rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this rule is applicable only to the OSi Sistersville Plant, located near Sistersville, West Virginia. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects

40 CFR Part 264

Environmental protection, Air pollution control, Control device, Hazardous waste, Monitoring, Reporting and recordkeeping requirements, Surface impoundment, Treatment storage and disposal facility, Waste determination.

40 CFR Part 265

Environmental protection, Air pollution control, Control device, Hazardous waste, Monitoring, Reporting and recordkeeping requirements, Surface impoundment, Treatment storage and disposal facility, Waste determination.

Dated: February 26, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–5558 Filed 3–5–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 100

[FCC 98–26; IB Docket No. 98–21]

Policies and Rules for the Direct Broadcast Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (FCC) proposes to amend and relocate the regulations covering the Direct Broadcast Satellite (DBS) service. The notice of proposed rulemaking also asks whether the FCC should consider adopting new rules addressing horizontal concentration in the multi-channel video programming distribution (MVPD) market, such as limitations on cable/DBS cross-ownership. The actions are necessary to consolidate and harmonize the Commission's rules for satellite services and to obtain public comment on policies for the DBS service. The effect of relocating the DBS service rules is to simplify and harmonize the rules for satellite services in one part of the Commission's rules.

DATES: Submit comments on or before April 6, 1998. Submit reply comments on or before April 21, 1998. Written comments by the public on the proposed information collections are due April 6, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before May 5, 1998.

ADDRESSES: Send written comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. For purposes of this proceeding, we hereby waive those provisions of our rules that require formal comments to be filed on paper, and encourage parties to file comments electronically. File electronic comments using the electronic filing interface available on the FCC's World Wide Web site at <http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.hts>. Further information on the process of submitting comments electronically is available at that location and at <http://www.fcc.gov/e-file/>. 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.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Kim Baum, 202–418–0756

Economic Information: Doug Webbink, 202–418–1494

Legal Information: Chris Murphy, 202–418–2373

For additional information concerning the information collections contained in this Notice contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

1. The Commission is authorized to conduct this rulemaking pursuant to its statutory authority contained in the Communications Act of 1934, as amended. 47 U.S.C. 154(i), 303(v). The Commission has historically regulated direct broadcast satellite (DBS) service, which is transmitted using frequency bands that are internationally allocated to the broadcast satellite service (BSS), and direct-to-home fixed-satellite service (DTH–FSS), which is transmitted using fixed-satellite service (FSS) frequency bands, separately. The Commission rules for the DBS service are codified in 47 CFR part 100, while FSS rules, including those applicable to DTH–FSS providers, can be found in part 25. Since both DBS and DTH–FSS provide video services directly to the home via satellite, the notice of proposed rulemaking (Notice) proposes to consolidate, where possible, the DBS service and technical rules with the rules for DTH–FSS and other satellite services under part 25 and to eliminate in its entirety part 100. The Notice also proposes to move certain DBS-specific part 100 rules into part 25 and to eliminate several part 100 rules which the Commission believes are no longer needed. For instance, the Notice proposes to eliminate the part 100 rules (§§ 100.72–.80) which govern DBS auctions and to conduct DBS auctions under the general auction rules contained in part 1, subpart Q. The Notice also seeks comment on proposals to revise the DBS technical rules to conform to the Commission's experience regulating the service. The Notice further proposes to amend the Commission's part 25 rules, where necessary, in order to render them applicable, where appropriate, to DBS and DTH–FSS, as well as other satellite services.

2. In proposing to incorporate certain part 100 rules into part 25, the Notice highlights several rules of particular

importance. The Notice seeks comment on a proposal to move the existing DBS foreign ownership rules from part 100 to part 25, and asks whether the Commission should modify these rules. The Notice also seeks comment on how the Commission can strengthen its rules regarding the provision of DBS service to Alaska and Hawaii and whether it should adopt geographic service rules for Puerto Rico and other U.S. territories and possessions. Because it is the Commission's goal to promote competition in the multi-channel video programming distribution (MVPD) market generally, the Notice also seeks comment as to whether new rules addressing horizontal concentration in the MVPD market, such as limitations on cable/DBS cross-ownership, are necessary in order to prevent anti-competitive conduct in the MVPD market.

