PART 60–300—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS REGARDING DISABLED VETERANS, RECENTLY SEPARATED VETERANS, ACTIVE DUTY WARTIME OR CAMPAIGN BADGE VETERANS, AND ARMED FORCES SERVICE MEDAL VETERANS

■ 3. The authority citation for part 60–300 continues to read as follows:

Authority: 29 U.S.C. 793; 38 U.S.C. 4211 and 4212; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

Subpart A—Preliminary Matters, Equal Opportunity Clause

■ 4. In § 60–300.2, revise paragraph (x) to read as follows:

§ 60–300.2 Definitions.

* * * * *

(x) *Subcontract.* (1) Means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(i) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or

(ii) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed; and

(2) Does not include an agreement between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(i) An agreement means a relationship between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(ii) A health care provider is a physician, hospital, or other individual or entity that furnishes health care services or supplies.

(iii) A health organization is a voluntary association, corporation, partnership, managed care support contractor, or other nongovernmental organization that is lawfully engaged in providing, paying for, insuring, or reimbursing the cost of health care services or supplies under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, network agreements, health benefits plans duly sponsored or underwritten by an employee organization or association of organizations and health maintenance organizations, or other similar arrangements, in consideration of premiums or other periodic charges or payments payable to the health organization.

* * * * *

PART 60–741—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

■ 5. The authority citation for part 60–741 continues to read as follows:

Authority: 29 U.S.C. 705 and 793; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

Subpart A—Preliminary Matters, Equal Opportunity Clause

■ 6. In § 60–741.2, revise paragraph (x) to read as follows:

§ 60–741.2 Definitions.

* * * * *

(x) *Subcontract.* (1) Means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(i) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or

(ii) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed; and

(2) Does not include an agreement between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(i) An agreement means a relationship between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(ii) A health care provider is a physician, hospital, or other individual or entity that furnishes health care services or supplies.

(iii) A health organization is a voluntary association, corporation, partnership, managed care support contractor, or other nongovernmental organization that is lawfully engaged in providing, paying for, insuring, or reimbursing the cost of health care services or supplies under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, network agreements, health benefits plans duly sponsored or underwritten by an employee organization or association of organizations and health maintenance organizations, or other similar arrangements, in consideration of premiums or other periodic charges or payments payable to the health organization.

* * * * *

[FR Doc. 2019–23700 Filed 11–5–19; 8:45 am]

BILLING CODE 4510–45–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 19–282 and 17–105; FCC 19–106]

In the Matter of Use of Common Antenna Site, Modernization of Media Regulation Initiative

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on whether it should eliminate or revise the requirements, in the Commission's rules, regarding access to FM and TV broadcast antenna sites. These rules prohibit the grant, or renewal, of a license for an FM or TV station if that applicant or licensee controls an antenna site that is peculiarly suitable for broadcasting in the area and does not make the site available for use by other similar licensees. The Commission seeks comment on whether these requirements, which are rarely invoked, are outdated and unnecessary in light of the significant changes in the broadcast marketplace, including significant growth in the availability of broadcast infrastructure that has occurred since these restrictions were first adopted nearly 75 years ago. With this proceeding, the Commission continues its efforts to modernize our rules and eliminate or modify outdated and unnecessary regulations.

DATES: Comments may be filed on or before December 6, 2019, and reply comments may be filed December 23, 2019.

ADDRESSES: Interested parties may submit comments and reply comments, identified by MB Docket Nos. 19–282 and 17–105, by any of the following methods:

▪ *Federal Communications Commission's Website: http://*

apps.fcc.gov/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. 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.

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: Kim Matthews, Media Bureau, Policy Division, 202–418–2154, or email at *kim.matthews@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*), FCC 19–106, adopted and released on October 25, 2019. 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, Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/*. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In this *NPRM,* we seek comment on whether we should eliminate or revise the requirements, in sections 73.239 and 73.635 of the Commission's rules, regarding access to FM and TV broadcast antenna sites. As described in more detail below, these rules prohibit the grant, or renewal, of a license for an FM or TV station if that applicant or licensee controls an antenna site that is peculiarly suitable for broadcasting in the area and does not make the site available for use by other similar licensees. We seek comment on whether these requirements, which are rarely invoked, are outdated and unnecessary in light of the significant changes in the broadcast marketplace, including significant growth in the availability of broadcast infrastructure that has occurred since these restrictions were first adopted nearly 75 years ago. With this proceeding, we continue our efforts to modernize our rules and eliminate or modify outdated and unnecessary regulations.

