



PUBLIC NOTICE

Federal Communications Commission
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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU PROVIDES INFORMATION ON IMPLEMENTATION OF VOLUNTARY ELECTRONIC FILING OF CALEA SYSTEM SECURITY AND INTEGRITY PLANS AND SEEKS COMMENT ON MANDATORY ELECTRONIC FILING

PS Docket No. 22-217

Comments Due: 30 Days After Publication in the Federal Register
Reply Comments Due: 45 Days After Publication in the Federal Register

Consistent with the Commission's broad goals of increasing efficiency and modernizing the agency's processes in the digital age¹ the Public Safety and Homeland Security Bureau (the Bureau) provides initial information in this *Public Notice* about the upcoming launch of the Communications Assistance for Law Enforcement Act (CALEA) Electronic Filing System (CEFS). The CEFS will allow covered entities to file their System Security and Integrity Policies and Procedures (SSI Plans) confidentially and securely online, eliminating the need for burdensome and costly paper filing.² The Bureau will release a Public Notice later this year announcing the date that covered entities may begin electronic SSI Plan filing via CEFS. Until then, members of the public with FCC Registration Numbers (FRNs) and FCC User Registrations may log in and view the CEFS filing screen for informational purposes, but electronic filing of SSI Plans in CEFS will not be enabled. During the comment period, filers can access CEFS here: <https://www.fcc.gov/cefs>. Once CEFS is activated for electronic filing, covered entities may file their SSI Plans electronically on a voluntary basis.

We further propose, herein, to make electronic filing mandatory six months after CEFS is activated. We request comment on this proposal.

By this Public Notice, the Bureau opens PS Docket No. 22-217, captioned "Communications Assistance for Law Enforcement Act Electronic Filing System (CEFS)" for filing of comments on mandatory electronic filing and other administrative issues associated with improving the filing process for CALEA.

Background. Section 105 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. § 1004, and section 229(b) of the Communications Act, 47 U.S.C. § 229(b), require all telecommunications carriers to file SSI Plans with the Federal Communications Commission

¹ *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, Report and Order, 26 FCC Red 1594, 1594-95, para. 1 (2011).

² This change in filing procedures is made pursuant to Section 1.49(f)(3) of the Commission's Rules. Under Section 1.49(f)(3) of the Commission's rules, "[t]o further greater reliance on electronic filing wherever possible, the Bureaus and Offices, in coordination with the Managing Director, may provide to the public capabilities for electronic filing of additional types of pleadings notwithstanding any provisions of this chapter that may otherwise be construed as requiring such filings to be submitted on paper." See also 47 CFR 1.49(f)(3).

(Commission).³ The Commission first specified the requirements for telecommunications carriers' SSI Plans in 1999.⁴ In 2006, the Commission expanded CALEA's coverage to require facilities-based broadband Internet access providers and interconnected Voice over Internet Protocol (VoIP) service providers to also file SSI Plans.⁵ Pursuant to section 1.20005 of the Commission's rules,⁶ all providers subject to CALEA must file their SSI Plans prior to commencing service, and must re-file a complete updated SSI Plan within 90 days following any changes to information contained in a previously-filed SSI Plan.⁷ All SSI Plans must contain all information listed under sections 1.20003 and 1.20004 of the Commission's rules.⁸ Under our current filing procedures, SSI Plans must be filed by paper to the Commission by mail or courier.⁹

CEFS. CEFS will be a secure, confidential electronic filing system for entities to submit their SSI Plans without jeopardizing the sensitivity of these records and will lessen paperwork burdens on SSI Plan filers. CEFS will also encourage timely filings of new SSI Plans and updated SSI Plans and should minimize errors leading to insufficient filings that require re-submission. CEFS is built on a platform that is integrated with the Commission Registration System (CORES) to reduce the need for filers to re-enter basic information that CORES users have already provided to the Commission. CEFS is also built to be scalable and forward-looking. As currently designed, the system will allow users to file SSI Plans electronically and to retrieve and view their past SSI Plans that were filed via CEFS. In the future, CEFS could potentially be expanded for electronic filing of confidential petitions for extension of time to comply with CALEA requirements filed under 47 U.S.C. § 1006(c) and CALEA technical impossibility and cost recovery petitions filed under 47 U.S.C. § 1008(b).¹⁰

Access to CEFS. To access CEFS and electronically file SSI Plans, entities that have not already done so must first obtain an FCC User Registration and FRN using CORES.¹¹ CEFS filers without an

³ The rules governing SSI Plans are currently set out at 47 CFR §§ 1.20003 - 1.20005.

⁴ *In the Matter of Communications Assistance for Law Enforcement Act*, Report and Order, 14 FCC Rcd 4151, 4159-77, paras. 19-56 (1999).

