

Federal Communications Commission

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

2000 DEC -1 P 3:51

In the Matter of)
Adoption of a Mandatory)
FCC Registration Number)

MD Docket No. 00-205

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NOTICE OF PROPOSED RULEMAKING

Adopted: November 29, 2000

Released: December 1, 2000

COMMENT DATE: 30 days from date of publication in the Federal Register
REPLY COMMENT DATE: 45 days from date of publication in the Federal Register

By the Commission:

1. By this Notice, the Commission proposes to amend its rules to require persons and entities doing business with the Commission to obtain a unique identifying number called the FCC Registration Number (FRN) to be obtained, or in some cases assigned, through the Commission Registration System (CORES). It will enable the Commission to better manage the financial systems of the agency and improve compliance with various statutes that govern the financial operations of the Federal government. The FRN requirement will also allow the Commission to improve the efficiency of its own processes to the benefit of the public.

I. BACKGROUND

2. The Commission is required in a variety of contexts to manage and collect substantial sums of money, including annual regulatory fees and application fees¹ and civil monetary penalties.² The Commission also auctions radio and television licenses through competitive bidding and administers the collection of payments for these licenses.³ In addition,

¹ See 47 U.S.C. § 159 and Assessment and Collection of Regulatory Fees for Fiscal Year 2000, MD Docket No. 00-58, FCC 00-240 (rel. July 7, 2000) (regulatory fees); 47 U.S.C. § 158 and Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1107 of the Commission's Rules, 13 FCC Rcd 13614 (1998) (application fees).

² See, e.g., 47 U.S.C. § 503; 47 C.F.R. § 1.80; see also Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines, 12 FCC Rcd 17087 (1997), recon. denied, 15 FCC Rcd 303 (1999).

³ See 47 U.S.C. § 309(j).

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the Commission directs the collection of mandated contributions to the Universal Service Fund (USF) and other statutory programs.⁴

3. In operating these programs, the Commission is subject to a variety of federal statutes designed to ensure that the Government's financial management systems consistently and accurately report assets, liabilities, revenues and expenditures.⁵ In particular, the Debt Collection Improvement Act of 1996 (DCIA) sought to address congressional concerns that debts owed to the Federal government were not being properly collected.⁶ Recently, review by the Commission's Office of Inspector General (OIG) and by the General Accounting Office (GAO) revealed areas in need of improvement in the Commission's collection systems.⁷

4. In the course of reviewing its collection activities, the Commission has already established a Revenue Accounting and Management Information System (RAMIS), an internal revenue management system that supports application and regulatory fee accounting, spectrum auction loan portfolio management, accounting for auction proceeds, accounting for enforcement actions, and other accounts receivable of the Commission. RAMIS replaces various independent financial management systems currently in use by the Commission. When developing RAMIS, it became clear that entities doing business with the Commission were identified in various ways that made unified accounting and revenue management difficult.

5. To address this problem, the Commission decided to assign a unique 10-digit identifying number called the FCC Registration Number (FRN) that will be used when doing business with the FCC. The Commission Registration System (CORES) was chosen as the mechanism to assign the FRN. CORES went on-line July 19, 2000, to permit the public to obtain FRNs on a voluntary basis.⁸ The Commission strongly recommended that the public

⁴ See 47 U.S.C. § 254(d); 47 C.F.R. § 54.706.

⁵ See, e.g., 31 U.S.C. § 3512(b) (establishment and maintenance of systems of accounting and internal controls); 4 C.F.R. § 102.1(a) (requiring agencies to "take aggressive action, on a timely basis, collect all claims of the United States"); 4 C.F.R. § 102.17 (requiring agencies to establish procedures to identify the causes of overpayments, delinquencies, and defaults, and the corrective actions needed).

⁶ Pub. L. No. 104-134, 110 Stat. 1321 (1996), codified at 31 U.S.C. §§ 3701, *et seq.* See United States v. Texas, 507 U.S. 529, 536-37 (1993) (Debt Collection Act was passed "in order to strengthen the Government's hand in collecting its debts").

