1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. Submission of the SNUN would not cost any small entity significantly more than $8,300. Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government would be impacted by this proposed rule. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

E. Executive Order 13132

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly nor uniquely affect the communities of Indian Tribal governments, nor would it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination With Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this proposed rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children From Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 14, 2012.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. Add § 721.10423 to subpart E to read as follows:

§ 721.10423 Complex strontium aluminum, rare earth doped (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as complex strontium aluminum, rare earth doped (PMNs P–12–22, P–12–23, P–12–24, P–12–25, and P–12–26) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (manufacture, processing, or use where no more than 5 percent of particles are less than 10 microns).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2012–15225 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–106; FCC 12–43]

Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to allow noncommercial educational (NCE) broadcast stations to conduct on-air fundraising activities that interrupt regular programming for the benefit of third-party non-profit organizations. This proposed rule change would reduce or eliminate the need for NCE stations to seek a waiver of the Commission's rules to interrupt regular programming to conduct third-party fundraising and would afford NCE stations more flexibility in choosing which non-profit entities to support through on-air fundraising.

DATES: Comments for this proceeding are due on or before July 23, 2012; reply comments are due on or before August 21, 2012. Written PRA comments on the proposed information collection requirements contained herein must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before August 21, 2012.

ADDRESSES: You may submit comments, identified by MB Docket No. 12–106, by any of the following methods:

▪ *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.

▪ *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ *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.

In addition to filing comments with the Secretary, a copy of any PRA comments on the proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167. 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, contact Kathy Berthot, *Kathy.Berthot@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–7454. For additional information concerning the information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918. To view or obtain a copy of this information collection request (ICR) submitted to OMB: (1) Go to this OMB/GSA Web page: *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR as shown in the Supplementary Information section below (or its title if there is no OMB control number) and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 12–43, adopted on April 25, 2012 and released on April 26, 2012. The full text 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. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat. 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 email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

This document contains proposed information collection requirements. As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collections. Public and agency comments are due August 21, 2012.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: None.

Title: Section 73.503, Licensing requirements and service; Section 73.621, Noncommercial educational TV stations; Section 76.3527, Local public inspection file of noncommercial educational stations.

Form Number: Not applicable.

Type of Review: New information collection.

Respondents: Not for-profit institutions.

Number of Respondents and Responses: 2,200 respondents/30,800 responses.

Estimated Time per Response: 0.25 to 1.5 hours.

Frequency of Response: Annual reporting requirement; One-time reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i), 303, 307 and 308.

Total Annual Burden: 17,050 hours.

Total Annual Costs: $330,000.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no general need for confidentiality with these information collections. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On April 25, 2012, the Commission adopted a Notice of Proposed Rulemaking (NPRM), *Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations,* MB Docket No. 12–106, FCC 12–43. In the NPRM, the Commission proposes to allow NCE stations to spend up to one percent of their total annual airtime conducting fundraising activities that interrupt regular programming for the benefit of third-party non-profit organizations.

The NPRM proposes to add or revise the following rule sections, which contain proposed information collection requirements: 47 CFR 73.503(e)(1), 47 CFR 73.503(e)(2), 47 CFR 73.503(e)(3), 47 CFR 73.621(f)(1), 47 CFR 73.621(f)(2), 47 CFR 73.621(f)(3), 47 CFR 73.3527(e)(14).

Pursuant to proposed 47 CFR 73.503(e)(1), a noncommercial educational FM broadcast station that intends to interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file an opt-in notification with the FCC prior to engaging in such fundraising activities.

Pursuant to proposed 47 CFR 73.503(e)(2), a noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

Pursuant to proposed 47 CFR 73.503(e)(3), a noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file a report with the FCC on an annual basis describing such fundraising activities.

Pursuant to proposed 47 CFR 73.621(f)(1), a noncommercial educational television station that intends to interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file an opt-in notification with the FCC prior to engaging in such fundraising activities.

Pursuant to proposed 47 CFR 73.621(f)(2), a noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

Pursuant to proposed 47 CFR 73.621(f)(3), a noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file a report with the FCC on an annual basis describing such fundraising activities.

Pursuant to proposed 47 CFR 73.3527(e)(14), each noncommercial educational FM broadcast station and each noncommercial educational TV broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must maintain a copy of its annual report describing its fundraising activities in its public inspection file until final action has been taken on the station's next license renewal application.

