

comments in the existing proceeding to implement Section 713. It also extends the comment period until March 15, 1996, and the reply comment period until April 1, 1996, to provide parties with an opportunity to refine their comments and to focus on the specific information needed to implement Section 713 of the Act.

Ordering Clauses

4. It is ordered, that the time for filing comments in the above-captioned proceeding is extended to March 15, 1996, and the time for filing reply comments is extended to April 1, 1996.

5. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and Section 305 of the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-5823 Filed 3-11-96; 8:45 am]

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47 CFR Parts 1 and 73

[MM Docket No. 96-16, FCC 96-49]

Revision of Broadcast EEO Rule and Policies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This *Order and Notice of Proposed Rule Making* (NPRM) in MM Docket No. 96-16 seeks comment regarding various proposals to streamline the Commission's Equal Employment Opportunity (EEO) requirements with respect to certain broadcasters whose circumstances may justify this type of relief, while, at the same time, maintaining an effective EEO program for the broadcast industry. These proposals include alternatives for reducing paperwork burdens, new incentives for the establishment of joint recruitment efforts, and revisions to the test by which stations are permitted to rely on an alternative labor force when analyzing their EEO efforts. The Commission also seeks comment on a proposal to adopt guidelines for imposing sanctions for EEO violations to increase predictability for broadcasters and to facilitate the processing of renewal applications.

DATES: Initial comments due April 30, 1996; reply comments due May 30, 1996. Written comments by the public on the proposed and/or modified

information collections are due April 30, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 13, 1996.

ADDRESSES: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@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: Hope G. Cooper, Mass Media Bureau, Enforcement Division. (202) 416-1450. For additional information concerning the information collections contained in this NPRM, contact Dorothy Conway at 202-418-0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order and Notice of Proposed Rule Making in MM Docket No. 96-16, adopted February 8, 1996, and released February 16, 1996.

The complete text of this NPRM, which was adopted in MM Docket No. 96-16, is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., at (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Synopsis of Order and Notice of Proposed Rule Making

1. In the NPRM, the Commission seeks comment regarding various proposals to streamline the Commission's Equal Employment Opportunity (EEO) requirements with respect to certain broadcasters whose circumstances may justify this type of relief, while, at the same time, maintaining an effective EEO program for the broadcast industry. These proposals included alternatives for reducing paperwork burdens, new incentives for the establishment of joint recruitment efforts, and revisions to the test by which stations are permitted to rely on an alternative labor force when analyzing their EEO efforts. The Commission also seeks comment on the proposal to adopt guidelines for imposing sanctions for EEO violations

to increase predictability for broadcasters and to facilitate the processing of renewal applications.

2. The Commission's broadcast EEO Rule requires broadcast licensees to establish and maintain an EEO program designed to provide equal employment opportunities for minorities and women in all aspects of their employment policies and practices. The objective of the EEO program is twofold: to promote programming that reflects interests of minorities and women in the local community in addition to those of the community at large and to deter discriminatory employment practices. A basic rationale underlying the broadcast EEO Rule has been that a broadcaster can more effectively fulfill its duty to serve the needs of the entire community if it makes a good faith effort to employ qualified women and minorities.

3. The Commission uses an efforts-based approach to assessing EEO compliance. The Commission focuses on a station's equal employment opportunity program, its consistent efforts to contact sources likely to refer qualified female and minority applicants and self-analysis of its outreach program. Broadcast stations with five or more full-time employees are required to file general information regarding recruitment and hiring practices as part of their license renewal application and workforce data as part of their annual employment reports. In order to comply with the requirement of self-assessing their outreach efforts, the Commission also requires broadcasters to keep records of their EEO efforts and the results of those efforts.

4. The Commission seeks comment as to which categories of stations might qualify for reduced recordkeeping and filing requirements or, in some cases, be exempted from these duties altogether. Categories being considered include station staff size, market size, and size of the local minority labor force. The Commission also seeks comment on possible options for relief for qualifying stations. Under one approach, stations would only have to certify that they meet the qualifying factor or factors and would then be exempt from further reporting requirements. Under another approach, the Commission would maintain reporting requirements but allow broadcasters a choice among possible recruitment options, one of which might be participation in recruiting events like job fairs. The Commission also asks for comment on an industry proposal to permit broadcasters not to retain detailed job-by-job recruitment records if their employment profiles meet certain benchmarks.

5. The Commission also proposes to give broadcasters credit for using the recruiting resources of a central source, such as a state broadcast association, under certain circumstances. In addition, the Commission asks for comment on whether it can improve the current test under which stations may evaluate their EEO efforts with reference to a labor force other than the labor force of the Metropolitan Statistical Area in which the station is located.

