(4) Prevention program data set forth in § 68.170(b), (d), (e)(1), (f) through (k);

(5) Prevention program data set forth in § 68.175(b), (d), (e)(1), (f) through (p);

(6) Emergency response program data set forth in § 68.180.

(c) Notwithstanding the procedures specified in 40 CFR part 2, to assert a claim that one or more data elements are entitled to protection as confidential business information, the owner or operator shall submit to EPA the following:

(1) An unsanitized (unredacted) paper copy of the RMP that clearly identifies each data element that is being claimed as confidential business information;

(2) A sanitized (redacted) copy of the RMP that shall be identical to the unsanitized copy of the RMP except that the submitter shall replace each data element, except chemical identity, claimed as confidential business information with the notation ''CBI'' or a blank field. For chemical identities claimed as CBI, the submitter shall substitute a generic category or class name; and

(3) At the time of submission of the RMP, a sanitized and unsanitized document substantiating each claim of confidential business information.

8. Section 68.152 is proposed to be added to read as follows:

§ 68.152 Substantiating claims of confidential business information.

(a) Claims of confidential business information must be substantiated by providing documentation that demonstrates that the information meets the substantive criteria set forth in 40 CFR 2.301.

(b) The submitter may claim as confidential information submitted as part of the substantiation. To claim materials as confidential, the submitter shall clearly designate those portions of the substantiation to be claimed as confidential by marking them as confidential business information. Information not so marked will be treated as public and may be disclosed without notice to the submitter.

(c) The owner, operator, or senior official with management responsibility shall sign a certification that the signer has personally examined the information submitted and that based on inquiry of the persons who compiled the information, the information is true, accurate, and complete, and that those portions of substantiation claimed as confidential business information would, if disclosed, reveal trade secrets or other confidential business information.

9. Section 68.160 is proposed to be amended by revising paragraphs (b)(1), (b)(7), and (b)(12) to read as follows:

§ 68.160 Registration.

* * * * *

(b) * * *

(1) Stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;

* * * * *

(7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the NAICS code of the process, and the Program level of the process;

* * * * *

(12) If the stationary source has a CAA Title V operating permit, the permit number; and

* * * * *

10. Section 68.165 is proposed to be amended by revising paragraph (b) to read as follows:

§ 68.165 Offsite consequence analysis.

* * * * *

(b) The owner or operator shall submit the following data:

(1) Chemical name;

(2) Percentage weight of the chemical in a mixture (toxics only);

(3) Physical state (toxics only);

(4) Basis of results (give model name);

(5) Scenario (explosion, fire, toxic gas release, or liquid spill and evaporation);

(6) Quantity released in pounds;

(7) Release rate;

(8) Release duration;

(9) Wind speed and atmospheric stability class (toxics only);

(10) Topography (toxics only);

(11) Distance to endpoint;

(12) Public and environmental receptors within the distance;

(13) Passive mitigation considered; and

(14) Active mitigation considered.

11. Section 68.170 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 68.170 Prevention program/Program 2.

(a) For each part of a Program 2 process for which a separate hazard review was conducted, the owner or operator shall provide in the RMP the information indicated in paragraphs (b) through (k) of this section.

(b) The NAICS code for the part of the process.

* * * * *

12. Section 68.175 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 68.175 Prevention program/Program 3.

(a) For each part of a Program 3 process for which a separate process hazard analysis was conducted, the owner or operator shall provide in the RMP the information indicated in paragraphs (b) through (p) of this section.

(b) The NAICS code for the part of the process.

* * * * *

13. Section 68.180 is proposed to be amended by revising paragraph (b) to read as follows:

§ 68.180 Emergency response program.

* * * * *

(b) The owner or operator shall provide the name and telephone number of the local agency with which emergency response activities or the emergency response plan is coordinated.

* * * * *

14. Section 68.210 is proposed to be amended by revising paragraph (a) to read as follows:

§ 68.210 Availability of information to the public.

(a) The RMP required under subpart G of this part shall be available to the public except as provided in §§ 68.150 through 68.152 and 40 CFR part 2.

* * * * *

[FR Doc. 98–10145 Filed 4–16–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–43; FCC 98–57]

1998 Biennial Regulatory Review—Streamlining of Mass Media Applications, Rules, and Processes

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The Commission proposes to streamline broadcast application and licensing procedures and reduce licensee administrative and filing requirements. The Commission also proposes to eliminate rules and procedures that no longer advance key objectives. In addition, the Commission seeks comment on whether to mandate electronic filing for certain broadcast application and reporting forms. By these proposals, the Commission seeks

to preserve the public's ability to participate fully in the FCC broadcast licensing process, reduce unwarranted applicant and licensee burdens, and realize benefits of the Mass Media Bureau's electronic filing initiative. This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

DATES: Comments must be filed on or before June 16, 1998. Reply comments are due July 16, 1998. To file formally in this proceeding, interested parties must file an original plus six copies of all comments, reply comments, and supporting comments. If parties filing comments want each Commissioner to receive a personal copy of the comments, the parties must file an original plus eleven copies. Written comments by the public on the proposed and/or modified information collections on or before June 16, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before June 16, 1998.

ADDRESSES: All comments should be addressed to the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, D.C. 20554, or via Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW, Washington, D.C. 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Peter H. Doyle, Audio Services Division, Mass Media Bureau, (202) 418–2780; James J. Brown, Video Services Division, Mass Media Bureau (202) 418–1600; or Mania K. Baghdadi, Policy and Rules Division, Mass Media Bureau (202) 418–2130. For additional information concerning the information collections contained in this NPRM contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in MM Docket No. 98–43 and FCC No. 98–57, adopted April 2, 1998 and released April 3, 1998. The complete text of this Notice of Proposed Rule Making is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC 20554 and may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800 (phone), (202) 857–3805 (facsimile), 1231 20th Street, NW, Washington, DC 20036.

