

Section 7.05: U Fuels All Districts (Effective 12/28/2007)  
 Section 7.06: U Visible Emissions (Effective 12/28/2007)  
 Section 7.07: U Open Burning (Effective 12/28/2007)  
 Section 7.08: U Incinerators (Effective 12/28/2007)  
 Section 7.09: U Dust, Odor, Construction and Demolition (Effective 12/28/2007)  
 Section 7.11: U Transportation Media (Effective 12/28/2007)  
 Section 7.12: U Source Registration (Effective 12/28/2007)  
 Section 7.13: U Stack Testing (Effective 12/28/2007)  
 Section 7.14: U Monitoring Devices and Reports (Effective 12/28/2007)  
 Section 7.15: U Asbestos (Effective 12/28/2007)  
 Section 7.18: U Volatile and Halogenated Organic Compounds (Effective 12/28/2007)  
 Section 7.19: U Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO<sub>x</sub>) (Effective 12/28/2007)  
 Section 7.21: Sulfur Dioxide Emissions Limitations (Effective 12/28/2007)  
 Section 7.22: Sulfur Dioxide Emissions Reductions for the Purpose of Reducing Acid Rain (Effective 12/28/2007)  
 Section 7.24: U Organic Material Storage and Distribution (Effective 12/28/2007)  
 Section 7.25: U Best Available Controls for Consumer and Commercial Products (Effective 12/28/2007)  
 Section 7.26: Industry Performance Standards (Effective 12/28/2007)  
 Section 7.27: NO<sub>x</sub> Allowance Program (Effective 12/28/2007)  
 Section 7.28: NO<sub>x</sub> Allowance Trading Program (Effective 12/28/2007)  
 Section 7.29: Emissions Standards for Power Plants (Effective 12/28/2007)  
 Section 7.60: U Severability (Effective 12/28/2007)  
 Section 7.00: Appendix A (Effective 12/28/2007)  
 Section 7.00: Appendix B (Effective 12/28/2007)  
 Section 7.00: Appendix C (Effective 12/28/2007)

**310 CMR 8.00: The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies**

Section 8.01: Introduction (Effective 12/28/2007)  
 Section 8.02: Definitions (Effective 12/28/2007)  
 Section 8.03: Air Pollution Episode Criteria (Effective 12/28/2007)  
 Section 8.04: Air Pollution Episode Potential Advisories (Effective 12/28/2007)  
 Section 8.05: Declaration of Air Pollution Episodes and Incidents (Effective 12/28/2007)  
 Section 8.06: Termination of Air Pollution Episodes and Incident Emergencies (Effective 12/28/2007)  
 Section 8.07: Emission Reductions Strategies (Effective 12/28/2007)  
 Section 8.08: Emission Reduction Plans (Effective 12/28/2007)  
 Section 8.15: Air Pollution Incident Emergency (Effective 12/28/2007)

Section 8.30: Severability (Effective 12/28/2007)  
 (2) [Reserved]  
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 [FR Doc. E8-3614 Filed 2-26-08; 8:45 am]  
**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 97**

[EPA-HQ-OAR-2003-0053; FRL-8534-2]

**Clean Air Interstate Rule: Notice of the Filing of Petition for Administrative Review**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of the filing of petition for administrative review.

**SUMMARY:** On November, 26 2007, Nelson Industrial Steam Company (NISCO) filed a petition requesting that the Environmental Appeals Board review the Clean Air Interstate Rule (CAIR) applicability determination made on October 22, 2007. In the applicability determination, EPA concluded that NISCO's Nelson Units 1 and 2 are CAIR SO<sub>2</sub>, NO<sub>x</sub>, and NO<sub>x</sub> ozone season units because they meet the criteria for being such CAIR units under regulations of the EPA-administered CAIR trading programs.

**SUPPLEMENTARY INFORMATION:** In the applicability determination, EPA concluded that NISCO's Nelson Units 1 and 2 are CAIR SO<sub>2</sub>, NO<sub>x</sub>, and NO<sub>x</sub> ozone season units because they meet the criteria for being such CAIR units under 40 CFR 97.104, 97.204, and 97.304 of the EPA-administered CAIR trading programs. This appeal was filed under 40 CFR part 78. Motions for leave to intervene in the proceeding under 40 CFR 78.11 must be filed by March 28, 2008 with the Environmental Appeals Board.