I. Background

2. The earliest rules on record adopted by the Federal Communications Commission (Commission) regarding the use of common FM and TV antenna sites date from 1945. These rules provide that no FM or TV broadcast license, or license renewal, ''will be granted to any person who owns, leases, or controls a particular site which is peculiarly suitable'' for FM or TV broadcasting in a particular area, unless the site is available for use by other FM or TV licensees or there is another comparable site available in the area, and ''where the exclusive use of such site by the applicant or licensee would unduly limit the number of'' FM or TV stations that can be authorized in a particular area or would ''unduly restrict competition among'' FM or TV stations. Section 73.239 applies to commercial full power FM radio stations, and section 73.635 applies to full power commercial and noncommercial TV stations and Class A TV stations. Notably, the AM and noncommercial educational FM radio rules do not contain a provision comparable to sections 73.239 and 73.635 governing common use of AM antenna sites.

3. At the time the rules were adopted, FM and television broadcasting were still in their infancy, and the infrastructure available to broadcast a signal over the air was sparse. Towers used by AM radio stations, the first broadcasting service, were generally incompatible with use by FM radio or television antennas. While the reason underlying the initial adoption of common antenna site requirements is unclear, they were adopted at a time when shortages of equipment and materials needed for broadcasting were a serious impediment to the introduction of new broadcast services. In the 1940s, the Commission also became concerned about the effect of ownership concentration and certain anticompetitive broadcast network practices on competition and diversity in the nascent broadcast industry. The language of the rules themselves, which has remained unchanged since 1945, suggests that the Commission at that time was concerned that exclusive use of an antenna site could unduly restrict the number of FM and TV stations in a particular area or otherwise impede competition among stations.

4. In addition, it appears that the Commission may have intended to ensure that a renewal applicant or licensee that owns or controls a desirable antenna site make it available to other licensees on reasonable terms. In its order proposing adoption of the common antenna site rule for FM stations, the Commission noted that, when there is an antenna site in a particular area and ''there is no other comparable site available in the area, [a] licensee or applicant as a condition of being issued a license or renewal of license shall be required to make the use of his antenna site available to other FM licensees upon the payment of a reasonable rental and upon a showing that the shared use of the antenna site will permit satisfactory operation of all stations concerned.'' With respect to section 73.635, the Commission has noted that the common TV antenna rule ''makes clear that its purpose is to remove unnecessary impediments to competition, ensuring that the public will have access to a variety of different broadcast sources.''

5. Needless to say, the broadcast marketplace has evolved substantially since the antenna site sharing rules were adopted. In 1945, there were 46 licensed FM broadcast stations; today, there are 6,726 FM commercial stations and 4,179 FM educational stations. The terrestrial radio broadcast market today also includes 4,610 a.m. stations, 2,178 low power FM (LPFM) stations, and over 8,000 FM translator and booster stations that retransmit and extend the signal of a parent FM station. The TV marketplace similarly has expanded greatly since the rule regarding antenna sites was first adopted. In 1945, there were nine television stations; today, there are 1,757 commercial and noncommercial educational full power television stations, 387 Class A television stations, almost 1,900 low power television (LPTV) stations, and more than 3,600 TV translator stations that retransmit the signal of a parent TV station.

6. The dramatic increase in the number of television and radio stations since 1945 has contributed to a corresponding increase in the number of antenna sites suitable for broadcasting. While some communications towers are owned and operated by FM and TV broadcasters, the vast majority appear to be owned by non-broadcast entities,

including companies specializing in tower leasing such as American Tower, Crown Castle, InSite Wireless Group, and Vertical Bridge. Thus, while it appears that broadcasters were more likely to have owned their towers in 1945, this is less the case today, and there is now widespread availability of tower capacity from a variety of tower companies. Moreover, many antenna sites are available for lease and shared use by broadcasters and wireless carriers, thereby helping broadcaster tower tenants and other entities to avoid the capital investment, environmental, zoning and other concerns involved in building new communications towers. The trend toward co-location of communications towers on antenna farms has also reduced the cost and other barriers to entry associated with the need to build new transmission facilities. In addition, the development of broadband antennas now permits multiple FM and TV stations in a market to share an antenna, thereby reducing the cost of antenna and tower facilities for the sharing stations and permitting towers with broadband antennas to accommodate more individual FM and TV tower tenants.

II. Discussion

7. We invite comment on whether we should eliminate or revise sections 73.239 and 73.635 of our rules. In particular, we invite comment on whether the requirements regarding the use of common FM and TV antenna sites continue to serve the public interest in light of the vast changes in the broadcasting marketplace and infrastructure since they were first adopted nearly 75 years ago. For example, to what extent do FM and TV broadcasters own towers today? Publicly available information suggests that the tower market is dominated by non-broadcast owned tower companies that are in the business of leasing their capacity. Is there currently a sufficient supply of towers and antenna sites suitable for FM and TV broadcast use? Does the current abundance of towers and antenna sites owned or controlled by non-broadcast entities render the rules regarding use of common antenna sites unnecessary?