⁷ Special Review of the Commission's Collection System (OIG undated) (www.fcc.gov/Bureaus/Inspector_General/Reports/rep98-7.txt); Special Review Audit Report of CMRS Regulatory Fees (OIG undated) (www.fcc.gov/Bureaus/Inspector_General/Reports/rep98-8.txt); Final Report on the Audit of the FCC's Implementation of the GPR (OIG Mar. 26, 1999) (www.fcc.gov/Bureaus/Inspector_General/Reports/rep99-1.txt); Report on Audit of the FCC Civil Monetary Penalty Program (OIG Aug. 1, 2000) (www.fcc.gov/Bureaus/Inspector_General/Reports/civilmonetary.txt); FCC Does Not Know if All Required Fees Are Collected, GAO/RCED-99-216 (GAO Aug. 31, 1999).

⁸ See New Commission Registration System (CORES) to be Implemented July 19, *Public Notice*, DA 00-1596 (July 19, 2000), published at 65 Fed. Reg. 45775 (July 25, 2000).

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begin using the FRN with all payments, including on applications, with regulatory fee payments, waiver petitions, auction payments, forfeiture remittances, and other payments and collections. In this proceeding, we propose to require those entities doing business with the Commission obtain an FRN and supply it on certain submissions to the Commission.

II. REQUIRING THE FCC REGISTRATION NUMBER

6. The need for the FRN. We propose to create a new subpart to Part 1 of our rules that will contain the FRN rules proposed herein, and cross-reference to the new subpart where appropriate in our rules. These proposed rules would make the use of the FRN mandatory in certain circumstances so that anyone not yet assigned an FRN or who has not yet obtained one must obtain one. These proposed rules would also address when the FRN will have to be provided with a filing. This will reduce the number of identifiers used by public entities in an effort to simplify their interaction with the Commission.

7. The reports of our own Inspector General and the GAO clearly indicated the need for a reassessment of our recordkeeping of monies collected. The collection of regulatory and application fees, auction payments, auction loan payments, and other monies due to the United States must be processed expeditiously and recorded properly. We tentatively conclude that the FRN will provide us with an improved mechanism for properly recording and tracking payments made to the Commission. The FRN will enable us to maintain the integrity and efficiency of the Commission's collection systems, correct the deficiencies identified in our accounting systems, improve customer service, and increase our efficiency. The FRN will enable us to ensure that fee payers' accounts are properly credited, resulting in fewer letters requesting confirmation of payment and making it easier for us to respond to inquiries. The FRN will enable us to assure that entities that claim to be exempt from paying fees are validly entitled to the exemption. The information entered into the CORES system will also eliminate repetitive collection of data and will enable the Commission by electronic mail to inform the public of refunds and send other informational alerts. The Commission intends to use the information to verify that entities doing business with the Commission have made proper payments, and to mail annual fee schedules and other materials.

8. While the FRN will be used with all FCC licensing and filing systems,⁹ it will not replace call signs, license numbers, certification numbers, or other numbers in authorization of service documents. Moreover, the CORES system will not replace the Commission's licensing or filing databases as a source of information about licensees. The FRN relates to the licensee, not the license, so that modification of a license does not affect the FRN or require the licensee to obtain a new FRN. However, if a license is transferred, the new license holder must have its own separate FRN.

⁹ The Commission's electronic systems include the Cable Operations and Licensing System (COALS); the Electronic Tariff Filing System (ETFS), the International Bureau Electronic Filing Licensing System (IBFS); the Mass Media Bureau's Broadband Licensing System (BLS), the Consolidated Database System (CDBS), and Call Sign Reservation System (CSRS); the Equipment Authorization System (EAS); the Experimental Licensing System (ELS); and the Universal Licensing System (ULS).

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9. Who Must Obtain an FRN? We propose that anyone doing business with the Commission, as that term is defined by the DCIA,¹⁰ must obtain an FRN. Thus, all businesses and individuals that file applications with the Commission – whether feeable or non-feeable – or make any payments of any type to the Commission will be required to obtain an FRN and provide it to the Commission in its filings. We note that this includes entities making contributions to the USF. The requirement applies not only to fee payers, but also to anyone filing an application who would pay a fee except for an exception in our rules or the statute, such as amateur radio operators, not-for-profit entities, and state and local governments.¹¹ CORES registration will help us keep track of entities that claim they are exempt from paying fees. We include non-feeable items to facilitate compliance with the DCIA,¹² which requires that anyone doing business with the federal government provide a taxpayer identifying number (TIN) to the government.¹³ An FRN for these types of entities will also enable us to better respond to fee inquiries from these entities. We also propose to permit counsel and representatives of entities doing business with the Commission to obtain an FRN,¹⁴ but seek comment on this proposal. Finally, in certain instances when we cannot reasonably expect the party to obtain an FRN, discussed below, we propose to assign one.

