

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
1998 Biennial Regulatory Review --)	MM Docket No. 98-98
Amendment of Parts 73 and 74)	
Relating to Call Sign Assignments for)	
Broadcast Stations)	
)	
)	

REPORT AND ORDER

Adopted: December 8, 1998

Released: December 16, 1998

By the Commission:

I. INTRODUCTION

1. In this *Report and Order*, we are modifying the practices and procedures set forth in 47 C.F.R. §§ 73.3550 and 74.783, regarding the assignment of call signs to radio and television broadcast stations. Specifically, as we proposed in the *Notice of Proposed Rulemaking* in this proceeding,¹ the measures adopted herein will replace our existing manual procedures with an on-line system for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs. Although not required by statute, this initiative was undertaken in conjunction with the 1998 biennial regulatory review because it will streamline our call sign assignment procedures and result in significant improvement in service to our broadcast station licensees and permittees. In particular, we believe that implementation of the on-line system adopted herein will enhance the speed and certitude of radio and television broadcast station call sign assignments, thereby providing better service to all broadcast licensees and permittees.

II. BACKGROUND

2. The Commission is committed to utilizing new information technologies to better serve our licensees and the public generally. In particular, the Commission is committed to creating a customer-friendly environment that uses the most current filing and processing technologies and promotes more efficient and speedy Commission operations. To that end, the Commission has significantly expanded the use of electronic filing in many areas, including allowing parties to file comments electronically in notice and comment rulemakings,² and requiring parties to submit various types of applications electronically.³

¹ *Notice of Proposed Rulemaking, 1998 Biennial Regulatory Review -- Amendment of Part 73 and Part 74 Relating to Call Sign Assignments for Broadcast Stations*, 13 FCC Rcd 14392 (1998) (*Notice*).

² *See Electronic Filing of Documents in Rulemaking Proceedings, Report and Order*, 13 FCC Rcd 11322 (1998).

The Mass Media Bureau specifically is progressing rapidly on its extensive project to streamline its operations and provide for the electronic filing of broadcast applications. In connection with this project, the Commission has recently mandated that key Mass Media Bureau broadcast application and reporting forms be filed electronically.⁴ To better serve our licensees and the public generally, the Commission has also for several years made virtually every FCC order, notice of proposed rulemaking, public notice and news release available at no charge through the Internet. We have continued to improve our World Wide Web site and have established an electronic mailbox for submitting messages and questions to the agency. Given our commitment to both expanding the use of electronic filing in many areas including broadcast and to utilizing the Internet to serve our licensees and the public more effectively, we believe the adoption of an on-line call sign system to be appropriate and timely.

3. Under our current procedures, broadcast station licensees and permittees or counsel acting on their behalf must telephone the Commission's call sign desk and inquire as to the availability of the call signs in which they are interested. Thereafter, requests for new or modified call signs are made by letter. See 47 C.F.R. § 73.3550. If a fee payment is required, as is usually the case, FCC Form 159 (Remittance Advice) and the appropriate fee must accompany the letter request and be submitted to the Commission's lock-box bank in Pittsburgh, Pennsylvania. Generally, new and modified call sign requests are authorized by the call sign desk within five business days after receipt from Pittsburgh. However, requests that are defective because of an insufficient or faulty fee payment, or because of the Commission's intervening receipt of a request for the same call sign,⁵ are returned. Incomplete or otherwise deficient requests are retained, although final processing and authorization is delayed until the necessary information is obtained or the deficiency remedied.

4. Access to the new call sign reservation and authorization system will be made by licensees and permittees or by persons acting on their behalf via the Internet's World Wide Web. This on-line, electronic call sign system will enable users to determine the availability and licensing status of call signs; to request an initial, or change an existing, call sign; and to determine and submit more easily the appropriate fee, if any. Because all elements necessary to make a valid call sign reservation are encompassed within the on-line system, this system will prevent users from filing defective or incomplete call sign requests, as may occur under the current, manual system. The electronic system will, moreover, provide greater certitude, as a selected call sign is effectively reserved as soon as the user has submitted its call sign request. In addition, the on-line system encompasses virtually all functions previously

³ See, e.g., 47 C.F.R. §§ 1.2105(a); 1.2107(c) (as of January 1, 1999, requiring all applicants to file short-form applications to participate in an auction electronically and requiring all auction winners to file long-form applications electronically); *Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97 and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, Report and Order*, FCC 98-234 (rel. Oct. 21, 1998) (*ULS Order*) (Commission determined to require mandatory electronic filing for all wireless services that are licensed by auction).

⁴ See *1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules and Processes and Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities, Report and Order*, FCC 98-281 (rel. Nov. 25, 1998) (*Streamlining R&O*).

⁵ Call signs are assigned on a "first-come, first served" basis. A call sign reported as available by the call sign desk may in fact be unavailable by the time the applicant's written request for that call sign is received, if, for example, another request for that same call sign had already been received, with the appropriate fee, by Mellon Bank when the call sign inquiry was made.

performed manually by the Mass Media Bureau staff. Confirmation of receipt of any requisite fee payment will be done electronically, and a call sign change authorization will be issued automatically the following business day. A call sign request requiring the submission of a fee will not become effective until confirmation that payment of the fee has been received.

5. The new on-line call sign system adopted herein offers many advantages over the Commission's existing manual call sign system. Specifically, permittees and licensees will be able to determine the availability of call signs and to request an initial, or change an existing, call sign more easily and quickly. In fact, we have estimated that a user will be able to query the system and reserve an available call sign via the new on-line system in approximately ten minutes.⁶ The electronic system will also prevent users from filing incomplete or defective call sign requests. If a user fails to complete a required element, such as certifying compliance with the requirements of the Anti-Drug Abuse Act, an automatic error message will be triggered, and the user will be able to correct the error. In addition, authorization of the reserved call sign can be automatically issued immediately after confirmation of fee payment, if required, or shortly after reservation. Because licensees and permittees will generally be able to utilize the on-line system to request and receive an authorization for a requested call sign without Commission staff assistance or involvement, the system will also conserve Commission resources. For these reasons, we believe that implementation of the electronic call sign reservation and authorization system discussed in detail below will significantly improve service to all radio and television broadcast station licensees and permittees, and we accordingly will require licensees and permittees to utilize the new on-line system in making call sign requests.

III. DISCUSSION

6. Only three parties submitted comments or reply comments in response to the *Notice* in this proceeding. No commenter opposed the implementation of the electronic call sign system described in the *Notice*,⁷ although one commenter expressed concerns about the security of the on-line system and the need to prevent unauthorized use of the system.⁸ Specifically, this commenter is concerned that unauthorized persons (in particular, non-licensees⁹) may access the on-line system and, for example, attempt to reserve several -- or all -- of the available call letter combinations and effectively jam the system.¹⁰ We have addressed these security concerns by adding new features to the proposed on-line system. As described in greater detail below, any user, to request an initial or change an existing call sign, must provide his or her e-mail address to the Commission, and receive from the Commission via e-

⁶ Indeed, this immediate reservation of a call sign may be the most significant feature for users of the electronic system. Not only will the on-line system instantaneously reserve a requested call sign, the system will be immediately updated so as to inform any other user making an inquiry that such call sign is not available.

