

SW Room CY-B402, Washington, DC 20554.

### List of Subjects

#### 47 CFR Part 21

Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Television.

#### 47 CFR Part 74

Communications equipment, Education, Reporting and Recordkeeping requirements, Television.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00-1797 Filed 1-25-00; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 68

[CC Docket No. 88-57; FCC 99-405]

#### Review of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification of the Commission's Rules Filed by the Electronic Industries Association

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends Commission rules regarding the establishment of quality standards for inside wiring, to promote the availability of quality telecommunications facilities that will not frustrate consumer access to existing and advanced telecommunications services. The Commission also affirms the gold or gold equivalent standard for connectors, and decline to designate schools and hospitals as multiunit structures, establish requirements compelling notification of building owners and tenants with respect to additional network protectors, and establish a standard time period for carrier responses to customer requests for inside wiring information.

**DATES:** Effective July 24, 2000.

**FOR FURTHER INFORMATION CONTACT:** Vincent Paladini, Attorney, 202/418-2332, Fax 202/418-2345, TTY 202/418-2224, [vpaladin@fcc.gov](mailto:vpaladin@fcc.gov), Common Carrier Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Third Report and Order (Third R&O) in CC Docket No. 88-57; FCC 99-405,

adopted December 21, 1999, and released January 10, 2000. The complete text of this Third R&O is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554, or copies may be purchased from the Commission's copy contractor, International Transcription Services, Inc., 445 12th Street, SW., Suite CY-B400, Washington, D.C. 20554, phone (202) 314-3070.

### Synopsis of the Third Report and Order

1. In the Review of §§ 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification of § 68.213 of the Commission's Rules filed by the Electronic Industries Association, Order on Reconsideration, Second Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 88-57, RM-5643, 12 FCC Rcd 11897, (1997), 62 FR 36476, the Commission included a Second Further Notice of Proposed Rulemaking requesting comment on proposed modifications to the demarcation point rule, BICSI's proposed enhanced wire quality standards, and the gold or gold equivalent standard.

2. In this Order, we adopt material standards for copper, twisted pair wire used in new, simple inside wiring installations. We introduce this standard into our regulations to identify a "standard industry practice." This action will benefit consumers and small businesses using legacy voice telecommunications services as well as those seeking to access broadband services. We envision that consumers may enforce this rule by prosecuting claims against builders and contractors that have utilized inferior wiring in new construction. For example, an aggrieved consumer or building owner, beset by problems caused by poor quality inside wire, may make a civil claim against a builder or contractor for breach of implied warranty of merchantability or fitness for a particular purpose. We also anticipate that telecommunications wiring standards will be adopted by building industry organizations, and reflected in local building codes.

3. Poor-quality, non-twisted pair inside wiring can cause network harm in the form of "cross-talk," resulting in a loss of privacy, interference with digital transmission, and disruption of telephone conversations. The presence of inferior wiring may not be immediately apparent to homeowners and homebuyers, since the potential for future problems may be difficult to

detect. Once a problem is discovered, homeowners often must rewire the affected premises to rectify the problem, at a cost substantially higher than the cost of initially installing quality inside wiring.

4. A primary cause of this troublesome situation is that the simple inside wiring market does not function correctly because homebuyers are shut out of the inside wire selection process. Building contractors and developers generally select telecommunications wire long before the homebuyer has entered the picture, and that this situation allows builders to prioritize lower cost over quality when purchasing wire to be used for simple inside wiring. When homeowners become aware of the problem, such as when they attempt to install an additional line or experience audible cross-talk, it is often too late to seek reparations from the builder or contractor. Thus, since the "purchasing entity," in this case the builder or contractor, is not held accountable for the problems caused by its least-cost-based decision, market forces will not protect the consumer's interest in quality inside wiring. Thus, we establish a wire quality standard to correct this market malfunction.

5. We find that it is in the public interest to adopt inside wiring quality standards in order to protect consumers and the PSTN from such harm. Thus, we amend § 68.213(c) of the Commission's rules to adopt enhanced wire quality standards for simple inside wiring. Specifically, we require that copper inside wiring installed July 24, 2000, shall be, at a minimum, solid, 24 gauge or thicker, twisted pairs, marked to indicate compliance with the electrical specifications for Category 3, as defined in the ANSI/EIA/TIA Building Wiring Standards. Inside wiring material exceeding the minimum requirements specified in § 68.213(c) as amended by this Order may be used and should be marked to indicate those characteristics. We note that the inside wiring requirements that we adopt in this Order apply only to copper conductor specifically installed for use as simple inside wiring for telecommunications service. We define the scope of this regulation specifically to avoid precluding the development and use of other transmission media that may be able to function in place of twisted pair copper inside wiring.

