second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before November 13, 2000.

ADDRESSES: Please address your comments to the EPA contact below. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours. We may charge you a reasonable fee for copying parts of the docket.

Environmental Protection Agency, Region 9, Air Division, Air Planning, Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901

Copies of the SIP materials are also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, Sacramento, CA 92123–1095

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (415) 744–1288. E-mail: *jesson.david@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register.**

Dated: September 12, 2000.

Keith A. Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 00–25927 Filed 10–10–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 83–484: FCC 00–360]

Repeal or Modification of the Personal Attack and Political Editorial Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rules: Request for Supplemental Information.

SUMMARY: This document concerns a 60-day suspension of the political editorial and personal attack rules and asks parties to submit evidence on the effects of the suspension 60 days after the suspension period ends. The Commission adopted the *Order and Request to Update Record* in response to the D.C. Circuit Court of Appeals' decision in *Radio-Television News Directors Ass'n* v. *FCC,* 184 F.3d 872 (1999). The intended effect of this action is to enable the Commission to obtain a better record on which to review the rules.

DATES: Parties may submit evidence on the effect of the suspension of the rules on or before January 31, 2001, and replies may be submitted on or before February 15, 2001.

ADDRESSES: Address all evidence concerning this suspension to the Commission's Secretary, Communications Commission, 445 Twelfth Street, SW., Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Cyndi Thomas, Policy and Rules Division, Mass Media Bureau, at (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a summary of the *Order and Request to Update* in MM Docket No. 83–484, FCC 00–360, adopted on October 3, 2000, and released on October 4, 2000. The full text of this decision is available for inspection and copying during regular business hours in the FCC Reference Center, 445 Twelfth Street, SW., Room CY–A257, Washington DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 445 Twelfth Street, SW, Room CY–B402, Washington DC. The complete text is also available under the file name fcc00360.pdf on the Commission's Internet site at *www.fcc.gov*.

Electronic Access and Filing Addresses

1. Information may be filed using the Commission's Electronic Comment Filing System or by filing paper copies via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Parties may also submit an electronic copy by Internet e-mail. To get filing instructions for e-mail information, parties 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 address>.'' A sample form and directions will be sent in reply.

Paperwork Reduction Act

2. The actions taken in this *Order and Request to Update Record* have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA), and found to request new or modified reporting or recordkeeping by the public. It will be submitted to the Office of Management and Budget for emergency review under Section 3507 of the PRA.

Summary of Order and Request To Update Record

3. The Commission adopts an *Order and Request to Update Record* (Order) in response to the D.C. Circuit Court of Appeals' (D.C. Circuit) decision in *Radio-Television News Directors Ass'n* v. *FCC,* 184 F.3d 872 (1999) (*RTNDA*). In the *Order,* the Commission suspends the political editorial and personal attack rules, 47 CFR 73.1920 and 73.1930, for 60 days to enable the Commission to obtain a better record on which to review the rules. These rules as they apply to cable television system operators, 47 CFR 76.209(b), (c), and (d), are also within the scope of this proceeding. The court recognized that the Commission considered the record previously before it to be ''old and possibly flawed'' and encouraged the Commission to ''consider modern factual and legal developments.'' This brief suspension, which the Commission hopes will provide useful data on the effect of the rules, will allow it ''to work from a relatively clean procedural slate,'' as the court suggested. In addition, the Commission takes this opportunity to make clear that much of the discussion in *Syracuse Peace Council,* 2 FCC Rcd 5043 (1987), *recon. denied,* 3 FCC Rcd 2035 (1988), *aff'd sub nom. Syracuse Peace Council* v. *FCC,* 867 F.2d 654 (D.C. Cir. 1989), *cert. denied,* 493 U.S. 1019 (1990), accompanying the Commission's repeal of the fairness doctrine has been repudiated. The Commission also asks those parties to this proceeding who believe that it is not possible to ''distinguish[] political editorials and personal attacks * * * from subjects formerly covered by the fairness doctrine'' to consider whether the rules at issue should be extended to cover matters that previously were subject to the fairness doctrine.