10. To ease the transition to CORES, we assigned FRNs to entities already in the Universal Licensing System (ULS) TIN Registration database and whose service has been converted to ULS. This procedure assigned separate FRNs to hundreds of thousands of entities.

¹⁰ The DCIA, 31 U.S.C. § 7701(c)(2), states that “a person shall be considered to be doing business with a federal agency if the person is —

- (A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;
- (B) an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;
- (C) a contractor of the agency;
- (D) assessed a fine, fee, royalty or penalty by the agency; and
- (E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.”

¹¹ See 47 C.F.R. §§ 1.1114 and 1.1162.

¹² See 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, 13 FCC Rcd 21027, 21088-89 (1998) (the DCIA does not distinguish between licensees and applicants who pay fees and those who do not), on reconsideration, 14 FCC Rcd 11476 (1999) (ULS Reconsideration).

¹³ See 31 U.S.C. § 7701(c)(1). For businesses, the TIN is generally the Employer Identification Number (EIN). For individuals, the TIN is the Social Security Number (SSN).

¹⁴ The circumstances in which these persons might have to provide the FRN are discussed *infra*.

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In addition, the spectrum auction loan portfolio currently uses a Customer Information File (CIF) number to collect payment data from the debtors. Each bill to the debtor refers to this number and we already request that it be included in the payment information to assure proper credit. We will be converting from this number to the FRN. Auction licenses issued through ULS will probably already have a FRN assigned during the data conversion. Those entities that do not currently have an FRN based on these conversions can obtain one from our website,¹⁵ by mailing FCC Form 160 to the Commission, or by sending Form 160 along with an application or payment.

11. Some foreign entities are already registered in the ULS, and will be assigned an FRN as described above.¹⁶ We propose that those foreign entities that have not obtained TINs will be assigned an FRN by the CORES administrator.

12. An unusual category of fees is fees collected under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Our rules generally require that a FOIA requestor represent its willingness to pay applicable FOIA fees, and when the fee amount is determined a bill is issued.¹⁷ We receive FOIA requests from businesses and individuals, some of which regularly interact with the Commission and others that do not. We seek comment on whether FOIA requestors which have an FRN should have to provide it to the Commission when making a FOIA request, or for other FOIA requestors, whether an FRN should be assigned by the Commission upon issuance of a bill for the applicable FOIA fee. In a similar vein, we seek comment on whether due diligence requestors, who must pay research and copying fees,¹⁸ should have to acquire an FRN and provide it to the Commission.

13. Another unusual category is entities against which a forfeiture has been assessed.¹⁹ Often these entities or individuals will have an FRN by virtue of their prior dealings with the Commission, but there may be many instances when an individual or business has not previously obtained an FRN. When we issue a notice of apparent liability (NAL) or other forfeiture-related order, we will attempt to discern the party's FRN. If the party does not have one, we will assign one and notify the party. Parties making forfeiture payments should submit the FRN of the party to whom the forfeiture was issued, regardless of whether the forfeiture is being paid directly by the subject or by counsel on behalf of a client. Similarly, parties to consent decrees involving voluntary contributions to the United States Treasury should also submit the FRN with their payments.

¹⁵ See <www.fcc.gov> at the CORES link.

¹⁶ See ULS Reconsideration, 14 FCC Rcd at 11489 n.62.

¹⁷ See 47 C.F.R. §§ 0.461(b)(2) and 0.465(c)(2) (FOIA requestor must specify fees it is willing to pay); 0.467(g) (fee to be paid to the Financial Management Division, Office of Managing Director); and 0.469 (Commission may require advance payments of FOIA fees).

¹⁸ See 47 C.F.R. §§ 0.460 and 0.467.

¹⁹ See 47 U.S.C. §§ 501, et seq.

