will cause the nonattainment of the NAAQS for CO, lead, nitrogen dioxide, or sulfur dioxide. The Metro-East St. Louis area is designated as nonattainment for the $PM_{2.5}$ NAAQS and as discussed before, NO_X is a precursor to $PM_{2.5}$ formation. However, as demonstrated above, permanent, enforceable, contemporaneous, surplus emissions reductions achieved through the shutdown of permitted VOC and NO_X emissions sources have offset the minor increase in NO_X emissions resulting from the change to the I/M program. Therefore, the changes to the I/M program do not interfere with attainment of the $PM_{2.5}$ NAAQS. In addition, EPA believes that the amendments to the approved I/M program in Illinois will not interfere with the ability of the Chicago and Metro-East St. Louis ozone nonattainment areas to meet any other CAA requirement.

Based on the above discussion and the state's 100(l) demonstration, EPA believes that the changes to the Illinois I/M program will not interfere with attainment or maintenance of any of the NAAQS in either the Chicago and Metro-East St. Louis nonattainment areas and would not interfere with any other applicable requirement of the CAA, and thus, are approvable under CAA section 110(l).

V. What action is EPA proposing to take?

EPA is proposing to approve the revisions to the Illinois ozone SIP submitted on November 29, 2012, concerning the I/M program in the Chicago and Metro-East St. Louis ozone nonattainment areas in Illinois. EPA finds that the revisions meet all applicable requirements and will not interfere with reasonable further progress or attainment of any of the NAAQS.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: November 1, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–27276 Filed 11–13–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–236; FCC 13–123]

National Television Multiple Ownership Rule

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice commences a proceeding to consider elimination of the so-called UHF discount in the Commission's national television multiple ownership rule. Currently, the national television ownership rule prohibits a single entity from owning television stations that, in the aggregate, reach more than 39 percent of the total television households in the nation. It thus appears that the DTV transition has rendered the UHF discount obsolete and it should be eliminated. This Notice seeks comment on that tentative conclusion. It also tentatively decides, in the event that the UHF discount is eliminated, to grandfather existing television station combinations that would exceed the 39 percent national audience reach cap in the absence of the UHF discount and seeks comment on that proposal. Finally, it seeks comment on whether a VHF discount should be adopted, as it appears that under current conditions VHF channels may be technically inferior to UHF channels for the propagation of digital television signals.

DATES: The Commission must receive written comments on or before December 16, 2013 and reply comments on or before January 13, 2014.

ADDRESSES: You may submit comments, identified by MB Docket No. 13–236; FCC 13–123, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/*. Follow the instructions for submitting comments.
- *Mail:* U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554. Commercial overnight mail (other than U.S. Postal Service Express Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- *Hand or Messenger Delivery:* 445 12th St. SW., Room TW–A325, Washington, DC 20554.
- *People With Disabilities:* Contact the FCC to request reasonable

accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202)–418–0530 or TTY: (202)–418–0432.

For detailed instructions for submitting comments, additional information on the rulemaking process, and where to find materials available for inspection, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Brendan Holland, Industry Analysis Division, Media Bureau, *Brendan.Holland@fcc.gov,* (202) 418–2757, or Johanna Thomas, Industry Analysis Division, Media Bureau, *Johanna.Thomas@fcc.gov,* (202) 418–7551.

SUPPLEMENTARY INFORMATION: This *Notice of Proposed Rulemaking,* (NPRM) in MB Docket No. 13–236; FCC 13–123, was adopted and released on September 26, 2013. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., in person at 445 12th Street SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via email at *FCC@BCPIWEB.com.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities or by sending an email to *FCC504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at (202) 418–0530, TTY (202) 418–0432. This document is also available on the Commission's Web site at *http://fcc.gov*.

