

payments. Thus, maintaining this information should constitute little, if any, burden. Our intention is to minimize, to the fullest extent possible, any burden on fee payers related to our proposed requirement for documentation of the basis for fee payments. Therefore, interested parties are specifically requested to comment upon both the nature and extent of documentation of unit counts that would be most appropriate for our needs.

4. In addition, we are proposing to require that non-profit entities exempt from the regulatory fee requirement submit documentation of their non-profit status. Section 1.1161(c) of the Commission's rules exempts from annual regulatory fees entities possessing either non-profit status under § 501 of the Internal Revenue Code, 26 U.S.C. 501, or certification as a nonprofit corporation or other nonprofit entity by state or other governmental authority. For Fiscal Years 1994 through 1996, we required as part of our fee payment verification process that non-profit entities provide, upon request, copies of their IRS determination letters or other documentation of nonprofit status. This procedure has become unduly burdensome as we seek to implement more efficient methods to improve our collections systems.

5. Therefore, we are proposing to revise our procedures to require that all exempt non-profit entities submit to us their current IRS determination letters or other current documentation of non-profit status. Non-profit entities need file this supporting documentation only once. Of course, exempt entities would also be obligated to inform us of any change in their exempt status. The time for filing documentation of exempt status would be announced, pursuant to authority delegated to the Managing Director, by a Public Notice published in the Federal Register following completion of this proceeding.

6. We are also requesting comment on a proposal to publish annually in the Federal Register lists of those commercial communication firms and businesses that have paid a regulatory fee for the preceding fiscal year. (We would not, however, publish information concerning regulatory fee payments by licensees for vanity call signs in the amateur service or by any other licensee that pays their regulatory fee at the same time the application fee is paid.) The information published would include the amount of the fee paid and the volume or units upon which the fee payments were based. This will enable fee payers to verify that their payments have been properly recorded and to bring errors to our attention, thereby reducing the burden on our fee payment verification process. We intend to publish the first such list once fee payments for FY 1997 are made and prior to our establishment of fees for FY 1998. In connection with publication of the lists, interested parties should be aware that, consistent with our existing rules, certain types of proprietary information may be entitled to confidential treatment. Fee payers who believe that they qualify should request confidentiality when filing the relevant information. See 47 CFR § 0.459; see also Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Memorandum Opinion and Order on Reconsideration, MD Docket No. 94-19, FCC 95-257, released June 22, 1995, 60 FR 34902 (July 5, 1995). All such confidentiality requests must, of course, be fully supported and meet all applicable legal standards. See 47 CFR § 0.459(b),(c), and § 0.457(2)(i).

7. Finally, we note that we could have adopted some of the above proposals without notice and comment because they constitute procedural changes to our regulatory fee payment collection and verification processes and procedures. See 5 U.S.C. § 553(b)(3)(a). Nevertheless, we are requesting public comment, including comment on alternative processes and procedures, to help assure that our

actions are the most effective available without imposing any undue burden on those subject to the

payment of a regulatory fee.¹

PROCEDURAL MATTERS

A. Ex Parte Rules

8. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed pursuant to the Commission's rules. See 47 CFR §§ 1.1203 and 1.1206.

B. Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act (Public Law No. 96-354, 94 Stat. 1165, 5 U.S.C. § 601 et seq. (1981) (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in the Attachment. Written public comments are requested with respect to the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the FNPRM, but they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Commission shall send a copy of this FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the RFA, 5 U.S.C. §603(a).

C. Paperwork Reduction Act Compliance

Initial Paperwork Reduction Act of 1995 Analysis

10. This FNPRM contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collections contained in this FNPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104-13. Public and agency comments are due at the same time as other comments on this FNPRM. 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.

11. Written comments by the public on the proposed and/or modified information collections are due [60 days after date of publication in the FEDERAL REGISTER]. Written comments must be submitted to the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to

¹ As a separate matter, we are revising FCC Forms 159 and 159-C to provide a certification statement to be signed by an individual owner or officer of the firm subject to the fee payment stating that the fee payment filed is accurate and complete and supported by the firm's internal accounting records.

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.

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

SUPPLEMENTARY INFORMATION:

OMB Approval Number: None

Title: Assessment and Collection of Regulatory Fees for Fiscal Year 1997

Form No.: None

Type of Review: New Collection

Respondents: Business or other for profit; Individuals or households; not for profit institutions

Number of Respondents: To be determined

Estimated Time Per Response: To be determined

Total Annual Burden: To be determined

Needs and Uses: The Commission will require licensees of CMRS to maintain, and make available upon request, documentation concerning the basis for their fee payments. Non-profit entities, exempt from regulatory fee requirements, will be required to submit, on a one-time basis, copies of their IRS determination letters or other documentation of non-profit status. This information is needed to ensure that the Commission is collecting the appropriate regulatory fees, as directed by Congress.