4. The lengthy history of this proceeding was summarized by the D.C. Circuit last year in its opinion in *RTNDA.* In 1983, after the National Association of Broadcasters (NAB) filed a petition asking the Commission to repeal the political editorial and personal attack rules, the Commission issued a Notice of Proposed Rulemaking (''*NPRM*'') proposing to repeal or modify the rules (48 FR 28295, June 21,1983). Because the *NPRM* also sought comment on these rules as they apply to cable television system operators, the suspension adopted herein will apply to the cable as well as the broadcast rules and the Commission welcomes comments on the rules as they apply to cable operators as well as broadcasters. The Commission subsequently stopped

enforcing the related fairness doctrine in 1987, in *Syracuse Peace Council.* For nearly a decade after the repeal of the fairness doctrine, the Radio-Television News Directors Association (RTNDA) and the NAB (''the Broadcasters'') did not vigorously press their attack on the political editorial and personal attack rules, but they renewed their challenge in 1996. Since then, the Commission has spent a considerable amount of time on this proceeding, but has twice deadlocked, despite significant changes in membership.

5. After the second deadlock, the D.C. Circuit considered the Broadcasters' arguments concerning the validity of the rules. As a threshold matter, the court rejected the Broadcasters' contention that the Joint Statement of Commissioners Susan Ness and Gloria Tristani favoring retention of the rules, 13 FCC Rcd 21901 (1998) (Joint Statement), should not be accorded deference as the decision of the Commission. To the contrary, the court held that ''a deadlocked vote on a proposal to repeal a rule constitutes reviewable, final agency action in support of the status quo,'' and that it was appropriate to ''accord the Joint Statement the same respect normally accorded agency decisions in rulemaking proceedings.'' The D.C. Circuit also rejected the Broadcasters' principal argument on the merits, which was that ''the *Syracuse* order of its own force drags the political editorial and personal attack rules down with the fairness doctrine to which they were moored.'' Rather, the court explained, in agreement with the Joint Statement, ''there is nothing inherently inconsistent about preserving the two challenged rules despite abrogation of the fairness doctrine.'' The court also declined to review the Broadcasters' contention that the rules unlawfully ''chill protected expression, impose undue administrative burdens on broadcasters, and have been rendered obsolete by the proliferation of new media technologies and outlets.'' At the same time, the court assumed that the rules ''interfere with editorial judgment'' to some extent, even though the record was not entirely clear on the extent of that interference.

6. After rejecting the Broadcasters' principal argument, the court remanded the matter to the Commission, explaining that the Joint Statement had failed to square the rationale underlying the Commission's decision to repeal the fairness doctrine with the retention of the rules at issue. Generally, the court said that, ''[a]fter 1987, the instant rulemaking should have involved distinguishing political editorials and personal attacks, which are regulated, from subjects formerly covered by the fairness doctrine but that have been deregulated, such as non-editorial political commentary, editorials on political issues aside from candidate endorsements, and non-personal attacks.'' The court found, however, that the Joint Statement was ''mostly silent on this salient question, choosing instead to rebut specific attacks against the rules.'' More specifically, the court noted that ''the Joint Statement recognizes that the current rules are broader than their rationales suggest,'' explaining, for example, that ''the fact that a national news network rarely covers local state assembly races may explain why a right of reply is necessary on a local network affiliate for a state assembly candidate maligned by that affiliate, but it does not follow that the local affiliate must also be the venue for a right of reply involving a presidential candidate.''

7. In addition, the court noted that, although the Joint Statement criticized the Broadcasters for relying on ''old and possibly flawed data to show a chilling effect on editorializing, the FCC offered no updated or more credible information to the contrary.'' Recognizing the staleness of the record, the court encouraged the Commission ''to work from a relatively clean procedural slate, consider modern factual and legal developments, and obtain comments on specific proposals to modify the rules.'' The court thus urged the Commission ''to supplement its analysis'' with evidence superior to that which had previously been supplied. The court closed its opinion by directing the Commission to ''act expeditiously.''

8. In the *Order,* the Commission states that it has been struggling to implement the court's decision. The Commission explains that this has been difficult because, as the court recognized, the Chairman had recused himself from this proceeding, two commissioners would repeal the rules, and the two remaining commissioners have authority to defend ''the status quo'' but questionable authority to take affirmative steps such as initiating a new rulemaking proceeding or proposing modifications of the rules. In response to a petition filed by the Broadcasters seeking recall of the mandate or the issuance of a writ of mandamus, the D.C. Circuit on July 24, 2000, ordered that the petition be held in abeyance until September 29, 2000, while inviting the Broadcasters to ''supplement their requests and seek whatever action they deem appropriate from the court'' if the Commission has not acted by that date. The Commission states in the *Order* that it understands, and shares, the court's apparent frustration with the Commission's inability to resolve this matter.