⁷ See Comments of National Association of Broadcasters at 1; ABC, Inc. at 1-2 (supporting Commission's general proposal for on-line call sign system).

⁸ See Comments of National Association of Broadcasters at 1-3.

⁹ As this commenter noted, broadcast licensees and permittees (and their representatives) would be disinclined to misuse the system due to the significant penalties for such abuse, such as revocation of their station licenses and construction permits and/or forfeitures. See Comments of National Association of Broadcasters at 3.

¹⁰ See Comments of National Association of Broadcasters at 3.

mail a unique validation code for the particular call sign transaction. This procedure will allow the tracing of inappropriate call sign requests and will discourage unauthorized entries into the reservation system. Because each call sign transaction will have a unique validation code, requests for call signs will have to be submitted one at a time, thereby preventing anyone from running a program to reserve all available call signs. We believe these additional features significantly enhance the security of the on-line call sign system and address the concerns raised by the comments in this regard.

7. In modifying the practices and procedures by which call signs are assigned, we will, as proposed in the *Notice*, retain our long-standing policy of assigning call signs on a "first-come, first-served" basis. Rather than requesting a call sign assignment by letter, however, broadcast licensees and permittees and authorized persons acting on their behalf will be able to confirm the availability of call signs and reserve new or modified call signs via the Internet. This on-line, electronic system will be accessible to authorized users 24 hours-a-day, seven days a week, through the World Wide Web by navigating to <<http://www.fcc.gov>>.¹¹ As stated in the *Notice*, authorized users will include representatives, such as attorneys, who are directed by licensees and permittees to act on their behalf. To assist in its use, the system will have on-line aids, including a User's Guide, and information regarding the Commission's revised call sign policies and regulations.

8. Broadcast licensees and permittees should particularly note that our adoption of electronic filing procedures will not alter the current rules regarding what constitutes a valid call sign. With one exception, only four-letter call signs (plus a LP, FM or TV suffix, if used) will be assigned via the new on-line system. A licensee of a station with a grandfathered three-letter call sign will continue to be allowed to utilize the same three-letter call sign, with an appropriate FM, TV or LP suffix, with respect to any commonly-owned station. See 47 C.F.R. § 73.3550(f). Because, in recent years, the instances where three-letter requests have been made have been extremely rare, the on-line system was not designed to accommodate such infrequent requests. However, any licensee seeking to apply its three-letter call sign to another, commonly-owned station will be able to do so by contacting the call sign desk directly. In accordance with existing rules, call signs beginning with the letter "K" will not be assigned via the electronic system to stations located east of the Mississippi River, nor will call signs beginning with the letter "W" be assigned to stations located west of the Mississippi River. See 47 C.F.R. §§ 73.3550(e); 74.783(e). Of course, waivers of this geographic and other call sign regulations can continue to be requested by contacting the call sign desk directly. Although, as explained in the *Notice*, the on-line system will not prevent a user from requesting and reserving a call sign in violation of the geographic rule, we will rescind any call sign assignment violating the rule. One commenter stated that the on-line system should include a "geographic filter," automatically determining whether an applicant should receive a call sign beginning with "K" or "W."¹² Given the design of the electronic call sign system and resource availability, the on-line system will, at present, be unable to determine automatically whether an applicant should receive a call sign beginning with a "K" or a "W." However, to the extent that our resources allow and the technical capability is developed, we intend, if possible, to upgrade our call sign system in this regard in the future.

9. As proposed in the *Notice*, the Commission will continue, as under our current rules, to assign five character alpha-numeric call signs to low power TV stations. See 47 C.F.R. § 74.783(d). However, low power TV licensees will continue to be allowed to request via our new procedures the assignment of

¹¹ The hardware and software requirements for accessing the Call Sign Reservation and Authorization System are set forth in Appendix D.

¹² See Comments of ABC, Inc. at 3-4.

four-letter call signs with a LP suffix, in lieu of these five-character alpha-numeric call signs. *See* 47 C.F.R. § 74.783(e). To allow low power TV permittees to make call sign requests via the on-line system as freely as other broadcast permittees, we will, as proposed, eliminate the existing requirement that holders of low power TV construction permits who request four-letter call signs must submit with their requests a certification that the station has been constructed, that physical construction is underway at the transmitter site, or that a firm equipment order has been placed. *See* 47 C.F.R. § 74.783(e). We believe that such restriction, mandated because of the inherent limitations of the current manual system and limited Commission personnel resources to handle the potentially large number of requests for such changes, is no longer necessary. One commenter opposed removing this restriction on the ability of low power TV permittees to reserve four-letter call signs, contending that a large number of call signs would be taken out of circulation by permittees that may never build their low power stations. This commenter favored allowing the assignment of four-letter call signs to low power TV stations only after the station is built and the application for a license to cover construction permit is filed.¹³ We decline to restrict in this manner the ability of low power TV permittees to reserve four-letter call signs via the new on-line system. Another commenter disputed the contention that there will be any shortage of available call signs,¹⁴ and we are not persuaded that call signs have become or are likely to become scarce. Moreover, in the future low power TV construction permits will be awarded by competitive bidding.¹⁵ We expect that, in an auction environment, few low power TV stations will remain unbuilt, as auction winners will be required to pay the full amount of their winning bids to obtain their construction permits and must construct their facilities to recoup the expenditures made in obtaining their construction permits via auction. Any low power construction permit granted pursuant to our recently modified permit extension procedures will also be subject to automatic forfeiture, without further Commission action, upon expiration of an unencumbered three-year construction period.¹⁶ Thus, contrary to one commenter's assertion, large numbers of call signs should not be made unavailable for long time periods due to their reservation by low power TV permittees who do not ultimately construct their stations.¹⁷ The low power TV industry has furthermore asserted that the ability of a permittee to reserve a four-letter call sign, and to promote those call letters before going on the air, is important to the ultimate commercial success of low power stations.¹⁸ Accordingly, we see no compelling reason to prevent low power TV permittees from obtaining four-letter call signs via the new electronic system if they wish to do so.

10. Under our current call sign practices, we allow mutually agreed-to transfers of basic call signs only in cases where licensees of stations in the same service located in the same market exchange frequencies or where a station switches to a new frequency in the same market. We do not believe that continuation of this limitation any longer advances or safeguards any key Commission regulatory

¹³ *See* Comments of ABC, Inc. at 5.

¹⁴ *See* Reply Comments of Community Broadcasters Association at 2-3 (stating that there are over 35,000 possible call signs and less than half that number of stations eligible to obtain them).

¹⁵ *See First Report and Order* in MM Docket No. 97-234, GC Docket No. 92-52, and GEN Docket No. 90-264, 13 FCC Rcd 15920 at ¶¶ 9-12 (1998) (*Broadcast Auction Order*).

¹⁶ *Streamlining R&O*, FCC 98-281 at ¶ 89.

¹⁷ We also expect that most current low power TV permittees, who, under our decision herein, will be permitted to utilize the on-line system to reserve a four-letter call sign, have made significant progress toward construction.

¹⁸ *See* Reply Comments of Community Broadcasters Association at 2.

objective. We will therefore, as proposed in the *Notice*, eliminate any restrictions that currently prevent licensees or permittees in the same service from agreeing to exchanges or transfers of call signs.