**FOR FURTHER INFORMATION CONTACT:** Ragan Tate, Attorney-Advisor, Office of General Counsel (2344A), U.S. Environmental Protection Agency, Ariel Rios Building—North, 1200 Pennsylvania Ave., NW., Washington, DC 20460 at (202) 343-9883 or (214) 665-8020.

Dated: February 21, 2008.

**Elizabeth Craig,**  
*Acting Principal Deputy Assistant Administrator, Office of Air and Radiation.*  
 [FR Doc. E8-3694 Filed 2-26-08; 8:45 am]  
**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 76**

[MB Docket No. 92-264; FCC 07-219]

**The Commission's Cable Horizontal and Vertical Ownership Limits**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes changes to the cable and broadcast attribution rules. The cable attribution rules seek to identify those corporate, financial, partnership, ownership, and other business relationships that confer on their holders a degree of ownership or other economic interest, or influence or control over an entity engaged in the provision of communications services such that the holders should be subject to the Commission's regulation. The broadcast attribution rules define which financial or other interests in a licensee must be counted in applying the broadcast ownership rules, and seek to identify "those interests in or relationships to licensees that confer on their holders a degree of influence or control such that the holders have a realistic potential to affect the programming decisions of licensees or other core operating functions." This document further proposes changes to the rules and regulations establishing reasonable limits on the number of channels on a cable system that can be occupied by a video programmer in which a cable operator has an attributable interest.

**DATES:** Comments are due on or before March 28, 2008. Reply comments are due on or before April 14, 2008.

**ADDRESSES:** You may submit comments, identified by MB Docket No. 92-264; FCC 07-219, 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://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *Mail:* 445 12th Street, SW., Washington, DC 20554, with a copy to the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov)

or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, please contact Elvis Stumbergs, Industry Analysis Division, Media Bureau at (202) 418-2330. For Press Inquiries, please contact Mary Diamond, Media Bureau, at (202) 418-7200.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's *Further Notice of Proposed Rulemaking* ("FNPRM") in MB Docket No. 92-264, FCC 07-219, adopted December 18, 2007, and released February 11, 2008. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs>). The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) (202) 418-0432 (TTY).

### Summary of the Notice of Proposed Rulemaking

1. The *FNPRM* proposes to amend the Commission's Rules as follows: (a) With regard to the general cable attribution rules and the broadcast attribution rules, to reinstate the single majority shareholder exemption; (b) with regard to the general cable attribution rules, and more specifically with regard to the cable equity debt attribution rule: (i) To include the amount of consideration paid for options and warrants in determining whether the 33 percent benchmark is exceeded (ii) clarify the definition of "total assets" for purposes of applying the EDP rule to include all equity and/or debt in whatever manner or amount held in computing the 33 percent threshold (iii) clarify that in applying the ED rule, the multiplier formula of the attribution rules will be utilized for identifying indirect, intervening interests, except that the pass-through exception for linkages that exceed a 50 percent interest, under

which these interests are not multiplied, will not apply in the cable ED context as it does in the context of corporate voting stock, and (c) relative to the cable ownership vertical limit, propose to eliminate the 75 channel cap and expand the channel occupancy limit to include video programming networks owned by or affiliated with any cable operator. The *FNPRM* seeks comment on all of these proposed rule changes and related matters including, but not limited to (i) relative to the cable insulated limited partnership criteria, the extent to which a limited partner may engage in the sale of programming to the general partnership and still remain exempt from attribution and (ii) relative to the cable ownership vertical limit, whether the channel occupancy limit should apply to regional programming networks.

### Further Notice of Proposed Rulemaking

#### Initial Paperwork Reduction Act of 1995 Analysis

2. This document does not contain new or modified information collection requirements 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).