⁵ *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, Second Report and Order and Memorandum Opinion and Order, 21 FCC Rcd 5360, 5395, para. 76 (2006).

⁶ 47 CFR § 1.20005.

⁷ 47 CFR § 1.20005(a).

⁸ 47 CFR §§ 1.20003, 1.20004.

⁹ *See OMB Approves CALEA-Mandated System Security Filing Requirement for Providers of Facilities-Based Broadband Internet Access and Interconnected VoIP Service*, Public Notice, 21 FCC Rcd 14454, 14454, ET Docket No. 04-295 (Dec. 14, 2006) ("Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail...").

¹⁰ *See Effective Date of New Application Fee Rates for the Enforcement Bureau, the Wireline Competition Bureau, and the International Bureau*, Public Notice, DA 21-1496, MD Docket No. 20-270, (Dec. 15, 2021) (OMD announced new application fee rates that include CALEA Petitions under 47 CFR 1.1109).

¹¹ *Amendment of Part 1 of the Commission's Rules, Concerning Practice and Procedure, Amendment of CORES Registration System*, Notice of Proposed Rulemaking, 25 FCC Rcd 17407, 17409-10, para. 8 (2010) ("CORES is a web-based, password-protected, registration system that assigns a unique 10-digit FRN to a registrant for use when doing business with the FCC. These FRNs are used by all Commission systems that handle financial, authorization of service, and enforcement activities, and enable our customers to be more easily identified as the filers of applications, reports, remittance payments and other documents with the FCC. CORES was designed to serve as a central standard repository for basic regulatee and licensee information, and to help the Commission more effectively forecast, assess and collect regulatory fees; track enforcement of fines and forfeiture actions; monitor and collect penalties; manage the grant of waivers and exemptions; and, provide information to the public."). The CORES and CORES Update information collection requirements have been approved by the Office of Management and Budget (OMB) under OMB control number 3060-0917 and 3060-0918.

existing FRN must first create an FCC User Registration or Username¹² via CORES, and then create an FRN in CORES to associate with their FCC User Registration. Filers that have already created User Registrations and FRNs for use with another FCC system (e.g., Network Outage Reporting System (NORS) or Universal Licensing System (ULS)) should use that same Username and FRN to access CEFS. Filers with an existing FRN but not an FCC User Registration must create a new User Registration in CORES and associate that registration with their existing FRN.

Uploading SSI Plans. Entities will log into CEFS using their FCC User Registration and password. Once inside the CEFS system, entities will be able to select their appropriate associated FRN for the SSI Plan filing. The system will then take users to a web form which can be automatically populated with CORES data for the relevant FRN. The system will ask users to cut and paste or summarize key data from their SSI Plan to help ensure accuracy and compliance with the SSI Plan elements required by the Commission's rules. Users will then be asked to upload their complete SSI Plan as a Word or pdf document in the same format that current SSI Plans are filed. The uploaded SSI Plan must be in the same format as traditionally have been used for paper SSI Plan filings, and the uploaded SSI Plan must contain all information listed under sections 1.20003 and 1.20004 of the Commission's rules.¹³ Importantly, with the introduction of CEFS, none of the substantive requirements for what the uploaded SSI Plan must include are changing from what paper-filed SSI Plans now are required to include. The uploaded SSI Plan must be complete; it may neither omit the data already submitted on the CEFS web form nor omit data *not* requested on the CEFS web form but still required under sections 1.20003 and 1.20004 of the Commission's rules.¹⁴ Finally, users requesting confidential treatment of their SSI Plans must upload their statement justifying confidentiality.

Updating SSI Plans Filed in CEFS. Once the SSI Plan is electronically filed, users can log back into CEFS to view their prior electronic SSI Plan filings, allowing entities to refer back to prior filings to ensure they are updating and keeping their SSI Plans current when required. Access to SSI Plans previously filed in CEFS is restricted based on FRN, so that only authorized FCC User Registrations formally associated with an FRN can log in and view the company's CEFS-filed SSI Plans. Covered entities that have already filed their SSI plans by paper are not required to re-file them in CEFS, unless they need to be updated.

CEFS User Manual and Viewing CEFS Screens. Further information about the CEFS system use and functions are available on the CALEA website at: <https://www.fcc.gov/public-safety-and-homeland-security/policy-and-licensing-division/general/communications-assistance>, including the CEFS User Manual. During the comment period, filers can access CEFS here: <https://www.fcc.gov/cefs>. Members of the public with FRNs and FCC User Registrations may login and view the CEFS filing screen for informational purposes only, but filing SSI Plans in CEFS will not be enabled until the electronic filing dates have been announced.