Call Sign Queries

11. The initial welcome screen to the new on-line call sign reservation and authorization system will present the user with two program choices -- to issue a query to the call sign database or to request a call sign. Access to a description of the FCC's call sign policies and regulations, as well as to the call sign system's user's guide, is also available. Selecting the "Query" button on the initial screen will launch the main "Call Sign Query" screen, where users can determine the availability of any call sign of interest by simply entering that call sign. If a user submits an invalid call sign, the system will respond with an error message indicating the call sign must be of valid length (four letters) and must begin with the letter "W" or "K." Once a valid call sign query has been submitted, the system will search the call sign database and return the licensing information to the user. If a queried call sign has already been assigned, the system will respond that the call sign is not available and will identify to whom that call sign is assigned or reserved.¹⁹ If a particular call sign is not currently assigned, the system will respond that the call sign is available. Users may then request or reserve such call sign by selecting one of the following functions: (1) "Change Request"; (2) "Permittee Initial Request"; (3) "Transfer/Assignment Request"; or (4) "Exchange Request."

Call Sign Reservations and Requests

12. Before permitting the user to select one of the four "request" functions, the on-line system will ask the user to enter his or her e-mail address. Following submission of the e-mail address, the on-line system will then send to the user's e-mail address an e-mail that contains a unique validation code for the particular call sign transaction.²⁰ As the on-line system will direct, the user must enter this validation code on the call sign request form prior to submission. *See infra* ¶ 15. If a user were to attempt to disguise his or her identity by submitting a false e-mail address, the on-line system would send the return e-mail containing the validation code to that other e-mail address, thereby leaving the user without the validation code necessary for the user to submit the call sign request. Thus, as discussed above, this procedure will discourage unauthorized entries into the call sign system, allow the tracing of inappropriate call sign requests, and, by assigning a unique validation code to each call sign transaction, prevent the running of a program to reserve all available call signs. *See supra* ¶ 6.

13. From either the initial welcome screen to the call sign reservation and authorization system, or following a query for an available call sign, a user may, following entry of his or her e-mail address, request a call sign assignment. A "Change Request" should be made if the user currently holds a broadcast license or permit with an existing call sign that the user would like to change to a new, available call sign. A "Permittee Initial Request" should be made by a user holding a construction permit who wishes to make an initial call sign selection. A "Transfer/Assignment Request" should be made when a

¹⁹ The information reported for such unavailable call signs will include the broadcast service for which the call sign was issued (*e.g.*, TV or FM); any secondary call signs assigned (*e.g.*, Wxxx-LP); the location of the licensed station; and the name and address of the licensee. In addition, the system will report if there are any pending requests related to the call sign, although the system will not report the reason that a request is pending. (A call sign request may, for example, be "pending" if it is awaiting confirmation of fee payment from Mellon Bank or notification of transfer/assignment consummation.)

²⁰ The system will specifically instruct the user to check his e-mail to obtain the validation code.

proposed transferee/assignee with a license assignment or transfer of control application on file wants to reserve a different call sign for the station to be transferred or assigned. An "Exchange Request" should be made when two licensees in the same service want to mutually exchange their call signs or where, by mutual agreement, a licensee or permittee seeks to transfer its station's call sign to another licensee or permittee.

14. **Change Requests.** A licensee wanting to change its assigned call sign to a new, available call sign should select the "Change Request" function on the "Call Sign Request Menu." A licensee of an FM or TV station seeking to modify its current call sign only to the extent of adding or deleting an "-FM" or "-TV" suffix should also select this "Change Request" function. The system will then ask the user to enter both the call sign being requested and the call sign currently assigned to the licensee. Again, if the user submits an invalid call sign, the system will respond with an error message indicating that the call sign must be of valid length (four letters) and must begin with the letters "W" or "K." If a user submits a request to change to a call sign that has already been assigned, the system will respond with a message stating that the requested call sign is unavailable and identify the holder of the primary call sign. If a request is made for a secondary call sign (e.g., Wxxx-FM) whose primary call sign (e.g., Wxxx) is assigned to another holder, the user will be required to certify that consent to use the secondary call sign has been obtained from the holder of the primary call sign. Upon initial reservation of such call sign, the holder of the primary call sign will be automatically notified of the user's action via postcard sent by U.S. mail on the next business day. In addition, if a requested call sign is reserved by the Coast Guard, the system will so inform the user and provide the Coast Guard telephone number and contact person so that the user may request release of the call sign from the Coast Guard. Once written approval of the release of the call sign is received by the Commission from the Coast Guard, Mass Media Bureau staff will add that call sign to the call sign availability database.

15. After the user submits in appropriate form the licensee's currently assigned call sign and the requested call sign, the system will display the "Change Request Form." This form will display the licensee's current call sign information (including the broadcast service for which the call sign was issued and the licensee's name and mailing address) and the requested call sign. The entry portion of this "Change Request Form" will ask the user for the following:

(1) The desired effective date for the change of the call sign in month/day/year format. As is currently required by our rules, the specified effective date must be within 45 days of the submission of the call sign request. See 47 C.F.R. § 73.3550(j) of amended rules. Users should note that a call sign request requiring the submission of a fee will not, regardless of the effective date specified by the user, become effective until confirmation that payment of the fee has been received.

(2) Certification that neither the licensee nor any shareholder, officer or director thereof, is subject to a denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853(a).

(3) If the request is for a secondary call sign, a certification by the requestor that consent has been received from the primary call sign holder.

(4) Information concerning the person making the call sign change request, including the user's

name and organization, address, telephone number and e-mail address.²¹

(5) The unique validation code provided by the on-line system for this particular call sign transaction. *See supra* ¶ 12.

If a user enters incomplete information on this "Change Request Form," the system will notify the user accordingly, and the user will be able to enter complete information. Users should also be aware that certifications (such as those specified above in this paragraph) made while requesting a new or modified call sign via the on-line system constitute representations to the Commission upon which we will rely. Users, including licensees or permittees or their counsel, who submit false certifications while making call sign requests will be subject to severe sanctions, including revocation of their station licenses or construction permits and/or forfeiture. *See* 47 U.S.C. §§ 312(a)(1), 503.

16. Upon submission of a completed "Change Request Form," the call sign reservation system will automatically do the following:

(1) Return an on-screen verification of the receipt of the "Change Request Form," and indicate the "Call Sign Request Number" which should be noted for future reference.

(2) Temporarily "lock" or reserve the requested new call sign.

(3) Insert the call sign change request into the queue of pending requests and into the call sign database.²²

(4) Generate the postcards acknowledging reservation of the requested call sign, which will be sent by U.S. mail on the business day following reservation of the call sign by the user. These reservation postcards will be sent to both the affected licensee and to the person making the call sign change request on its behalf. Thus, if a person not authorized by the licensee were to attempt to change the licensee's call sign, the system would automatically notify the licensee that a new call sign had been requested for its station and the identity of the person submitting such request. In such a situation, the licensee should immediately notify the Commission that an unauthorized request for a call sign change had been made. If a change or other type of call sign request is made for a secondary call sign, the system will also automatically send a reservation postcard to the licensee holding the primary call sign. Thus, if a licensee or permittee, contrary to its certification, were to request a secondary call sign without obtaining the consent of the primary call sign holder, the primary holder would be notified that such a request had been submitted. We believe that this automatic notification procedure will provide an effective security check

²¹ If the address of the person making the change request is the same as the displayed address of the licensee, then the user may simply check the box on the screen labeled "Check here if applicant address is same as licensee" to avoid typing redundant information. However, the user will still be required to enter his/her name. Because the user will already have entered his or her e-mail address as part of the on-line system's security features (*see supra* ¶ 12), this information will be pre-filled on the "Change Request Form."