#### Supplemental Initial Regulatory Flexibility Act Analysis

3. As required by the Regulatory Flexibility Act, as amended ("RFA") the Commission has prepared this Supplemental Initial Regulatory Flexibility Analysis ("Supplemental IRFA") of the possible significant economic impact on a substantial number of small entities of the policies and rules considered in this *Further Notice of Proposed Rule Making* ("FNPRM"). Initial Regulatory Flexibility Analyses were included in the *2001 Further Notice of Proposed Rulemaking* ("2001 FNPRM") and the *2005 Second Further Notice of Proposed Rulemaking* ("2005 Second FNPRM"). Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments on the *Second FNPRM*. The Commission will send a copy of the *FNPRM*, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA"). In addition, the *FNPRM* and the

Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.

#### A. Need for, and Objectives of, the Proposed Rules

4. The attribution rules identify which interests in a media entity are counted for purposes of applying the broadcast and cable ownership rules. The *FNPRM* invites comment on (1) whether to retain the single majority shareholder attribution exemption in the cable and broadcast contexts; (2) whether, under the cable attribution rules, a limited partner may sell programming to the partnership and retain insulation; and (3) whether the Commission should clarify certain aspects of the cable Equity Debt ("ED") attribution rule. With respect to the first two issues, the Commission invites further comment on how to respond to the remand of the court in *Time Warner II*, which reversed, vacated, and remanded the Commission's decision to eliminate the single majority shareholder exemption and the Commission's prohibition of the sale of programming by an insulated limited partner to the partnership.

5. Section 613(f) of the Communications Act requires the Commission to establish reasonable limits on the number of channels that can be occupied by the cable system's owned or attributed video programming services (vertical, or channel occupancy, limit). In *Time Warner II*, the DC Circuit remanded the Commission's channel occupancy limit.

6. The Commission subsequently issued its *2001 FNPRM*, seeking comment on whether to reinstate the single majority shareholder exemption in the cable attribution rules, and whether to prohibit insulated limited partners from selling programming to their general partners. The Commission also sought comment aimed at establishing a sound record on which to fashion meaningful and relevant channel occupancy limits given the changes that have occurred in the MVPD industry. While many commenters presented theoretical, legal, or economic arguments and anecdotal evidence, no party provided a compelling approach that supported a particular vertical limit. The Commission subsequently sought to augment the record by means of a programming network survey and econometric analysis, with limited results. In its *2005 Second FNPRM*, the Commission again sought to develop a more focused and useful record.

7. In this *FNPRM*, we seek additional comment on: (1) Whether to retain the single majority shareholder attribution

exemption, which currently applies to the cable and broadcast ownership rules; (2) whether, under the cable attribution rules, a limited partner may sell programming to the partnership and retain insulation; and (3) whether the Commission should clarify the Equity Debt (“ED”) provision in the cable attribution rules, to correspond with and reflect the guidance provided in the Commission’s reconsideration of its broadcast attribution rules. We also invite comment in the *FNPRM* on how to set a specific channel occupancy limit, responding to the remand of the court in *Time Warner II*. We issue this Supplemental IRFA in order to invite comment on the effects on small entities of the proposals identified in this *FNPRM*. We particularly solicit comment from all small business entities, including minority-owned and women-owned small businesses.

#### B. Basis

8. The *FNPRM* is adopted pursuant to Sections 2(a), 4(i), 303, 307, 309, 310, and 613 of the Communications Act of 1934, as amended, 47 U.S.C. 152(a), 154(i), 303, 307, 309, 310, and 533.

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

9. 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 defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental entity” under Section 3 of the Small Business Act. 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.

10. *Television Broadcasting*. In this context, the application of the statutory definition to television stations is of concern. The Small Business Administration defines a television broadcasting station that has no more than \$13 million in annual receipts as a small business. Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.” According to Commission staff review of the BIA Financial Network, Inc. Media Access Pro Television Database as of December 7, 2007, about 825 (66 percent) of the 1,250 commercial television stations in

the United States have revenues of \$13 million or less. However, in assessing whether a business entity 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 any changes to the attribution rules, because the revenue figures on which this estimate is based do not include or aggregate revenues from affiliated companies.

