

job seat belt use policies and programs and no additional costs are expected to be imposed.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on the fact that the provision simply encourages Federal grantees to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. Federal grantees are also encouraged to conduct education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. This rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Grantees are being encouraged to adopt and enforce on-the-job seat belt use policies and programs and no additional costs are expected to be imposed. Most grantees probably already have programs in place to conduct education and awareness programs about the importance of wearing seat belts and the consequences of not wearing them. No additional costs are expected to be imposed. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) was not required.

In accordance with Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required. No takings of personal property will occur as a result of this rule.

In accordance with Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Awards to governmental entities are governed by 43 CFR part 12, Subpart C. Under section 12.76, a State is required to ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Therefore, this requirement is not considered to be interference by the Federal Government with State rights as described in Executive Order 13132. A Federalism Assessment is not required.

In accordance with Executive Order 12988, the Office of the Solicitor determined that this rule does not

unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act was not required. An OMB form 83-I was not required.

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 was not required.

Analysis of Comments

One public comment was received in response to the publication of the interim final rule. A respondent from the State of Ohio commented that the rule was an arbitrary, unnecessary and unwarranted intrusion by the federal government to affect behavior in an area tangential, at best, to its constitutional responsibilities. The commenter recommended that the rule be withdrawn so that federal employees could focus on their real and important work. The Department is publishing the regulation because of the requirement in Section 2 of the Order which directed all agencies of the executive branch to promulgate rules to further the policies of the Order.

An internal commenter objected to the requirement to include the manual add-in provision in their grants and cooperative agreements and asked that Section 12.2 (e)(3) and its provision be deleted entirely since it was redundant and unnecessary. This comment was the only one received of this nature and to accommodate their concerns, the final rule will allow either the inclusion of the provision or a reference to the applicability of 43 CFR part 12.

List of Subjects in 43 CFR Part 12

Administrative practice and procedure, Contract programs, Cooperative agreements, Grant programs, Grants administration, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 43 CFR part 12 which was published at 64 FR 72287 on December 27, 1999, is adopted as a final rule without change.

Dated: May 31 2000.

Lisa Guide,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 00-15175 Filed 6-15-00; 8:45 am]

BILLING CODE 4310-RF-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 99-200; FCC 00-104]

Numbering Resource Optimization

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements numbering resource optimization measures which will minimize the negative impact on consumers of premature area code exhausts; ensure sufficient access to numbering resources for all service providers to enter into or to compete in telecommunications markets; avoid, at least delay, exhaust of the NANP and the need to expand the NANP; impose the least societal cost possible, and ensure competitive neutrality, while obtaining the highest benefit; ensure that no class of carrier or consumer is unduly favored or disfavored by our optimization efforts, and minimize the incentives for carriers to build and carry excessively large inventories of numbers.

DATES: The rules in this document are effective July 17, 2000, except for § 52.15(f) which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of § 52.15(f).

ADDRESSES: Federal Communications Commission, Secretary, 445 12th Street, SW, Room TW-B204F, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Aaron Goldberger, (202) 418-2320 or email at agoldberg@fcc.gov or Cheryl Callahan at (202) 418-2320 or ccallaha@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* adopted on March 17, 2000, and released on March 31, 2000. The full text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC 20554. The complete text may also be obtained through the world wide web, at <http://www.fcc.gov/Bureaus/CommonCarrier/Orders>, or may be purchased from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036.

Synopsis of Report and Order

1. In this *Report and Order* the Commission adopted administrative and technical measures that will allow us to monitor more closely the way numbering resources are used within the NANP. Specifically, we adopted a mandatory data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently.

2. In addition, the Commission adopted a system for allocating numbers in blocks of one thousand, rather than ten thousand, wherever possible ("thousands-block number pooling"), and establish a plan for national rollout of thousands-block number pooling. Furthermore, we adopt numbering resource reclamation requirements to ensure the return of unused numbers to the NANP inventory for assignment to other carriers.

3. The Commission also mandated sequential assignment of numbering resources within thousands blocks to facilitate reclamation and the establishment of thousands-block number pools.