Synopsis of Proposed Rulemaking

I. Introduction

1. These proposals are designed to reduce filing burdens and increase the efficiency of the Mass Media Bureau application processing. They recognize that this approach is feasible only if the Commission retains the capacity to verify compliance with our rules and the accuracy of application information through audits and inquiries. Therefore, these proposals include the establishment of a formal system of random audits along with the Commission's commitment to sanction applicants that do not meet their obligations of full disclosure and complete candor. We have tentatively identified certain policies that either consume significant staff resources or create burdens that may no longer be warranted. Accordingly, we propose to eliminate: payment restrictions on the sale of unbuilt stations, the requirement to submit contracts with assignment and transfer applications, and several rules that add unwarranted filing burdens on commercial new station and facility change applicants. We consider relaxing and conforming ownership report filing requirements for commercial and noncommercial stations. This proceeding also proposes fundamental changes in our construction permit extension procedures. These changes would reduce the need for repetitive extension filings. The Commission seeks comments on procedures we can adopt, consistent with statutory restrictions, to expedite the processing of *pro forma* assignment and transfer applications. Finally, we invite comment on other measures which may advance our streamlining goals.

II. Issue Analysis

A. Electronic Filing of Applications

2. The Mass Media Bureau is currently working on facilitating electronic filing for 15 key broadcasting application and reporting forms.[1] The Commission invites comment on whether electronic filing of these applications should be mandatory or permissive, and, if mandatory, whether this requirement should be phased in. If electronically filed applications are made available on the Internet, interested parties could examine them at home, at the office, or perhaps at the public library. The Commission invites comment on these tentative views. Additionally, the Commission seeks comment on whether FCC Form 398, the Children's Programming Report, be filed electronically. The Commission seeks comment on these proposals, as well as on any legal, technical, or other issues raised by mandatory electronic filing.

3. The Commission seeks comment on whether it should create exemptions to mandatory filing for small businesses or other qualifying entities, and what the criteria or waiver standards should be. In addition, the Commission seeks comment on whether there should be a transition period for mandatory filing and if so, should this period be based on whether the filer is a small entity? Should the phase-in be done on a form by form basis, and what phase in dates should be used? The Commission also seeks comment on whether voluntary electronic filing could or should be encouraged during the transition period. To spur electronic filing, the Commission requests comments on possible measures such as higher filing fees for paper filers. However, the Commission notes its lack of statutory authority to structure filing fees based on whether a filing is submitted in paper or electronic form. If Mass Media Bureau electronic filing is phased in, should parties also be required to submit traditional paper copies of any electronic filings during the transition? Would such a requirement be consistent with the Paperwork Reduction Act of 1995, increase administrative burdens, processing, or discourage electronic filing?

4. Pursuant to the Debt Collection Improvement Act (''DCIA''), Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104–34, Chapter 10, 110 Stat 1321, 1321–1358 (1996), the Commission is required to monitor and provide information about its regulatees to the U.S. Treasury. The statute includes a requirement that the Commission collect Taxpayer Identifying Numbers

[1] The Mass Media Bureau is developing electronic versions of the following 15 forms: FCC Forms 301, 302–AM, 302–FM, 302–TV, 307, 314, 315, 316, 340, 345, 346, 347, 349, 350, and 5072. We also propose to require the electronic filing of Form 398, which already is available in electronic form.

(TIN), and share them with the U.S. Treasury. Individuals use their Social Security Number as their TIN.[2] Employers use their Employer Identification Number (''EIN'') as their TIN.

5. The Commission invites comment on using TINs in a manner analogous to their proposed use in the Wireless Bureau's Universal Licensing System. We seek comment on whether requiring the use of TINs would satisfy the requirements of the DCIA, and whether it would provide a unique identifier for parties filing broadcast applications that would ensure that the system functions properly. The Commission would take steps to prevent misuse of TINs. Alternatively, we seek comment on using the Bureau's unique database generated identifiers that would be assigned to filers based on the date of filing and a three-character alphanumeric sequence. Finally, a Privacy Act submission would be published in the **Federal Register** to obtain the requisite public and congressional comment and Office of Management and Budget (''OMB'') approval prior to implementation of the electronic filing system.

B. Streamlining Application Processing

6. The current versions of most Mass Media Bureau forms rely to a significant extent on open-ended narrative exhibits and document submissions. Accordingly, the Commission believes it is necessary to undertake a thorough review of its broadcast forms and to reconsider both the information that is collected and the form in which it is submitted. Thus, the Commission considers changes to the license and permit assignment and transfer forms—Forms 314, 315 and 316; the new commercial station/technical modification form—Form 301; the construction permit extension form—Form 307; and the annual ownership report for commercial stations—Form 323. For Forms 314, 315, 316, and 301, the Commission has recasted as many questions as possible into an electronic ''filing friendly'' format, replacing required exhibits with certifications and ''yes/no'' questions. We tentatively conclude that the broadcast application forms should restrict the use of exhibits to waiver requests or where additional information is necessary to support application elements potentially inconsistent with precedent or processing standards. At the same time the Commission proposes to reduce the amount of information applicants are now required to file. For Forms 307 and 323, we propose to restructure filing requirements altogether.

7. As part of this process the Commission is making revisions to the instructions to the Mass Media Bureau application forms and adding worksheets, where applicable, to help clarify Commission processing standards and rule interpretations. The Commission's goal is to provide applicants with sufficient guidance to intelligently certify compliance with our rules and policies. The expanded application form instructions are viewed as crucial to this process and therefore, the Commission proposes to require each applicant to certify that it has read the instructions and disclosed fully in exhibits all matters about which there is any question regarding full compliance with the standards and criteria set forth in the instructions. The Commission invites comment on this proposal, and on whether it should require licensees to retain worksheets to assist the Commission in its compliance efforts, or alternatively, whether licensees should be required to place worksheets in their public inspection files. We also propose to narrow or eliminate application questions of marginal importance and believe these changes will not undermine the Commission's ability to make informed public interest determinations.

8. The Commission also proposes to eliminate or relax a number of technical and non-technical rules and filing requirements. If adopted, these changes would both reduce applicant filing burdens and streamline our processing of sales, new station, and facility modification applications.

Assignment and Transfer Applications: Forms 314 and 315

9. The Commission proposes substantial revisions to the sales application forms (FCC Forms 314 and 315), including eliminating the rule that restricts payments upon assignment or transfer of unbuilt stations, and the requirement that applicants file sales agreements as part of the assignment or transfer application. In addition, the Commission proposes other changes that are not subject to the rulemaking requirements of the Administrative Procedure Act[3] and therefore may be implemented without notice and comment. Nonetheless, the Commission discusses these changes here.