Paperwork Reduction Act of 1995

3. This Notice 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 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 notification of action is due 60 days from 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.

OMB Approval Number: 3060–0678.

Title: Commission's Rules and Regulations for Satellite Application and Licensing Procedures.

Form No.: 312.

Type of Review: revision of existing collection.

Respondents: Businesses or other for profit, including small businesses, governments.

Number of Respondents: 1,320.

Estimated Time Per Response: The Commission estimates that all respondents will hire an attorney or legal assistant to complete the form. The time to retain these services is 2 hours per respondent.

Total Annual Burden: 2,640 hours.

Estimated Costs Per Respondent: This includes the charges for hiring an attorney, legal assistant, or engineer at $150 an hour to complete the submissions. The estimated average time to complete the Form 312 is 11 hours per response. The estimated average time to complete space station submissions is 20 hours per response. The estimated average time for prepare submissions using non-U.S. licensed satellites is 22 hours per response. The estimated average time to complete the ASIA submission is 24 hours per response. Earth station submissions: $2085. ($1650 for Form 312; $375 remainder of application; $60 for outside hire). Space station submissions and Non-U.S. licensed satellite filings: $4710 ($1650 for Form 312; $3000 for remainder of submission; $60 for outside hire). ASIA submissions: $3,660 ($3,600 for submission; $60 for outside hire). Fee amounts vary by type of service and application. Total fee estimates for industry: $5,997,910.00 Needs and Uses: In accordance with the Communications Act, the information collected will be used by the Commission in evaluating applications requesting authority to operate pursuant to part 25 of the Commission's rules. The information will be used to determine the legal, technical, and financial ability of the applicants and will assist the Commission in determining whether grant of such authorizations are in the public interest.

Initial Regulatory Flexbility Analysis

Pursuant to the Regulatory Flexibility Act of 1990, 5 U.S.C. 601–612, (RFA) as amended by the Contract with America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847, the Commission's Initial Regulatory Flexibility Analysis with respect to this Notice of Proposed Rulemaking is as follows:

Reason for Action

This Notice of Proposed Rulemaking (Notice) proposes to streamline and harmonize the Commission's direct broadcast satellite (DBS) service rules. The Notice proposes to incorporate the DBS rules into part 25, the satellite communications part of the Commission's rules. The Notice does not envision that the relocation of the DBS service rules will substantially alter the licensing provisions for the DBS service under current part 100. The DBS service was initially developed in 1982 with the promulgation of interim rules. *Inquiry into the Development of Regulatory Policy in Regard to Direct Broadcast Satellites for the Period Following the 1983 Regional Administrative Radio Conference* (Report and Order), 90 FCC2d 676 (1982). Since 1994, DBS licensees have begun to provide service into the United States. The Notice explains that the interim rules are outmoded with respect to the application and licensing procedures and the technical parameters for existing systems. Consistent with the FCC's goals of regulating services subject to its jurisdiction in a common-sense manner and promoting competition, this rulemaking seeks to streamline and simplify the FCC's rules governing the DBS service by applying a unified Form 312 for DBS space and earth stations. For instance, The NPRM proposes to eliminate the part 100 rules (sections 100.72–.80) which govern DBS auctions and to regulate DBS auctions under the general auction rules contained in part 1, subpart Q. In proposing to incorporate certain part 100 rules into part 25, the Notice highlights two rules of particular importance. The Notice seeks comment on a proposal to move the existing DBS foreign ownership rules from part 100 to part 25 and whether the FCC should modify those rules in the event it affirms the FCC International Bureau's decision in the order authorizing MCI to construct, launch, and operate a DBS system at the 110 degrees W.L. orbital position and whether similar restrictions should apply to DTH–FSS. *MCI Telecommunications Corporation, Application for Authority to Construct, Launch and Operate a Direct Broadcast Satellite System at 110 degrees W.L.*, DA 96–1793 (1996). The Notice also seeks comment on how the FCC can strengthen the rules regarding the provision of DBS service to Alaska and Hawaii, Puerto Rico, and other U.S. territories and possessions. Because it is the FCC's goal to promote competition in the MVPD market generally, the Notice also seeks comment as to whether new rules addressing horizontal concentration in the MVPD market, such as limitations on cable/DBS cross-ownership, are necessary in order to prevent anti-competitive conduct in the DBS or MVPD markets.