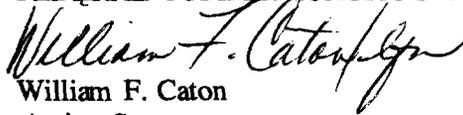
Authority and Further Information

13. Accordingly, IT IS ORDERED that, pursuant to authority in §§ 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i) and (j), 159, and 303(r) and procedures set forth in §§ 1.415(b) and 1.419 of the Commission's Rules, 47 CFR §§ 1.415(6), 1.419, interested parties may file comments on or before [20 days after date of publication in the FEDERAL REGISTER]. All relevant comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments and supporting materials. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments should be sent to the Office of Secretary, Federal Communications Commission, Washington, D.C. 20554. Interested parties who do not wish to formally participate in this proceeding, may file informal comments at the same address. Comments will be available for public inspection during regular business hours, in the FCC Reference Room, Room 239, 1919 M St., N.W. 20554.

14. IT IS FURTHER ORDERED that a copy of this FURTHER NOTICE OF PROPOSED RULEMAKING, including the IRFA herein, will be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act, 5 U.S.C. § 603(a).

15. Further information about this proceeding may be obtained by contacting Martha Contee at (202) 418-0260.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

Attachment**Initial Regulatory Flexibility Analysis**

1. Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared the following Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities of the policies and rules in this Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the FNPRM, and should have a separate and distinct heading designating them as responses to the IRFA. The Commission shall send a copy of this FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the RFA, 5 U.S.C. § 603(a).
2. Need for and Objectives of the Proposed Rules. We are proposing to modify our collection procedures for regulatory fees in order to help assure increased accuracy and timeliness of regulatory fee payments. We seek comment on these proposals.
3. Legal Basis. The proposed action is authorized under § 4(i) and(j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), 159, and 303(r).
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 that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).
5. The proposals in this FNPRM would potentially affect a very broad array of small entities, including small entities described as cable services or systems, common carrier services and related entities, international services, mass media services, and wireless and commercial mobile services. In the companion rulemaking document to this FNPRM -- the Report and Order in this present docket, very recently released -- we have extensively described the small entities that might be affected by this action, and have also described the numbers of such entities. (See "Final Regulatory Flexibility Analysis," Attachment A of Report and Order, MD Docket No. 96-186, FCC 97-215, released June 26, 1997, 62 FR 37408 (July 11, 1997).) We hereby incorporate into this IRFA, by reference, those descriptive sections from the Report and Order.
6. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. In the companion Report and Order to this FNPRM and in the Commission's Rules, we have described the methodology used by affected entities to determine required fee amounts, the procedures for calculating and filing fee payments, the skills necessary to file, and the results of not filing in accordance with the rules. (See Report and Order, Attachment H and § 1.1157 through 1.1167 of the Commission's Rules, 47 CFR §§ 1.1157 through 1.1167.) We hereby incorporate into this IRFA, by reference, those descriptions. In addition, we note that the present proposals, if adopted, would require that licensees of Commercial Mobile Radio Stations (CMRS) maintain and make

available to the FCC within 30 days of request, documentation concerning the basis for their fee payments and that these documents be retained by the payer for three years; would require that non-profit entities exempt from the regulatory fee requirement submit documentation of their non-profit status; and would direct the Commission to publish annually, in the Federal Register, a list of those firms and individuals who paid a fee for the preceding fiscal year and who engaged in the provision of communications for commercial purposes, along with the amount of the fee paid, and the volume or units upon which the fee payments were based. We seek comment on these proposals.

7. Steps Taken to Minimize Any Significant Economic Impact on Small Entities, and Significant Alternatives Considered and Rejected. As described in the paragraph immediately above, the Commission is proposing certain modifications to the collection procedures for regulatory fees in order to help assure increased accuracy and timeliness of regulatory fee payments. Each of the above-described proposals that require compliance would entail some level of economic impact, and this impact would fall on some small entities. We believe, however, that these proposals, if adopted, would help ensure the integrity of the regulatory fees program. We seek comment on any possible alternatives that might lessen the economic impact on small entities while still furthering the goals of this proceeding.

8. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules. We are aware of no rules that may duplicate, overlap, or conflict with the proposed rules. We seek comment on this conclusion.