

Statutory Authority

The Copyright Office initiates this proceeding under its authority to establish regulations for the administration of its functions and duties under title 17, 17 U.S.C. 702. The Office exercises its authority under section 702 when it is necessary "to interpret the statute in accordance with Congress' intentions and framework and, where Congress is silent, to provide reasonable and permissible interpretations of the statute." 57 FR 3284, 3292 (January 29, 1992); *see also* 63 FR 3685, 3686 (January 26, 1998) (invoking section 702 authority to determine whether a local over-the-air broadcast signal may be retransmitted into the local market area under the provisions of the section 119 statutory license).

List of Subjects in 37 CFR Part 201

Copyright.

In consideration of the foregoing, it is proposed that part 201 of 37 CFR be amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.35(b)(2) is revised to read as follows:

§ 201.35 Initial Notice of Digital Transmission of Sound Recordings under Statutory License.

* * * * *

(b) * * *

(1) * * *

(2) A *Service* is an entity engaged in the digital transmission of sound recordings, pursuant to section 114(f) of title 17 of the United States Code, including, but not limited to, any entity that transmits an AM/FM broadcast signal over a digital communications network such as the Internet, regardless of whether the transmission is made by the broadcaster that originates the AM/FM signal or by a third party, and provided that such transmission meets the applicable requirements of the statutory license set forth in 17 U.S.C. 114(d)(2).

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Dated: March 10, 2000.

David O. Carson,

General Counsel.

[FR Doc. 00-6419 Filed 3-15-00; 8:45 am]

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POSTAL SERVICE**39 CFR Part 913****Procedures for the Issuance of Administrative Subpoenas Under 39 U.S.C. 3016**

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to establish procedures for the issuance of administrative subpoenas in investigations of false representations and lotteries under 39 U.S.C. 3005(a). These subpoenas will require the production of records which contain evidence considered relevant or material in such investigations.

DATES: Comments must be received on or before April 17, 2000.

ADDRESSES: Written comments should be mailed to Civil Practice Section, U.S. Postal Service Law Department, 475 L'Enfant Plaza, SW, Washington, DC 20260-1135. Copies of all written comments will be available for inspection and photocopying between 8:15 a.m. and 4:45 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Elizabeth P. Martin, (202) 268-3022.

SUPPLEMENTARY INFORMATION: The Deceptive Mail Prevention and Enforcement Act, Pub. L. No. 106-168, 113 Stat. 1806, enacted on December 12, 1999, generally provides for the amendment of chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, and facsimile checks as well as amending provisions relating to administrative procedures and orders and adding civil penalties relating to such matters.

The Deceptive Mail Prevention and Enforcement Act enacted new 39 U.S.C. 3016 to grant the Postmaster General authority to issue administrative subpoenas requiring the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material in any investigation conducted under 39 U.S.C. 3005(a), dealing with false representations and lotteries. The Act also authorizes new administrative civil penalties.

The Postal Service is proposing to add a new Part 913 to title 39 of the Code of Federal Regulations to establish the procedures to be used for the issuance of the administrative subpoenas authorized under 39 U.S.C. 3016. The proposed rules set forth the conditions under which subpoenas may be issued,

the methods of service of subpoenas, the means by which subpoenas may be enforced, and the restrictions on the disclosure of subpoenaed information.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (39 U.S.C. 410(a)), the Postal Service invites comments on the proposed new Part 913 of title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 913

Administrative practice and procedure, False representations, Lotteries.

For the reasons set out in the preamble, the Postal Service proposes to add Part 913 to title 39 of the Code of Federal Regulations as set forth below:

PART 913—PROCEDURES FOR THE ISSUANCE OF ADMINISTRATIVE SUBPOENAS UNDER 39 U.S.C. 3016

Sec.

913.1 Subpoena authority.

913.2 Service.

913.3 Enforcement.

913.4 Disclosure.

Authority: 39 U.S.C. 204, 401, 404, 3005, 3016.