Objectives

The objective of this proceeding is to streamline the DBS service rules and harmonize the regulation of the DBS service with other satellite services, where appropriate. While incorporating the DBS rules into part 25, the location of the other satellite communications service rules, the Notice seeks comment

on relocation of the foreign ownership rules of section 100.11; further measures the FCC could take to promote service to Alaska and Hawaii and other U.S. territories and possessions; comments on proposals to update the DBS technical rules; and comment on whether to adopt rules to address issues related to concentration in the multi-channel video programming distribution market. The Notice proposes that adoption of the proposed rules will reduce regulatory burdens and, with minimal disruption to existing permittees and licensees, result in the continued development of DBS and other satellite services to the public.

Legal Basis

This Notice of Proposed Rulemaking is adopted pursuant to Sections 1, 4(i), 303(r), 303(v), 307, 309(a), 309(j), 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(r), 303(v), 307, 309(a), 309(j), 310, and 5 U.S.C. 553 of the Administrative Procedures Act.

Description and Estimate of Small Entities Subject to the Rules

The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit fixed-satellite or direct broadcast satellite service applicants or licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is one with $11.0 million or less in annual receipts. (13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899). According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified which could potentially fall into the DBS category. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities. (U.S. Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms: 1992, SIC Code 4899 (issued May 1995)). The rules proposed in this Notice apply only to entities providing DBS service. Small businesses do not have the financial ability to become DBS licensees because of the high implementation costs associated with satellite services. Since this is an established service, however, with limited spectrum and orbital resources for assignment, we estimate that no more than 15 entities will be Commission licensees providing these services. Therefore, because of the high implementation costs and the limited spectrum resources, we do not believe that small entities will be impacted by this rulemaking.

Reporting, Recordkeeping, and Other Compliance Requirements

The proposed action in this Notice would affect those entities applying for DBS construction permits and licenses and those applying to participate in auctions of DBS spectrum in the future. In the case where there is not any mutual exclusivity, applicants will be required to follow the recently streamlined application procedures of part 25 for space and earth station licenses by submitting the information required by Form 312, where applicable. In the case where there is mutual exclusivity between applicants for DBS authorizations, the competitive bidding rules of part 1 will be used to determine the licensee. Applicants will have to comply with the requirement to file a short-form (FCC Form 175). Completion of short-form FCC Form 175 to participate in an auction is not estimated to be a significant economic burden for these entities. The action proposed will also affect auction winners in that it will require them to submit a long Form 312 application for authorization. This process will be required by all DBS applicants whether selected through the competitive bidding process or not.

Federal Rules That Overlap, Duplicate or Conflict With These Proposed Requirements

None. One of the main objectives of the Notice is to eliminate any existing overlap or duplication of rules between the DBS and other satellite services.

Any Significant alternatives minimizing impact on small entities and consistent with stated objectives: In developing the proposals contained in this Notice, we have attempted to minimize the burdens on all entities in order to allow maximum participation in the DBS market while achieving our other objectives. The Notice seeks comment on the impact of the proposals on small entities and on any possible alternatives that could minimize the impact of the rules on small entities. In particular, the Notice seeks comment on alternatives to the reporting, recordkeeping, and other compliance requirements.

Comments Are Solicited

Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this Notice, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Office of Public Affairs, Reference Operations Division shall send a copy of this Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.

List of Subjects

47 CFR Part 25

Satellites.

47 CFR Part 100

Satellites.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–5938 Filed 3–5–98; 8:45 am]

BILLING CODE 6712–01–P