Rule Changes

10. *Payment Restrictions on the Sale of Unbuilt Stations.* Section 73.3597(c) of the Commission's rules restricts payments upon assignment or transfer of an unbuilt station to reimbursement of a seller's expenses (''no profit'' rule).[4] In addition, § 73.3597(d) provides that where the seller retains an interest in an unbuilt station, the Commission must consider whether the transaction involves actual or potential gain to the seller over and above reimbursement of expenses.[5] In such cases, Commission rules provide that the assignment or transfer application must be designated for hearing unless the transferor or assignor has obligated itself to provide the station with a capital contribution proportionate to the transferor's or assignor's equity share in the station for the one-year period commencing with program tests.[6]

11. The Commission proposes to eliminate the ''no profit'' rule. We believe that there is no statutory proscription against the for-profit sale of construction permits for unbuilt broadcast stations. With the initiation of competitive bidding for broadcast spectrum in situations where mutually exclusive applications are filed, the winning bidder's payment of fair market value for a construction permit combined with a restricted construction permit extension policy proposed *infra* will promote the prompt construction of broadcast facilities.[7] Thus, we tentatively conclude that we should follow the same construction permit sale policy which is followed in other services subject to auction procedures.[8] Recognizing that auctions may not be used to award construction permits in every context, for example, non-commercial station construction permits or where there are no competing commercial stations, the Commission seeks comment on whether the fact that a construction permit may not be issued through auction should cause us to retain the ''no profit'' rule in such situations. Commenters are invited to discuss the benefits and drawbacks of applying the ''no profit'' rule in cases where no auction takes place.

12. The Commission tentatively concludes that reimbursement restrictions should also be eliminated

[2] Therefore, for the purposes of this *NPRM*, the term ''Taxpayer Identification Number'' shall mean ''Social Security Number'' for individuals.

[3] *See* 5 U.S.C. 553(b)(3)(A).

[4] 47 CFR 73.3597(c).

[5] 47 CFR 73.3597(d)(1).

[6] 47 CFR 73.3597(d)(2).

[7] *See Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, Notice of Proposed Rulemaking,* 62 FR 65392 (December 12, 1997) (''*Auction NPRM*'').

[8] *See e.g.,* 47 CFR 24.839.

for outstanding construction permits. We tentatively conclude that we also should permit the for-profit sale of these construction permits, which to a certain extent have already been subject to private competitive forces. We seek comment on these tentative conclusions.

13. If the current ''no profit'' rule were retained, the Commission proposes allowing permittees to certify compliance with the rule by answering a series of ''yes/no'' questions. The Commission would continue to have the authority to request an itemized accounting of expenses on a case-by-case basis where disclosures in an application raise issues or concerns.[9] The Commission seeks comment on the appropriateness of allowing permittees to certify compliance, and particularly on our proposal to allow a seller to certify that it will not be reimbursed for more than its out-of-pocket expenses. The Commission also seeks comment on whether it would be sufficient to require sellers to place copies of all expense documentation in a station's public file if the no-profit rule is retained.

Requirement To Submit Contracts With Assignment and Transfer Applications

14. The current sales forms, FCC Forms 314, 315 and 316, require that the seller submit a copy of the contract and/or agreement for the assignment or transfer of the station, or if the agreement has not been reduced to writing, a written description of the complete oral agreement. In addition, § 73.3613(b) of the Commission's rules requires that licensees and permittees file with the Commission any documents relating to the present or future ownership or control of the licensee or permittee within thirty days of execution. The Commission proposes to eliminate the requirement that such contracts and/or agreements be filed as part of assignment or transfer applications as well as the portion of § 73.3613(b) that requires that such agreements be filed with the Commission within thirty days of execution. In lieu of this requirement, the Commission proposes to require applicants to carefully and thoroughly review their sales and organizational documents against the detailed standards set forth in the instructions to Forms 314 and 315. We also propose to expand application instructions to cover both the sales and loan agreements and also issues relating to non-party investor influence over the assignee or transferee. Applicants would be required to disclose fully any sales, financing or investor information where the transaction or the assignee entity does not conform fully to the standards set forth in the instructions. However, copies of agreements may be requested on a case-by-case basis where disclosures made in an application raise issues or concerns. The Commission seeks comment on whether the proposed application procedures and certifications would suffice instead of the requirement that applicants file the sales agreements with their applications. In particular, the Commission requests comment on whether the proposed instruction materials and related certifications would suffice instead of individualized review of agreements and contracts where complex transactions are involved. Finally, comment is sought on whether these procedures are sufficient to discharge our obligation under § 310(d) of the Act to grant only those applications that serve the public interest, convenience and necessity.

15. If the Commission eliminates the requirement that applicants file sales agreements with their applications and the rule requiring that such agreements be filed with the Commission within thirty days of execution, it proposes to require that applicants place all such agreements in the station's public inspection file and to modify our public inspection file rule accordingly. The Commission seeks comment on the impact of ending the practice of having sales agreements available for inspection in the Commission's Washington, D.C. public reference room.

Requirement to Submit Contour Overlap Maps

16. With regard to radio applicants, the Commission proposes to reduce administrative burdens on broadcasters and at the same time streamline the staff review process by eliminating the requirement that applicants submit contour overlap maps to demonstrate compliance with our local radio ownership rules. The Commission proposes reliance on applicant certifications in place of contour maps. An applicant would be in a position to make this local radio ownership certification only after completing a worksheet. To the extent a proposed transaction would involve more than one ''market,'' as that term is defined in § 73.3555(a)(4)(ii), applicants would be required to complete the worksheet with regard to each such market. The Commission seeks comment on this proposal, and whether our elimination of the requirement that applicants submit contour overlap maps will detrimentally affect the public's ability to access the information necessary to monitor station sales and thereby undermine the opportunity for meaningful public participation under § 309(d) of the Act.[10] The Commission seeks comment on whether applicants should be required to place a copy of the contour overlap map in the station's public inspection file. The Commission also seeks comment on whether applicants should be exempt from the public file requirement in those situations in which compliance is obvious, *e.g.*, where a certification is premised on the fact there are forty-five or more stations in a major market. The Commission seeks comment on whether applicants should be required to prepare a map solely for placement in the station's public inspection file in such circumstances.