§ 913.1 Subpoena authority.

(a) *General.* The General Counsel is responsible for the issuance of subpoenas in investigations conducted under 39 U.S.C. 3005(a), with authority to delegate that function to a Deputy General Counsel.

(b) *Production of records.* A subpoena issued by the General Counsel may require the production of any records (including computer records, books, papers, documents, and other tangible things which constitute or contain evidence) which the General Counsel considers relevant or material to an investigation.

(c) *Requests for subpoenas.* (1) A request for a subpoena shall be submitted to the Office of the General Counsel by a Postal Inspector, Inspector Attorney, or other individual specifically authorized by the Postal Inspection Service to submit such a request, after appropriate review by an Inspector In Charge or that person's designee.

(2) A request for a subpoena shall state the specific case, with an individual or entity identified as the subject, in which the subpoena is requested.

(3) A request for a subpoena shall contain a description of the records requested, and shall state how they are relevant or material to the investigation.

(4) The General Counsel, in his or her discretion, may require the requesting

individual to provide additional information, and honor requests to amend or supplement a request for a subpoena.

(d) *Form and issuance.* Every subpoena shall cite 39 U.S.C. 3016 as the authority under which it is issued, and shall command each person to whom it is directed to produce specified records at a time and place therein specified. The General Counsel shall sign the subpoena and enter the name of the individual or entity to whom it is directed.

§ 913.2 Service.

(a) *Service within the United States.* A subpoena issued under this section may be served by a person designated under 18 U.S.C. 3061 at any place within the territorial jurisdiction of any court of the United States.

(b) *Foreign service.* Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure describe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

(c) *Service on business persons.* Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

(1) Delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(2) Delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

(3) Depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(d) *Service on natural persons.* Service of any subpoena may be made upon any natural person by—

(1) Delivering a duly executed copy to the person to be served; or

(2) Depositing such copy in the United States mails, by registered or certified mail, return receipt requested,

duly addressed to such person at his residence or principal office or place of business.

(e) *Verified return.* A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

§ 913.3 Enforcement.

(a) *In general.* Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the General Counsel may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business (or in the case of a person outside the territorial jurisdiction of any district court, the district court for the District of Columbia), and serve upon such person a petition for an order of such court for the enforcement of this part.

(b) *Jurisdiction.* Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under 28 U.S.C. 1291. Any disobedience of any final order entered under this section by any court may be punished as contempt.

§ 913.4 Disclosure.

Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under 5 U.S.C. 552.

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 00-6092 Filed 3-15-00; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 26, and 27

[WT Docket No. 00-32; FCC 00-63]

Transfer of 4.9 GHz Band From Federal Government Use

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to allocate and establish licensing and service rules for the 4940-4990 MHz band that has recently been transferred from Federal Government to private sector use as substitute spectrum for the 4635-4685 MHz band reclaimed for Federal Government use. This document also grants in part a Petition for Rulemaking filed by Global Frontiers, Inc. (Global) to revise, among other requests, the Commission's rules relating to this band. The action taken in this document is necessary to comply with Congressional mandate to transfer spectrum from the Federal government to the private sector, to permit and encourage the introduction of new services and the enhancement of existing services.

DATES: Submit comments on or before April 26, 2000; submit reply comments on or before May 17, 2000. Written comments by the public on the proposed information collections are due April 26, 2000. Written comments must be submitted by the Office Management and Budget (OMB) on the proposed information collections on or before May 15, 2000.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 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 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Ed Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to Edward.Springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Elias Johnson, 202-418-1310. For additional information concerning the information collections contained in this document, contact Judy Boley at 202-418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making (NPRM) in WT Docket No. 00-32, FCC 00-63, adopted February 23, 2000, and released February 29, 2000. The complete text of the NPRM and Initial Regulatory Flexibility Analysis is available on the Commission's Internet site, at www.fcc.gov. It is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level,