8. Do these rules remain necessary to ensure that today's consumers have access to an adequate variety of FM and TV broadcast sources? Do they remain necessary to ''remove unnecessary impediments'' to broadcast competition? Do the rules make sense as a practical matter given that there are few new full-power FM or TV channels being allotted today and no new Class A TV channels being allotted? That is, new entrants into FM or TV broadcasting would likely operate on existing channels using existing broadcast infrastructure and existing broadcasters, with the exception of stations subject to the Incentive Auction repack, are unlikely to be changing channels such that they will require new towers. Were we to eliminate these rules, would the likelihood increase that TV and FM broadcasters would need to construct their own towers?

9. We seek comment and data on whether requests for use of particular antenna sites under these rules are even made in today's broadcast marketplace. The only evidence we could find of the common antenna site rules being raised is in the context of disputes in which the rules are invoked unjustifiably, contributing to unnecessary adjudication expenses and delays. Would elimination of the rules help conserve industry and Commission resources by avoiding unnecessary complications in disputes between stations? To the extent legitimate requests for access to an antenna site have been made, are such requests ever refused? Are such refusals, if any, based on reasonable grounds? Are there instances in which the terms of use are unreasonable?

10. We ask commenters that advocate retaining the rules to provide information and data about specific circumstances in which the rules have proven useful in promoting access to sites peculiarly suitable for broadcasting. In this regard, we note that, for both rules, four elements must be satisfied in order to establish a violation, and this may be part of the reason why it appears that no party that has relied on sections 73.239 or 73.635 in disputes regarding access to a tower or tower site has been successful in establishing a violation of either rule. Indeed, we are aware of no instance where a license application or license renewal application was denied on the basis of a violation of these rules. If we were to retain the rules, should they be revised to make them more useful to parties seeking access to antenna sites? If so, what changes should we make?

11. We ask commenters who advocate eliminating the common antenna site rules to discuss the potential benefits and costs of eliminating the rules. How burdensome are the rules for broadcasters? How would stations be affected if the rules were eliminated. Would stations that own towers have an incentive to engage in anticompetitive behavior going forward if the rules were eliminated? Or, is it in their financial interest to lease capacity on their towers to the extent requested? Are there impending changes to the broadcast industry, including the transition to ATSC 3.0 and the importance of distributed transmission system (DTS) single frequency networks (SFN) to ATSC 3.0, that will increase demand for antenna sites and provide a greater need for rules regarding access to common antenna sites? To the extent that parties believe that there are not sufficient towers and antenna sites available, they should document this concern with specificity and data. Commenters that advocate in favor of or against retaining the rules should discuss whether and how the benefits of doing so outweigh any costs. Are there any other considerations or data that the Commission should take into account in determining whether to retain these nearly 75 year-old rules?

III. Procedural Matters

12. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Act Analysis (IRFA) relating to this *NPRM*. The IRFA is set forth in Appendix B.

13. *Initial Paperwork Reduction Act Analysis.* This document may result in new or revised information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). If the Commission adopts any new or revised information collection requirement, the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirement, as required by the RA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

14. *Ex Parte Rules—Permit-But-Disclose.* This proceeding 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.

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

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/*.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th 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 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

16. *Availability of Documents.* Comments, reply comments, and ex parte submissions will be available for public inspection 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. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

17. *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 FCC's Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

18. *Additional Information.* For additional information on this proceeding, please contact Kim Matthews of the Media Bureau, Policy Division, *Kim.Matthews@fcc.gov,* (202) 418–2154.

Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''), the Commission has prepared this Initial Regulatory Flexibility Analysis (''IRFA'') concerning the possible significant economic impact on small entities of the policies and rules proposed in the *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *NPRM.* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

2. The *NPRM* seeks comment on whether to eliminate or revise the requirements, in Sections 73.635 and 73.239 of the Commission's rules, regarding access to use of television and FM broadcast antenna sites. These rules prohibit the grant of a license for a broadcast television or FM station, or a license renewal, to an entity that owns, leases, or controls a site that ''is peculiarly suitable'' for TV or FM broadcasting in a particular area unless the site is available for use by other TV or FM licensees or there is another comparable site available in the area, and where the exclusive use of the site by the applicant or licensee ''would unduly limit the number of'' TV or FM stations that can be authorized in a particular area or would ''unduly restrict competition among'' TV or FM stations. We seek comment on whether these requirements are outdated and unnecessary in light of the significant changes in the broadcast marketplace, including significant growth in the availability of broadcast infrastructure that has occurred since these restrictions were first adopted nearly 75 years ago. With this proceeding, we continue our efforts to modernize our rules and eliminate outdated and unnecessary regulations.

B. Legal Basis

3. The action is authorized pursuant to Sections 1, 4(i), 4(j), 303, 307, and 309 of the Communications Act, 47 U.S.C. 151, 154(i), 154(j), 303, 307, 309.