²² Thus, if another user were to submit a request for this same call sign, the system would report the call sign as unavailable.

on the electronic call sign reservation part of our on-line system.²³

(5) If the payment of a fee is required for the call sign change requested, inform the user that completion of the Form 159 and the fee payment are required within 15 days from the date of the change request to complete the request. See paragraphs 26-27 below for discussion of the on-line Form 159. If the fee payment is not received within the specified time frame, the requested call sign change will be cancelled electronically and the call sign will no longer be reserved. Upon confirmation of receipt of the requisite payment electronically, the system will finalize the requested call sign change.

(6) Generate the postcard sent to the licensee acknowledging the assignment of the requested new call sign. This authorization postcard will contain the effective date of the new call sign assignment (which will continue to be within 45 days of the request), and will state that the postcard is considered part of the station license pending issuance of an authorization incorporating the new call sign. The authorization postcard would be generated no earlier than five business days after the call sign reservation. If a fee payment is required for a particular call sign change, confirmation of such payment will also be required before issuance of the authorization postcard.

Following the effective date of the change of a broadcast station's call sign, the station's previous call sign will be available for reservation by another user. In addition, the system will periodically generate public notices identifying all Mass Media Bureau call sign actions taken during the specified period. Currently, these public notices listing call sign actions are released every two weeks. We anticipate that, under our revised procedures, such public notices will be released at least as often, and we may consider releasing these notices more frequently after we have gained additional experience with the on-line system.

17. **Permittee Initial Request.** In accordance with our existing rules, the on-line call sign system will not accept a call sign reservation request from an applicant for a new station until the Commission has granted a construction permit. See 47 C.F.R. § 73.3550(b). It has been our experience that permittees of new stations apply promptly for their initial call signs after the grant of their construction permits. Under our revised procedures adopted herein, we will continue to expect permittees to request the assignment of their initial call signs expeditiously following the grant of their construction permits. The Commission, as proposed in the *Notice*, will no longer on its own motion assign a call sign if a permittee of a new station fails to request the assignment of a call sign within 30 days of grant of the construction permit. See *id.* Given the promptness with which broadcast permittees generally apply for their initial call signs, we conclude that the assignment of such call signs need only be done at the request of the permittee.

18. A holder of a construction permit who wishes to make an initial call sign selection should

²³ ABC, Inc. supported this "security check" procedure involving the notification postcards, but expressed concern that the security check would not be effective if the licensee information in the Commission's database was incorrect or outdated and the postcard notice was consequently sent to the incorrect addressee. See Comments of ABC, Inc. at 6. As an initial matter, we note that permittees and licensees are required to provide an address to be used by the Commission in serving documents or directing correspondence. See 47 C.F.R. § 1.5. In addition, we are unaware of any widespread problems or delays encountered in entering new or updated licensee information into existing Commission databases. We intend, moreover, to incorporate the on-line call sign system into the consolidated electronic database system that the Mass Media Bureau is currently developing in connection with the implementation of electronic filing of broadcast applications. For these reasons, we do not believe there will be delays in entering new relevant licensee information into the Commission databases that will significantly adversely affect the postcard "security check" procedure.

select the "Permittee Initial Request" function from the "Call Sign Request Menu." The system will display a screen requiring the entry of the requested call sign and the permittee's construction permit file number. Users should enter an available four-letter call sign (with an optional FM, TV or LP suffix); if a user submits an invalid call sign, the system will respond with a message indicating that the new call sign must be four letters starting with "W" or "K," with an optional FM, TV or LP suffix. If a user submits a request for a call sign that has already been assigned, the system will respond with a message stating that the requested call sign is unavailable. If a user submits an incorrect construction permit file number, the system will respond with a message indicating that the FCC database does not contain the specified file number.²⁴

19. Submission of a valid requested call sign and construction permit file number will display the "Permittee Initial Request Form," which is identical to, and should be completed in the same manner as, the "Change Request Form" described in paragraph 15 above. For security purposes, a user making an initial call sign request must enter the unique validation code provided by the on-line system for the particular call sign transaction. *See supra* ¶¶ 12, 15. Upon submission of a completed "Permittee Initial Request Form," the call sign reservation system will automatically do the following:

(1) Return an on-screen verification of the receipt of the "Permittee Initial Request Form" and indicate the "Call Sign Request Number" which should be noted for future reference.

(2) Insert the call sign request into the queue of pending requests and into the call sign database.

(3) Generate the postcards acknowledging reservation of the requested call sign, which will, for security purposes, be sent on the business day following reservation to both the permittee and to the person making the call sign initial request on its behalf.²⁵

(4) Generate the postcard sent to the permittee acknowledging the assignment of the requested initial call sign. Because no fee payment is required when requesting an initial call sign, this authorization postcard will be generated no earlier than five business days after issuance of the postcards acknowledging reservation of the requested initial call sign.

20. **Transfer/Assignment Request.** As permitted under our current rules, an applicant for transfer or assignment of an outstanding construction permit or license may utilize the on-line reservation system to request a new call sign for the station to be assigned or transferred. *See* 47 C.F.R. § 73.3550(c). Because, as described previously, we generally believe that Commission involvement in the assignment of call signs is unnecessary, we will, as proposed in the *Notice*, no longer select and assign a new call sign in the event of a transfer or assignment of a station whose existing call sign conforms to that of a

²⁴ ABC, Inc. expressed concern that a permittee may be precluded from obtaining a call sign if there is a delay, following grant of a construction permit, in entering the construction permit file number into our databases. *See* Comments of ABC, Inc. at 7. As discussed in more detail above, we are not aware of any significant problems or delays in entering updated permittee information into our existing databases; moreover, we intend to incorporate the on-line call sign system into the Mass Media Bureau's consolidated electronic database system currently being developed. Thus, we do not believe permittees will be prevented from obtaining initial call signs in a timely manner due to Commission delays in entering construction permit file numbers into our database.

²⁵ As described in paragraph 16, if a permittee has requested a secondary call sign, the system will also automatically send a reservation postcard to the primary holder of that call sign.

commonly owned station not part of the transaction. *See* 47 C.F.R. § 73.3550(d).²⁶ We believe that the assignee/transferee alone should bear the responsibility of requesting a different call sign or obtaining the consent necessary to retain the present or conforming call sign from the existing owner. In our experience, the parties to assignments and transfers have been able to resolve the call sign issue without Commission involvement.

21. A transferee or assignee desiring to reserve a new call sign for the station it is seeking to acquire should select the "Transfer/Assignment Request" function from the "Call Sign Request Menu." The system will display a screen requiring the entry of the transferee/assignee's requested call sign, the licensee's current call sign, and the license assignment/transfer of control application file number. As previously discussed in detail, if the user submits an invalid or incorrect call sign or assignment/transfer of control application number, the system will respond with an appropriate error message and provide the user with an opportunity to correct the error.