6. Finally, the Commission also seeks comment on proposed guidelines for imposing forfeitures for EEO violations. In the *NPRM*, the Commission vacated the *EEO Policy Statement*, which contained similar guidelines, because an analogous Commission decision was vacated by the Court of Appeals. The proposed guidelines set forth in the *NPRM* are expected to provide greater certainty regarding sanctions which may result from EEO violations in specific circumstances. It is also anticipated that the proposed guidelines will facilitate the resolution of EEO cases by the Commission.

Initial Paperwork Reduction Act of 1995 Analysis

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, (PRA), Public Law 104-13. The *NPRM* has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. Comments are requested concerning (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.

This *NPRM*, MM Docket No. 96-16, "Order and *NPRM* on Streamlining Broadcast EEO Rules and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines" which does not have an OMB control number, proposes revisions that will affect four

existing collections. The revisions are proposed to affect the following:

Title: Section 73.2080.

Form Numbers: FCC 395-B, FCC 396, FCC 396-A.

Type of Review: Revision to Existing Collections.

Respondents: Broadcast Permittees/Licensees.

OMB Control Number: 3060-0212.

Title: Section 73.2080 Equal Employment Opportunity Program.

Number of Respondents for Section 73.2080: 13,072.

Estimated time per response: 52 hours per year.

Annual Burden: 679,744.

OMB Control Number: 3060-0390.

Title: Broadcast Station Annual Employment Report.

Number of Respondents for FCC 395-B: 13,550.

Estimated time per response: 0.88 hours per report.

Annual Burden: 11,924.

OMB Control Number: 3060-0120.

Title: Broadcast Equal Employment Opportunity Model Program Report.

Number of Respondents for FCC 396-A: 2068.

Estimated time per response: 1 hour.

Annual Burden: 2,068.

OMB Control Number: 3060-0113.

Title: Broadcast Equal Employment Opportunity Program Report.

Number of Respondents for FCC 396: 235.

Estimated time per response: 3 hours.

Annual Burden: 705.

Total annual burden: 694,441.

Needs and Uses: This rulemaking proceeding seeks comment on specific proposals to streamline our broadcast equal employment opportunity (EEO) requirements without diminishing the effectiveness of the EEO program. If adopted, some of these proposals would reduce the filing and recordkeeping requirements of qualifying broadcast stations; and would likely amend Section 73.2080 (3060-0212) and would revise the following FCC Forms: FCC 395-B (3060-0390), FCC 396-A (3060-0120), and the FCC 396 (3060-0113). Any changes to these forms or our rules as a result of this proceeding involving television stations would require statutory amendment. These requirements collectively make up the Commission's EEO program. The records kept in accordance with Section 73.2080 are used by broadcast licensees in the preparation of the station's EEO Program (FCC Form 396) submitted with the license renewal application. The data collected on the FCC 395-B is used by FCC staff to monitor a broadcast station's efforts to afford equal

employment opportunity and to assess industry trends. The data collected on the FCC 396-A is reviewed by FCC analysts to determine if stations will provide equal employment opportunity to all qualified persons without regard to race, color, religion, sex or national origin. If these programs were not maintained there could be no assurance that efforts are being made to afford equal opportunity in employment.

Initial Regulatory Flexibility Analysis

As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in the *NPRM*. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *NPRM*, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of the *NPRM*, including the Initial Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601, et. seq. (1980).

I. *Reason for Action:* This proposed rule making is designed to solicit comments regarding the Commission's efforts to amend our EEO Rule to ensure its effectiveness while affording relief to licensees and permittees of small stations and other distinctly situated broadcasters, and, generally, streamlining the operation of the EEO Rule for all broadcasters. This proposed rule making is also designed to solicit comments regarding the Commission's proposed adoption of forfeiture guidelines fashioned after those articulated in the *EEO Policy Statement*, 9 FCC Rcd 929 (1994), 59 Fed. Reg. 12606 (March 17, 1994). That decision was patterned after *Policy Statement, Standards for Assessing Forfeitures*, 8 FCC Rcd 6215 (1993), 58 Fed. Reg. 44767 (August 25, 1993), which was vacated by the United States Court of Appeals for the District of Columbia Circuit in *United States Telephone Ass'n v. FCC*, 28 F.3d 1232 (D.C. Cir. 1994).

II. *Objectives:* The Commission is seeking information regarding the impact of its EEO Rule on broadcasters of small stations and other distinctly situated broadcasters, the paperwork burden of all broadcasters in their attempt to comply with our rules and policies regarding equal employment

opportunity, and the guidelines to be used in implementing its authority to issue increased monetary forfeiture penalties for EEO violations.

III. *Legal Basis:* The proposed action is authorized under the authority contained in Sections 4(i), 303(r), and 503(b) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 303(r), 503(b).

IV. *Reporting, Recordkeeping and Other Compliance Requirements:* None.

V. *Federal Rules Which Overlap, Duplicate or Conflict With These Rules:* None.

VI. *Description, Potential Impact, and Number of Small Entities Involved:* Adoption of these forfeiture guidelines, as well as other proposals set forth in this NPRM, could affect all licensees, including those that qualify as small business entities.