6. We emphasize that the inside wiring quality standards we adopt in this do not imply that inferior materials may be used instead of copper. Under § 68.108 of our rules, carriers are afforded certain self-help privileges

enabling them to take necessary actions to protect the PSTN, such as temporarily disconnecting or refusing to connect inside wiring or CPE that is likely to cause harm to the PSTN.

7. We also establish that wire must be marked for compliance with the Commission's inside wiring quality standard at one-foot intervals, as described in § 68.213(c)(3) of our rules as amended by this Third Report and Order. The new standard will become effective July 24, 2000.

8. The growing market presence of communications equipment and technology, such as facsimiles, modems, and ISDN, that have low tolerance for transmission anomalies and interference, such as those caused by poor connectors, indicates that the public interest will be served by supporting industry initiatives that pursue improved telecommunications transmission quality. Furthermore, the current standard has been in place for more than a year and has not been the subject of any criticism. Consequently, we decline to further revise § 68.500 with respect to the gold or gold equivalent standard.

9. In the 1997 Rulemaking, the Commission proposed that schools, hospitals and other similar facilities be considered multiunit premises under the Commission's demarcation point rule. Nothing in the record evinces difficulties in this area or indicates that case-by-case resolution of this issue would be problematic. Thus, we decline to determine that schools, hospitals, and similar facilities should be classified as multiunit premises under the demarcation point rule.

10. In the 1997 Rulemaking, the Commission requested comment identifying a reasonable time for telephone companies to respond to requests for disclosure of information regarding the wiring layout of buildings, including information about inside wiring on the customer's side of the demarcation point. The record does not indicate uncertainty or problems in this area. Thus, we decline to identify a specific period as reasonable for the purposes of customer requests for inside wiring information.

#### Paperwork Reduction Act

11. It appears that record keeping would not increase or significantly decrease as a result of the Commission's affirmation and clarification of the demarcation point definition gold and gold equivalence standard, and modification of the inside wiring material requirements rules. No new skills are necessary to comply with this amendment by telephone companies,

wire maintenance and installation companies, and wire manufacturers.

#### Final Regulatory Flexibility Analysis

12. As required by the Regulatory Flexibility Act (RFA) the Commission has prepared this Final Regulatory Flexibility Analysis (FRFA) of the expected significant economic impact on small entities by the policies and rules proposed in the *Order on Reconsideration, Second Report and Order, and Second Notice of Proposed Rulemaking*. See 5 U.S.C. 603(a).

##### (1) Need For, and Objectives of, the Proposed Rules

13. The Commission, in compliance with section 1 and Title II of the Communications Act of 1934, as amended in the Telecommunications Act of 1996, promulgates rules in this *Third Report and Order* by amending § 68.213 of its rules to establish minimum standards for simple inside wiring to be connected to the public switched telecommunications network. This rule change will benefit consumers and small businesses by ensuring that telecommunications wiring in new installations will be capable of accommodating clear telecommunications and digital transmissions. Consumers and small businesses will also benefit from the decreased necessity for the expensive replacement of poor quality simple inside wiring, as may be required to accommodate extra lines for additional telephones, personal computers, fax machines, and ISDN or xDSL services. Furthermore, this rule change will staunch the increasing incidence of cross-talk and the risk of network harm associated with the installation of poor quality inside wiring.

##### (2) Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

14. We have reviewed the general comments to identify issues that may have significant economic impact on small businesses, and find that no issues were raised in direct response to the IRFA. Furthermore, all commenters addressing the issue of amending Part 68 of our rules to provide enhanced standards for inside wiring supported the proposed amendment.

##### (3) Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

15. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA defines the

term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act. 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 SBA. SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, except Radiotelephone) to be a small entity when it has no more than 1,500 employees. We first discuss generally the total number of small telephone companies falling within both of these SIC categories. We then discuss the number of small businesses within the two subcategories, and attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules. Finally, we discuss the number of electrical contractors that may be affected by the proposed rules, and the extent to which they may be affected.

16. Consistent with our prior practice, we here exclude small incumbent local exchange carriers (LECs) from the definition of "small entity" and "small business concern." While such a company may have 1,500 or fewer employees and thus fall within the SBA's definition of a small telecommunications entity, such companies are either dominant in their field or operation or are not independently owned and operated. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will consider small incumbent LECs within this present analysis and use the term "small incumbent LECs" to refer to any incumbent LEC that arguably might be defined by the SBA as a small business concern.