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14. Multiple FRN issues. When we announced CORES, and held a forum discussing the implementation of CORES, we indicated that the system was designed to permit each entity with a separate TIN to obtain a separate FRN.²⁰ We also indicated that FRNs could be obtained for as many separate business operations as an entity may require in its judgment, including a separate registration number for subsidiaries or sub-agencies, customers, or clients, even if these entities have the same TIN. In addition, an entity that has one TIN but many subdivisions that hold licenses or authorizations from the Commission may wish to have different FRNs for each subdivision. We include these proposals in this Notice.

15. We do not wish to create a situation in which one entity has obtained many FRNs, and uses a different FRN for different or even the same transaction. We are concerned that if we permit representatives or counsel to obtain and provide an FRN, we will still not know on whose behalf a payment is being made. Separate FRNs for related entities might complicate any future attempts to determine whether all related entities have paid all debts owed to the Commission. Limitations in CORES, RAMIS, and the Commission's filings systems may also require a different approach. We therefore seek comments on whether we should limit the number of FRNs that an entity may obtain, and whether we should penalize entities that abuse CORES by obtaining multiple FRNs. We also seek comment on whether we should include in our rules requirements that would address these issues, or adopt a new form that would enable us to identify and link all related entities.

16. What is included in CORES? The information collected by CORES includes entity name, entity type, TIN, contact address, and e-mail address. CORES is a system of records that contains identifying information about individuals and is subject to the Privacy Act.²¹ The information in CORES is for Commission use only and will not be published or distributed, although CORES has a query search that allows the general public to find the FRN, name, date and time of registration. CORES information may be shared with other governmental organizations as authorized under the DCIA and for other routine uses as described in the Privacy Act notice. CORES is designed so that TINs will not be available to the public. Accordingly, members of the general public will not be able to access CORES using TINs. Only a small number of Commission employees will have access to TIN information in conjunction with their work.

17. We will require that information provided to CORES must be kept current by the entities that secure the FRN. Changes and updates may be made to the password, name, address, contact representative name, contact address, contact telephone number and contact e-mail address on-line by visiting the FCC's web page or manually by filing FCC Form 161 (CORES Update/Change Form). The various licensing systems in use at the Commission will continue to be the source for a licensee's official mailing address on a specific license.

²⁰ See footnote 8, *supra*.

²¹ 5 U.S.C. § 552a; see Privacy Act System of Records, 65 Fed. Reg. 18103 (Apr. 6, 2000) (CORES); see also Privacy Act System of Records, 65 Fed. Reg. 18105 (Apr. 6, 2000) (RAMIS).

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18. When must the FRN be including in a filing with the Commission? We propose that FRNs must be provided with any filings requiring payment of a fee. FCC Form 159, used in both electronic and paper filings requiring fees, has been modified to accommodate this requirement. In addition, we propose that any filing not requiring a fee but requiring a TIN under the DCIA must include an FRN. FCC Form 162 is the appropriate vehicle for providing the FRN in these instances. We also seek comment on whether we should attempt to develop a comprehensive list of items requiring the FRN, but caution that this may difficult to do.

19. We invite the public to submit in comments any questions concerning specific circumstances in which the FRN must be provided. However, we note that certain filers, such as commenters in rulemakings and members of the public and others petitioning to deny or objecting to the issuance of a Commission authorization, need not obtain or submit an FRN, even if they have one, in order to participate in the Commission proceeding. Letters, reports that do not require payment of a fee, or electronic mail communications to the Commission do not generally require an FRN. Persons searching databases such as ULS to verify information will not require the FRN to search the database. Also, pleadings will not require an FRN so long as no fee is required.

20. We propose that counsel or other representatives that makes fee payments on behalf of one or more clients should provide their FRN and the FRN of the client or clients with the payments. Counsel and representatives should take care to ensure that when making payments on behalf of clients, they identify the client and the amount being paid, ensure that the client's FRN is included, and ensure that the FRN provided is the proper one for their client. We seek comment on this proposal. We also propose to amend section 1.221(f) of our Rules, 47 C.F.R. § 1.221(f), to require that when a written appearance that must be accompanied by a fee payment is required, counsel must provide an FRN.