22. Submission of a valid requested call sign, current call sign, and assignment/transfer of control application file number will display the "Transfer/Assignment Request Form." This form is similar to, and should be completed in the same manner as, the "Change Request Form" discussed in paragraph 15 above, and the same security measures involving the entry of the validation code will apply. *See supra* ¶¶ 12, 15. Unlike the "Change Request Form," however, this "Transfer/Assignment Request Form" will not ask the user to enter an effective date for the call sign change because such date will be dependent upon obtaining Commission approval of the station's assignment or transfer. Upon submission of a complete "Transfer/Assignment Request Form," the call sign reservation system will automatically do the following:

(1) Return an on-screen verification of the receipt of the "Transfer/Assignment Request Form," and indicate the "Call Sign Request Number" which should be noted for future reference.

(2) Temporarily "lock" or reserve the requested new call sign.

(3) Insert the transfer/assignment request into the queue of pending requests and into the call sign database.

(4) Generate postcards acknowledging reservation of the requested call sign, which will, for security purposes, be sent on the business day following reservation to the proposed assignee/transferee, to the current licensee of the station being assigned or transferred, and to the user who made the transfer/assignment request.

(5) If the payment of a fee is required, inform the user that completion of the Form 159 and the fee payment are required within 15 days from the date of the transfer/assignment call sign request to complete the request. *See* paragraphs 26-27 below for discussion of the on-line Form 159. If the fee payment is not received within the specified time frame, the transfer/assignment call sign request will be cancelled electronically and the call sign will no longer be reserved.

(6) After receiving notification of the consummation of the transfer or assignment, generate the authorization postcard sent to the new licensee of the transferred/assigned station acknowledging the

²⁶ Previously under this section, the Commission would assign a new call sign to the assigned/transferred station if the new licensee of the station did not, within 30 days after consummation, request a different call sign or submit a statement of written consent to retain the conforming call sign from the existing owner.

assignment of the requested new call sign. This notification of the consummation of an assignment or transfer cannot be done electronically at this time and will be incorporated in other ongoing Mass Media Bureau electronic filing initiatives. Accordingly, broadcast licensees will continue to be required to provide written notification of such consummation to the call sign desk, and should include in such notification the desired effective date for any requested call sign change. Upon receipt of written notification by the licensee or permittee of the consummation of the Commission-approved transfer or assignment, the Mass Media Bureau staff will enter the effective date of the call sign change specified by the assignee/transferee in the notification, thereby finalizing the requested call sign change.

23. *Exchange Request.* The electronic call sign reservation system may be used to effectuate two types of call sign exchanges. Two licensees can simply exchange their call signs, or one licensee may request any available call sign, while transferring its call sign to the second licensee. We emphasize that, for an exchange of call signs, the stations involved must be in the same service. Users should also note that only one of the licensees involved in an exchange should utilize the on-line system to make the exchange request.

24. Licensees seeking to make a call sign exchange should select the "Exchange Request" function from the "Call Sign Request Menu." The screen displayed will require the entry of the current call signs and the requested call signs of the two licensees involved in the exchange.²⁷ Assuming that valid call signs are submitted, the system will display the "Exchange Request Form." This form is similar to, and should be completed in the same manner as, the "Change Request Form" described above in paragraph 15, and the same security measures involving the entry of the validation code will apply. See *supra* ¶¶ 12, 15. The "Exchange Request Form" additionally requires the user to certify that each licensee consents to the exchange and that each is the primary holder of its call sign.²⁸

25. Upon submission of the completed "Exchange Request Form," the call sign reservation system will automatically do the following:

- (1) Return an on-screen verification of the receipt of the "Exchange Request Form," and indicate the "Call Sign Request Number" which should be noted for future reference.
- (2) Temporarily "lock" or reserve the requested exchanged call signs.
- (3) Insert the exchange request into the queue of pending requests and into the call sign database.
- (4) Generate the postcards acknowledging reservation of the requested call signs, which will, for security purposes, be sent on the business day following reservation to both licensees involved in the

²⁷ For a simple swap of call signs, the current call sign of the first licensee will be the requested call sign of the second licensee, and the requested call sign of the first licensee will be current call sign of the second licensee. Where there is not a mutual exchange of call signs, the first licensee will transfer its call sign to the second licensee while requesting a different call sign for itself. Thus, the current call sign of the first licensee and the requested call sign of the second licensee will be the same.

²⁸ One commenter also wanted the Commission to require that the stations involved in an exchange of call signs "maintain some form of written consent for the exchange." Comments of National Association of Broadcasters at 4. We believe that any such additional requirement is unnecessary, given that the licensees involved in any call sign exchange must certify that each consents to the exchange, and any licensees making false certifications will, as discussed above, be subject to severe sanctions, including revocation or forfeiture. See *supra* ¶ 15.

exchange and to the user who made the exchange request on their behalf.

(5) If the payment of a fee is required for the call sign exchange requested, inform the user that completion of the Form 159 and the fee payment are required within 15 days from the date of the exchange request to complete the request. See paragraphs 26-27 below for discussion of the on-line Form 159. If the fee payment is not received within the specified time frame, the requested call sign exchange will be cancelled electronically and the exchanged call signs will no longer be reserved. Upon confirmation of receipt of the requisite payment electronically, the system will finalize the requested call sign exchange.

(6) Generate the postcards sent to both licensees involved in the exchange acknowledging the assignment of the requested call signs. If no fee is required for the exchange, the authorization postcards will be generated no earlier than five business days after the call sign exchange request.

FCC Form 159 (Remittance Advice)

26. The on-line call sign reservation system will also aid the user in the payment of any required call sign fees. No fee is required for licensees and permittees of noncommercial educational and low power television stations seeking to change the call signs of their stations. Similarly, no fee is imposed on licensees and permittees of commercial FM and TV stations that seek to modify their stations' existing call signs only to the extent of adding or deleting an -FM or -TV suffix. Further, the permittee of any commercial or noncommercial AM, FM or TV station requesting the assignment of its initial call sign is not required to pay a fee.

27. In all other situations, however, if the call sign change, transfer or exchange request involves a commercial AM, FM or TV station, the on-line system will inform the user that a fee payment is required and that a Form 159 must be filed. In such cases, when the call sign reservation request has been confirmed, the user should press the "Form 159" button on the confirmation screen, and the system will then display an FCC Form 159. This form will already have certain information supplied, including the Payment Type Code, the amount to be paid,²⁹ and an FCC code that will enable the matching of each particular call sign request to the fee payment. The user should, as instructed by the system, print the Form 159 and complete the remaining fields. The text at the bottom of the screen after the form contains the address to which the completed form and payment should be mailed.³⁰ Upon submission of the Form 159, users will have completed all elements necessary to make a valid call sign request via the new on-line system. Although we currently anticipate that the fee process will operate in this manner, the process may change in the future, as the Commission continues to develop more efficient electronic means for fee payment, such as direct access for credit card remittances.