Other Revisions

17. Certain proposed revisions to the sales forms (FCC Forms 314 and 315) do not require changes in our rules. These changes are intended to maximize the advantages of electronic filing and processing and eliminate burdensome disclosure requirements. These proposed form changes are not subject to the Administrative Procedure Act's notice and comment rulemaking requirements.[11] Nevertheless, interested parties are urged to review the draft forms carefully so that meaningful comments may be submitted regarding the proposed revisions in the forms.

New Commercial Station and Facility Change Applications: Form 301 Rule Revisions

18. *Section 73.316(c).* The Commission proposes to modify § 73.316(c) to shift the filing requirements now codified in subsections (1)–(2) and (4)–(7) from the construction permit phase to the license phase of the FM authorization process.[12]

19. *Section 73.1030(a).* The Commission seeks comment on its proposal to modify § 73.1030(a) by eliminating the requirement that applicants indicate in their applications the date of radio astronomy observatory notification.

20. *Section 73.1675(a).* The Commission seeks comment on its proposal to modify this rule to eliminate the map requirement for auxiliary facilities for the FM and TV broadcast services. Although the Commission believes that the rationale for eliminating the § 73.1675(a) map requirement is equally applicable to the

[9] *See* 47 CFR 1.17.

[10] *See* 47 U.S.C. 309(d).

[11] *See* 5 U.S.C. 553(b)(3)(A).

[12] *See* 47 CFR 73.316(c).

FM and TV broadcast services, it proposes to retain the map requirement for AM auxiliary facility permit applications.

The Commission believes that adoption of these changes would not jeopardize the technical integrity of the broadcast services or the consistent enforcement of our core rules and policies. The Commission seeks comments on these modifications, and request additional suggestions to eliminate or streamline reporting and filing requirements which relate to Form 301 filings.

Form Revisions

21. The Commission also proposes to reorganize and streamline FCC Form 301. It proposes to conform Forms 301, 314 and 315 non-technical questions where regulatory concerns are identical. In addition, the Commission proposes to reorganize the FM technical data section of the application, section V–B. The revised section V–B would require applicants to certify compliance with our technical rules for routine and non-waiver issues. The technical data required for engineering review would be organized in such a manner as to facilitate electronic entry and processing of data.

C. Enforcement

22. The Commission's proposals would significantly streamline the amount of information that applicants must furnish to the Commission. Consequently, the Commission would rely more heavily on certifications by applicants that they comply with the applicable rules. These proposals do not signify any lessening of the Commission's expectation that licensees conduct themselves as public trustees. Current enforcement measures applied by the Commission range from admonitions to forfeitures to conducting hearings to determine whether to revoke or deny renewal of a broadcaster's license. The Commission invites comment as to whether our existing enforcement measures and policies remain sufficient.

23. If the proposed revisions to the Commission's application forms and processing procedures are adopted, the Commission intends to have a formal program of random audits to ensure that licensees continue to comply with our rules and we intend to rely heavily on such audits. The Commission invites comments to how it should implement such audits and whether such audits are sufficient means of ensuring continued licensee compliance with our rules and policies. If not, the Commission invites comment as to what additional measures, if any, it should adopt.

D. Modifying Construction Permit Extension Procedures

24. For new or modified facilities, the Commission issues a construction permit for either 24 months (for full power TV) or 18 months (for AM, FM, International Broadcast, low power TV, TV translator, TV booster, FM translator, FM booster, broadcast auxiliary, or Instructional TV Fixed station (''ITFS'')). Within the specified time frame, a permittee must complete construction and file an application for a license to cover. Additional time may be granted only if the licensee or permittee can demonstrate one of the following three conditions, the so-called ''one-in-three'' showing: (1) construction is complete and testing is underway looking toward the prompt filing of a license application; (2) substantial progress has been made; or (3) no progress has been made for reasons clearly beyond the control of the permittee but the permittee has taken all possible steps to expeditiously resolve the problem and proceed with construction.

25. While many permittees are now able to complete construction within the initial construction period afforded under the current rules, a significant number of permittees do not succeed in constructing their proposed facilities prior to permit expiration. As a result, the staff receives large numbers of extension applications, creating a tremendous burden on staff resources. Therefore, the Commission proposes to: (1) issue all construction permits for a uniform three-year term; (2) extend permits only in circumstances where the permit itself is the subject of administrative or judicial appeal or where construction delays have been caused by an ''act of God;'' (3) eliminate the current practice of providing extra time for construction after a permit has been the subject of a modification or an assignment or transfer of control; and (4) make construction permits subject to automatic forfeiture upon expiration. Additionally, the Commission proposes to apply these rules to any construction permit that is within its initial construction period at the time these rules are adopted.

26. The Commission invites comment on the need for, and relative merits of, a uniform period and seeks comment as to whether a three year term is appropriate. The Commission solicits comments on typical construction time lines and problems, particularly where commenters support alternative permit time frames. It also seeks comment as to whether the proposed longer construction period would remove an incentive for prompt construction by permittees who are capable of completing construction much earlier than the proposed three-year deadline. Commenters are specifically asked to comment on the extent to which construction permit applicants are unprepared and unwilling to proceed promptly with construction when they apply, but rather are applying to warehouse spectrum. The Commission also seeks comment on whether we should impose a shorter construction period, *e.g.*, one year, for construction permits for minor modifications to licensed facilities. The Commission does not propose to apply the three-year construction period to the digital television (''DTV'') facilities constructed by initial DTV licensees, which are on their own construction schedule.[13] However, in its *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order* the Commission established special construction rules for new NTSC permittees whose applications remained pending on April 3, 1997.[14] This limited class of permittees, which are not eligible for an initial DTV paired license, may construct either an analog or a digital station. These permittees also must complete construction with the ''traditional'' two-year construction period applied to NTSC stations,[15] and, if they initially construct analog facilities, may convert to DTV by the 2006 deadline. If the proposed three-year construction period is adopted, the Commission proposes to increase to three years the initial period afforded these NTSC permittees to construct either analog or digital facilities. The Commission does not propose a change in the 2006 deadline for converting to DTV. The Commission invites comment as to whether the two-year period for this group of NTSC permittees should be extended to three years if we adopt the three-year proposal discussed herein.