VII. *Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives:* In this item, we solicit comment on proposals to amend the EEO Rule to maintain the Rule's viability while reducing the paperwork required of broadcasters of small stations and other distinctly situated broadcasters. The item also solicits comments on better ways to accomplish the goals of developing guidelines for determining forfeiture amounts and providing notice to the public about the range of forfeiture amounts that may be assessed for EEO violations. We are unable to assess at this time what, if any, economic impact the proposed rule change would have on small business entities. A full assessment of the potential economic impact, as required by Section 605(b) of the Regulatory Flexibility Act of 1980 [Pub. L. 96-354, 5 U.S.C. § 605(b)] will be made, if applicable, at the final rulemaking stage.

List of Subjects

47 CFR Part 1

Reporting and recordkeeping requirements.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-5825 Filed 3-11-96; 8:45 am]

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47 CFR Part 64

[GC Docket No. 96-42, FCC 96-87]

Implementation of Section 273(d)(5) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996—Dispute Resolution Regarding Equipment Standards

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to adopt a rule which will establish a dispute resolution process to be used by non-accredited standards development organizations in the event that a dispute resolution process is not agreed upon by all parties when establishing industry-wide standards or generic requirements for telecommunications equipment or customer premises equipment as required by 47 U.S.C. § 273(d)(5). The rule will also establish penalties to be assessed against delaying parties. This proposal is in response to legislation enacted by Congress.

DATES: Comments must be submitted on or before April 1, 1996 and reply comments are due on or before April 11, 1996.

ADDRESSES: Comments and Reply Comments may be mailed to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sharon B. Kelley, Office of General Counsel, at (202)418-1720.

SUPPLEMENTARY INFORMATION:

I. Introduction

1. The Telecommunications Act of 1996¹, amended the Communications Act by creating a new section 273, 47 U.S.C. § 273, which sets forth procedures to be followed by non-accredited standards development organizations² that set industry-wide³

¹ Pub. L. No. 104-104, 110 Stat. 56 (1996).

² As defined in section 273(d)(8)(E), [t]he term 'accredited standards development organization' means any entity composed of industry members which has been accredited by an institution vested with the responsibility for standards accreditation by the industry.

47 U.S.C. § 273(d)(8)(E). Thus, for example, Bell Communications Research, Inc. (Bellcore) would not be an accredited standards development organization and is subject to the section 273 procedures. H.R. Conf. Rep. No. 230, 104th Cong., 2d Sess. 39 (1996).

³ As defined in section 273(d)(8)(C), [t]he term 'industry-wide' means activities funded by or performed on behalf of local exchange carriers for use in providing wireline telephone exchange service whose combined total of deployed access lines in the United States constitutes at least 30 percent of all access lines deployed by

standards and requirements for manufacturing telecommunications equipment. The procedures allow interested industry parties to participate in setting industry-wide standards or generic requirements and require the organization and such parties to attempt to develop a dispute resolution process in the event of disputes on technical issues. 47 U.S.C. § 273(d)(4). Section 273(d)(5) requires the Commission to prescribe within 90 days of enactment a dispute resolution process to be used in the event all parties cannot agree to a dispute resolution process. 47 U.S.C. § 273(d)(5). Thus, the Commission's dispute resolution process is triggered only if the parties fail to agree to a process for resolving technical issues on their own. Section 273(d)(5) also requires the Commission to "establish penalties to be assessed for delays caused by referral of frivolous disputes to the dispute resolution process." *Id.*

2. The purpose of this proceeding is to establish dispute resolution procedures as provided for in section 273(d)(5). In section II(A) below, members of the public are requested to comment on the proposal set forth here and are also encouraged to submit alternative dispute resolution proposals that they believe would better implement this statutory section. Comment is also sought on methods for selecting an arbitrator or neutral and on the issue of whether the Commission should make its employees available for that purpose. In section II(B), we solicit proposals or recommendations concerning the types of penalties that should be assessed for referral of frivolous disputes.

II. Proposed Regulations

A. Binding Arbitration Proposal

3. As explained above, section 273(d)(5) directs the Commission to prescribe a dispute resolution process to be used by non-accredited standards development organizations in situations where the parties involved cannot agree on the dispute resolution process to be used. 47 U.S.C. 273(d)(5). Specifically, section 273(d)(5) provides:

—[w]ithin 90 days after the date of enactment of the Telecommunications Act of 1996, the Commission shall prescribe a dispute resolution process to be utilized in the event that a dispute resolution process is not agreed upon by all the parties when establishing and publishing an industry-wide standard or industry-wide generic requirement for telecommunications

telecommunications carriers in the United States as of the date of the enactment of the Telecommunications Act of 1996.

47 U.S.C. § 273(d)(8)(C).