9. On account of the continuing deadlock, the Chairman decided, after the court's order of July 24, to participate in this matter for the purpose of initiating a proceeding to update the record. The existing record is stale and devoid of empirical evidence, except for the 1982 survey criticized in the Joint Statement. In fairness to the Broadcasters, it is difficult to see how they could present evidence that is not susceptible to criticism that it is biased and self-serving, while the rules are in effect, concerning what they would do if the rules were not in effect. To develop a better record, therefore, the Commission has decided to suspend the rules for 60 days following the adoption of this *Order* to create a better record upon which to review the rules at issue. Of course, elections will be held during the 60-day period, making it an ideal time to determine how broadcasters are affected by the political editorial rule. While less obvious, it is also an ideal time to obtain evidence regarding the effect of the personal attack rule, which was established in a series of cases in the early 1960s involving personal attacks on candidates and elected officials.

10. If the Broadcasters intend to continue to challenge the rules, the *Order* requests they present evidence 60 days after the suspension ends reporting on their actions while the rules were suspended, addressing how that evidence supports their contention. Parties will also have an opportunity to submit replies 15 days later. For example, the Broadcasters have contended that elimination of the political editorial rule would lead to a dramatic increase in the number of editorials broadcasters present, on account of the alleged chilling effect of the rules. Suspension of the rule will permit the Commission to test that prediction, and the *Order* requests the Broadcasters to supply it with the information necessary to do so. More specifically, the Commission will want information on the number of political editorials run during the suspension of the rules and comparative information concerning the number of editorials run during prior election cycles. To respond to the court's concerns, the Commission also will need information concerning the nature of the elections on which licensees editorialize: are they, for example, state assembly races or the presidential election? Whether other media outlets editorialized on these races would also be useful in

determining whether the rules should be modified rather than eliminated or retained in full. For example, using the D.C. Circuit's example, it is possible that a right of reply may be warranted in state assembly races but not in presidential elections because the relative merits of the presidential candidates will be thoroughly aired by the media in any event but the relative merits of state assembly candidates will not be discussed by the media in any detail.

11. The *Order* asks the Broadcasters to present evidence relevant to the court's other concerns as well. For example, with respect to the political editorial rule, the court stated that ''[i]f broadcasters want to use public resources overtly to push a private agenda by advocating a result in an election, a right of reply might be a minimally intrusive means of countering a licensee's government-granted monopoly on access to the resource,'' but questioned whether the same could not be said concerning ''editorial[s] about tax policy,'' and directed the Commission ''to explain why editorials about candidates are particularly appropriate subjects for regulation.'' To respond to the court's concerns, the Commission needs information concerning broadcasters' editorial practices more generally. Among other things, the Commission is interested in whether and the extent to which broadcasters editorialize on topics unrelated to political campaigns and whether the rate of such editorials is increasing or decreasing. The *Order* also seeks information regarding the factors relevant to a broadcaster's decision to editorialize. The Broadcasters are in the best position to provide such information and the Commission expects them to do so.

12. In addition to providing information responsive to the court's concerns, the *Order* asks the Broadcasters to provide information relevant to issues raised in the Commission's prior decisions. For example, in their Joint Statement, Commissioners Ness and Tristani indicated their willingness to consider modifying the political editorial rule such that it might shift the burden to the candidates to request time from the station or ''would only trigger an obligation to furnish time to major candidates or major party supporters.'' A modification to include only major candidates or major party supporters would be consistent with the Supreme Court's recognition in *Arkansas Educational Television Ass'n* v. *Forbes*, 523 U.S. 666 (1998), that broadcasters may in good faith decide that in some cases the inclusion of third-party candidates in debates detracts from their usefulness. These modifications also would be responsive to the Broadcasters' claims that the rule is burdensome, because it would reduce the burden. In any event, the *Order* asks the Broadcasters to report whether those licensees who editorialize while the rules are suspended decide to offer response time to some candidates but not others. The Commission hopes that parties will provide as objective and useful information as possible.