21. In feeable complaint proceedings, we tentatively conclude that either the complainant (or in a multiple party complaint, the lead complainant) and the counsel on behalf of the complainants should submit their FRNs. We seek comment on whether all complainants in feeable complaint proceedings should provide their FRN.

22. How will the FRN be reported? The FRN will be included primarily on the FCC Form 159 that is required whenever a fee is paid. In addition, all FCC application forms will be amended either as they come up for renewal under the Paperwork Reduction Act (PRA) or if other changes are made to the paper forms to include a field for the FRN. Applications and electronic filings requiring an FRN have been or will be amended to include a field for the FRN. For non-feeable items requiring an FRN, or if there is no application form but the FRN is required, the FRN can be provided on FCC Form 162.

23. Failure to provide the FRN. Except as described below, we propose to reject filings that require an FRN but do not include it. We have such a standard currently for application fees,²² regulatory fees,²³ and applications generally.²⁴ We tentatively conclude a

²² 47 C.F.R. §§ 1.1109, 1.1112, 1.1116.

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similar standard is required for the FRN. As discussed above, the FRN will be required on the FCC Form 159 filed with fee payments, on all application forms as amended to include the FRN, or on FCC Form 162 to accompany forms that have not yet been amended to require the FRN or applications that do not have specific forms. Our rules already address the completeness of applications.²⁵ Failure to include the FRN would render the application incomplete. We propose that when an application is filed without an FRN, we will not accept the application. The application may be re-submitted with the FRN, but we propose that the date the re-submitted application is received by the Commission or its agent will be considered the date of filing. If an application is resubmitted with the FRN after the specified deadline for filing, it will be considered late-filed and subject to appropriate action. If an application is accepted and it is later discovered that it lacks the FRN, failure to include the FRN will be deemed grounds for dismissal. Application fees may be retained as we do in other circumstances in which applications are dismissed as defective.²⁶ Because application processes vary among our Bureaus, we propose to include in Part 1 Subpart W a generally applicable rule concerning the handling of filings that omit the FRN, and appropriate cross-references to this new subpart. We seek comment on whether this approach is sufficient, or whether we need to amend individual rules governing specific applications. Such comments should specifically identify which rules are believed to require amendment. We also seek comment on how to handle any auction up-front payments, down payments, or auction loan payments made without an FRN, but note that auction registration will require an FRN. We also seek comment on whether the failure of counsel or a representative to provide his or her FRN should affect the status of an application or filing.

24. The next filing of regulatory fees will occur in September 2001, and we will consider in the next rulemaking proceeding to establish regulatory fees how to handle circumstances in which the regulatory fee is paid but the FRN is not provided.

25. We seek comment on what should happen if a complainant in a feeable complaint proceeding fails to submit the FRN. We tentatively conclude that in such cases, failure to submit the FRN may result in dismissal. However, we will permit Commission staff the discretion to allow a party to correct this omission within a reasonable period of time, as determined by the staff. In the case of forfeiture proceedings and consent decrees involving voluntary contributions, we intend to retain the forfeiture payments in cases where the subject fails to provide its obtained or assigned FRN.

26. Tariff publications present unique issues. Some are filed electronically, some on paper, and still others are filed on diskette with an accompanying paper cover letter or other

²³ 47 C.F.R. §§ 1.1157, 1.1164.

²⁴ 47 C.F.R. § 1.764.

²⁵ E.g., 47 C.F.R. §§ 5.65(a); 25.112(a)(1); 25.527; 73.3564(a)(1); and 78.20(a).

²⁶ Compare 47 C.F.R. § 1.1113 with 47 C.F.R. § 1.1108.

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transmittal.²⁷ Regardless of how the publication is filed, the payment of the applicable fee is made separately, either electronically or by mail. In addition, there are varying notice periods for tariff publications to become effective, ranging from a maximum of 120 days to the same day.²⁸ There are therefore different processing and fee payment arrangements.²⁹ Finally, there are limits on what actions we may take once a tariff publication has become effective.³⁰ We propose the following actions regarding the FRN and tariff publications. We propose to modify the ETFS so that a carrier authorized to use that system will be required to provide not only its regular password and login but also its assigned FRN and FRN password to gain access. Also, both the paper and electronic versions of the Form 159, which accompany fee payments, have been amended to include a field for the FRN. In addition, the FRN will be required on the cover letter or other transmittal accompanying each tariff publication. We seek comment on how we should treat tariff publications that omit a valid FRN. For example, should such publications be rejected, declared unlawful, or be subject to other action.