I. Introduction

1. This NPRM commences a proceeding to consider elimination of the so-called UHF discount in the Commission's national television multiple ownership rule. Currently, the national television ownership rule prohibits a single entity from owning television stations that, in the aggregate, reach more than 39 percent of the total television households in the nation. In determining compliance with the 39 percent national audience reach cap, the rule provides that television stations broadcasting in the UHF spectrum will be attributed with only 50 percent of the television households in their Designated Market Areas (DMAs); this is termed the UHF discount. The discount was adopted in 1985, in recognition of the technical inferiority of UHF signals as compared with VHF signals in analog television broadcasting and was intended to mitigate the competitive disadvantage that UHF stations experienced in comparison to VHF stations because of their weaker signals and smaller audience reach. However, there is a serious question whether this justification for the UHF discount continues to exist in light of the transition of full-power television stations to digital broadcasting (the DTV transition) completed in June 2009. While UHF channels were technically inferior to VHF channels for purposes of transmitting analog television signals, experience since the DTV transition suggests that, far from being inferior, they may actually be superior to VHF when it comes to the transmission of digital television signals, as discussed below.

2. It thus appears that the DTV transition has rendered the UHF discount obsolete and it should be eliminated. We seek comment on that tentative conclusion. We also tentatively decide, in the event that we eliminate the UHF discount, to grandfather existing television station combinations that would exceed the 39 percent national audience reach cap in the absence of the UHF discount and seek comment on that proposal. Finally, we seek comment on whether a VHF discount should be adopted, as it appears that under current conditions VHF channels may be technically inferior to UHF channels for the propagation of digital television signals.

II. Background

3. In 1985, the Commission imposed the national audience restriction together with the UHF discount. To protect localism, diversity, and competition, the Commission determined that both a station limit, restricting the total number of broadcast stations a single entity could own, and a nationwide audience reach limit were necessary. Thus, in addition to reaffirming its prior decision to limit the number of AM, FM, and television broadcast stations that a single entity could own, operate, or control to twelve stations in each service, the Commission revised the national television multiple ownership rule to prohibit a single entity from owning television stations that collectively exceeded 25 percent of the total nationwide audience.

4. At that time, the Commission recognized the ''inherent physical limitations'' of the UHF band. It concluded that the technical limitations of UHF stations should be reflected in the implementation of the national audience cap. The Commission specifically found that the delivery of television signals was more difficult in the UHF band because the strength of UHF television signals decreased more rapidly with distance in comparison to the signals of stations broadcasting in the VHF band, resulting in significantly smaller coverage area and audience reach. To reflect the coverage limitations of the UHF band, the Commission determined that the licensee of a UHF station should be attributed with only 50 percent of the television households in its market area for purposes of the national audience restriction. The Commission concluded that this UHF discount reflected the historical concern for the viability of UHF television and provided a measure of the actual handicap of UHF voices, which was consistent with traditional diversity objectives.

5. In the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission to increase the national audience reach cap from 25 percent to 35 percent and to eliminate the rule restricting an entity to owning no more than twelve television stations nationwide. The 1996 Act did not direct the Commission to amend the UHF discount.

6. The Commission subsequently reaffirmed the 35 percent national audience reach cap in its *1998 Biennial Review Order.* The Commission reasoned that it was premature to revise the audience cap because it had not had sufficient time to fully observe the effects of raising the cap from 25 to 35 percent. The Commission retained the UHF discount, finding that it remained in the public interest. But the Commission indicated that the UHF discount would not likely be necessary after the anticipated transition to digital television and stated that a NPRM would be issued in the future to propose phasing out the discount once the digital transition was complete.

7. The Commission reexamined the issue in its *2002 Biennial Review Order.* At that time, the Commission found that the national audience reach cap, while not necessary to promote competition and diversity, nonetheless remained necessary to promote localism. Further, the Commission decided that an increase in the cap to 45 percent was justified. The Commission concluded that a 45 percent cap would strike an appropriate balance, by permitting some growth for the big four network owners and allowing them to achieve greater economies of scale, while at the same time ensuring that the networks could not reach a larger national audience than their affiliates collectively. The Commission also found that setting the

cap at 45 percent was consistent with past congressional action to increase the ownership limit by 10 percentage points.

