

ALERT

FCC Proposes to Eliminate "Special Use" FRNs for Individuals Listed in Ownership

January 7, 2013

On January 3, 2013, the Federal Communications Commission (FCC or Commission) released a Sixth Further Notice of Proposed Rulemaking (FNPRM) seeking comment on its proposal to eliminate the ability of individuals listed as attributable on FCC Form 323 Ownership Reports (Form 323) to utilize "Special Use" FCC Registration Numbers (FRNs) as an alternative to obtaining an FRN generated by the Commission's Registration System (CORES). FCC rules require filers to provide an FRN for all individuals and entities listed on Form 323. Whereas unique identification, typically an individual's social security number (SSN), is necessary to generate a CORES FRN, the Special Use FRN is generated without the need for such information.

As part of its 2009 effort to revise Form 323, the Commission required each filer to identify the CORES FRN of its attributable officers, directors and shareholders. Each of these individuals or entities was required to provide unique identification to the FCC in order to obtain an FRN. The Commission, however, acknowledged that filers would be unable to obtain FRNs for all individuals holding attributable interests due to "concerns about privacy, security, and identify theft" and allowed the use of Special Use FRNs.

Under the Commission's proposal in the FNPRM, individuals would no longer be able to use Special Use FRNs and would be required to obtain and provide a CORES FRN. In addition, should the FCC expand the biennial ownership reporting requirement to include non-attributable interests (because of the single majority shareholder exemption or the exemption for interests held in eligible entities pursuant to the higher EDP threshold), the FNPRM proposes that these interest holders also be required to obtain and provide CORES FRNs.

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The FNPRM tentatively concludes that a CORES FRN's "unique identification is essential to providing the kind of searchable and manipulable database needed to support accurate and reliable studies of ownership trends." The FCC seeks comment on the costs and benefits of eliminating Special Use FRNs, including any privacy concerns the CORES FRN requirement would raise.

The FNPRM also seeks comment on whether to allow the use of Special Use FRNS in instances where "after reasonable and good faith efforts," the filer is "unable to obtain a CORES FRN from an individual with reportable interests." The Commission notes that it could use its enforcement authority to impose forfeitures on individuals who refuse to obtain a CORES FRN.

In addition, the FNPRM seeks comment on:

- requiring non-commercial broadcast stations to provide CORES FRNS for all entities and individuals reported on Form 323-E ownership reports;
- explicitly clarifying in the FCC rules that any individual with reportable interests must obtain an FRN;
- moving the due date for biennial ownership reports from November 1 to December 1; and
- NAB and MMTC proposals to streamline Form 323.

Comments and reply comments are due 30 and 45 days, respectively, after publication of the FNPRM in the Federal Register.