The opt-in notification will serve to inform the FCC and interested non-profit groups which NCE stations intend to engage in third-party fundraising activities. The audience disclosure will clearly identify for the NCE station's audience the entity for which the station is conducting fundraising. Commission staff will use the data in the annual reports to assess the effectiveness of allowing NCE stations to conduct third-party fundraising for non-profit organizations and to ensure that NCE stations comply with the one percent limit on third-party fundraising. The public will use the data in the reports to assess how NCE stations are serving the public interest and their local communities.

The Commission is seeking OMB approval for the proposed information collection requirements.

Summary of the Notice of Proposed Rulemaking

I. Introduction

1. In this *Notice of Proposed Rulemaking* (*NPRM),* we solicit comment on whether and under what circumstances to allow noncommercial educational (NCE) broadcast stations to conduct on-air fundraising activities that interrupt regular programming for the benefit of third-party non-profit organizations. Under the Commission's rules, in the absence of a waiver, an NCE station may not conduct fundraising activities to benefit any entity besides the station itself if the activities would substantially alter or suspend regular programming. The recent report on ''The Information Needs of Communities'' (*INC Report*) recommended that we consider affording noncommercial broadcasters more flexibility by allowing certain NCE stations to engage in fundraising for charities and other third-party non-profit organizations. This *NPRM* promotes the goals of Executive Order 13579 by analyzing whether the Commission's longstanding policy against fundraising for third-party non-profits may be tailored to grant NCE stations limited flexibility without undermining the policy's important goals.

II. Background

2. Under longstanding Commission policy, an NCE station may not conduct fundraising activities that substantially alter or suspend regular programming and are designed to benefit any entity other than the station itself. ''Regular programming'' includes programming that ''the public broadcaster ordinarily carries, but does not encompass those fundraising activities that suspend or alter their normal programming fare.'' The Commission implemented this policy to reflect the concern that ''educational stations are licensed to provide a noncommercial broadcast service, not to serve as a fund-raising operation for other entities by broadcasting material that is 'akin to regular advertising.' ''

3. The Commission has relaxed some of its other policies governing the broadcast of promotional announcements by NCE stations. Throughout this process, however, a concern that these changes not adversely affect the educational programming mission or noncommercial character of these stations has persisted. For example, in 1981, the Commission determined that stations could acknowledge contributions made by donors, but it continued to prohibit the broadcast of promotional announcements by NCE licensees in exchange for consideration, regardless of whether the sponsor of a given announcement was a for-profit or non-profit organization. The Commission adopted these policies to '''strike a reasonable balance between the financial needs of [public broadcast] stations and their obligation to provide an essentially noncommercial broadcast service' and eliminate those proscriptive regulations deemed unnecessary to preserve the media's noncommercial nature.'' Notably, the revised policy regarding contributions by donors was specifically intended to benefit the station itself and its need for funding to continue to serve its local audience through noncommercial and educational programming.

4. Later in 1981, Congress adopted section 399B of the Communications Act of 1934, which prohibits NCE stations from broadcasting ''advertisements,'' defined as

> Any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration, and which is intended—
>
> (1) To promote any service, facility, or product offered by any person who is engaged in such offering for profit;
>
> (2) To express the views of any person with respect to any matter of public importance or interest; or
>
> (3) To support or oppose any candidate for political office.[1]

In light of this statute's enactment, the Commission reviewed its NCE policies in 1982. In the resulting *Policy Statement,* the Commission determined that non-profit organizations are excluded from the meaning of the phrase ''any person who is engaged in such offering for profit'' in Section 399B.[2] Thus, the Commission revised

[1] 47 U.S.C. 399b(a), 399b(b)(1).

[2] *See Commission Policy Concerning the Noncommercial Nature of Educational Broadcast*

the *Second Report's* determination regarding consideration received to allow the broadcast of promotional announcements sponsored by non-profit organizations in order to conform the rule to section 399B of the Act.[3] Despite these changes and other liberalizations of the fundraising and donor acknowledgment rules, the Commission continued the ban on conducting fundraising activities which substantially alter or suspend regular programming and are designed to benefit any entity other than the station itself, codifying these requirements in §§ 73.503(d) and 73.621(e) of the Commission's rules. Those rules provide, in pertinent part, that ''[t]he scheduling of any announcements * * * may not interrupt regular programming.''[4]

5. Commission staff has occasionally granted waivers of these rules in extraordinary circumstances. For example, the Commission granted a waiver to the licensee of an NCE television station to broadcast a three-hour fundraiser for Wolf Trap Foundation, with the money to be used to rebuild the Filene Center at Wolf Trap Farm Park which had burned down. The Commission granted the waiver in part based on the fact that the fundraising programming would be consistent with regular programming, in that more than half of the program would consist of excerpts of past programs broadcast by the NCE station that had originated from Wolf Trap Farm, and the remainder of the program would consist of interviews with and performances from stars who had appeared at Wolf Trap.