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

4. 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. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

5. The rules we seek comment on herein directly affect small FM radio and full power and Class A television stations. Below, we provide a description of these small entities, as

well as an estimate of the number of such small entities, where feasible.

6. *Radio Stations.* This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category as firms having $38.5 million or less in annual receipts. Economic Census data for 2012 shows that 2,849 radio station firms operated during that year. Of that number, 2,806 firms operated with annual receipts of less than $25 million per year, 17 with annual receipts between $24,999,999 and $50 million, and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard the majority of such entities are small entities.

7. According to Commission staff review of the BIA/Kelsey, LLC's Media Access Pro Radio Database on January 8, 2018, about 11,372 (or about 99.9 percent) of 11,383 commercial radio stations had revenues of $38.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated that there are 6,726 licensed FM commercial stations. We note the Commission has also estimated the number of licensed noncommercial (NCE) FM radio stations to be 4,179. However, the Commission does not compile or 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.

8. We also note, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. The Commission's estimate therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a ''small business,'' an entity may not be dominant in its field of operation. We further note that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these basis; thus, our estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities, and the estimates of small businesses to which they apply may be over-inclusive to this extent.

9. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $38.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of this number, 656 had annual receipts of $25 million or less, 25 had annual receipts between $24,999,999 and $50 million, and 70 had annual receipts of $50 million or more. Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

10. The Commission has estimated the number of licensed full power commercial television stations to be 1,371. Of this total, 1,257 stations had revenues of $38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on January 8, 2018, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 386. These stations are non-profit, and therefore considered to be small entities.

11. There are also 387 Class A stations. Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

12. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an 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 broadcast 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. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

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

13. The *NPRM* seeks comment on whether to eliminate or revise the requirements, in Sections 73.635 and 73.239 of the Commission's rules, regarding access to use of television and FM broadcast antenna sites. These rules prohibit the grant of a license for a broadcast television or FM station, or a license renewal, to an entity that owns, leases, or controls a site that ''is peculiarly suitable'' for TV or FM broadcasting in a particular area unless the site is available for use by other TV or FM licensees or there is another comparable site available in the area, and where the exclusive use of the site by the applicant or licensee ''would unduly limit the number of'' TV or FM stations that can be authorized in a particular area or would ''unduly restrict competition among'' TV or FM stations. Elimination of these rules would reduce compliance requirements for full power and Class A television and FM stations, which are currently required to comply with the rules. The *NPRM* also seeks comment on whether, if the rules are retained, they should be revised and, if so, how.

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

14. 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, standard; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

15. The *NPRM* seeks comment on whether to eliminate or revise the requirements, in Sections 73.635 and 73.239 of the Commission's rules, regarding access to use of television and FM broadcast antenna sites. Eliminating these requirements would eliminate the costs of compliance with the Commission's rules, including any related managerial, administrative, legal, and operational costs. The *NPRM* asks whether stations that own towers would have an incentive to engage in anticompetitive behavior going forward if the rules are eliminated. The Commission also seeks comment on the alternative of not eliminating these requirements, or of revising them.

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

16. None.

IV. Ordering Clauses

17. Accordingly, *it is ordered* that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 303(r), 307, and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 307, 309 this *Notice of Proposed Rulemaking is adopted*.

18. *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.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 to read 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, 155, 301, 303, 307, 309, 310, 334, 336, 339.

§ 73.239 [Removed and Reserved]

■ 2. Remove and Reserve § 73.239.

§ 73.635 [Removed and Reserved]

■ 3. Remove and Reserve § 73.635.

[FR Doc. 2019–24148 Filed 11–5–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR part 395

[Docket No. FMCSA–2019–0174]

Commercial Driver's License Standards: Application for Exemption; Wilson Logistics

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that Wilson Logistics has applied for an exemption from the requirement that the holder of a Commercial Learner's Permit (CLP) be accompanied by the holder of a Commercial Driver's License (CDL), seated in the front seat, while the commercial motor vehicle (CMV) is being driven by the CLP holder. Specifically, Wilson Logistics requests an exemption to allow CLP holders who have successfully passed the CDL skills test to drive a CMV without having a CDL holder seated in the front seat. Wilson Logistics states that the CDL holder would remain in the CMV while the CLP holder is driving, but not necessarily in the passenger seat. Wilson Logistics believes that the exemption, if granted, would promote greater productivity and help individuals who have passed the CDL skills test return to actively earning a living faster. FMCSA requests public comment on Wilson Logistics' application for exemption.

DATES: Comments must be received on or before December 6, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2019–0174 by any of the following methods:

- *Federal Rulemaking Portal: www.regulations.gov*. See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this document. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov*. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this document (FMCSA–2019–0174), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2019–0174''