8. At the same time, the Commission upheld the UHF discount once again, finding that there continued to be a disparity between the household reach of UHF and VHF signals, which diminished the ability of UHF stations to compete effectively. The Commission surmised, however, that the digital [television] transition [would] largely eliminate the technical basis for the UHF discount because UHF and VHF signals [would] be substantially equalized. Accordingly, the Commission decided to sunset application of the UHF discount for stations owned by the top four broadcast networks (*i.e.,* ABC, CBS, NBC, and Fox) as the digital transition was completed on a market-by-market basis. The Commission noted that the sunset would apply unless it made an affirmative determination that the UHF discount continued to serve the public interest beyond the digital transition. The Commission indicated further that it would review the status of the UHF discount in a subsequent biennial review and decide at that time whether to extend the sunset to all other networks and station group owners.

9. Subsequently, Congress superseded the Commission's modification of the national audience reach cap in the *2002 Biennial Review Order,* including the increased 45 percent limit and the sunset of the UHF discount. The 2004 Consolidated Appropriations Act directed the Commission to modify its ownership rules to revise the national audience reach cap from 35 percent to 39 percent. Further, it amended section 202(h) of the 1996 Act to require a quadrennial review of the Commission's broadcast ownership rules rather than a biennial review, but specifically excluded any rules relating to the 39 percent national audience reach limitation from the quadrennial review.

10. Prior to the enactment of the 2004 Consolidated Appropriations Act, several parties had appealed the Commission's *2002 Biennial Review Order* to the U.S. Court of Appeals for the Third Circuit (Third Circuit). In June 2004, the Third Circuit issued a decision in which it found that the challenges to the Commission's actions with respect to the national audience reach cap and the UHF discount were moot as a result of Congress's action. The court determined that the Commission was under a statutory directive, following the 2004 Consolidated Appropriations Act, to modify the national audience reach cap to 39 percent, and that challenges to the Commission's decision to raise the cap to 45 percent therefore were no longer justiciable. The court found that challenges to the Commission's decision to retain the UHF discount were likewise eliminated from the litigation by the language in the 2004 Consolidated Appropriations Act, which insulated the UHF discount rule from the Commission's quadrennial (previously biennial) review of its media ownership rules. At the same time, the court indicated that its decision did not foreclose the Commission's consideration of its regulation defining the UHF discount in a rulemaking outside the context of section 202(h). The court concluded that, barring congressional intervention, the Commission may decide, in the first instance, the scope of its authority to modify or eliminate the UHF discount outside the context of section 202(h).

11. In July 2006, the Commission issued a Further Notice of Proposed Rule Making as part of its 2006 quadrennial review of the media ownership rules. Among other things, the *Further Notice* sought comment on the Third Circuit's holding with respect to the UHF discount rule and whether the Commission should retain, modify, or eliminate the UHF discount. In February 2008, the Commission concluded in the *2006 Quadrennial Review Order* that the UHF discount is insulated from review under section 202(h) as a result of the 2004 Consolidated Appropriations Act. But the Commission noted the Third Circuit's 2004 decision had left it to the Commission to decide the scope of its authority to modify or eliminate the UHF discount outside the context of section 202(h). Accordingly, the Commission indicated that it would address the petitions, comments, and replies filed with respect to the alteration, retention, or elimination of the UHF discount in a separate proceeding.

12. Since June 13, 2009, all full-power television stations have broadcast their over-the-air signals using only digital technology. The DTV transition has enabled broadcasters to provide multiple programming choices and enhanced capabilities to consumers. Yet the transition has posed more challenges for VHF channels than UHF channels, because VHF spectrum has proven to have characteristics that make it less desirable for providing digital television service. For instance, nearby electrical devices tend to emit noise that can cause interference to DTV signals within the VHF band, creating reception difficulties in urban areas even a short distance from the TV transmitter. The reception of VHF signals also requires physically larger antennas compared to UHF signals, making VHF signals less well suited for mobile applications. For these reasons among others, television broadcasters generally have faced greater challenges providing consistent reception on VHF signals than UHF signals in the digital environment.