Mandatory Use of On-Line Call Sign System

28. After careful consideration, we determine to require broadcast licensees and permittees to utilize the new on-line system when making call sign requests. This requirement is consistent with the

²⁹ The system will calculate the amount to be paid. For example, a request involving the exchange of the call signs of two commercial television stations will require the payment of two fees; the system will determine the correct total and include it on the form.

³⁰ As set forth above, the Form 159 and the payment are required to be received within 15 days of the call sign request.

Commission's requirements for electronic filing of applications in various areas, including broadcast.³¹ More importantly, we believe that implementation of the on-line call sign reservation system will increase the speed and improve the certitude of the Commission's call sign assignments. The electronic system may be accessed at the convenience of any radio or television broadcast station licensee or permittee who wishes to determine the availability of a call sign or to request an initial, or change an existing, call sign. Because the system instantaneously reserves a call sign for the user once a valid and complete request is submitted, users will have confidence that their requested call signs will in fact be assigned to them. Unlike the current, manual call sign application method, the new electronic system will also preclude users from submitting incomplete or invalid call sign requests, thereby preventing the delays that inevitably occur when insufficient call sign requests are submitted. The electronic system will moreover provide this greater speed and certainty to the public without day-to-day involvement by Commission staff. Given these expected benefits, and the lack of opposition to mandatory electronic filing by commenters, we will require that all licensees and permittees utilize the new electronic system. Following the effective date of the rule amendments adopted herein, the Commission will by public notice announce in more detail how it intends to effectuate the transition from our current manual call sign system to the new electronic system. At the time indicated in such public notice, broadcast licensees and permittees will be required to utilize the new on-line system to reserve call signs.

29. Conversely, if the Commission were to make use of the new on-line call sign system permissive rather than mandatory, the resulting dual call sign system (paper and electronic) would substantially reduce any efficiencies that would otherwise be gained from the implementation of the electronic system. For example, if use of the new on-line system were permissive only, any licensee and permittee who continued to file manually with the Commission's call sign desk would, for several reasons, be at a disadvantage. First, a manually filed call sign request would have to be entered into the electronic system by Commission staff after receipt, and the call sign being requested would not be reserved until so entered by staff. Thus, the manual applicant would not receive the benefit of one of the most significant features of the electronic system, which is the immediate reservation of the requested call sign. As a result, an applicant making a call sign request manually could be precluded from obtaining the call sign of his choice because, even if that call sign were available when the applicant mailed his request, another applicant utilizing the on-line system could reserve that call sign before the Commission receives and enters the manual request.³² Second, a broadcast licensee manually requesting a call sign would be more likely to submit an incomplete or invalid request than a licensee utilizing the on-line system, which prevents users from submitting defective or incomplete requests, thereby resulting in significant delay in obtaining the desired call sign. Third, the effective date of a manually-requested call sign requiring the payment of a fee may be delayed because a manual applicant cannot utilize the on-line version of the FCC Form 159. Because the on-line system generates a unique transactional identifier on the FCC Form 159, which enables the electronic verification of payment and issuance of the call sign authorization, the Commission would need to mail the FCC Form 159 to the licensee or permittee making a manual call sign request, after staff had entered the requested call sign into the electronic system. In addition, maintaining a dual call sign system would be considerably less efficient for the Commission than having a purely

³¹ See, e.g., *Broadcast Auction Order*, 13 FCC Rcd 15920 at ¶ 147 (requiring all applicants filing short-form applications in broadcast auction windows to file electronically); *ULS Order*, FCC 98-234 at ¶ 22 (requiring electronic filing for all applications in wireless services licensed by auction); *Streamlining R&O*, FCC 98-281 at ¶ 8 (mandating that key broadcast application and reporting forms be filed electronically).

³² In such a case, the Commission would also be required to recontact the applicant to inform him or her that the requested call sign was no longer available, and the applicant would need to submit an alternative call sign request.

electronic system because the Commission would be required to enter all manually submitted call sign requests into the electronic system and to deal with any manually filed requests that are defective or incomplete.

30. Given the significant inefficiencies associated with maintaining a manual call sign request system following the implementation of our new electronic system, we decline to adopt, as one commenter supported, a phase in period for the new on-line system.³³ Due to the falling costs of computer and modem equipment, and the increasing access to the Internet, we believe that utilization of the electronic call sign system will not constitute an undue burden or expense for broadcast licensees and permittees generally. In addition, the Commission estimates that approximately 75% of the call sign requests currently made via our manual system are submitted by attorneys on behalf of broadcast licensees and permittees, and we do not believe that these users will experience financial or technical difficulties in utilizing the on-line system. However, as stated in the *Notice*, we seek to avoid any disruption to broadcast licensees and permittees that may not have ready access to the Internet. Thus, we will allow applicants to request a waiver of our requirement to utilize the on-line system to make call sign requests. As with any request for a waiver of Commission rules, the applicant must be prepared to "plead with particularity the facts and circumstances" warranting the grant of a waiver of our requirement to use the on-line call sign system.³⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (1969). We expect the number of these waiver requests to be limited, and we do not intend to routinely grant waivers of our requirement to utilize the on-line system to make call sign requests. Nevertheless, we stress that the Commission is sensitive to the inconvenience that use of our on-line system could place on a small number of licensees and permittees who are seeking to serve the public interest, with limited resources, and succeed in a highly competitive local environment. We will carefully weigh the needs of any such licensees in ruling on any waiver requests.

IV. PROCEDURAL MATTERS AND ORDERING CLAUSES

31. The Final Regulatory Flexibility Analysis, pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 604, is contained in Appendix B.

32. Accordingly, IT IS ORDERED, That pursuant to the authority contained in Sections 4(i), 4(j) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 303, this *Report and Order* IS ADOPTED, and Parts 73 and 74 of the Commission's Rules ARE AMENDED as set forth in the attached Appendix C.

33. IT IS FURTHER ORDERED, That the rule amendments set forth in Appendix C WILL BECOME EFFECTIVE upon publication in the Federal Register, and That the Mass Media Bureau will by public notice announce how and when the transition to the new call sign assignment system will be effectuated.

34. IT IS FURTHER ORDERED, That the Commission's Office of Public Affairs, Reference

³³ See Comments of ABC, Inc. at 7 (calling for one or two year phase in period before use of on-line call sign system becomes mandatory, to assure that broadcasters have ready access to and sufficient experience with the Internet to avoid any disruptions and to allow time to correct any problems with on-line system).

³⁴ For example, the applicant should set forth a specific showing as to why he or she lacks reasonable access to the Internet.