13. With respect to the personal attack rule, the Broadcasters similarly should attempt to obtain information that will be useful in evaluating the effect of the rule. However, the *Order* asks broadcasters to collect information regarding complaints concerning personal attacks that are received while the rule is suspended, and to compare the number and nature of the complaints made during those 60 days to a comparable period while the rule was in effect. The *Order* seeks comment on ways that any undue burdens caused by the rule could be reduced. To assist the Commission in evaluating whether the personal attack rule is overly burdensome, as argued by the Broadcasters, the *Order* seeks information on what steps broadcasters take to comply with the notification requirements. For example, in their Joint Statement, Commissioners Ness and Tristani indicated their willingness to consider modifying the personal attack rule to eliminate the existing notification requirements and make the rule request-driven.

14. The *Order* encourages those groups that have advocated retention of the rule to do the same—that is, to collect evidence relating to personal attacks that they would have challenged had the rule not been suspended. In that connection, the Commission notes that some parties have argued that the rule should be expanded to cover situations to which it does not currently apply, and it would welcome any information regarding personal attacks made, for example, during ''bona fide news interviews,'' which currently are not subject to the rule. In addition, the Commission would be particularly interested in learning of personal attacks made in connection with the upcoming elections.

15. In responding to this *Order*, the Commission encourages parties to present the sort of careful analysis the D.C. Circuit expects. Although it cannot rule out the possibility that the rules will be retained exactly as written or eliminated entirely, the Commission believes it would profit most at this point from hearing arguments directed to how the rules should be modified to achieve their fundamental purposes with minimal burden, consistent with the D.C. Circuit's opinion in this case and our decisions in other cases.

16. Some parties, however, may contend that it is not possible to ''distinguish[ ] political editorials and personal attacks * * * from subjects formerly covered by the fairness doctrine.'' For that reason, the *Order* asks the Broadcasters, at the time they file their report on their actions while the rules were suspended, to report also on the effects of the repeal of the fairness doctrine, and the Commission will invite the other parties to respond to that report. In last year's opinion, the D.C. Circuit described *Syracuse Peace Council* as ''agency precedent for declining to use the FCC's power to redress a market failure in provision of balanced coverage of important issues,'' and directed the Commission to provide ''clear, cogent explanations'' for requiring a right of reply in some situations but not others. Previously, on account of its deadlock, the Commission has been constrained to consider how to reconcile the political editorial and personal attack rules with its decision in *Syracuse Peace Council*. In that connection, those parties who believe that Section 315 of the Communications Act, as amended, requires the Commission to enforce some obligation on broadcasters ''to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance'' should comment on how their reading of the statute bears on the issues before us.

17. The *Order* therefore invites the Broadcasters, and the other parties as well, to consider the court's various statements to the effect that it is difficult to distinguish political editorials and personal attacks from ''many issues of public concern,'' and to address whether it would be appropriate to extend the reach of the rules at issue. For example, the court noted that ''a network has more freedom to endorse a ballot initiative than to endorse a candidate championing such an initiative,'' and concluded that ''[t]he FCC has not articulated a basis for the distinction.'' If those issues may not be distinguished on a principled basis, it may be that a right of reply is warranted in both cases. In addition, the Commission encourages the parties to consider whether the D.C. Circuit has identified a distinction between local and national issues that the Commission ought to examine in more detail. That is, as explained in the Joint Statement, the

explosion in media outlets relied upon in *Syracuse Peace Council*, and particularly its reliance on cable channels, may be relevant to national issues but not to local issues.

18. The Commission does not intend to prejudge that or any other issue. Rather, while suspending the political editorial and personal attack rules, the Commission asks the Broadcasters to report to the Commission on the various matters discussed in this *Order*. With a fresh record, the Commission will consider how to reconcile its decision in *Syracuse Peace Council* with the rules at issue. It is possible that the Commission will decide to modify the rules at issue, or to modify its decision in *Syracuse Peace Council*, or both.