Restrict Extensions to Circumstances Where Delays Are Beyond the Permittee's Control

27. The Commission also proposes to strictly limit the circumstances that would qualify for an extension under

[13] *See Fifth Report and Order,* 62 FR 26996 (May 16, 1997) *on reconsideration,* 63 FR 15774 (April 1, 1998). *See also Sixth Report and Order* 62 FR 26684 (May 14, 1997), *on reconsideration,* 63 FR 13546 (March 20, 1998).

[14] *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order,* 63 FR 15774 (April 1, 1998).

[15] *Id.* para. 11.

the ''circumstances beyond control'' criterion. Specifically, the Commission seeks comment on whether it can limit the tolling of the construction period to when the grant of a construction permit is the subject of administrative or judicial appeals or when construction has been delayed by an ''act of God.'' The Commission proposes to define ''acts of God'' very narrowly in terms of natural disasters (*e.g.*, floods, tornados, hurricanes, and earthquakes) and even then to only toll the construction period for the length of time which a diligent permittee would need to recover from the effects of the event, up to a maximum of one year. It also proposes to require strict documentation of a permittee's efforts to build subsequent to such events. Commenters are requested to address both the legal and economic consequences of this proposal and to suggest a mechanism by which a permittee would inform the Commission of natural disasters which have delayed construction and request the tolling of a construction period. The Commission seeks comment on whether this proposed rule change would be consistent with § 319(b) of the Act. Finally, it sees comment as to whether difficulties in obtaining local zoning authorization are sufficiently beyond the permittee's control to warrant treatment similar to that of delays caused by administrative and judicial review. The Commission's tentative conclusion is that zoning delays can be overcome and construction can be completed within the proposed three-year construction period if a permittee pursues the zoning process diligently.

Eliminate Post-Modification and Post-Assignment Extensions

28. When a permittee for a new facility files an application to modify its construction permit, or an application to assign or transfer control of its construction permit in the second half of the construction permit's initially authorized period, the Commission currently requires a ''one-in-three'' showing and, upon grant, the permittee, in most instances, is provided additional time to complete construction. The Commission proposes to eliminate both the restriction on second-half construction period modifications and assignments and the extended construction periods provided under our rules. The Commission seeks comment on whether elimination of automatic extensions when unbuilt stations have been modified, assigned, or transferred is consistent with § 319(b) of the Act. In addition, we propose to eliminate the requirement that permittees that modify unbuilt stations certify that construction will commence immediately upon grant.[16] We also propose to eliminate the analogous certification requirement for assignees and transferees.[17] The Commission seeks comment on these proposals.

Automatic Forfeiture of Expired Construction Permits

29. While § 319(b) of the Act provides for the automatic forfeiture of an expired construction permit (unless the Commission authorizes additional time or the delay was caused by circumstances outside the permittee's control), the Commission's practice has been to take an affirmative action cancelling a construction permit before it is forfeited. In an effort to streamline this process, the Commission proposes to make a construction permit subject to automatic forfeiture, without further Commission action, upon expiration of the proposed three-year construction period. The Commission seeks comment on whether an automatic cancellation policy for expired construction permits should be adopted and its tentative conclusion that such a procedure would be consistent with the Act's automatic forfeiture provision.

Application of New Rules to Outstanding Permits

30. Finally, the Commission proposes that the rules regarding construction permits, and extensions thereof, adopted in this rulemaking proceeding be applied to any construction permit that is currently in its initial construction period (*i.e.*, the first 24 months for a full power TV facilities permit and the first 18 months for an AM, FM, International Broadcast, low power TV, TV translator, TV booster, FM translator, FM booster, or broadcast auxiliary permit). The Commission invites comment on whether to extend the proposed extension policy to outstanding permits, whether implementation would cause unjustifiable hardship to permittees, and whether this approach would result in a disservice to the public. The Commission believes, however, that it would be administratively unworkable to apply the proposed rules to construction permits that are already beyond their initial construction periods (whether through extension, assignment, transfer of control, or modification). Because many of these permits have already been afforded a construction period close to (or, in many instances, in excess of) the three-year term proposed in this *Notice*, the Commission proposes to continue to apply the rules as they exist today to permits outside their initial periods. The Commission invites comment on the tentative conclusion that it is more appropriate to continue to apply its current rules to construction permits that are beyond their initial periods.

E. Modifying Pro Forma Assignments and Transfers

31. Approximately 35 percent of radio and television assignment and transfer applications propose *pro forma* transactions and are filed on FCC Form 316. Applications are typically processed and disposed of within 10 working days. For certain *pro forma* transfers and assignments, which do not affect actual control of the licensee or permittee and which are routinely granted by the Commission, broadcasters have questioned whether they should be required to file an application and wait for a grant. The Commission invites commenters to identify any specific situations or transactions negatively impacted by the Mass Media Bureau's current rate of disposal. Some types of *pro forma* assignments or transfers may be suited for streamlined procedures. For example: (1) court-ordered transfers to a bankruptcy trustee; (2) certain corporate reorganizations (such as a change in an intermediate wholly-owned subsidiary); (3) reorganization by a corporate licensee in another state where no other changes are made; (4) involuntary assignment or transfer of control of license or construction permit due to death or legal disability of the individual permittee or licensee; and (5) assignment of less than a controlling interest in a partnership. The Commission invites comment on whether these and/or other categories of *pro forma* transfers and assignments should be subjected to a streamlined procedure and whether this may be done while complying with § 310(d).

32. Under such a streamlined procedure certain assignments and transfers, as listed above, could be carried out by licensees or permittees, subject only to a requirement that the Commission be notified of the assignment or transfer within a certain period thereafter (say 30 days) and the requirement that an Ownership Report Form be filed within 30 days after the assignment or transfer.[18] Would § 310(d) permit adoption of such a notification procedure? In the context of Cable Television Relay Service (''CARS''), we have streamlined transfers by providing

[16] See 47 CFR 73.3535(b).

[17] See 47 CFR 73.3535(a).

[18] *See* 47 CFR 73.3615(f).

that prior Commission consent is not required for assignments or transfers of control ''in cases where the change in ownership does not affect the identity or controlling interest of the licensee.''[19] The Commission invites comment as to whether this precedent is applicable to broadcast transfers.