17. *Total Number of Telephone Companies Affected.* Many of the decisions and rules adopted herein may have a significant effect on a substantial number of the small telephone companies identified by the SBA. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers and

resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by this *Third Report and Order*.

18. *Wireline Carriers and Service Providers*. SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephony company is one employing fewer than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small businesses under the SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this *Third Report and Order*.

19. *Local Exchange Carriers*. Neither the Commission nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appear to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and

operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently we estimate that there are fewer than 1,347 small incumbent LECs that may be affected by the decisions and rules adopted in this *Third Report and Order*.

20. *Manufacturers of Telecommunications Equipment*. The Commission has not developed a definition for small manufacturers of telecommunications terminal equipment. The closest applicable definition under SBA rules is for manufacturers of telephone and telegraph apparatus (SIC 3661) which defines a small manufacturer as one having 1,000 or fewer employees. According to 1992 Census Bureau data, there were 479 such manufacturers, and of those, 436 had 999 or fewer employees, and seven had between 1,000 and 1,499 employees. Consequently, we estimate that there are fewer than 443 small manufacturers of telecommunications terminal equipment that may be affected by the decision and rules proposed in this *Third Report and Order*.

21. *Electrical Contractors*. Electrical Contractors in this category (SIC 1731) are primarily engaged in electrical work at the construction site. This category includes establishments engaged in the installation of telecommunication equipment, sound equipment, burglar alarms, fire alarms, and telephones. According to the 1997 Economic Census there are 61,414 electrical contractors. Of that number, 61,405 electrical contractors have fewer than 1000 employees, and 61,375 have fewer than 500 employees. Consequently, we estimate that up to 61,405 small electrical contractors may be affected by the decision and rules proposed in this *Third Report and Order*.

22. *Telecommunications Wiring Manufacturers*. Manufacturers in this category (SIC 3357B) are primarily engaged in manufacturing telephone and telegraph wire and cable. This category includes establishments engaged in the manufacture of inside wiring cable. According to the 1997 Economic Census there are 28 telephone and telegraph wire and cable manufacturers, of which 18 are involved in the manufacture of inside wiring cable. The Small Business Administration has determined that manufacturing establishments in this category with fewer than 750 employees qualify as small manufacturers. Consequently, we estimate that no more than 18 inside wiring cable

manufacturers may be affected by the decision and rules proposed in this *Third Report and Order*.

(4) *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

23. *Reporting*. None.

24. *Recordkeeping*. It appears that recordkeeping would not increase or significantly decrease as a result of our affirmation and clarification of our demarcation point definition gold and gold equivalence standard, and modification of our inside wiring material requirements rules. We anticipate that no new skills are necessary to comply with this amendment by telephone companies, wire maintenance and installation companies, and wire manufacturers.

25. *Other Compliance Requirements*. None.

(5) *Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

26. We have considered the effect of enhanced wiring requirements on the building industry in general, and specifically with regard to the following entities: General Contractor, Single Family Houses (SIC 1521); General Contractor, Residential Buildings, Other than Single Family (SIC 1522); General Contractors, Nonresidential Buildings (SIC 1542), and Building Construction Trade Contractors, Electrical (SIC 1731), and find that these rule modifications will not cause significant negative impact. To the extent that enhanced wire quality standards for simple inside wiring may adversely affect small building contractor, it appears to be an insignificant cost in comparison to the value and public interest in the elimination of cross-talk interference to the service of third party customers that is directly attributable to the use of low-quality telephone inside wiring.

(6) *Federal Rules that Overlap, Duplicate, or Conflict With These Rules*

27. None.

*Report to Congress*

28. The Commission will include a copy of this Final Regulatory Flexibility Analysis, along with this Third Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA (or summary thereof) will also be published in the **Federal Register**.

### Ordering Clauses

29. Accordingly pursuant to the authority contained in Sections 1, 4(I) and (j), 11, 201–205, 218, 220, 256, and 405 of the Communications Act as amended, 47 U.S.C. sections 151, 154(I), 151(j), 161, 201–205 and 218, 220, 256, and 405, and 5 U.S.C. 552 and 553, this Third Report and Order and Order on Reconsideration *is adopted*, and part 68 of the Commission's Rules *is amended* as set forth. Sections 1, 4, 405, and 710 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 405 and 610, part 68 of the Commission's rules is amended as set forth.