Public Comment Requested. The Bureau proposes to make electronic SSI Plan filing via CEFS mandatory six months after CEFS has been made available for voluntary filing for entities that are required to update their SSI Plans or file new SSI Plans under the Commission's rules.¹⁵ We believe that

¹² *OMD Announces New User-Specific ID Requirements to Access CORES*, Public Notice, 31 FCC Red 3831, 3831, MD Docket 10-234 (April 25, 2016) (the 2016 changes to CORES "[i]mplement a requirement for existing and new users to designate user-specific IDs (Usernames) to access FCC Registration Numbers (FRNs) and related records").

¹³ 47 CFR §§ 1.20003, 1.20004.

¹⁴ 47 CFR §§ 1.20003, 1.20004.

¹⁵ Given that we are not proposing to modify the substance of what current rule requires and are proposing to convert the paper filing requirement to an online filing requirement, we view this as a procedural rule proposal that we are advancing pursuant to our delegated authority. *See* 47 CFR §§ 0.191, 0.392; *see, also, e.g.*, 5 U.S.C.

(continued....)

the proposed six-month transition will give regulated entities sufficient time to familiarize themselves with CEFS and CORES, if necessary, and obtain FCC Usernames and FRNs needed to file in CEFS. The six-month transition will also allow time for internal consideration of any further modifications to the new system. During this time, the Bureau will begin accepting and reviewing SSI Plans that are filed in CEFS on a voluntary basis, troubleshoot any technical issues that may arise, and implement any necessary enhancements to ensure that CEFS is operating effectively and efficiently. The Bureau will continue to accept paper filings until the Bureau announces a mandatory CEFS filing date for SSI plans. We seek comment on the proposal that there be mandatory electronic filing of SSI Plans instead of paper filing, and the timing of this requirement starting six months after CEFS is made available for voluntary filing. Commenters suggesting proposed alternatives should explain the basis for their proposals.

PROCEDURAL MATTERS

Paperwork Reduction Act. This document does not adopt or propose new or substantively modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). The non-substantive information collection changes for voluntary CEFS filing have been approved. The Commission will seek approval for mandatory filing of SSI plans or any other alternative requiring a non-substantive information collection change, if adopted.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA),¹⁶ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that the proposed or final rule(s) “will not, if promulgated, have a significant economic impact on a substantial number of small entities.”¹⁷ If an agency files a certification with a rulemaking, the certification must contain a statement that provides a factual basis for its conclusion that there will not be significant economic impact on a substantial number of small entities.¹⁸ The certification must be published in the Federal Register and sent to the Chief Counsel for Advocacy of the Small Business

§ 553(b)(A); *Amendment of Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, Order, 29 FCC Rcd 14955, para 1, 14961, para. 24 n.38 (2014) (requiring online filing for Section 214 applications to transfers of control and requests to discontinue, reduce, or repair a service, as well as Section 251(c)(2) notices of network changes; implementing such changes without prior APA notice and comment given that they “modify existing procedural rules”) (citing authorities); *Amendment of Certain of the Commission’s Part 1 Rules of Practice and Procedure Relating to the Filing of Formal Complaints Under Section 208 of the Communications Act and Pole Attachment Complaints Under Section 224 of the Communications Act*, Order, 29 FCC Rcd 14078, para. 2, n.3 (2014) (similar but with respect to requiring online filing of Section 208 formal complaints and Section 224 pole attachment complaints). Out of an abundance of caution, however, we are publishing a summary of this Public Notice in the Federal Register. *See also* 47 C.F.R. § 1.20005.

¹⁶ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601–612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

¹⁷ 5 U.S.C. § 605(b). The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” 5 U.S.C. § 601(6); *see* 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. § 601(3). In addition, the term “small business” has 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 which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. *See* 5 U.S.C. §§ 601-612.

¹⁸ *Id.*

Administration (SBA).¹⁹ Accordingly, the Commission has prepared an Initial Regulatory Flexibility Certification (IRFC) for this *Public Notice*.²⁰

Filing of Comments and Reply Comments. Comments on this Public Notice are due 30 days after publication of this Public Notice in the Federal Register, and reply comments are due 45 days after publication in the Federal Register. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS).²¹

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: www.fcc.gov/ecfs/.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554.²²
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings at its headquarters. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.²³
- All hand-carried documents should be delivered to the Secretary's Office at 9050 Junction Drive, Annapolis Junction, MD 20701.²⁴
- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

Ex Parte Rules. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.²⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two

¹⁹ *Id.*

²⁰ See Appendix A.

²¹ See FCC, Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (May 1, 1998).