27. Authority. Section 4(i) of the Communications Act, 47 U.S.C. § 154(i), authorizes the Commission “to perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions.”³¹ Pursuant to section 8 and 9 of the Communications Act, as amended, we have broad authority to “prescribe appropriate rules and regulations” in the assessment and collection of charges and fees.³² See also 47 U.S.C. § 309(j) (Commission is authorized to prescribe rules to implement competitive bidding for spectrum); 47 U.S.C. § 254(d) (carrier contributions to USF). We believe these provisions of the Communications Act authorize us to require entities interacting with the Commission to obtain and provide the FRN to us.

III. PROCEDURAL MATTERS AND ORDERING CLAUSES

28. Paperwork Reduction Act. We have obtained Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (PRA) for the information collections

²⁷ See 47 C.F.R. § 61.13, *et seq.* (tariff publications filed electronically through ETFS); 47 C.F.R. §§ 61.1, *et seq.* (publications filed on paper or diskette).

²⁸ See 47 U.S.C. §§ 203(b) (maximum 120 days notice), 204(a)(3) (seven or fifteen days’ notice for local exchange carriers), and 226(h)(1)(A) (“changes in [informational tariff] rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect”); 47 C.F.R. § 61.23(c) (one day’s notice for non-dominant carriers).

²⁹ See generally 47 C.F.R. §§ 61.13 *et seq.*, 61.18, *et seq.*, 61.28, *et seq.*, and 61.31, *et seq.*

³⁰ See, e.g., 47 U.S.C §§ 204(a) (suspension and investigation of tariff publications) and 205(a) (action on unlawful tariff publications).

³¹ See New England Tel. & Tel. Co. v. FCC, 826 F.2d 1101, 1108 (D.C. Cir. 1987) (section 4(i) serves as the Communications Act’s “necessary and proper clause”); see also 47 U.S.C. § 303(r) (authority to prescribe rules and regulations to implement the Communications Act).

³² 47 U.S.C. §§ 158(f) and 159(f)(1).

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related to CORES and the FRN. FCC Form 159 has been amended to include the FRN under OMB Control Number 3060-0589. FCC Form 160, the CORES Registration Form, received OMB approval under OMB Control Number 3060-0917. FCC Form 161, the CORES Update Form, received OMB approval under OMB Control Number 3060-0918. FCC Form 162, the CORES Certification Form, received OMB approval under OMB Control Number 3060-0919. Providing the FRN for non-feeable items, and a blanket request to update any other FCC forms to include the FRN, was obtained from OMB in OMB Control Number 3060-0728. As FCC forms are modified, the FRN requirement will be included when we seek OMB approval for the modifications. We may, as a result of comments received in this proceeding and our further consideration of these matters, adopt reporting or recordkeeping requirements subject to the PRA. We will seek OMB approval for such information collections at that time.

29. Regulatory Flexibility Act. We hereby certify, and tentatively conclude we will be able to so certify if we adopt these rules in final form, that the rules proposed in this Notice will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. § 605(b). The rules require certain entities or individuals to obtain an FRN. A substantial number of entities doing business with the Commission automatically received their FRN by virtue of their prior registration in the ULS. We have proposed to make it extremely simple, and virtually cost-free, for anyone else to obtain an FRN. Nor do we believe the proposed rule amendments establishing penalties for failure to provide the FRN will have a significant economic impact on a substantial number of small entities. Our rules already generally provide for penalties when applications are not substantially complete. The proposed rule amendments simply conform our rules to the new FRN requirement. Therefore, the rules will not have a significant economic impact. We invite comments on this tentative conclusion.

30. Ex Parte Matters. 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. 47 C.F.R. 1.1206(b), as revised. Ex parte presentations are permissible if disclosed in accordance with Commission 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 C.F.R. 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

31. Comment Filing. Interested parties may file comments on or before [30 days from date of publication in the Federal Register] and reply comments on or before [45 days from date of publication in the Federal Register]. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.³³ Comments filed through ECFS may be sent as an electronic file via the Internet to <www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. When completing the

³³ See Electronic Filing of Documents in Rulemaking Proceedings, 13 FCC Rcd 11322 (1998).