6. Similarly, the former Mass Media Bureau granted a waiver of §§ 73.621(e) and 73.503(d) of the Commission's rules to the licensee of an NCE radio station and an NCE television station in West Palm Beach, Florida, where the President had declared Dade County a disaster area following Hurricane Andrew. The stations proposed to broadcast a two-hour simulcast along with four area commercial television stations to raise funds and donations and provide information for the hurricane relief effort. The staff granted the waiver in recognition of the catastrophic events that had occurred, the stations' unique ability to serve the area affected by the disaster, and the limited length of the program. The Commission has also granted rule waivers for fundraising for other singular catastrophic events, such as Hurricane Katrina, the September 11, 2001 terrorist attacks, the January 2005 tsunami in Southeast Asia, and the January 2010 earthquake in Haiti. More recently, the Commission established informal procedures through which NCE licensees could request Commission approval to conduct fundraising to aid the Japan earthquake and tsunami relief efforts, noting that it has granted waivers of § 73.503(d) for ''fundraising appeals to support relief efforts following disasters of particular uniqueness or magnitude'' and that such waivers ''have been issued for a specific fundraising program or programs, or for sustained station appeals for periods which generally do not exceed several days.'' In contrast, in 1995, the staff denied a request for a waiver of § 73.503(d) where the proposed fundraising for the Muscular Dystrophy Association occurred annually to address ongoing needs and was not limited to a specific one-time problem.

7. In June 2011, a working group including Commission staff, scholars and consultants released the *INC Report,* a comprehensive report on the current state of the media landscape. The *INC Report* discussed both the need to empower citizens to ensure that broadcasters serve their communities in exchange for the use of public spectrum and the need to remove unnecessary burdens on broadcasters who aim to serve their communities. Noting comments from the National Religious Broadcasters (NRB), the *INC Report* recommended that we consider affording noncommercial broadcasters more flexibility by allowing NCE stations that are not grantees of the Corporation for Public Broadcasting (CPB) to spend up to one percent of their annual airtime doing fundraising for charities and other third-party non-profit organizations. In order to be eligible for CPB funding, an NCE station must devote the substantial majority of its daily total programming hours broadcast on all of its channels to *CPB-qualified programming,* which is defined as ''general audience programming that serves demonstrated community needs of an educational, informational and cultural nature.'' Programs that ''further the principles of particular political or religious philosophies, or that are designed primarily for in-school or professional in-service audiences'' are not considered CPB-qualified programming. Campus stations managed and operated by and for students, stations licensed to political organizations, and stations that provide in-service training programming to licensee employees, clients, or representatives are also ineligible for CPB funding. The *INC Report* noted that having local charities on the air can be a useful way of informing residents about problems in their communities and can help NCE stations achieve their public service or religious missions. The *INC Report* also recommended that broadcasters that take advantage of this flexibility be required to disclose how the fundraising time is used, including how it is helping charities in the local community, so that the Commission can assess the effectiveness of providing this flexibility.

III. Notice of Proposed Rulemaking

8. We invite comment on whether it is in the public interest to revise our rules restricting the ability of NCE stations to conduct fundraising on behalf of third-party non-profit organizations. We believe that the original concerns animating the longstanding restriction remain valid. Nevertheless, as shown by the past grant of waivers, the Commission has concluded that an NCE station can conduct certain fundraising activities on behalf of other non-profit organizations in some circumstances without sacrificing its noncommercial nature. It has generally sought to limit such waivers to short-term fundraising intended to assist communities that have suffered singular misfortunes of historic dimensions or, more rarely, to benefit non-profit organizations directly tied to the programming activities of the stations. We seek comment on whether a blanket prohibition on the substantial interruption of programming for third-party fundraising remains necessary to preserve NCE stations' noncommercial nature and to retain those stations' focus on their designated function of serving their communities of license through educational programming, or whether it would serve the public interest to grant NCE stations some flexibility to substantially interrupt programming to conduct fundraising on behalf of other non-profits. If we determine that more flexibility is necessary and appropriate, we seek comment on how we should modify our existing rules, and on what grounds.

9. We propose to relax the prohibition on third-party fundraising for NCE stations and seek comment on that proposal. We further invite comment on whether we should limit the scope of our action and, if so, what the limitations should be and why. As noted above, the *INC Report* recommended that we revise our rules

Stations, Memorandum Opinion and Order, 90 FCC 2d 895, 897, para.3 (1982).

