

comment on whether the definition of gathering should be modified to address this situation.

MMS requests comments on the revisions to the second supplementary proposed rule (63 FR 6113) including this notice or any other comments you may want to submit on this proposed rule. If you have commented already on other portions of the rule, you do not need to resubmit those comments since they are already part of the rulemaking record. MMS will respond to comments in the final rule.

#### List of Subjects in 30 CFR Part 206

Coal, Continental Shelf, Geothermal energy, Government contracts, Indians—lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: July 14, 1998.

**Sylvia V. Baca,**

*Acting Assistant Secretary, Land and Minerals Management.*

For the reasons set forth in the preamble, the second supplementary proposed rule published at 63 FR 6113 on February 6, 1998, amending 30 CFR Part 206, is further amended as follows:

#### PART 206—PRODUCT VALUATION

1. The Authority citation for Part 206 continues to read as follows:

**Authority:** 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701, 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

#### Subpart C—Federal Oil

2. Section 206.101 as proposed to be revised at 63 FR 6113 is further amended by revising the following definition to read as follows:

##### § 206.101 Definitions

*Affiliate* means a person who controls, is controlled by, or is under common control with another person.

(1) For this subpart, based on ownership of an entity's voting securities, interest in a partnership or joint venture, or other forms of ownership:

(i) Ownership greater than 50 percent constitutes control;

(ii) Ownership of 10 through 50 percent creates a presumption of control; and

(iii) Ownership of less than 10 percent creates a presumption of noncontrol that MMS may rebut if it demonstrates actual or legal control, including but not limited to interlocking directorates.

(2) MMS may require the lessee to certify the percentage of ownership.

Aside from the percentage ownership criteria, relatives, either by blood or marriage, are affiliates.

3. Section 206.102 as proposed to be revised at 63 FR 6113 is further amended by revising paragraphs (c)(2) and (c)(3) to read as follows:

##### § 206.102 How do I calculate royalty value for oil that I or my affiliate sell under an arm's-length contract?

\* \* \* \* \*

(c) \* \* \*

(2) You must value the oil under § 206.103 if MMS determines that the value under paragraph (a) of this section does not reflect the reasonable value of the production due to either:

(i) Misconduct by or between the parties to the arm's-length contract; or  
(ii) Breach of your duty to market the oil for the mutual benefit of yourself and the lessor. MMS will not use this provision to dispute lessees' marketing decisions made reasonably and in good faith. It will apply only when a lessee or its affiliate inappropriately sells its oil at a price substantially below market value.

(3) You must use § 206.103 to value oil disposed of under an exchange agreement. However, if you enter into a single arm's-length exchange agreement, and following that exchange you dispose of the oil received in the exchange in a transaction to which paragraph (a) of this section applies, then you must value the oil under paragraph (a) of this section. Adjust that value for any location or quality differential or other adjustments you received or paid under the arm's-length exchange agreement(s). But if MMS determines that any arm's-length exchange agreement does not reflect reasonable location or quality differentials, MMS may require you to value the oil under § 206.103. If you enter into more than one sequential exchange agreement to dispose of your production, you must use § 206.103 to value that production.

\* \* \* \* \*

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BILLING CODE 4310-MR-P

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR PARTS 73 and 74

[MM Docket No. 98-98; FCC 98-130]

#### Call Sign Assignments for Broadcast Stations

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this *Notice of Proposed Rulemaking (NPRM)*, the Federal Communications Commission proposes to modify its practices and procedures regarding the assignment of call signs for radio and television broadcast stations. Pursuant to these proposals, the Commission's existing manual procedures will be replaced by an on-line system for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs.

**DATES:** Comments are due on or before August 17, 1998, and reply comments are due on or before August 31, 1998. Written comments by the public on the proposed information collections are due August 17, 1998.

**ADDRESSES:** Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington DC 20503, or via the Internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** James J. Brown or Jerianne Timmerman at (202) 418-1600. For additional information concerning the information collections contained in this *NPRM* contact Judy Boley at (202) 418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Synopsis of Notice of Proposed Rulemaking

In this *Notice of Proposed Rulemaking (NPRM)*, the Federal Communications Commission is proposing to modify its practices and procedures regarding the assignment of call signs to radio and television broadcast stations. Pursuant to this proposal, the Commission's existing manual procedures will be replaced by an on-line system for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs. Because the Commission believes that the new electronic call sign reservation and authorization system will significantly improve service to all radio and television broadcast station licensees and permittees, the *NPRM* requests

comment on whether licensees and permittees should be required to utilize the system to make call sign requests. However, as the Commission is sensitive to the possible inconveniences that mandatory use of the new electronic system could impose on certain licensees and permittees, the *NPRM* also seeks comment on whether use of the on-line system should be permissive, rather than mandatory, for certain licensees and permittees, or whether, if mandatory, the Commission should phase in such a requirement. The complete text of this *NPRM* is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and it may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800.