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transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. Parties should reference MD Docket No. 00-205 in their comments.

32. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. Comments and reply comments will be available for public inspection during regular business hours in the Reference Information Center (Room CY-A257) of the Federal Communications Commission, The Portals, 445 Twelfth Street, S.W., Washington, D.C. 20554. Copies of comments and reply comments will also be available through the Commission's duplicating contractor, International Transcription Service, Inc. (ITS, Inc.), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800, TTY (202) 293-8810.

33. Further Information. Additional information concerning CORES is found in the Frequently Asked Question portion of the CORES homepage on our Internet site, located at www.fcc.gov and by clicking on the CORES link. For further information concerning registering for an FRN, contact the CORES Administrator toll-free at 1-877-480-3201, or by e-mail at CORES@fcc.gov. For further information concerning legal aspects of this Notice, contact Laurence H. Schecker, Office of General Counsel, Administrative Law Division, 1-202-418-1720, or by e-mail at lschecke@fcc.gov.

34. Accordingly, IT IS ORDERED THAT, pursuant to Sections 4(i), 8(f), 9(f)(1), 254(d), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 158(f), 159(f)(1), 254(d), 303(r), and 309(j), and 31 U.S.C. § 7701(c)(1), this Notice of Proposed Rulemaking is hereby ADOPTED.

35. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary

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APPENDIX

Proposed Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 1 – PRACTICE AND PROCEDURE

1. Section 1.42 is proposed to be amended by adding a new subsection (c) as follows:

(c) Rules governing the FCC Registration Number (FRN) are contained in Subpart W of this part.

2. Section 1.77 is proposed to be amended by adding as a second sentence to the introductory paragraph the following sentence:

Applicants should also refer to the Commission rules regarding the payment of statutory charges (subpart G of this part) and the use of the FCC Registration Number (FRN) (see subpart W of this part).

3. Section 1.221(f) is proposed to be amended by renumbering subsection (f) as subsection (f)(1), and adding a new subsection (f)(2) following the note to subsection (f)(1) as follows:

(2) When a fee is required to accompany a written appearance as described in subsection (f)(1), the written appearance must also contain the appropriate FCC Registration Number (FRN) in conformance with subpart W of Part 1 of these rules. The presiding judge may dismiss a written appearance that does not contain the FRN. The presiding judge may dismiss the applicant with prejudice for failure to prosecute if the written appearance is not resubmitted with the FRN within the original 20-day filing period.

4. Section 1.721(a) is proposed to be amended by deleting the word “and” at the end of subsection 1.721(a)(13), adding the word “and” at the end of subsection 1.721(a)(14), and adding a new subsection (15) as follows:

(15) A FCC Registration Number is required under Part 1, Subpart W. Submission of a complaint without the appropriate FCC Registration Number as required by Part 1, subpart W may result in dismissal of the complaint. The staff may, at its discretion, require the complainant to correct the omission of the FCC Registration Number within a reasonable period of time as specified by the Commission staff.

5. Section 1.934(d) is proposed to be amended by deleting the word “or” at the end of subsection 1.934(d)(2), adding the word “or” at the end of subsection 1.934(d)(3), and adding a new subsection (4) as follows.

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(4) The FCC Registration Number (FRN) has not been provided.

6. A new subpart W is proposed as follows:

Subpart W – FCC Registration Number**§ 1.8001 FCC Registration Number (FRN)**

- (a) The FCC Registration Number (FRN) is a 10-digit unique identifying number that is assigned to entities doing business with the Commission.
- (b) The FRN is obtained through the Commission Registration System (CORES) over the Internet at the CORES link at <www.fcc.gov> or by filing FCC Form 160.