[3] *See Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations,* Second Report and Order, 86 FCC 2d 141, 157–58, paras. 42–43 (1981).

[4] 47 CFR 73.503(d), 73.621(e).

to allow only NCE stations that are not CPB grantees, such as most religious broadcasters, to conduct fundraising for the benefit of third-party non-profit organizations. The *INC Report* stated that some public broadcasting officials do not want the flexibility to engage in fundraising activities for third-party non-profit organizations because ''it would put them in the awkward position of deciding which worthy causes to support and which to reject.'' We invite comment on whether and how we should limit the NCE stations that may engage in limited third-party fundraising to address this concern. How would the Commission justify any such limitation? Is third-party fundraising less likely to trigger the concerns underlying the prohibition if conducted by certain NCE stations? Alternatively, should we require NCE stations to opt in to the proposed relaxation, as discussed below, so that NCE stations that do not want flexibility to engage in third-party fundraising can simply decline to opt in? We also invite comment on the First Amendment implications of any limitation on the classes of NCE stations that may conduct third-party fundraising.

10. As noted, section 399B prohibits NCE stations from broadcasting, in exchange for remuneration, programming material intended to promote any service, facility or product offered by any person who is engaged in such offering for profit. Thus, if we decide to allow NCE stations additional flexibility to conduct fundraising for other entities, the statute requires that they be limited to non-profit entities. We seek comment on whether the Commission should further limit the kinds of non-profit organizations that may be the beneficiaries of fundraising conducted by NCE stations. In the *Policy Statement,* the Commission noted that '''non-profit' entities encompass a multitude of organizations with varied purposes and functions.'' The Communications Act of 1934 defines the term ''*non-profit''* (as applied to any foundation, corporation, or association) to mean ''a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.'' [5] NRB suggests that we limit the class of entities for which fundraising may be conducted to organizations which are non-profit under section 501(c)(3) of the Internal Revenue Code [6] and that we allow fundraising when ''the fundraising activities exempted shall be directed to an identified, bona fide charitable, educational, or religious need which the non-profit 501(c)(3) organization is equipped and committed to aid.'' We seek comment on these suggestions. In order to eliminate uncertainty for NCE stations, would it be appropriate to allow fundraising for any entity that qualifies as a non-profit organization under section 501(c)(3) of the Internal Revenue Code? Should we establish any additional criteria to ensure that fundraising on behalf of non-profit entities is consistent with NCE stations' mission to serve their local communities through educational and noncommercial programming? As discussed above, the *INC Report* suggested that having local charities on the air can be a useful way of informing residents about problems in their communities and can help NCE stations achieve their public service or religious missions. Would it further our interest in localism to limit NCE stations to soliciting donations for local non-profit organizations? Furthermore, given that third-party fundraising on behalf of affiliated entities may restrict an NCE station's ability to conduct fundraising for local non-profit organizations, should we limit fundraising on behalf of third parties to unaffiliated third parties? If so, how should we define ''affiliated''? If we limit any new flexibility for NCE stations to fundraising for local non-profit entities, should we also retain our existing waiver process for fundraising activities for singular catastrophic events regardless of whether they are local in nature?

11. In the event that we decide to modify the proscription on NCE broadcast stations interrupting regular programming to conduct fundraising activities on behalf of other non-profit organizations, we invite comment on how much flexibility to grant NCE stations to devote to this activity. NRB notes that because NCE licensees rely on fundraising to support their own operations, these stations will not want to broadcast ''[e]xcessive appeals for other non-profit groups'' because they ''could negatively impact the licensee's own self-interests by diverting public support away from the broadcaster * * *'' Approximately how much time do NCE stations spend each year broadcasting fundraisers on their own behalf? We are concerned that permitting NCE broadcasters to use too much of their airtime for unrelated non-profit fundraising could undermine the noncommercial character of the participating facilities and divert these stations from their primary function of providing service to their communities of license through programming. Thus, we believe a strict, if not a complete, limit on such activities would be advisable. The *INC Report* recommended that we consider allowing third-party fundraising so long as it does not exceed one percent of the broadcaster's total annual airtime. We invite comment on this approach. With respect to NCE television stations, we seek comment on how the recommended one percent limit on third-party fundraising should be calculated and applied for stations that multicast programming on several different channels. We also seek comment on how we should enforce a relaxed limit on the amount of time that NCE stations may devote to third-party fundraising. Would an annual limit of one percent be sufficient to allow stations to use third-party fundraising flexibility both for the kinds of planned fundraising contemplated in the *INC Report* and for fundraising activities for disasters and other singular catastrophic events that in the past have required waivers? The Commission has traditionally granted waivers only for fundraising activities of ''limited duration.'' In addition to an annual limit, should fundraising activities continue to be circumscribed in this way, such as by adopting a durational limit on a specific program and/or on a discrete fundraising effort?