11. An element of the definition of “small business” is that the entity not be dominant in its field of operation. The Commission is unable at this time and in this context to define or quantify the criteria that would establish whether a specific television station is dominant in its market of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any television stations from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of “small business” is that the entity must be independently owned and operated. It is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

12. *Radio Broadcasting*. The Small Business Administration defines a radio broadcasting entity that has \$6.5 million or less in annual receipts as a small business. Business concerns included in this industry are those “primarily engaged in broadcasting aural programs by radio to the public.” According to Commission staff review of the BIA Financial Network, Inc. Media Access Radio Analyzer Database as of December 7, 2007, about 10,500 (95 percent) of 11,050 commercial radio stations in the United States have revenues of \$6.5 million or less. We note, however, that in assessing whether a business entity 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 any changes to the ownership rules, because the revenue figures on which this estimate is based do not include or aggregate revenues from affiliated companies.

13. In this context, the application of the statutory definition to radio stations is of concern. 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 and in this context to define or quantify the criteria that would establish whether a specific radio station is dominant in

its field of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any radio station from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

14. *Cable and Other Program Distribution*. The Census Bureau recently updated the NAICS and these firms are included in the Wired Telecommunications Carriers category, described as: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” The SBA has updated the small business size standards to accord with the revised NAICS. The size standard for Wired Telecommunications Carriers is all firms having an average of 1,500 or fewer employees. The Census Bureau has not collected information on the size distribution of firms in the revised classification of Wired Telecommunications Carriers. Accordingly we will apply the new size standard to Census Bureau data for 2002 regarding the size distribution of Cable and Other Program Distribution. There were a total of 1,191 firms in this category that operated for the entire year. Of this total, 1,178 firms had fewer than 1,000 employees. Thus, under this size standard, the majority of firms can be considered small.

15. *Cable Companies and Systems*. The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000

or fewer subscribers, nationwide. Industry data indicate that, of 994 cable operators nationwide, all but thirteen are small under this size standard. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 6,391 systems nationwide, 5,399 systems have under 10,000 subscribers, and an additional 352 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small.

16. *Cable System Operators*. The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000." The Commission has determined that an operator serving fewer than 653,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Industry data indicate that, of 994 cable operators nationwide, all but thirteen are small under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

17. *Private Cable Operators (PCOs) also known as Satellite Master Antenna Television (SMATV) Systems*. PCOs, also known as SMATV systems or private communication operators, are video distribution facilities that use closed transmission paths without using any public right-of-way. PCOs acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. The SBA definition of small entities for Wired Telecommunications Carriers includes PCOs or SMATV systems and, thus, small entities are defined as all such companies with 1,500 or fewer employees. Currently, there are approximately 76 members in the Independent Multi-Family Communications Council (IMCC), the trade association that represents PCOs. Individual PCOs often serve

approximately 3,000–4,000 subscribers, but the larger operations serve as many as 15,000–55,000 subscribers. In total, PCOs currently serve approximately 1.1 million subscribers. Because these operators are not rate regulated, they are not required to file employment data with the Commission. Furthermore, we are not aware of any privately published employment information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten PCOs, we believe that a substantial number of PCOs may qualify as small entities.

18. *Home Satellite Dish ("HSD") Service*. Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Wired Telecommunications Carriers, which includes all such companies with 1,500 or fewer employees. HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. There are approximately 30 satellites operating in the C-band, which carry over 500 channels of programming combined; approximately 350 channels are available free of charge and 150 are scrambled and require a subscription. HSD is difficult to quantify in terms of employment. HSD owners have access to program channels placed on C-band satellites by programmers for receipt and distribution by MVPDs. In January 2007, there were 68,781 households authorized to receive HSD service. The Commission has no information regarding the number of employees for the four C-Band distributors.

19. *Wireless Cable Systems*. Wireless cable systems use the Broadband Radio Service ("BRS") and Educational Broadband Service ("EBS") frequencies in the 2 GHz band to transmit video programming and provide broadband services to subscribers. The Census Bureau recently updated the NAICS and these firms are now included in the Wireless Telecommunications Carriers (except Satellite) category, described as: "This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this

industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services." The SBA has updated the small business size standards to accord with the revised NAICS and, for Wireless Telecommunications Carriers (except Satellite), the standard is all firms having an average of 1,500 or fewer employees.