III. Discussion

A. Authority To Modify the UHF Discount

13. We tentatively conclude that the Commission has the authority to modify the national television ownership rule, including the authority to revise or eliminate the UHF discount. Specifically, we tentatively conclude that the 2004 Consolidated Appropriations Act does not preclude the Commission from revisiting the national television ownership rule or the UHF discount contained therein, in a proceeding separate from the quadrennial reviews of the broadcast ownership rules pursuant to section 202(h) of the 1996 Act. Notably, in the 2004 Consolidated Appropriations Act, Congress directed the Commission to revise its rules to reflect a 39 percent audience reach cap. Congress did not directly establish that limitation by statute or amend the Communications Act of 1934 (the Communications Act or Act) to address the subject of national television ownership. Further, as the court in *Prometheus I* recognized, while Congress excluded the national television ownership rule from the quadrennial review requirement under section 202(h), it did not foreclose Commission action to review or modify the rule in a separate context.

14. In addition, the Communications Act provides the Commission with the statutory authority to revisit its rules and revise or eliminate them if it concludes such action is appropriate. Section 4(i) of the Act authorizes the agency to ''perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.'' Similarly, section 303(r) provides that the FCC may ''[m]ake such rules and regulations . . . not inconsistent with this law, as may be necessary to carry out the provisions of this Act . . .''. Indeed, the courts have held that the Commission has an affirmative obligation to reexamine its rules over time. For instance, in *Bechtel* v. *FCC,* the court observed that changes in factual and legal circumstances may impose upon the agency an obligation to reconsider a settled policy or explain its failure to do

so. In the rulemaking context, for example, it is settled law that an agency may be forced to reexamine its approach if a significant factual predicate of a prior decision has been removed, which is precisely the case here.

15. For these reasons, we believe the Commission retains the authority to modify both the national audience reach restriction and the UHF discount, provided such action is undertaken in a rulemaking proceeding separate from the Commission's quadrennial review of the broadcast ownership rules pursuant to section 202(h). We seek comment on our tentative conclusion and analysis. Does our tentative conclusion appropriately interpret the 2004 Consolidated Appropriations Act and the Third Circuit's guidance in its 2004 decision? Is there additional statutory guidance or case law that supports or undermines our conclusion?

B. Elimination of the UHF Discount

16. The Commission has recognized for more than a decade that the underlying basis for the UHF discount would likely disappear following the transition to digital television. As discussed above, even as the Commission determined in both the *1998 Biennial Review Order* and the *2002 Biennial Review Order* that the UHF discount was still necessary, it anticipated that the DTV transition would largely eliminate the technical basis for the UHF discount. The Commission found that the digital transition would substantially equalize UHF and VHF signals, and, thus, it decided to sunset the discount for UHF stations owned by the top four broadcast networks (*i.e.,* CBS, NBC, ABC, and Fox). As discussed above, the sunset provisions adopted by the Commission were superseded by Congress's action in the 2004 Consolidated Appropriations Act. Nevertheless, the DTV transition has borne out the Commission's expectation. Digital UHF stations do not suffer from the same comparative technical deficiencies *vis-à-vis* VHF facilities that characterized analog UHF stations.

17. The Commission has acknowledged that UHF spectrum is now highly desirable in light of its superior propagation characteristics for digital television, and that the disparity between UHF and VHF channels has if anything been reversed. In fact, following the DTV transition, some stations that initially elected to operate on a VHF channel have sought to relocate to a UHF channel to resolve technical difficulties encountered in broadcasting on VHF. The Commission has explored engineering options to increase the utility of VHF spectrum for digital television purposes. Furthermore, the Commission recently determined that annual regulatory fees for UHF and VHF stations will be combined into one fee category beginning in Fiscal Year 2014, eliminating a distinction based on the historical disadvantages of UHF. Today, rather than offsetting an actual service limitation or reflecting a disparity in signal coverage, the UHF discount appears only to confer a factually unwarranted benefit on owners of UHF television stations. If left in place, the UHF discount could undermine the 39 percent national audience reach cap on the false predicate that UHF stations do not reach equivalent audiences to VHF stations.