12. In the event we modify the current prohibition, we invite comment on whether we should require that an NCE station itself conduct all third-party fundraising activities, including collecting funds and distributing the funds to the non-profit entity, rather than airing fundraising programs produced by the non-profit organization or some other entity on behalf of the non-profit organization. Would requiring an NCE station to locally produce its third-party fundraising activities promote localism? What are the potential benefits and costs of requiring NCE stations to locally produce third-party fundraising activities? Are there any other limitations we should consider imposing in order to preserve the noncommercial and educational character of the NCE programming service?

[5] 47 U.S.C. 397(8) (defining the term ''non-profit'' for purposes of Title III, Part IV, Subpart E of the Act).

[6] Section 501(c)(3) provides that certain corporations, foundations, or other organizations that operate exclusively for religious, charitable, scientific, educational, or certain other non-profit purposes, are exempt from federal income taxation. *See* 26 U.S.C. 501(c)(3).

13. Section 399B prohibits the airing, in exchange for remuneration, of programming material intended to express views on matters of public importance or interest, or to support or oppose political candidates. We note that on April 12, 2012, the Ninth Circuit Court of Appeals struck down as unconstitutional section 399B's ban on public interest and political advertisements by NCE stations.[7] Accordingly, we will not enforce section 399B's ban on public interest and political advertisements in the Ninth Circuit once the court's mandate goes into effect. Nevertheless, to the extent any fundraising that stations would like to conduct under a relaxed policy would fall into these categories, we invite comment on whether the statutory term ''remuneration'' includes repayment of a station's expenses associated with such fundraising activities. Additionally, we seek comment on whether section 399B places any other limitations on the revision of our existing rules to permit substantial interruption of regular programming for fundraising activities on behalf of non-profit organizations.

14. We recognize that in certain situations third-party fundraising by an NCE station could potentially confuse the station's audience. For example, where an NCE station conducts fundraising activities on behalf of a non-profit organization or charity that is closely affiliated with the station, it may be unclear to the audience whether the station is fundraising for the station itself or for another entity. In the event that we decide to modify the third-party fundraising policy, in order to avoid audience confusion, should we require NCE stations to air a specified disclosure that clearly identifies the entity for which the station is conducting the fundraising? If so, what form should this disclosure take? Would it be sufficient for the station to clearly state that the fundraiser is not to benefit the station itself and to identify the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser? How frequently during each fundraising effort or program should the NCE station air the disclosure? We invite comment on whether we should require the NCE station to air the disclosure at the beginning and the end of the fundraising program and at least once during each hour in which the program is on the air.

15. We also seek comment on whether, in the event that we decide to modify the third-party fundraising policy, we should require NCE stations that interrupt regular programming to conduct fundraising for third-party non-profit organizations to submit reports to the Commission on their fundraising activities. The *INC Report* recommended that the Commission consider requiring NCE broadcasters to disclose how they are utilizing fundraising time for third-party non-profit organizations so that the FCC can assess the effectiveness of the additional flexibility recommended therein. If we require NCE stations to submit reports on third-party fundraising, what information should the stations be required to include in the reports? For example, the reports could include, for each fundraiser, the date and time of the fundraiser, the name of the non-profit entity benefitted by the fundraiser and whether this entity is a local organization, the specific cause, if any, supported by the fundraiser, the type of fundraising activity, the duration of the fundraiser, and the total funds raised. We seek comment on whether each of these reporting elements would be useful. What, if any, additional information should be included? Should NCE stations be required to file the reports on an annual basis? While we do not believe that filing such reports would be unduly burdensome, we invite suggestions for minimizing the reporting burden on NCE broadcasters. Furthermore, we invite comment on whether we should require NCE stations to include their reports on third-party fundraising in their public files. Such a requirement would help to ensure that the public has access to information about how NCE broadcasters are serving the public interest and their local communities. Beyond the above-described reporting requirements, we also invite comment on whether some form of assurance regarding compliance with the third-party fundraising limits should be required—such as certification of such compliance on licensees' renewal applications. This is a common method used to verify compliance in other areas, and could assist in raising awareness of the limitations on this activity and ensuring compliance with the new rules.

16. Finally, we invite comment on whether we should require NCE stations that want to participate in fundraising for third-party non-profit organizations to affirmatively ''opt in'' by filing a letter or notification with the Commission. An opt in notification would serve to inform both the Commission and interested non-profit groups which NCE stations intend to engage in third-party fundraising activities.