20. The Commission has also defined small BRS entities in the context of Commission license auctions. In the 1996 BRS (MMDS) auction, the Commission defined a small business as an entity that had annual average gross revenues of less than \$40 million in the previous three calendar years. This definition of a small entity in the context of MDS auctions was approved by the SBA. In the 1996 auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business 1996 auction winners, 48 remain small business licensees. Specifically, the Commission estimates that some of the EBS licensees are small businesses since there are currently 2,032 EBS licensees, and all but 100 of these licenses are held by educational institutions. In addition to the 48 small businesses that hold BTA authorizations, there are also approximately 392 incumbent BRS licensees that have gross revenues that are not more than \$40 million and are thus considered small entities.

21. Although the SBA changed the small business definition in 2007 so that BRS and EBS now fall under Wireless Telecommunications Carriers (except Satellite), we lack the data to estimate how many entities will be affected by the regulation. Therefore, we continue to employ the definition for small businesses used in the 1996 auction, and estimate that the majority of the affected entities are small.

22. *Open Video Systems ("OVS")*. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA-recognized definition of Wired Telecommunications Carriers, which provides that a small entity is one with 1,500 or fewer employees. The Commission has certified 25 OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises, even though OVS is one of four statutorily-recognized options for

local exchange carriers (LECs) to offer video programming services. As of June 2007, BSPs served approximately 1.4 million subscribers, representing 1.46 percent of all MVPD households. Among BSPs, however, those operating under the OVS framework are in the minority, with approximately eight percent operating with an OVS certification. BSPs include companies such as RCN, Champion Broadband, Knology, and SureWest Communications. RCN received approval to operate OVS systems in New York City, Boston, Washington, DC and other areas. The Commission does not have employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. We thus believe that at least some of the OVS operators may qualify as small entities.

23. *Cable and Other Subscription Programming.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. \* \* \* These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers." The SBA has developed a small business size standard for firms within this category, which is: firms with \$13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were 270 firms in this category that operated for the entire year. Of this total, 217 firms had annual receipts of under \$10 million and 13 firms had annual receipts of \$10 million to \$24,999,999. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

24. A "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

25. Depending on the rules adopted as a result of this *FNPRM*, the *Report and Order* ultimately adopted in this

proceeding may contain new or modified information collections. We anticipate that none of the changes would result in an increase to the reporting and recordkeeping requirements of broadcast stations, newspapers, or applicants for licenses. As noted above, we invite small business entities to comment in response to this *FNPRM*.

#### *E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered*

26. 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 or 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.

27. We are directed under law to describe any alternatives we consider, including alternatives not explicitly listed above. The *FNPRM* seeks comment on whether or not it should retain the single majority shareholder exemption, and whether eliminating the exemption would negatively impact capital investment, particularly in small businesses. Additionally, it seeks comment on whether or not to bar a limited partner from selling video programming to the general partner cable entity in order to maintain insulated limited partner status for purposes of the attribution rules. It also seeks comment on whether to conform various aspects of the ED cable attribution rule to the amended EDP broadcast attribution rule upon which the cable rule was based. Finally, it seeks comment on how it should craft a rule to limit the number of cable channels that can be occupied by affiliated video programming services. Cable ownership limits are intended to prevent large cable entities from unfairly impeding the flow of video programming to consumers through their horizontal reach or their level of vertical integration. We anticipate that any channel occupancy limits adopted by the Commission will have little adverse impact on small cable entities because small entities as a general matter do not approach the channel occupancy limits and are not the focus of the rule. We also expect that,

whichever alternatives are chosen with respect to revising the cable attribution rules, the Commission will seek to minimize any adverse effects on small businesses.

#### *F. Federal Rules That May Duplicate, Overlap, or Conflict with the Proposed Rules*

28. None.

#### **Ex Parte Restrictions**

29. This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a).

#### **Ordering Clauses**

30. *It is ordered* that pursuant to Sections 1, 4(i) and (j), 301, 302, 303, 307, 308, 309, 319, and 324 of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and (j), 301, 302, 303, 307, 308, 309, 319, and 324 that *notice is hereby given* of the proposals and tentative conclusions described in this Notice of Proposed Rule Making.

31. *It is further ordered* that the Reference Information Center, Consumer Information Bureau, shall send a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. E8-3701 Filed 2-26-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

RIN 0648-AW06

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

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

**ACTION:** Availability of an amendment to a fishery management plan; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council has submitted