#### Paperwork Reduction Act

This *NPRM* contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13. It has been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. The Commission, as part of its continuing effort to reduce paperwork burdens, invites OMB, the general public and other Federal agencies to comment on the proposed information collections contained in this *NPRM*, as required by the PRA. Public and agency comments are due at the same time as other comments on this *NPRM*; OMB comments are due 60 days from date of publication of this *NPRM* in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Approval Number:* 3060-0188.

*Title:* Call Sign Reservation and Authorization System.

*Form No.:* FCC 380.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Businesses or other for-profit, Not-for-profit institutions, state, local or tribal government.

*Number of Respondents:* 1,400.

*Estimated Time Per Response:* 0.166 hours-0.25 hours.

*Frequency of Response:* On occasion reporting requirement.

*Cost to Respondents:* \$108,500 (attorney fees).

*Total Annual Burden:* 291.

*Needs and Uses:* With the adoption of this *NPRM*, the Commission is proposing to modify its practices and procedures with regard to the assignment of call signs to radio and television broadcast stations by implementing an on-line call sign reservation and authorization system. The call sign reservation and authorization system would be used by permittees, licensees or persons acting on their behalf to determine the availability of a call sign and to request an initial call sign or change an existing call sign.

#### Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act (RFA) (see 5 U.S.C. 603), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *NPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments of the *NPRM*. The Office of Public Affairs, Reference Operations Division will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

2. *Need For and Objectives of the Proposed Rules.* With this *NPRM*, the Commission commences a proceeding to modify its 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. The proposed implementation of the on-line call sign system will serve the Commission's goals of improving service to all broadcast stations 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.

3. *Legal Basis.* Authority for the actions proposed in this *NPRM* may be found 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.

4. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."<sup>1</sup>

5. The proposed rules and policies will apply to television 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. Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.

<sup>1</sup> We tentatively believe that the SBA's definition of "small business" greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals in this *NPRM* on small television and radio stations. For purposes of this *NPRM*, however, we will utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply. We reserve the right to adopt a more suitable definition of "small business" as applied to radio and television broadcast stations subject to the proposed rules in this *NPRM*, and to consider further in the future the issue of the number of radio and television broadcasters that are small entities.

Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number. There were 1,509 television stations operating in the nation in 1992. That number has remained fairly steady as indicated by the approximately 1,569 operating television stations in the nation as of January 31, 1998. For 1992, the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.

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

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

8. *Description of Projected Recording, Recordkeeping, and Other Compliance Requirements.* The measures proposed in the NPRM would reduce the burdens on broadcast station licensees and permittees applying for or requesting a change in their station call signs. The

proposal to replace the current manual call sign assignment process with an entirely electronic system would reduce the overall administrative burden upon both broadcast licensees and the Commission. Given the expected benefits of the new electronic system, we seek comment on whether to require all broadcast licensees and permittees to utilize the system to make call sign requests, and also seek comment as to whether to do so on a phased-in basis. We note that such a phased-in procedure has been used elsewhere with regard to electronic filing of applications so as to benefit small businesses. 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 proposed in the NPRM 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.

9. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* This NPRM solicits comments regarding the implementation of 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, we seek comment on whether all broadcast licensees and permittees should be required to utilize the system for reserving call signs. We also ask for comment on other alternatives, including exempting certain licensees and permittees (such as small entities) from a requirement to use the electronic system or providing for a phase-in period before mandating use of the new system. Any significant alternatives presented in the comments will be considered.

10. *Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules.* The initiatives and proposed rules raised in this proceeding do not overlap, duplicate or conflict with any other rules.

11. *Comments and Reply Comments.* Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before August 17, 1998 and reply comments on or before August 31, 1998. To file formally in this proceeding, you must file an original plus six copies of all comments, reply

comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus eleven copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, DC 20503 or via the Internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

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

13. Authority for issuance of this NPRM 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.

#### List of Subjects in 47 CFR parts 73 and 74

Radio broadcasting, Reporting and recordkeeping requirements, Television broadcasting.

Federal Communications Commission.  
**Magalie Roman Salas,**  
Secretary.

#### Proposed Rule Changes

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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### OFFICE OF PERSONNEL MANAGEMENT

**48 CFR Parts 1609, 1632, 1652**

**RIN 3206–A116**

### **Federal Employees Health Benefits Program Improving Carrier Performance; Conforming Changes**

**AGENCY:** Office of Personnel Management.