IV. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

17. As required by the Regulatory Flexibility Act, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules considered in the attached *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 on the *NPRM* as indicated 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 the IRFA (or summaries thereof) will be published in the **Federal Register.**

Need for, and Objectives of, the Proposed Rules

18. Longstanding Commission policy provides that noncommercial educational (NCE) stations may not conduct fundraising activities which substantially alter or suspend regular programming and are designed to benefit any entity other than the station itself. ''Regular programming'' includes programming that the public broadcaster ordinarily carries, and not fundraising activities that suspend or alter the normal programming schedule.

19. In June 2011, a working group including Commission staff, scholars and consultants released ''The Information Needs of Communities'' (*INC Report*), a comprehensive report on the current state of the media landscape. Noting comments from the National Religious Broadcasters, the *INC Report* recommended that we afford noncommercial broadcasters more flexibility by allowing NCE stations that are not grantees of the Corporation for Public Broadcasting (CPB), such as most religious broadcasters, to spend up to one percent of their airtime doing fundraising for charities and other third-party non-profit organizations. The *INC Report* also recommended that we require that broadcasters disclose how this time is used so that the FCC can assess the efficacy of allowing third-party fundraising.

20. The *NPRM* proposes to relax the rules to afford NCE stations more flexibility to conduct on-air fundraising activities on behalf of third-party non-

[7] *See Minority Television Project, Inc.* v. *FCC,* No. 09–17311, 2012 WL 1216284, at *17 (9th Cir. Apr. 12, 2012).

profit organizations and seeks comment on a series of proposals to facilitate this additional flexibility. The *NPRM* seeks comment on the following proposals:

• Revise the rules to allow NCE stations to substantially interrupt regular programming to conduct on-air fundraising activities for the benefit of third-party non-profit organizations;

• Define the class of non-profit organizations that may be the beneficiaries of third-party fundraising by NCE stations to include entities that qualify as non-profit organizations under section 501(c)(3) of the Internal Revenue Code;

• Limit the amount of time that an NCE station may devote to third-party fundraising to one percent of the station's total annual airtime;

• Require NCE stations that substantially interrupt regular programming to conduct third-party fundraising to air a disclosure that clearly identifies the entity for which the station is conducting the fundraising;

• Require NCE stations that substantially interrupt regular programming to conduct third-party fundraising to submit annual reports to the Commission on their fundraising activities;

• Require NCE stations that substantially interrupt regular programming to conduct third-party fundraising to include their reports on third-party fundraising in their public files;

• Require NCE stations that substantially interrupt regular programming to conduct third-party fundraising to certify on their renewal applications that they have complied with the limits on fundraising; and

• Require NCE stations that want to substantially interrupt regular programming to participate in third-party fundraising to affirmatively ''opt in'' by filing a letter or notification with the Commission.

The *NPRM* also has under consideration possible rule changes that would:

• Limit the classes of NCE stations that may engage in third-party fundraising;

• Limit the non-profit organizations that may benefit from fundraising by NCE stations, such as by limiting the eligible class of non-profit organizations to local entities and/or entities that are not affiliated with the NCE stations;

• Prescribe durational limits for each particular fundraising effort; and

• Require NCE stations to locally produce third-party fundraising activities.

The *NPRM* invites commenters to suggest alternatives to these proposals and other rule changes that would help to ensure that fundraising on behalf of non-profit entities is consistent with NCE stations' mission to serve their local communities through educational and noncommercial programming.

Legal Basis

21. This *NPRM* is adopted pursuant to sections 1, 4(i), 303(r), and 399B of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 303(r), 399b.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

22. 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.

23. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has $14.0 million or less in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed commercial television stations to be 1,387. In addition, according to Commission staff review of the BIA Kelsey Inc. Master Access Television Analyzer Database (BIA) as of February 7, 2012, about 950 (73 percent) of an estimated 1,301 commercial television stations had revenues of $14.0 million or less and thus qualify as small entities under the SBA definition. 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. The Commission has estimated the number of licensed NCE television stations to be 396. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

24. 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. Also, 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.

25. *Radio Stations.* The SBA defines a radio broadcasting station that has $7.0 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. The Commission has estimated the number of licensed commercial radio stations to be 14,952. In addition, according to Commission staff review of BIA Kelsey Inc. Master Access Radio Analyzer Database as of February 7, 2012, about 10,755 (approximately 97 percent) of an estimated 11,106 commercial radio stations have revenue of $7.0 million or less and thus qualify as small entities under the SBA definition. 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. The Commission has estimated the number of licensed NCE radio stations to be 3,644. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

26. 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 radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, 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.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

27. The *NPRM* proposes a number of rule changes that would affect reporting, recordkeeping, and other compliance requirements. Each of these proposals is described below.