33. The Commission also invites comment on the procedures that should be followed for notifications of transactions that are determined to fall outside the scope of *per se* grantable applications. Commenters should also consider the procedures the Commission should adopt in response to notifications for transactions that the Commission concludes are both voluntary and involve a substantial change in ownership or control, and thus are subject to the public notice and petition to deny provisions of § 309(d). Finally, the Commission invites comment on the sanctions that should be imposed for such erroneous notifications.

34. The Commission also uses ''short form'' procedures in connection with tender offers and proxy contests to acquire control of entities that hold Commission licenses.[20] We question whether the streamlining options considered in this Notice should apply to our tender offer and proxy contest processing policies. Accordingly, we seek comment on our tentative conclusion that the proposed streamlining procedures should not be extended to cover the processing of ''short form'' applications relating to tender offers and proxy contests for control of Commission licensees. Assuming that a notification procedure could be adopted consistent with § 310(d), are there benefits to obtaining prior consent to such transactions that would be lost if the Commission adopts a notification requirement? Should the Commission require that a notification and Ownership Report both be filed with the Commission or, in the alternative, would an Ownership Report be sufficient in this regard? Is the thirty-day period an appropriate time limit for the notification requirement? Should the Commission require that a notification letter be filed, or should the Commission adopt a new notification form for this purpose? If the Commission requires that a notification letter or form be filed, what information should be required to be filed in the letter? Finally, should the Commission place such notifications on public notice to permit the public an opportunity to seek reconsideration of the application of the ''blanket'' consent to a particular transaction? Alternatively, would a requirement that the notification be placed in the station's public file be sufficient in this regard?

35. As an alternative to a notification procedure, the Commission could keep the current application process but, in the case of certain specified *pro forma* assignments and transfers, permit applicants to proceed, at their own risk, to consummate the transfer or assignment if Commission action denying the application is not taken within a set short period after the application is filed. The Commission invites comment as to whether this alternative would be consistent with § 310(d). The Commission would, in the event that this proposal is adopted, retain the authority to deny the assignment or transfer even after such a consummation and require that the transaction be unwound. Thus, the Commission believes its authority under section 310 of the Act would be retained.

36. Assuming such an alternative procedure is consistent with § 310(d), the Commission invites comment as to the appropriate time period for Commission action, *e.g.*, ten business days. Further, the Commission invites comment as to whether such a proposal would significantly and meaningfully reduce regulatory burdens and provide adequate relief. The Commission notes its concern that it may be difficult to unwind sales transactions after they have occurred. It invites comment as to whether this is a significant negative factor that should be considered or whether it should rely on applicants to make a reasoned judgment as to whether they should assume the risk that a transaction consummated prior to FCC consent must be subsequently unwound. The Commission notes that this proposal would apply only to narrow categories of *pro forma* transfers and assignments, as specified above, where Commission consent is routinely granted. The Commission invites comment on all aspects of this proposal.

F. Streamlined Ownership Reporting Requirements

37. The Commission proposes to reduce the frequency with which Ownership Reports (FCC Forms 323 and 323–E) for commercial and noncommercial educational AM, FM and TV broadcast stations must be filed with the Commission. Currently, most licensees of commercial broadcast stations are required to file Ownership Reports annually. This proposal would relax this requirement so that such licensees would have to file Ownership Reports when they file their stations' license renewal applications and four years thereafter, at the mid-point of their scheduled license term. In addition, the Commission proposes to formalize the Commission's current practice of requesting an Ownership Report within 30 days of an approved assignment or transfer by amending § 73.3615 of the Commission's Rules to specifically require that every commercial and noncommercial educational licensee or permittee file an Ownership Report on FCC Form 323 or 323–E within 30 of days of consummation of an approved license assignment or transfer of control. In the event the Commission adopts a notification procedure for certain *pro forma* assignments and transfers, the Commission proposes to require the filing of an Ownership Report within thirty days of the consummation of those transactions. Comment on all aspects of these proposals is invited. We also seek comment on whether it should adopt the same proposed relaxed ownership reporting requirements for noncommercial educational AM, FM and TV broadcast station licensees and permittees.

38. The Commission invites comment on its tentative conclusion that the proposed relaxation in ownership reporting would ease paperwork burdens on licensees and permittees without impairing the public's ability to ascertain the identities of broadcast station owners. The Commission also tentatively concludes the proposal would not adversely affect its ability to monitor ownership of commercial and noncommercial educational broadcast stations and compliance with the Commission's multiple ownership limitations and the alien ownership and prior consent provisions of § 310 of the Communications Act of 1934, as amended. We also invite comment as to whether our proposals would hinder members of the public and other broadcasters in obtaining necessary ownership information and monitoring ownership changes.

39. The current ownership reporting requirements are stricter for noncommercial stations than for commercial stations. The Commission proposes, therefore, to conform Form 323–E and Form 323 reporting requirements. We seek comment on whether eliminating the 30-day supplemental reporting requirement, coupled with the addition of a regular four-year filing requirement, would

[19] 47 CFR 78.35(c); *Report and Order*, 50 FR 23417 (June 4, 1985).

[20] *See generally Tender Offers and Proxy Contests*, 59 Rad. Reg. 1536 (1986), *appeal dismissed sub nom. Office of Communication of the United Church of Christ v. FCC*, 826 F.2d 101 (D.C. Cir. 1987).

result in an overall reduction of the burden on noncommercial educational licensees.

40. The Commission invites comment as to whether a two-year or other reporting interval would be more appropriate or beneficial. In this regard, commenters contending that a four-year reporting requirement would be detrimental to the public's or the Commission's ability to monitor adequately significant changes in the ownership of broadcast stations should provide specific examples and arguments to substantiate their position.

Ordering Clauses

41. Accordingly, it is ordered, that pursuant to the authority contained in Sections 4(i), 4(j), 303, 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 308, 309, and 310, this *Notice of Proposed Rule Making* is adopted.

42. It is further ordered, that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

III. Administrative Matters

A. Initial Paperwork Reduction Act of 1995 Analysis

This *Notice* proposes rule and procedural revisions which may contain an information collection requirement. As part of our continuing effort to reduce paperwork burdens, we invite the general public and OMB to take this opportunity to comment on the information collection contained in this *Notice,* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this *Notice;* OMB comments are due 60 days from the date of publication of this *Notice* in the **Federal Register**. 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 to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

B. Ex Parte Rules

This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under § 1.1206(b) of the rules. 47 CFR 1.1206(b), as revised. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b).