²³ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

²⁴ See *Amendment of the Commission's Rules of Practice and Procedure*, Order, 35 FCC Rcd 5450 (OMD 2020) (amending 47 CFR § 0.401(a)(1)(ii)).

²⁵ See 47 CFR §§ 1.1200(a), 1.1206.

business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Rosemary Cabral, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-0662 or Rosemary.Cabral@fcc.gov; or Chris Fedeli, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418.1514 or Christopher.Fedeli@fcc.gov.

Accessibility Information. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

Action by Chief, Public Safety and Homeland Security Bureau.

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APPENDIX A

Initial Regulatory Flexibility Certification

1. The Regulatory Flexibility Act of 1980, as amended (RFA),¹ requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”² The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”³ In addition, the term “small business” has the same meaning as the term “small business concerns” under the Small Business Act.⁴ A “small business concern” is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁵ Accordingly, the Public Safety and Homeland Security Bureau (Bureau) has prepared this Initial Regulatory Flexibility Certification (IRFC) certifying that the rules and policies proposed in the *Public Notice* will not have a significant economic impact on a substantial number of small entities.

2. In 1994, Congress enacted the Communications Assistance for Law Enforcement (CALEA), Pub. L. No. 103-414, 108 Stat. 4279 to define the statutory obligations of telecommunications carriers to assist law enforcement in executing electronic surveillance pursuant to court order or other lawful authorization. Congress amended the Communications Act of 1934 to add Sections 229(b) and (c) to facilitate compliance and FCC oversight of the requirements of CALEA. CALEA is intended to preserve the ability of law enforcement agencies to conduct electronic surveillance while protecting the privacy of information outside the scope of the investigation. CALEA requires that telecommunications carriers and manufacturers of telecommunications equipment design their equipment, facilities, and services to ensure that they have the necessary surveillance capabilities to comply with legal requests for information. Communications services and facilities utilizing Circuit Mode equipment, packet mode equipment, facilities-based broadband Internet access providers and providers of interconnected Voice over Internet Protocol (VoIP) service are all subject to CALEA. These compliance requirements include wireless services, routing and soft switched services, and internet-based telecommunications present in applications used by telecommunications devices.

3. Telecommunications carriers must file and maintain up-to-date System Security and Integrity (SSI) plans with the Commission, as those plans are described in 47 CFR § 1.20005. This information includes a description of how the service provider complies with CALEA, and carrier contact

¹ See 5 U.S.C. §§ 601–612. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² 5 U.S.C. § 605(b).

³ 5 U.S.C. § 601(6).

⁴ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

⁵ 15 U.S.C. § 632.

information. Such information is not disclosed to the public. This information collection has been approved by the Office of Management and Budget, control number 3060-0809.⁶

4. In this *Public Notice*, we propose to modernize the Commission's procedures governing the filing of CALEA SSI plans that telecommunications carriers must follow to submit their plans for Commission review. Presently, CALEA SSI plans are filed in paper. We propose to require telecommunications carriers to submit CALEA SSI plans electronically in the CALEA Electronic Filing System (CEFS). We also propose that mandatory filing begin six months after the Bureau announces the availability of CEFS for voluntary filing. We believe these proposals will provide telecommunications carriers certainty and streamline the process for filing CALEA SSI plans.

5. The entities subject to the proposed electronic filing requirement are new telecommunications carriers and telecommunications carriers that must update their SSI plans, and consequently, the streamlined filing process we propose in the *Public Notice* are specific to those entities and their obligations under CALEA. Moreover, the electronic filing process does not impose increased reporting burdens on telecommunications carriers, including small businesses; nor do we expect the electronic filing process to result in increased costs for such businesses. The new electronic database will reduce paperwork and the time burden on small entities. The CEFS presents a public-facing web form containing data entry fields for collection of key portions of the required data that will help ensure filers supply necessary information in their SSI Plans. The use of the web form and electronic filing will reduce the time burden imposed on small entities when deficient paper SSI plans must be returned to filers for correction. The automated CEFS for SSI Plan submission replaces a cumbersome and space-consuming paper process, streamlines the review process using a web-based checklist system, and enhances recordkeeping and retrieval capabilities for small entities.

6. Consequently, there will not be a significant economic impact on a substantial number of small entities. Therefore, we certify that the proposed requirements in the *Public Notice* will not have a significant economic impact on a substantial number of small entities. The *Public Notice* and this initial certification will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the Federal Register.⁷

⁶ See OMB Approvals for Non-Substantive Changes to Currently Approved Information Collections (OMB Control Nos. 3060-0809, 3060-0917, 3060-0918, 3060-0862), May 6, 2022.

⁷ 5 U.S.C. § 605(b).