

changes that, if any provision of the rules, or the application thereof to any person or circumstance, is held to be unlawful, the remaining portions of the rules not deemed unlawful and the application of such rules to other persons or circumstances shall remain in effect to the fullest extent permitted by law.

155. The late-filed comments and reply comments in this proceeding are considered as part of the record in this proceeding.

156. Pursuant to the Congressional Review Act, the new rules and amendments will become effective either March 10, 2003, or upon receipt by Congress of a report in compliance with the Congressional Review Act, 5 U.S.C. 801, whichever is later, and the information collection contained in these rules will become effective March 10, 2003, following OMB approval, unless a notice is published in the **Federal Register** stating otherwise. We will not require television broadcast licensees to file EEO mid-term reports in 2003.

157. FCC Forms 395A, 395B and 395M, and §§ 73.3612 of the Commission's rules, 47 CFR 73.3612 (Annual Employment Report) and § 76.1802 of the Commission's rules, 47 CFR 76.1802 (Equal Employment Opportunity) will remain suspended pending further action on workforce data collection issues.

158. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *2R&O*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

159. MM Docket No. 98–204 will remain open for the limited purpose of considering the issues raised in the *3rd NPRM*, and to facilitate any additional proceedings upon further order of the Commission.

List of Subjects in 47 CFR Parts 73 and 76

Cable television, Equal employment opportunity.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 73 and 76 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 73.2080 is revised to read as follows:

§ 73.2080 Equal employment opportunities (EEO).

(a) *General EEO policy.* Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated AM, FM, TV, Class A TV or international broadcast stations (as defined in this part) to all qualified persons, and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin, or sex. Religious radio broadcasters may establish religious belief or affiliation as a job qualification for all station employees. However, they cannot discriminate on the basis of race, color, national origin or gender from among those who share their religious affiliation or belief. For purposes of this rule, a religious broadcaster is a licensee which is, or is closely affiliated with, a church, synagogue, or other religious entity, including a subsidiary of such an entity.

(b) *General EEO program requirements.* Each broadcast station shall establish, maintain, and carry out a positive continuing program of specific practices designed to ensure equal opportunity and nondiscrimination in every aspect of station employment policy and practice. Under the terms of its program, a station shall:

(1) Define the responsibility of each level of management to ensure vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

(2) Inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

(3) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicit their recruitment assistance on a continuing basis;

(4) Conduct a continuing program to exclude all unlawful forms of prejudice or discrimination based upon race, color, religion, national origin, or sex

from its personnel policies and practices and working conditions; and

(5) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.

(c) *Specific EEO program requirements.* Under the terms of its program, a station employment unit must:

(1) Recruit for every full-time job vacancy in its operation. A job filled by an internal promotion is not considered a vacancy for which recruitment is necessary. Religious radio broadcasters who establish religious affiliation as a qualification for a job position are not required to comply with these recruitment requirements with respect to that job position or positions, but will be expected to make reasonable, good faith efforts to recruit applicants who are qualified based on their religious affiliation. Nothing in this section shall be interpreted to require a broadcaster to grant preferential treatment to any individual or group based on race, color, national origin, religion, or gender.

(i) A station employment unit shall use recruitment sources for each vacancy sufficient in its reasonable, good faith judgment to widely disseminate information concerning the vacancy.

(ii) In addition to such recruitment sources, a station employment unit shall provide notification of each full-time vacancy to any organization that distributes information about employment opportunities to job seekers or refers job seekers to employers, upon request by such organization. To be entitled to notice of vacancies, the requesting organization must provide the station employment unit with its name, mailing address, e-mail address (if applicable), telephone number, and contact person, and identify the category or categories of vacancies of which it requests notice. (An organization may request notice of all vacancies).

(2) Engage in at least four (if the station employment unit has more than ten full-time employees and is not located in a smaller market) or two (if it has five to ten full-time employees and/or is located entirely in a smaller market) of the following initiatives during each two-year period beginning with the date stations in the station employment unit are required to file renewal applications, or the second, fourth or sixth anniversaries of that date.