19. In that regard, it is appropriate to make clear that the dicta in *Syracuse Peace Council* regarding the appropriate level of First Amendment scrutiny has been rejected by Congress, this Commission, and the courts. Although the Commission based its decision in *Syracuse Peace Council* largely on its view that the standard of *Red Lion Broadcasting Co.* v. *FCC,* 395 U.S. 367 (1969), should be abandoned, the D.C. Circuit did not affirm on that basis. Subsequently, in enacting the Children's Television Act of 1990 (CTA), Congress made clear that broadcasters should be subject to public interest obligations reviewed under the *Red Lion* standard, and Congress's views on that matter are entitled to ''great weight.'' The Commission agreed that *Red Lion* sets the appropriate standard of review, as it made clear in its Order implementing the CTA, which expressly repudiated the dicta from *Syracuse Peace Council*. Moreover, the D.C. Circuit not only applied but extended *Red Lion* in 1996 in *Time Warner Entertainment Co.* v. *FCC,* 93 F.3d 957 (1996). In that case, the court upheld under the *Red Lion* standard the constitutionality of Section 335 of the Communications Act, as amended, which requires operators of direct broadcast satellite (DBS) systems to set aside at least four percent of their channels for noncommercial educational programming.

20. The fundamental error of the Commission's decision in the portion of *Syracuse Peace Council* that has been repudiated was its confusion of the rationale underlying the fairness doctrine with the basis for public interest regulation of the broadcast spectrum. The fairness doctrine originated at a time when there were only three major television networks, and the proliferation of television stations and the development of cable television reasonably led the Commission to reevaluate the need for the fairness doctrine. The standard of *Red Lion*, however, was not based on the absolute number of media outlets, but on the fact that the spectrum is a public resource and ''there are substantially more individuals who want to broadcast than there are frequencies to allocate.'' As both the U.S. Supreme Court and the D.C. Circuit have explained, ''[a] licensed broadcaster is 'granted the free and exclusive use of a valuable part of the public domain; when he accepts that franchise it is burdened by enforceable public obligations.' '' The D.C. Circuit explained in remanding the political editorial and personal attack rules that application of the *Red Lion* standard does not mean that any particular obligation is therefore warranted. Rather, the Commission must provide a reasonable explanation as to why it chooses to impose certain public interest obligations and not others. But the long-standing basis for the regulation of broadcasting is that ''the radio spectrum simply is not large enough to accommodate everybody.'' Under our Nation's system for allocating spectrum, some are granted the ''exclusive use'' of a portion of this ''public domain,'' even though others would use it if they could. That is why ''it is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write or publish.''

21. Congress has directed the Commission to ensure that broadcasters granted the exclusive use of a particular frequency serve the public interest. Or, as the D.C. Circuit put it in this case, a broadcaster holds a ''government-granted monopoly,'' and the Commission is required by statute to ensure that the public receives a fair return from each broadcaster for its use of that public resource. Unlike the DBS operator in *Time Warner,* who was required both to pay millions of dollars for the spectrum it won at auction and to set aside at least four percent of its capacity for noncommercial educational programming, broadcasters have obtained their spectrum for free and are not subject to such a set-aside requirement. The Commission therefore requests the parties to address this difference in treatment.

22. Under the relevant constitutional standard, a key factor in deciding whether to retain the rules at issue here or impose any other requirement is the extent to which the requirement interferes with the editorial judgment of broadcasters. As the U.S. Supreme Court has repeatedly recognized, the Commission has long '' 'walk[ed] a tightrope' '' designed to permit broadcasters ''to exercise 'the widest journalistic freedom consistent with' '' the principle that it is ''the right of the viewers and listeners, not the right of the broadcasters which is paramount.'' In this case, as explained above, the D.C. Circuit assumed that the rules at issue burden broadcasters to some extent, recognized that the Joint Statement had criticized the evidence previously presented on that point by the Broadcasters, but noted that the Commission had ''offered no updated or more credible information.'' A temporary suspension of the rules at issue, coupled with a proceeding that considers the other issues raised in this *Order*, should help the Commission to respond to the court's concerns.

Administrative Matters

23. *Request to Update Record.* Parties submitting evidence on the effect of the suspension of the rules as discussed above should submit such evidence 60 days after the suspension ends, and replies should be submitted 75 days after the suspension ends. Information 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 24121, May 1, 1998.

24. Information 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. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, parties must transmit one electronic copy of the evidence to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, parties 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 information, parties should send e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form, <your e-mail address>.'' A sample form and directions will be sent in reply.