18. Based on these findings, we tentatively conclude that the historical justification for the UHF discount no longer exists and the rule is therefore obsolete. We accordingly propose that the UHF discount should be eliminated from the national television multiple ownership rule.

19. We seek comment on this proposal. In particular, does the UHF discount still serve the public interest? Does the discount promote market entry? Does it promote competition among broadcast networks? Are we correct in concluding that the technical limitations for UHF spectrum that existed for analog operations are not present in a digital environment? If so, are there other public policy justifications for maintaining the UHF discount despite the fact that the historical technical inferiority of UHF spectrum for television broadcasting no longer exists? Is any disparity between the broadcast coverage of UHF and VHF channels less important today than in 1985 given that many consumers receive local broadcast stations via a multichannel video programming distributor (MVPD) and not over-the-air? Are there any other market conditions that merit our consideration with regard to the UHF discount? Is there any factual basis to maintain the UHF discount in the current environment? What are the costs and benefits of eliminating the UHF discount?

C. Existing Broadcast Station Combinations

20. We recognize that the elimination of the UHF discount would impact the calculation of nationwide audience reach for broadcast station groups with UHF stations. We believe, however, that only a small number of broadcast station ownership groups have combinations that approach the current 39 percent ownership nationwide cap and that might exceed the cap if the UHF discount were eliminated. We therefore propose, in the event that we eliminate the UHF discount, to grandfather broadcast station ownership groups to the extent that they exceed the 39 percent national audience cap solely as a result of the termination of the UHF discount rule as of the date of the release of this NPRM. We also propose to grandfather proposed station combinations that would exceed the 39 percent cap as a result of the elimination of the UHF discount for which an application is pending with the Commission or which have received Commission approval, but are not yet consummated, at that the time this NPRM is released. Further, we propose that any grandfathered ownership combination subsequently sold or transferred would be required to comply with the national ownership cap in existence at the time of the transfer.

21. We seek comment on these issues. Do our proposals serve the public interest? What is the potential impact of our grandfathering proposals on broadcast ownership groups, the broadcast industry, local markets, and consumers? Do our proposals adequately address any potential impact on existing broadcast station ownership groups? Should we consider any specific circumstances in evaluating applications for waiver of the national ownership cap received from grandfathered station groups that enter into subsequent transactions, such as whether the application for waiver seeks to allow a corporate transformation of an existing station group—including a refinancing or restructuring—versus action that would circumvent the proposed rule change? Are there other strategies we should consider or employ to address existing broadcast station ownership groups that would exceed the 39 percent limit if the UHF discount were eliminated? Are there other alternatives we should consider with regard to pending applications? What are the costs and benefits of our grandfathering proposal and any other proposals offered by commenters?

D. VHF Discount

22. As noted above, the Commission has acknowledged that the DTV transition has made UHF spectrum, if anything, more desirable than VHF spectrum for purposes of digital television broadcasting. While the Commission has proposed solutions to VHF reception challenges, it has acknowledged that the options for improving digital television service on VHF channels are limited, especially in the low-VHF band. Unfortunately, it is

often consumers using indoor antennas who tend to face reception difficulties most frequently. For these reasons, some television stations, as previously indicated, have sought to relocate to UHF channels in order to resolve the technical difficulties experienced with their VHF channels.