C. Initial Regulatory Flexibility Analysis

With respect to this *Notice,* an Initial Regulatory Flexibility Analysis (''IRFA'') is contained in the Attachment. As required by the Regulatory Flexibility Act,[21] the Commission has prepared an IRFA of the expected significant economic impact on small entities by the policies and rules proposed in this Notice. Written public comments are requested on the IRFA. The Commission asks a number of questions in its IRFA regarding the prevalence of small businesses in the industries covered by this *Notice.* Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the *Notice* and must have a distinct heading designating them as responses to the IRFA.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Attachment

As required by the Regulatory Flexibility Act (''RFA''),[22] the Commission has prepared this present Initial Flexibility Analysis (''IRFA'') of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rule Making (''Notice''). Written public comments are requested on this IRA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments of the Notice. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**. *See id.*

A. Need For and Objectives of the Proposed Rules

With this *Notice,* the Commission commences a proceeding to review its broadcast applications and related rules. The Commission's goals are to streamline its procedures, speed introduction of new and expanded services to the public, reduce administrative burdens on regulatees, increase public access to information about the Bureau's actions and processing activities, and maximize efficiency in the use of Commission resources, while maintaining the technical integrity of broadcast services, fostering the Commission's goals of competition and diversity, continuing enforcement of the Commission's core rules and policies, and permitting members of the public a continued opportunity to monitor station performance. This review is taken in conjunction with the Commission's 1998 biennial regulatory review. Although Congress did not mandate this area of review, the Commission nonetheless undertakes it to assure that its rules and processes are no more regulatory than necessary to achieve Commission goals.

B. Legal Basis

Authority for the actions proposed in this *Notice* may be found in sections 4(i), 4(j), 303, 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 308, 309, and 310.

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

Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. 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 Small Business Administration (''SBA''). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the

[21] Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981), as amended.

[22] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et. seq.*, has been amended by the Contract with America Advancement Act of 1996, Public Law 194–12, 110 Stat. 848 (1996) (''CWAA''). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'').

activities of the agency and publishes such definition(s) in the **Federal Register**.'' [23]

The proposed rules and policies will apply to television broadcasting licensees, radio broadcasting licensees and potential licensees of either service. The Small Business Administration defines a television broadcasting station that has no more than $10.5 million in annual receipts as a small business.[24] Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.[25] Included in this industry are commercial, religious, educational, and other television stations.[26] Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.[27] Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.[28] There were 1,509 television stations operating in the nation in 1992.[29] That number has remained fairly constant as indicated by the approximately 1,569 operating television broadcasting stations in the nation as of January 31, 1998.[30] For 1992,[31] the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.[32]

Additionally, the Small Business Administration defines a radio broadcasting station that has no more than $5 million in annual receipts as a small business.[33] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[34] Included in this industry are commercial religious, educational, and other radio stations.[35] Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.[36] However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.[37] The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than $5 million in revenue in 1992.[38] Official Commission records indicate that 11,334 individual radio stations were operating in 1992.[39] As of January 31, 1998, official Commission records indicate that 12,241 radio stations were operating, of which 7,488 were FM stations.[40]

Thus, the proposed rules will affect many of the approximately 1,569 television stations, approximately 1,208 of which are considered small businesses.[41] Additionally, the proposed rules will affect some of the 12,241 radio stations, approximately 11,751 of which are small businesses.[42] These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies.

In addition to owners of operating radio and television stations, any entity who seeks or desires to obtain a television or radio broadcast license may be affected by the proposals contained in this item. The number of entities that may seek to obtain a television or radio broadcast license is unknown. We invite comment as to such number.

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

The measures proposed in this *Notice* would reduce the reporting required of prospective and current applicants, permittees and licensees. All proposals aim to reduce the overall administrative burden upon both the public and the Commission. We propose to make the electronic filing of many broadcast related applications mandatory and seek comment as to whether to do so on a phased-in basis. We note that such a phased-in procedure has been used elsewhere to benefit small businesses. For example, the SEC incorporated its mandatory filing rules in stages. While most companies were phased into the electronic filing system in 1993, small businesses were not completely phased in until May 1996. We believe that electronic filing could, among other things, speed the processing of applications, save Commission resources, and make filing easier for regulatees by informing them of certain errors in their applications before they are actually sent.

The full benefits of electronic filing and processing would not be realized simply by concerting the current version of each form into an electronic format. We have therefore concluded that it is necessary to undertake a thorough review of broadcast forms and to reconsider both the information that is collected and the form in which it is submitted. Accordingly, we propose to delete or narrow overly burdensome questions and to rely more on applicant certifications. If adopted, these changes would both reduce applicant filing burdens and streamline our processing of sales, new station, and facility modification applications. We also tentatively propose to eliminate the rule restricting payments upon assignment or transfer of unbuilt stations. Further, we tentatively propose to eliminate the requirement that applicants file sales agreements as part of the assignment or transfer application, and that such agreements be filed with the Commission within thirty days of execution. Instead, we propose that such agreements would have to be placed in the station's public inspection file and the current permittee or licensee would be required to certify to such placement. In addition, we propose to make revisions to the sales forms that are intended to maximize the advantages of electronic filing and processing.

We further propose to reduce the frequency with which Ownership Reports (FCC Forms 323 and 323–E) for commercial and noncommercial educational AM, FM, and TV broadcast stations must be filed with the Commission. We tentatively believe that this proposal would ease the paperwork burden on licensees and permittees without impairing the public's ability to ascertain the identities of broadcast station owners.

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

This *Notice* solicits comment on a variety of alternatives discussed herein. These

---

[23] While we tentatively believe that the SBA's definition of ''small business'' greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this Notice, we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply, but we reserve the right to adopt a more suitable definition of ''small business'' as applied to radio and television broadcast stations or other entities subject to the proposed rules in this Notice and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities in the future. *See Report and Order,* 61 FR 43981 (August 27, 1996) *(Children's Television Programming), citing* 5 U.S.C. 601(3).

[24] 13 CFR 121.201, Standard Industrial Code (SIC) 4833 (1996).

[25] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1, Appendix A–9 (1995).

