB), we proposed a new critical habitat designation on November 27, 2002 (67 FR 7102). Ultimately, as a result of this lawsuit, the United States Court of Appeals for the Ninth Circuit issued an opinion on August 19, 2003, stating that "the FWS acted arbitrarily and capriciously in designating the Arizona pygmy-owl population as a DPS under the *DPS Policy*" (*National Association of Home Builders v. Norton*, 340 F. 3d 835, 852 (9th Cir. 2003)). In making DPS determinations, we rely upon the Service's Policy Regarding the Recognition of Distinct Vertebrate Population Segments (*DPS Policy*) (61 FR 4722).

In light of the Ninth Circuit's opinion, we have reassessed the application of the DPS significance criteria to the Arizona pygmy-owl. Based on our assessment, we do not believe that the available information and science satisfy the criteria to indicate that pygmy-owls in Arizona are an entity that qualifies for listing under the Act. Accordingly, we published a proposed rule on August 3, 2005 (70 FR 44547) to remove the Arizona population of pygmy-owls from the list in 50 CFR 17.11, remove the critical habitat designation for this population at 50 CFR 17.95, and withdraw our November 27, 2002, proposed rule to designate

new critical habitat. This document notifies the public that we are holding a public hearing on our August 3, 2005, proposed rule (see **DATES** and **ADDRESSES**).

Public Comments Solicited

We intend that any final action resulting from the proposal will be based on the best available information. We have gathered and evaluated new information related to the pygmy-owl that has become available since the 1997 listing and are seeking any other pygmy-owl information. We will continue to support surveys of pygmy-owls in Mexico to further elucidate the status of the species in Mexico, and to identify threats to the population.

We are soliciting comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule. Comments should be as specific as possible. We are particularly interested in comments concerning:

- (1) Biological, genetic, and/or morphological data related to the taxonomic classification of the pygmy-owl throughout its current range;
- (2) The location and characteristics of any additional populations not considered in previous work that might have bearing on the current population status;
- (3) Additional information related to current versus historical range, current distribution, genetic diversity, and population sizes of the Arizona pygmy-owl population and its contribution to the taxon as a whole;
- (4) Status of the pygmy-owl in Mexico, particularly threats to populations or habitat; and
- (5) Information related to discreteness, significance, and conservation status of any potential pygmy-owl DPS.

All previous comments and information submitted on the proposed rule need not be resubmitted. We will take into consideration the comments and any additional information received, and such communications may lead to a final determination that differs from the proposal.

If you wish to provide comments and/or information, you may submit your comments and materials concerning the proposal by any one of several methods (see **ADDRESSES**). Comments submitted electronically should be in the body of the e-mail message itself or attached as a text file (ASCII file format), and should not use special characters or any form of encryption. Please also include "Attn: Cactus Ferruginous Pygmy Owl Delisting," your full name, and your

return address in the body of your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Arizona Ecological Services Field Office (see **ADDRESSES**).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous 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 inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Arizona Ecological Services Field Office (see **ADDRESSES**).

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**) as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing. Information regarding the proposal is available in alternative formats upon request.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: August 30, 2005.

Kevin R. Adams,

Acting Director, U.S. Fish and Wildlife Service.

(Endangered and Threatened Wildlife and Plants; Proposed Rule to Remove the Arizona Distinct Population Segment of the Cactus Ferruginous Pygmy-owl From the Federal List of Endangered and Threatened Wildlife; Proposal to Withdraw the Proposed Rule to Designate Critical Habitat and to Remove Designated Critical Habitat)

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