30. That the rule amendments set forth *shall be effective* July 24, 2000.

### List of Subjects in 47 CFR Part 68

Administrative practice and procedure, Communications common carriers, Communications equipment, Hearing aid compatibility, Incorporation by reference, Reporting and recordkeeping requirements, Telephone, Volume control.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 68 as follows:

### PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

1. The authority citation for part 68 continues to read as follows:

**Authority:** Sections 1, 4, 5, 201–5, 208, 215, 218, 226, 227, 303, 313, 314, 403, 404, 410, 522 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 155, 201–5, 208, 215, 218, 226, 227, 303, 313, 314, 403, 404, 410, 522.

2. Section 68.213 is amended by revising paragraph (c) to read as follows:

#### § 68.213 Installation of other than “fully protected” non-system simple customer premises wiring.

\* \* \* \* \*

(c) Material requirements. (1) For new installations and modifications to existing installations, copper conductors shall be, at a minimum, solid, 24 gauge or larger, twisted pairs that comply with the electrical specifications for Category 3, as defined in the ANSI EIA/TIA Building Wiring Standards.

(2) Conductors shall have insulation with a 1500 Volt rms minimum breakdown rating. This rating shall be established by covering the jacket or sheath with at least 15 cm (6 inches)

(measured linearly on the cable) of conductive foil, and establishing a potential difference between the foil and all of the individual conductors connected together, such potential difference gradually increased over a 30 second time period to 1500 Volts rms, 60 Hertz, then applied continuously for one minute. At no time during this 90 second time interval shall the current between these points exceed 10 milliamperes peak.

(3) All wire and connectors meeting the requirements set forth in paragraphs (c)(1) and (c)(2) shall be marked, in a manner visible to the consumer, with the symbol “CAT 3” or a symbol consisting of a “C” with a “3” contained within the “C” character, at intervals not to exceed one foot (12 inches) along the length of the wire.

\* \* \* \* \*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018–AD23

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Woundfin and Virgin River Chub

**AGENCY:** U.S. Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the Fish and Wildlife Service (Service), designate critical habitat for the Virgin River chub (*Gila seminuda*) and the woundfin (*Plagopterus argentissimus*) in accordance with the Endangered Species Act of 1973, as amended. The Virgin River chub and woundfin are listed as endangered. Both species occur within the area designated as critical habitat. The designation includes portions of the Virgin River in Utah, Arizona, and Nevada. We are designating 140.1 kilometers (km) (87.5 miles (mi)) of critical habitat for the woundfin (approximately 12.5 percent of its historical range) and the Virgin River chub (65.3 percent of its historical range). The majority of the land to be designated as critical habitat is under Federal ownership (57.7 percent) or private ownership (39.9 percent). This critical habitat designation includes portions of the mainstem Virgin River and its associated 100-year floodplain. Under section 7 of the Endangered

Species Act (Act) of 1973, as amended, Federal agencies are required to ensure that their actions are not likely to destroy or adversely modify designated critical habitat. Section 4 of the Act required us to consider economic and other impacts prior to making this final decision on the size and scope of the designation.

**EFFECTIVE DATE:** February 25, 2000.

**ADDRESSES:** You may inspect the complete file for this rule, by appointment, during normal business hours at the office of the Field Supervisor, Ecological Services, U.S. Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84115.

**FOR FURTHER INFORMATION CONTACT:** Mr. Reed E. Harris, Field Supervisor, Salt Lake City Field Office, at the above address, (801/524–5001).

#### SUPPLEMENTARY INFORMATION:

#### Background

The woundfin (*Plagopterus argentissimus*) and Virgin River chub (*Gila seminuda*) are currently listed as endangered pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). In the subsequent text, we refer to the woundfin and Virgin River chub as “listed fishes.” The Virgin River originates in south-central Utah, running in a southwest direction to northwestern Arizona, and southeastern Nevada for approximately 320 km (200 mi) before emptying into Lake Mead. Prior to the completion of Boulder (Hoover) Dam in 1935, the Muddy River in southeastern Nevada joined the Virgin River before the latter emptied into the Colorado River. These two rivers now flow separately into the Overton Arm of Lake Mead. The Virgin River chub and woundfin have declined in numbers due to the cumulative effects of dewatering from numerous diversion projects; proliferation of nonnative fishes; and alterations to natural flow, temperature, and sediment regimes.

#### Woundfin

Based on early records, the original range of the woundfin extended from near the junction of the Salt and Verde Rivers at Tempe, Arizona, to the mouth of the Gila River at Yuma, Arizona (Gilbert and Scofield 1898; Minckley 1973). Woundfin were also found in the mainstem Colorado River from Yuma (Jordan and Evermann 1896; Meek 1904; Follett 1961) upstream to the Virgin River in Nevada, Arizona, and Utah and into La Verkin Creek, a tributary of the Virgin River in Utah (Gilbert and