28. The *NPRM* proposes to allow NCE stations to substantially interrupt regular programming to spend up to one percent of their total annual airtime conducting fundraising activities on behalf of third-party non-profit organizations. If this proposal is adopted, NCE stations may be required to keep records sufficient to demonstrate that their fundraising broadcasts are within the one percent limit. The *NPRM* also proposes to require NCE stations to submit annual reports to the Commission on their fundraising for third-party non-profit organizations. Further, the *NPRM* proposes to require NCE stations to include their reports on third-party fundraising in their public files and to certify on their renewal applications that they have complied with the limits on fundraising.

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

29. The RFA requires an agency to describe any significant alternatives that might minimize any significant economic impact on small entities. Such alternatives 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.

30. The *NPRM* proposes to relax restrictions on third-party fundraising by NCE stations by allowing NCE stations to devote up to one percent of their total annual airtime to fundraising for the benefit of third-party non-profit organizations. This proposal would benefit small entities by reducing or eliminating the need for NCE stations to seek a waiver of the Commission's rules to conduct third-party fundraising activities and affording NCE stations more flexibility to decide which non-profit entities to support through on-air fundraising. The *NPRM* also proposes to require NCE stations that conduct third-party fundraising to submit annual reports to the Commission on their fundraising activities, include such reports in their public files, and certify on their renewal applications that they have complied with the limits on fundraising. We believe that these reporting and recordkeeping requirements would impose only minimal burdens on any affected entities, and the costs of these reporting and recordkeeping requirements would be offset in our opinion by the additional flexibility afforded to NCE stations to conduct fundraising for third-party non-profit organizations of their choosing without the need to seek a waiver or prior FCC approval. For this reason, an analysis of alternatives to the proposed rules is unnecessary. We invite comment on whether there are any alternatives we should consider that would minimize any adverse impact on small entities, but which maintain the benefits of our proposals.

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

31. None.

B. Paperwork Reduction Act

32. This *NPRM* proposes new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995.[8] In addition, pursuant to the Small Business Paperwork Relief Act of 2002,[9] we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''[10]

[8] *See* Public Law 104–13.

[9] *See* Public Law 107–198.

[10] *See* 44 U.S.C. 3506(c)(4).

C. Ex Parte Rules

33. *Permit-But-Disclose.* The proceeding this *NPRM* 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.

D. Filing Requirements

34. 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).

■ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/.*

▪ *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 St. 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 should be addressed to 445 12th Street SW., Washington DC 20554.

35. 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).

36. For additional information on this proceeding, contact Kathy Berthot, *Kathy.Berthot@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

V. Ordering Clauses

37. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 303(r), and 399B of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(r), 399b, this Notice of Proposed Rulemaking *is hereby adopted.*

38. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, 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

Radio, Television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 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. Section 73.503 is amended by revising the last sentence of paragraph (d), redesignating paragraph (e) as paragraph (f), adding a new paragraph (e) and revising the Note to read as follows:

§ 73.503 Licensing requirements and service.

* * * * *

(d) * * * *The scheduling of any announcements and acknowledgements may not interrupt regular programming,* except as permitted under paragraph (e) of this section.

(e) A noncommercial educational FM broadcast station may interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations, provided that such fundraising activities do not exceed one percent of the station's total annual airtime. For purposes of this paragraph, a non-profit organization is an entity that qualifies as a non-profit organization under section 501(c)(3) of the Internal Revenue Code.

(1) *Opt-In Notification.* A noncommercial educational FM broadcast station that intends to interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file an opt-in notification with the FCC prior to engaging in such fundraising activities.

(2) *Audience Disclosure.* A noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

(3) *Reports.* A noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file a report with the FCC on an annual basis describing such activities. These reports must include, for each fundraiser, the date and time of the fundraiser, the name of the non-profit entity benefitted by the fundraiser and whether this entity is a local organization, the specific cause, if any, supported by the fundraiser, the type of fundraising activity, the duration of the fundraiser, and the total funds raised.