Operations Division, SHALL SEND a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

35. IT IS FURTHER ORDERED, That MM Docket No. 98-98 IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

APPENDIX A -- LIST OF COMMENTING PARTIES

Comments

ABC, Inc.
National Association of Broadcasters

Reply Comments

Community Broadcasters Association

APPENDIX B

FINAL REGULATORY FLEXIBILITY ANALYSIS (FRFA)

Report and Order

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. § 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking (Notice)*³⁵ in this proceeding. The Commission sought written public comments on the proposals in the *Notice*, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this *Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996.³⁶

A. Need For and Objectives of Action: This *Report and Order* adopts modified procedures regarding the assignment of call signs for radio and television broadcast stations. By replacing its existing manual procedures with a new on-line system for the electronic preparation and submission of requests for new and modified call signs, the Commission will enhance the speed and certitude of radio and television broadcast station call sign assignments, while at the same time conserving Commission resources. Implementation of the on-line call sign system will serve the Commission's goals of improving service to all broadcast station licensees and permittees and maximizing efficiency in the use of Commission resources. 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. Significant Issues Raised by Public in Response to Initial Analysis: No comments were received specifically in response to the IRFA contained in the *Notice*. However, two commenters did address an issue relating to call signs for low power television (LPTV) stations, whose licensees are generally small businesses. One commenter opposed allowing LPTV permittees to reserve four-letter call signs, contending that a large number of call signs would be taken out of circulation by permittees that may never build their LPTV stations; this commenter favored allowing the assignment of four-letter call signs to LPTV stations only after the station is built and the application for a license to cover construction permit is filed. Another commenter opposed this position, arguing that there is no shortage of available call signs, and that the ability of low power permittees to reserve four-letter call signs, and to promote those call letters before going on the air, is important to the commercial success of low power stations. The Commission concluded that there was no compelling reason to prevent LPTV permittees from obtaining four-letter call signs via the new electronic system if they wish to replace their Commission-assigned five character alpha-numeric call signs.

C. Description and Estimate of the Number of Small Entities Involved:

1. Definition of a "Small Business"

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

³⁵ 1988 Biennial Regulatory Review -- Amendment of Part 73 and Part 74 Relating to Call Sign Assignments for Broadcast Stations, *Notice of Proposed Rulemaking*, FCC 98-130 (rel. June 30, 1998).

³⁶ Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA); see generally 5 U.S.C. §§ 601 *et seq.* Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996.

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 activities of the agency and publishes such definition(s) in the Federal Register."

In the IRFA we stated that 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 particularly suitable for the purpose of determining the impact of the proposals in the *Notice* on small television and radio stations. While we utilized the SBA's definition to determine the number of small businesses to which the revised call sign procedures would apply, we reserved the right to adopt a more suitable definition of "small business" as applied to radio and television broadcast stations. We received no comment in response to the IRFA on how to define radio and television broadcast "small businesses." Therefore, we will continue to utilize the SBA's definitions for the purposes of this FRFA.

2. Issues in Applying the Definition of a "Small Business"

As discussed below, we could not precisely apply the foregoing definition of "small business" in developing our estimates of the number of small entities to which the amended call sign procedures will apply. Our estimates reflect our best judgments based on the data available to us.

An element of the definition of "small business" is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio or television station is dominant in its field of operation. Accordingly, the following estimates of small businesses to which the new call sign rules and procedures will apply do not exclude any radio or television station from the definition of a small business on this basis and are therefore overinclusive to that extent. An additional element of the definition of "small business" is that the entity must be independently owned and operated. As discussed further below, we could not fully apply this criterion, and our estimates of small businesses to which the amended call sign procedures may apply may be overinclusive to this extent. The SBA's general size standards are developed taking into account these two statutory criteria. This does not preclude us from taking these factors into account in making our estimates of the numbers of small entities.

With respect to applying the revenue cap, the SBA has defined "annual receipts" specifically in 13 C.F.R. § 121.104, and its calculations include an averaging process. We do not currently require submission of financial data from licensees that we could use in applying the SBA's definition of a small business. Thus, for purposes of estimating the number of small entities to which the rules apply, we are limited to considering the revenue data that are publicly available, and the revenue data on which we rely may not correspond completely with the SBA definition of annual receipts.

Under SBA criteria for determining annual receipts, if a concern has acquired an affiliate or been acquired as an affiliate during the applicable averaging period for determining annual receipts, the annual receipts in determining size status include the receipts of both firms. 13 C.F.R. § 121.104(d)(1). The SBA defines affiliation in 13 C.F.R. § 121.103. In this context, the SBA's definition of affiliate is analogous to our attribution rules. Generally, under the SBA's definition, concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. 13 C.F.R. § 121.103(a)(1). The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. 13 C.F.R. § 121.103(a)(2). Instead of making an

independent determination of whether television stations were affiliates based on SBA's definitions, we relied on the databases available to us to provide us with that information.

3. Estimates Based on Census Data

The amended call sign rules and procedures will apply to television and LPTV broadcasting licensees and permittees and radio broadcasting licensees and permittees. The Small Business Administration defines a television broadcasting station that has no more than \$10.5 million in annual receipts as a small business.³⁷ Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.³⁸ Included in this industry are commercial, religious, educational, and other television stations.³⁹ Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.⁴⁰ Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.⁴¹

There were 1,509 television stations operating in the nation in 1992.⁴² That number has remained fairly steady as indicated by the approximately 1,583 operating television broadcasting stations in the nation as of August 1998.⁴³ For 1992,⁴⁴ the number of television stations that produced less than \$10.0

³⁷ 13 C.F.R. § 121.201, Standard Industrial Code (SIC) 4833 (1996).

³⁸ 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).

³⁹ *Id.* See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283, which describes Television Broadcasting Stations (SIC Code 4833) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

⁴⁰ 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).

⁴¹ *Id.*; SIC 7812 (Motion Picture and Video Tape Production); SIC 7922 (Theatrical Producers and Miscellaneous Theatrical Services) (producers of live radio and television programs).

⁴² FCC News Release No. 31327, Jan. 13, 1993; Economic and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 39, Appendix A-9.

⁴³ FCC News Release, "Broadcast Station Totals as of August 31, 1998" (rel. Sept. 11, 1998).

⁴⁴ Census for communications establishments are performed every five years, during years ending with a "2" or "7." See Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 39, III.

million in revenue was 1,155 establishments.⁴⁵ Thus, the amended call sign procedures will affect some of the approximately 1,583 television stations; approximately 77%, or 1219, of those stations are considered small businesses.⁴⁶ The amended call sign procedures will also apply to LPTV stations that choose to apply for four letter call signs, and we believe that the vast majority of the existing 2088 LPTV stations are small businesses.⁴⁷ 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 affiliated companies.

The amended call sign rules and procedures will also affect radio stations. The SBA defines a radio broadcasting station that has no more than \$5 million in annual receipts as a small business.⁴⁸ A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.⁴⁹ Included in this industry are commercial, religious, educational, and other radio stations.⁵⁰ Radio broadcasting stations that primarily are engaged in radio broadcasting and that produce radio program materials are similarly included.⁵¹ However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.⁵² The 1992 census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than \$5 million in revenue in 1992.⁵³ Official Commission records indicate that 11,334 individual radio stations were operating in 1992.⁵⁴ As of August 1998, official Commission records indicate that 12,365 radio stations were operating.⁵⁵ We conclude that a similarly high percentage (96 percent) of current radio broadcasting licensees are small entities, some of which will be affected by the amended call sign

⁴⁵ 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.

⁴⁶ We use the 77 percent figure of television stations producing less than \$10 million in revenue for 1992 and apply it to the 1998 total of 1583 television stations to arrive at stations categorized as small businesses.

⁴⁷ FCC News Release, "Broadcast Station Totals as of August 31, 1998" (rel. Sept. 11, 1998).

⁴⁸ 13 C.F.R. § 121.201, SIC 4832.

⁴⁹ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 39, Appendix A-9.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ 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.

⁵⁴ FCC News Release No. 31327, Jan. 13, 1993.