25. Parties who choose to file by paper should also submit information on diskette. These diskettes should be submitted to: Wanda Hardy, 445 Twelfth Street, SW., Room 2–C221, Washington DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WORD 97 or compatible software. The diskette should be accompanied by a cover letter and

should be submitted in ''read only'' mode. The diskette should be clearly labeled with the party's name, proceeding (including the docket number (MM Docket No. 83–484), type of pleading, date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, parties must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 445 Twelfth Street, SW., Room CY–B402, Washington, D.C. 20554.

26. *Ex Parte Rules.* This proceeding will be treated as a ''permit-but-disclose'' proceeding, subject to the ''permit-but-disclose'' requirements under Section 1.1206(b) of the 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 or the views and arguments presented is generally required. 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b) of the Commission's rules.

27. *Initial Paperwork Reduction Act Analysis.* The actions taken in this *Order and Request to Update Record* have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA), and found to request new or modified reporting or recordkeeping by the public. It will be submitted to the Office of Management and Budget for emergency review under Section 3507 of the PRA.

Ordering Clauses

28. Authority for issuance of this *Order and Request to Update Record* is contained in sections 4(i), 303 and 315 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 315.

29. Sections 73.1920 and 73.1930 of the Commission's rules, 47 CFR 73.1920, 73.1930 (broadcast personal attack and political editorial rules), and § 76.209(b), (c), and (d) of the Commission's rules, 47 CFR 76.209(b), (c), (d), (cable personal attack and political editorial rules) *are suspended* upon the adoption date of this *Order and Request to Update Record* through December 2, 2000. This action is taken pursuant to sections 4(i), 303 and 315 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 315.

List of Subjects

47 CFR Part 73

Radio broadcasting, television broadcasting.

47 CFR Part 76

Cable television service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–26014 Filed 10–10–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Columbian Sharp-Tailed Grouse as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a 12-month finding for a petition to list Columbian sharp-tailed grouse (*Tympanuchus phasianellus columbianus*) throughout its known historic range in the 48 contiguous United States under the Endangered Species Act of 1973, as amended. We have reviewed the petition, information available in our files, other published and unpublished information submitted to us during the public comment period following the 90-day petition finding, consulted with recognized prairie grouse experts, and coordinated with other Federal, State, and tribal resource agencies within the historic range of the subspecies. On the basis of the best scientific and commercial information available, we find that listing the Columbian sharp-tailed grouse as a threatened species throughout its historic range in the contiguous United States is not warranted at this time.

DATES: The finding announced in this document was made September 27, 2000. Comments and information may be submitted until further notice is given by a document published in the **Federal Register**.

ADDRESSES: Data, information, comments, and material concerning the petition finding may be submitted to the Field Supervisor, Upper Columbia River Basin Field Office, U.S. Fish and Wildlife Service, 11103 East Montgomery Drive, Spokane, Washington, 99206. The 12-month petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Chris Warren at the above address or telephone (509) 893–8020.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that we make a finding within 12 months of the date of receipt of a petition containing substantial information on whether the petitioned action is: (a) not warranted, (b) warranted, or (c) warranted but precluded from an immediate proposal by other pending proposals of higher priority. Upon making a 12-month finding, we must promptly publish such notice in the **Federal Register**.

On March 16, 1995, we received a petition from the Biodiversity Legal Foundation, Boulder, Colorado, dated March 14, 1995. The petitioner requested that the Columbian sharp-tailed grouse be listed as a threatened species throughout its known historic range in the 48 contiguous United States and that critical habitat be designated for the species as soon as its biological needs are sufficiently well known. The petition also recommended a review of the species' status in British Columbia, Canada.

We added the Columbian sharp-tailed grouse to our candidate species list on January 6, 1989, as a Category 2 species (54 FR 560). Category 2 species were those for which we possessed information indicating that a proposal to list as endangered or threatened was possibly appropriate, but for which conclusive data on biological vulnerability and threats were not available to support a proposed rule. On February 28, 1996, we discontinued the designation of Category 2 species as candidates for listing under the Act (61 FR 7596).

Due to a backlog of listing actions and funding constraints in our listing program, we have implemented our Listing Priority Guidance during the course of listing actions for the subject petition. The guidance, first adopted on