[26] *Id. See* Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283.

[27] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1, Appendix A–9 (1995).

[28] *Id.* SIC 7812 (Motion Picture and Video Tape Production); SIC 7922 (Theatrical Producers and Miscellaneous Theatrical Services (producers of live radio and television programs)).

[29] FCC News Release No. 31327, Jan. 13, 1993; Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *note 33, supra,* Appendix A–9.

[30] FCC News Release ''Broadcast Station Totals as of January 31, 1998.

[31] Census for Communications' establishments are performed every five years ending with a ''2'' or ''7''. *See* Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra.*

[32] The amount of $10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at $9,999,999 and began at $10,000,000. No category for $10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[33] 13 CFR 121.201, SIC 4832.

[34] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra,* Appendix A–9.

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

[39] FCC News Release No. 31327, Jan. 13, 1993.

[40] FCC News Release ''Broadcast Station Totals as of January 31, 1998.''

[41] We use the 77 percent figure of TV stations operating at less than $10 million for 1992 and apply it to the 1998 total of 1569 TV stations to arrive at 1,208 stations categorized as small businesses.

[42] We use the 96% figure of radio station establishments with less than $5 million revenue from the Census data and apply it to the 12,241 individual station count to arrive at 11,751 individual stations as small businesses.

alternatives are intended to streamline our rules and procedures. Our goals are to reduce applicant and licensee burdens, realize fully the benefits of the Mass Media Bureau's current electronic filing initiative, and preserve the public's ability to participate fully in our broadcast licensing processes. These proposals are designed to reduce filing burdens and increase the efficiency of application processing. Any significant alternatives presented in the comments will be considered.

F. Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules

The initiatives and proposed rules raised in this proceeding do not overlap, duplicate or conflict with any other rules.

It is further ordered, that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this IRFA will also be published in the **Federal Register**.

Paperwork Reduction Act

This NPRM contains either a proposed or modified information collection. 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 collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due 60 days from date of publication of this NPRM in the **Federal Register**. 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.

OMB Approval Number: None.

Title: NPRM—Streamlining of Mass Media Applications, Rules and Processes.

Form Nos.: FCC 301 (3060–0027), FCC 302–AM (3060–0627), FCC 302–FM (3060–0506), FCC 302–TV (3060–0029), FCC 307 (3060–0407), FCC 314 (3060–0031), FCC 315 (3060–0032), FCC 316 (3060–0009), FCC 340 (3060–0034), FCC 345 (3060–0075), FCC 346 (3060–0016), FCC 347 (3060–0017), FCC 349 (3060–0405), FCC 350 (3060–0404), FCC 398 (3060–0754), FCC 5072 (change of address form), FCC 323 (3060–0010)/FCC 323–E (3060–0084)

Type of Review: New collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 13,767 (this number includes respondents for all forms listed above).

Estimated Time Per Response: Varies from 2.5 hours to 1,016 hours (this represents the lowest burden/highest burden forms).

Frequency of Response: Reporting requirement, on occasion.

Estimated Cost to Respondent: $65,898,600 (this number represents a total of all information collections involved).

Estimated Total Annual Burden: 174,082 hours (this number represents a total of all information collections).

Needs and Uses: With this NPRM, the Commission seeks comment on streamlining broadcast applications and licensing procedures, reducing administrative and filing requirements and eliminating rules and procedures that no longer advance key regulatory objectives. The Commission also seeks comment on whether to mandate electronic filing for broadcast application and reporting forms.

[FR Doc. 98–10309 Filed 4–16–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 644

[Docket No. 980413091–8091–01; I.D. 030998B]

RIN 0648–AK90

Options for Implementing Vessel Monitoring Systems Requirements for Highly Migratory Species Fisheries

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

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: NMFS is requesting comments on options for implementing a recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT), requiring each member country with vessels greater than 24 meters (78.74 ft) in overall length and fishing for ICCAT species on the high seas outside the fisheries jurisdiction (Exclusive Economic Zone, EEZ) of that country, to adopt a pilot program for a satellite-based vessel monitoring system (VMS). The 3-year ICCAT-recommended VMS pilot program is to be implemented effective January 1, 1999.

DATES: Written comments on this ANPR must be received on or before June 1, 1998.

ADDRESSES: Written comments should be addressed to Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Buck Sutter, 813–570–5447; fax: 813–570–5364; or Jill Stevenson, 301–713–2347; fax: 301–713–1917.

SUPPLEMENTARY INFORMATION:

Background

At the 1997 annual meeting held in Madrid, Spain, ICCAT adopted a recommendation that each member country institute a VMS pilot project for vessels greater than 24 meters (78.74 ft) in total length fishing on the high seas outside the EEZ of a member country. The ICCAT recommendation calls for each member country to require the installation of a VMS unit on 10 percent of the vessels or on 10 qualified vessels, whichever is greater, that target fisheries under ICCAT jurisdiction. In order for the United States to meet ICCAT obligations, 10 U.S. vessels must be equipped with operational VMS units by January 1, 1999.

The Secretary of Commerce has the responsibility, under the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*), to implement ICCAT recommendations. Fisheries that are affected by the ICCAT recommendation include those that target Atlantic swordfish and Atlantic tuna (Atlantic albacore, bluefin, bigeye, skipjack and yellowfin tunas) in waters outside the U.S. EEZ. NMFS is developing a program to implement the ICCAT recommendation and is seeking public comments before proceeding with program development and implementation by January 1, 1999. A draft plan of the U.S. program must be provided to ICCAT by June 1, 1998.

The U.S. Atlantic swordfish fishery is managed under the Fishery Management Plan for Atlantic Swordfish and its implementing regulations at 50 CFR part 630, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and ATCA. The Atlantic tunas fishery is managed under the authority of ATCA and regulations at 50 CFR part 285. Commercial vessels of the United States fishing in the Atlantic Ocean must obtain federal fisheries permits to land swordfish and tunas (50 CFR 630.4 and 50 CFR 285.21, respectively). In addition, under the High Seas Fishing Compliance Act (HSFCA) of 1995 and its implementing regulations (50 CFR part 300), U.S. vessels fishing beyond the EEZ are required to obtain a HSFCA permit and comply with applicable requirements, including reporting.

The ICCAT VMS pilot program applies only to vessels larger than 24