⁵⁵ FCC News Release "Broadcast Station Totals as of August 31, 1998" (rel. Sept. 11, 1998).

procedures.⁵⁶ 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-radio affiliated companies.

D. Description of Projected Recording, Recordkeeping, and Other Compliance Requirements: The measures adopted in the *Report and Order* will reduce the burdens on broadcast station licensees and permittees applying for or requesting a change in their station call signs. Replacement of the current manual call sign assignment process with an entirely electronic system will reduce the overall administrative burden upon both broadcast licensees and the Commission. Given the expected benefits of the new electronic system, all broadcast licensees and permittees will be required to utilize the system to make call sign requests. We believe that utilization of the new on-line system will, among other things, increase the speed and certitude of the call sign assignment process, conserve Commission resources, and aid licensees and permittees by informing them of errors in their call sign requests before they are actually sent. The measures adopted in the *Report and Order* do not alter the Commission's current rules and policies regarding call signs (such as what constitutes a valid call sign), but modify the procedures by which call signs are assigned.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered: This *Report and Order* implements the Mass Media Bureau's new on-line call sign reservation system. Given the expected benefits of the new electronic system for both broadcast station licensees and the Commission (*see supra* ¶¶ 28-29), we determined to require all broadcast licensees and permittees to utilize the system for reserving call signs. No comments were submitted opposing mandatory use of the electronic call sign system, and none contended that use of the system would impose a significant economic impact on small entities, although one commenter supported a phase in period before use of the system would become mandatory. Given the significant inefficiencies, for both licensees and the Commission, associated with maintaining a manual call sign request system following the implementation of our new electronic system, we declined to adopt a phase in period for the new on-line system. *See supra* ¶¶ 28-30. However, as we seek to avoid any disruption to broadcast licensees and permittees (particularly small or rural broadcasters) who may not have ready access to the Internet, we will allow applicants to request a waiver of our requirement to utilize the on-line system to make call sign requests.

F. Report to Congress: The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. § 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the Federal Register. *See* 5 U.S.C. § 604(b).

⁵⁶ We use the 96 percent figure of radio station establishments with less than \$5 million revenue from the census data and apply it to the 12,365 individual station count to arrive at 11,870 individual stations as small businesses.

APPENDIX C

For the reasons discussed in the preamble, parts 73 and 74 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 73 - RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

2. Section 73.3550 is revised to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

(a) All requests for new or modified call sign assignments for radio and television broadcast stations shall be made via the FCC's on-line call sign reservation and authorization system accessible through the Internet's World Wide Web by specifying <http://www.fcc.gov>. Licensees and permittees may utilize this on-line system to determine the availability and licensing status of any call sign; to select an initial call sign for a new station; to change a station's currently assigned call sign; to modify an existing call sign by adding or deleting an "-FM" or "-TV" suffix; to exchange call signs with another licensee or permittee in the same service; or to reserve a different call sign for a station being transferred or assigned.

(b) No request for an initial call sign assignment will be accepted from a permittee for a new radio or full-service television station until the FCC has granted a construction permit. Each such permittee shall request the assignment of its station's initial call sign expeditiously following the grant of its construction permit. All initial construction permits for low power TV stations will be issued with a five-character low power TV call sign, in accordance with § 74.783(d).

(c) Following the filing of a transfer or assignment application, the proposed assignee/transferee may request a new call sign for the station whose license or construction permit is being transferred or assigned. No change in call sign assignment will be effective until such transfer or assignment application is granted by the FCC and notification of consummation of the transaction is received by the FCC.

(d) Where an application is granted by the FCC for transfer or assignment of the construction permit or license of a station whose existing call sign conforms to that of a commonly-owned station not part of the transaction, the new licensee of the transferred or assigned station shall expeditiously request a different call sign, unless consent to retain the conforming call sign has been obtained from the primary holder and from the licensee of any other station that may be using such conforming call sign.

(e) Call signs beginning with the letter "K" will not be assigned to stations located east of the Mississippi River, nor will call signs beginning with the letter "W" be assigned to stations located west of the Mississippi River.

(f) Only four-letter call signs (plus an LP suffix or FM or TV suffixes, if used) will be assigned. However, subject to the other provisions of this section, a call sign of a station may be conformed to a commonly owned station holding a three-letter call sign assignment (plus FM, TV or LP suffixes, if used).

(g) Subject to the foregoing limitations, applicants may request call signs of their choice if the combination is available. Objections to the assignment of requested call signs will not be entertained at

the FCC. However, this does not hamper any party from asserting such rights as it may have under private law in some other forum. Should it be determined by an appropriate forum that a station should not utilize a particular call sign, the initial assignment of a call sign will not serve as a bar to the making of a different assignment.

(h) Stations in different broadcast services (or operating jointly in the 535-1605 kHz band and in the 1605-1705 kHz band) which are under common control may request that their call signs be conformed by the assignment of the same basic call sign if that call sign is not being used by a non-commonly owned station. For the purposes of this paragraph, 50% or greater common ownership shall constitute a prima facie showing of common control.

(i) The provisions of this section shall not apply to International broadcast stations or to stations authorized under Part 74 of the rules (except as provided in § 74.783 of this chapter).

(j) A change in call sign assignment will be made effective on the date specified in the postcard acknowledging the assignment of the requested new call sign and authorizing the change. Unless the requested change in call sign assignment is subject to a pending transfer or assignment application, the requester is required to include in its on-line call sign request a specific effective date to take place within 45 days of the submission of its electronic call sign request. Postponement of the effective date will be granted only in response to a timely request and for only the most compelling reasons.

(k) Four-letter combinations commencing with "W" or "K" which are assigned as call signs to ships or to other radio services are not available for assignment to broadcast stations, with or without the "-FM" or "-TV" suffix.

(l) Users of nonlicensed, low-power devices operating under Part 15 of the FCC rules may use whatever identification is currently desired, so long as propriety is observed and no confusion results with a station for which the FCC issues a license.

(m) Where a requested call sign, without the "-FM," "-TV" or "-LP" suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, an applicant utilizing the on-line reservation and authorization system will be required to certify that consent to use the secondary call sign has been obtained from the holder of the primary call sign.

PART 74 - EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

3. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

4. Section 74.783 is amended by revising paragraph (e) to read as follows:

§ 74.783 Station identification.

* * * * *

(e) Low power TV permittees or licensees may request that they be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs described in paragraph (d) of this section. Parties requesting four-letter call signs are to follow the procedures delineated in § 73.3550. Such four-letter call signs shall

begin with K or W; stations west of the Mississippi River will be assigned an initial letter K and stations east of the Mississippi River will be assigned an initial letter W. The four-letter call sign will be followed by the suffix "-LP."

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APPENDIX D**Hardware and Software Requirements for Access to FCC
Call Sign Reservation and Authorization System****Access:**

The FCC Internet Homepage is accessible at <<http://www.fcc.gov>>.

Hardware:

Computer with 16 Megabytes or more of Random Access memory.

Internet Access:

Internet Service Provider
E-mail Address

Software:

Internet browser that supports HTML 2.0 plus HTML 3.0 table tags: Netscape Navigator, Version 2.0 or later; or Microsoft Internet Explorer, Version 3.0 or later. Most browsers will produce an acceptable rendering.