§ 1.8002 Obtaining an FRN

- (a) The FRN must be obtained by anyone doing business with the government as defined in 31 U.S.C. § 7701(c)(2), including but not limited to
 - (1) anyone required to pay statutory charges under subpart G of this part;
 - (2) anyone applying for a license who is exempt from paying statutory charges under subpart G of this part, see subsections 1.1114 and 1.1162;
 - (3) anyone participating in a spectrum auction;
 - (4) anyone holding or obtaining a spectrum auction license or loan; and
 - (5) anyone paying statutory charges on behalf of another entity or person.
- (b)
 - (1) When registering for an FRN through CORES, an entity's name, entity type, contact name and title, address, and taxpayer identifying number (TIN) must be provided. For individuals, the TIN is the social security number (SSN).
 - (2) Information provided when registering for an FRN must be kept current by registrants either by updating the information on-line at the CORES link at <www.fcc.gov> or by filing FCC Form 161 (CORES Update/Change Form).
- (c) An FRN may be obtained separately by each subsidiary of a business, at the discretion of the business entity. Each subsidiary with a different TIN must obtain a separate FRN.
- (d) An FRN may be assigned by the Commission, which will promptly notify the entity of the assigned FRN.

§ 1.8003 Providing the FRN in Commission Filings

The FRN must be provided with any filings requiring the payment of statutory charges under subpart G of this Part, anyone applying for a license who is exempt from paying statutory

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charges under subpart G of this Part, anyone participating in a spectrum auction, making up-front payments or deposits in a spectrum auction, anyone making a payment on an auction loan, anyone making a contribution to the Universal Service Fund, and anyone paying a forfeiture.

§ 1.8004 Penalty for Failure to Provide the FRN

- (a) Electronic filing systems for filings that require the FRN will not accept a filing without the appropriate FRN. If a party seeks to make an electronic filing and does not have an FRN, the system will direct the party to the CORES website to obtain an FRN.
- (b) Except as provided in other Commission rules, filings subject to the FRN requirement and submitted without an FRN may be returned or dismissed. A missing FRN may be corrected and the filing resubmitted. Except in feeable complaint proceedings, for purposes of determining whether the filing is timely, the date the resubmitted application is received by the Commission or its agent with the FRN will be considered the date of filing.

Part 21 – Domestic Public Fixed Radio Services

Part 21 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

7. Section 21.20(a) is amended by deleting “or” after the semicolon following subparagraph (9), inserting “or” after subparagraph (10), and inserting a new subparagraph (11) as follows:

(11) The application does not contain the FCC Registration Number (FRN) as required under Subpart W of Part 1 of this Title.

PART 61 -- Tariffs

Part 61 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

8. Section 61.1(b) is proposed to be revised to read as follows:

- (b) Tariff publications filed with the Commission must conform to the rules in this part and with Commission rules regarding the payment of statutory charges (see subpart G of Part 1 of this Title) and the use of FCC Registration Numbers (FRNs) (see subpart W of Part 1 of this Title). Failure to comply with any provisions of these rules may be grounds for rejection of the non-complying publication, a determination that it is unlawful or other action.

9. Section 61.15(a) is proposed to be amended by adding a new subsection (4) as follows:

(4) Include the FCC Registration Number (FRN) of the carrier on whose behalf the cover letter is submitted. See subpart W of Part 1 of this Title.

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10. Section 61.33(a) is proposed to be amended by deleting the word “and” at the end of subsection (3), adding the word “and” at the end of subsection (4), and adding a new subsection (5) as follows:

(5) Include the FCC Registration Number (FRN) of the carrier on whose behalf the letter is submitted. See subpart W of Part 1 of this Title.

PART 73 – Radio Broadcast Services

Part 73 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

9. Section 73.1010(a) is proposed to be amended by adding a new subsection (10) as follows:

(10) Subpart W, “FCC Registration Number”. (§§ 1.8001 – 1.8005.)

PART 74 – Experimental Radio, Auxiliary, Special Broadcast and Other Program Distributional Services

Part 74 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

10. Section 74.5(a) is proposed to be amended by adding a new subsection (7) as follows:

(7) Subpart W, “FCC Registration Number”. (§§ 1.8001 – 1.8005.)

PART 76 – Multichannel Video and Cable Television Service

Part 76 of Title 47 of the Code of Federal regulations is proposed to be amended as follows:

11. Section 76.1610 is proposed to be amended by adding a new subsection (f) as follows:

(e) The operator’s FCC Registration Number (FRN) as required under subpart W of Part 1 of this Title.