* * * * *

Note to § 73.503: Commission interpretation on this rule, including the acceptable form of acknowledgements, may be found in the *Second Report and Order* in Docket No. 21136 (Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations), 86 FCC 2d 141 (1981); the *Memorandum Opinion and Order* in Docket No. 21136, 90 FCC 2d 895 (1982); the *Memorandum Opinion and Order* in Docket 21136, 97 FCC 2d 255 (1984); and the *Report and Order* in Docket No. 12–106 (Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations). *See also,* ''Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations,'' Public Notice, 7 FCC Rcd 827 (1992), which can be retrieved through the Internet at *http://www.fcc.gov/mmb/asd/nature.html.*

3. Section 73.621 is amended by redesignating paragraphs (f) through (i) as paragraphs (g) through (j), revising the last sentence of paragraph (e) and the Note to paragraph (e), and adding new paragraph (f) to read as follows:

§ 73.621 Noncommercial educational TV stations.

* * * * *

(e) * * * *The scheduling of any announcements and acknowledgements may not interrupt regular programming,* except as permitted under paragraph (f) of this section.

Note: Commission interpretation of this rule, including the acceptable form of acknowledgements, may be found in the *Second Report and Order* in Docket No. 21136 (Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations), 86 F.C.C. 2d 141 (1981); the *Memorandum Opinion and Order* in Docket No. 21136, 90 FCC 2d 895 (1982); the *Memorandum Opinion and Order* in Docket 21136, 49 FR 13534, April 5, 1984; and the *Report and Order* in Docket No. 12–106 (Noncommercial Educational Station

Fundraising for Third-Party Non-Profit Organizations).

(f) A noncommercial educational television station may interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization, provided that such fundraising activities do not exceed one percent of the station's total annual airtime. For purposes of this paragraph, a non-profit organization is an entity that qualifies as a non-profit organization under section 501(c)(3) of the Internal Revenue Code.

(1) *Opt-In Notification.* A noncommercial educational television station that intends to interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file an opt-in notification with the FCC prior to engaging in such fundraising activities.

(2) *Audience Disclosure.* A noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

(3) *Reports.* A noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file a report with the FCC on an annual basis describing such activities. These reports must include, for each fundraiser, the date and time of the fundraiser, the name of the non-profit entity benefitted by the fundraiser and whether this entity is a local organization, the specific cause, if any, supported by the fundraiser, the type of fundraising activity, the duration of the fundraiser, and the total funds raised.

* * * * *

4. Section 73.3527 is amended by adding new paragraph (e)(14) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(e) * * *

(14) *Reports on Fundraising for Third-Party Non-Profit Organizations.* For noncommercial educational FM broadcast stations a copy of each report required to be filed with the FCC by § 73.503(e)(3). For noncommercial educational TV broadcast stations a copy of each report required to be filed with the FCC by § 73.621(f)(3). These reports shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

[FR Doc. 2012–12952 Filed 6–21–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

RIN 0648–BC10

Sea Turtle Conservation; Shrimp Trawling Requirements; Public Hearing Notification

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

ACTION: Proposed rule; notice of public hearing.

SUMMARY: NMFS announces a sixth public hearing to be held in Miami, FL on July 6, 2012, to answer questions and receive public comments on the proposed rule to withdraw the alternative tow time restriction and require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) rigged for fishing to use turtle excluder devices (TEDs) in their nets, which was published in the **Federal Register** on May 10, 2012. In the proposed rule, we announced five public hearings to be held in Morehead City, NC, Larose, LA, Belle Chasse, LA, D'Iberville, MS, and Bayou La Batre, AL.

DATES: A public hearing will be held on July 6, 2012, from 6 to 8 p.m. in Miami, FL. Written comments (see **ADDRESSES**) will be accepted through July 9, 2012. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: As published on May 10, 2012 (77 FR 27411), you may submit comments on this proposed rule, identified by 0648–BC10, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.*
- *Mail:* Michael Barnette, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Fax:* 727–824–5309; Attention: Michael Barnette.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. We will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727–551–5794.

SUPPLEMENTARY INFORMATION: The date, time and location of the hearing is as follows:

1. Friday, July 6, 2012, 6 p.m. to 8 p.m., Miami, FL: Marriott Miami Biscayne Bay, 1633 N. Bayshore Drive, Miami, FL 33132, (305) 374–3900 or (866) 257–5990.

These hearings are physically accessible to people with disabilities; a Spanish language interpreter will be available, if needed.

Dated: June 18, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012–15341 Filed 6–21–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120416016–2151–01]

RIN 0648–BB96

Atlantic Highly Migratory Species; Silky Shark Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This rule would implement the International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendation 11–08, which prohibits retaining, transshipping, or landing of silky sharks (*Carcharhinus falciformis*) caught in association with ICCAT fisheries. In order to improve domestic enforcement capabilities, the National Marine Fisheries Service is also proposing to prohibit the storing,