23. Given the challenges that VHF stations face in delivering digital television signals, we seek comment on whether it would be appropriate at this time to adopt a VHF discount. Could a VHF discount function similarly to the current UHF discount in that only a certain percentage of the television households in a DMA would be attributed to a VHF television station for purposes of calculating a station group's national audience reach? We seek comment on whether a VHF discount is either warranted or advisable at this time. If a VHF discount is advisable, would it be appropriate to attribute to VHF stations only 50 percent of the TV households in their DMA? Would a different percentage be more appropriate? Is a discount more or less important than it was when the UHF discount was adopted in 1985, because many television consumers today receive local broadcast stations via an MVPD rather than over-the-air? Would a VHF discount run the risk of becoming obsolete as a result of market developments, as in the case of the UHF discount? Are there any other market conditions that merit our consideration with regard to a possible VHF discount? In the event that the Commission adopts a VHF discount, should we distinguish between high and low VHF channels? Are there options other than a discount to address the current inferiority of VHF signal propagation for purposes of the national audience reach cap? What are the costs and benefits of imposing a VHF discount and any other proposal offered by commenters?

IV. Procedural Matters

A. Ex Parte Presentations

24. The proceeding this Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Paperwork Reduction Act Analysis

25. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified 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).

C. Comment Filing Procedures

26. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/*.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

27. Additional Information: For additional information on this proceeding, please contact Brendan Holland of the Media Bureau, Industry Analysis Division, *Brendan.Holland@fcc.gov*, (202) 418–2757, or Johanna Thomas of the Media Bureau, Industry Analysis Division, *Johanna.Thomas@fcc.gov*, (202) 418–7551.

Initial Regulatory Flexibility Act Analysis

28. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''), the Federal Communications Commission (Commission) has prepared this present Initial Regulatory Flexibility Analysis (''IRFA'') concerning the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (''NPRM''). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the NPRM. The Commission will

send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA''). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rule Changes

29. The Commission seeks comment in this NPRM to consider elimination of the so-called ''UHF discount'' in the Commission's national television multiple ownership rule. The national television ownership rule currently prohibits a single entity from owning television stations that, in the aggregate, reach more than 39 percent of the total television households in the nation. The rule provides television stations broadcasting in the UHF spectrum with a discount by attributing those stations with only 50 percent of the television households in their Designated Market Areas (DMAs); this is termed the UHF discount. The UHF discount was adopted in recognition of the technical inferiority of UHF signals in analog television broadcasting and was intended to mitigate the competitive disadvantages that UHF stations experienced in comparison to VHF stations because of their weaker signals and smaller audience reach. However, there is serious question whether this justification for the UHF discount continues to exist in light of the transition of full-power television stations to digital broadcasting (the DTV transition) completed on June 12, 2009. Our experience since the DTV transition suggests that UHF channels may actually be superior to VHF channels when it comes to the transmission of digital television.

30. This NPRM tentatively concludes that the UHF discount is obsolete since the DTV transition and should be eliminated. The Commission seeks comment on this tentative conclusion, as well as on our tentative decision to grandfather existing television station combinations that would exceed the 39 percent national audience reach cap in the absence of the UHF discount. Finally, we seek comment on whether a ''VHF discount'' should be adopted, as it appears that under current conditions VHF channels may be technically inferior to UHF channels for the propagation of digital television signals.

31. Legal Basis

32. The proposed action is authorized under sections 1, 2(a), 4(i), 303(r), 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303(r), 307, 309, and 310.

33. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

34. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term small entity as having the same meaning as the terms small business, small organization, and small governmental jurisdiction. In addition, the term small business has the same meaning as the term small business concern under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

35. Television Broadcasting. The SBA designates television broadcasting stations with $35.5 million or less in annual receipts as small businesses. Television broadcasting includes establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The Commission estimates that there are 1,386 licensed commercial television stations in the United States. In addition, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database as of June 10, 2013, 1,245 (or about 90 percent) of the estimated 1,386 commercial television stations have revenues of $35.5 million or less and, thus, qualify as small entities under the SBA definition. We therefore estimate that the majority of commercial television broadcasters are small entities. The Commission has also estimated the number of licensed noncommercial educational (NCE) television stations to be 396. These stations are non-profit, and therefore considered to be small entities.

36. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

B. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

37. The NPRM tentatively concludes to modify the national television multiple ownership rule as set forth in paragraph 3 above, which would affect reporting, recordkeeping, or other compliance requirements. The conclusion, if ultimately adopted, would modify several FCC forms and their instructions: (1) FCC Form 301, Application for Construction Permit For Commercial Broadcast Station; (2) FCC Form 314, Application for Consent to Assignment of Broadcast Station Construction Permit or License; and (3) FCC Form 315, Application for Consent to Transfer Control of Corporation Holding Broadcast Station Construction Permit or License. The Commission may have to modify other forms that include in their instructions the media ownership rules or citations to media ownership proceedings, including Form 303-s and Form 323. The impact of these changes will be the same on all entities, and we do not anticipate that compliance will require the expenditure of any additional resources as the proposed modification to the national television multiple ownership rule will not place any additional obligations on small businesses.

C. Steps Taken To Minimize Significant Impact on Small Entities and Significant Alternatives Considered

38. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

39. The tentative conclusions and specific proposals on which the NPRM seeks comments, as set forth in paragraph 3 above, are intended to achieve our public interest goal of competition. By recognizing the technical advancements of the UHF band after the DTV transition, this NPRM seeks to create a regulatory landscape that reflects the current value of UHF spectrum in order to better assess national television ownership figures. Further, this NPRM complies with the President's directive for independent agencies to review their existing regulation to determine whether such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. As such, our proposed rule seeks to reduce costs on firms generally, including small business entities, by removing outdated regulations. In addition, the grandfathering and VHF discount proposals seek to create a more effective regulatory landscape by addressing current market realities. The NPRM also requests comment on whether any alternatives to the Commission's tentative conclusions or specific proposals exist, which provides small entities with the opportunity to indicate any disagreement with our findings and conclusions.

D. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

40. None.

V. Ordering Clause

41. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 2(a), 4(i), 303(r), 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303(r), 307, 309, and 310, this Notice of Proposed rulemaking *is adopted*.

42. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 73

Television; Radio.

Federal Communication Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communication 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 and 339.

■ 2. Amend § 73.3555 by revising paragraph (e)(2)(i) to read as follows:

§ 73.3555 Multiple ownership.

* * * * *

(e) * * *

(2) * * *

(i) National audience reach means the total number of television households in the Nielsen Designated Market Areas (DMAs) in which the relevant stations are located divided by the total national television households as measured by DMA data at the time of a grant, transfer, or assignment of a license.

* * * * *

[FR Doc. 2013–26004 Filed 11–13–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130306200–3200–01]

RIN 0648–BD03

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; Amendment 102

AGENCY: National Marine Fisheries Service (NMFS) National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 102 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), and amend the Individual Fishing Quota Program for the Fixed-Gear Commercial Fisheries for Pacific Halibut and Sablefish in Waters in and off Alaska (IFQ Program). Amendment 102 and its proposed implementing regulations would create a Community Quota Entity (CQE) Program in halibut IFQ regulatory area 4B (Area 4B) and the sablefish Aleutian Islands regulatory area that is similar to the existing CQE Program in the Gulf of Alaska (GOA). Amendment 102 would also allow an eligible community in Area 4B and in the Aleutian Islands to establish a non-profit organization as a CQE to purchase halibut catcher vessel quota share (QS) assigned to Area 4B and sablefish QS assigned to the Aleutian Islands. The CQE could assign the resulting annual halibut and sablefish IFQ to participants according to defined CQE Program elements. An additional proposed revision to the IFQ Program regulations would allow IFQ derived from D share halibut QS to be fished on Category C vessels in Area 4B. These actions are necessary to provide additional fishing opportunities for residents of fishery dependent communities and sustain participation in the halibut and sablefish IFQ fisheries. These actions are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, the BSAI FMP, and other applicable law.

DATES: Submit comments on or before December 16, 2013.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2013–0048, by any one of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0048,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. P.O. Box 21668, Juneau, AK 99802–1668.
- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.
- *Hand delivery to the Federal Building:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public