4. The Commission addressed and resolved two of the major factors that contribute to numbering resource exhaust: the absence of regulatory, industry or economic control over requests for numbering resources, which permits carriers to abuse the allocation system and stockpile numbers, and the allocation of numbers in blocks of 10,000, irrespective of the carrier's actual need for new numbers.

5. In initially concentrating on these two areas, the Commission does not intend to abandon our examination of those optimization measures not specifically addressed in this *Report and Order*. To the contrary, we intend to pursue all viable methods available to us to increase the life of each area code and of the NANP as a whole and to forestall, as long as possible, the need for area code relief and ultimately for the expansion of the NANP. We first focus on the above-noted measures because we are convinced that they can be implemented quickly and will produce immediate and measurable results. We intend to address the remaining issues discussed in the *Notice of Proposed Rulemaking* (64 FR 32471, June 17, 1999) as well as the additional issues raised in the *Further Notice of Proposed Rulemaking* in subsequent orders as expediently as possible.

Paperwork Reduction Act of 1995 Analysis

6. The actions contained in this *Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose a new reporting requirement or burden on the public. The rules in this document are effective July 17, 2000, except for § 52.15(f) which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

Final Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice*. The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. There were no comments received on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended by the Contract with America Advancement Act of 1996 (CWAAA), Public Law 104-121, 100 Stat. 847 (1996).

8. *Need for and Objectives of this Report and Order.* In the *Notice* the Commission sought public comment on how best to create national standards for numbering resource optimization. In doing so, the primary objective was to ensure sufficient access to numbering resources for all service providers that need them to enter into or to compete in telecommunications markets; avoid, or at least delay, exhaust of the NANP and the need to expand the NANP; minimize the negative impact on consumers; impose the least cost possible, in a competitively neutral manner, while obtaining the highest benefit. To ensure that no class of carrier or consumer is unduly favored or disfavored by our numbering resource optimization efforts; and minimize the incentives for building and carrying excessively large inventories of numbers.

9. In this *Report and Order* the Commission adopted administrative and technical measures that will allow it to monitor more closely the way numbering resources are used within the NANP. Specifically, we adopt a mandatory data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently. In addition, we

adopt a system for allocating numbers in blocks of one thousand, rather than ten thousand, wherever possible ("thousands-block number pooling"), and establish a plan for national rollout of thousands-block number pooling. Furthermore, we adopt numbering resource reclamation requirements to ensure the return of unused numbers to the NANP inventory for assignment to other carriers. We also mandate sequential assignment of numbering resources within thousands blocks to facilitate reclamation and the establishment of thousands-block number pools.

10. *Description and Estimate of the Number of Small Entities That May Be Affected by this Report and Order.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.¹ The Regulatory Flexibility Act 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.² 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.³

11. In this FRFA, we have considered the potential impact of this *Report and Order* on all users of telephone numbering resources. The small entities possibly affected by these rules include wireline, wireless, and other entities, as described below. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4,812 (Radiotelephone Communications) and 4,813 (Telephone Communications, Except Radiotelephone) to be small entities having no more than 1,500 employees.⁴ Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition are not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility

¹ 5 U.S.C. 603(b)(3).

² *Id.* at 601(3).

³ *Id.* at 632.

⁴ 13 CFR 121.201.

analysis purposes, we will separately consider small ILECs within this analysis and use the term "small ILECs" to refer to any ILECs that arguably might be defined by the SBA as "small business concerns."⁵

12. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator: Interstate Service Providers Report (Locator)*.⁶ These carriers include, inter alia, local exchange carriers, competitive local exchange carriers, interexchange carriers, competitive access providers, satellite service providers, wireless telephony providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

13. *Total Number of Companies Affected.* The U.S. Bureau of the Census (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.⁷ 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, personal communications services providers, covered specialized mobile radio providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated."⁸ 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 is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small

ILECs that may be affected by the proposed rules, if adopted.

14. *Local Service Providers.* There are two principle providers of local telephone service; ILECs and competitive local service providers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁹ According to data set forth in the *FCC Statistics of Communications Common Carriers (SOCC)*, 34 ILECs have more than 1,500 employees.¹⁰ We do not have data specifying the number of these carriers that are either dominant in their field of operations or are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of ILECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,376 ILECs are small entities that may be affected by the proposed rules, if adopted.

15. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."¹¹ The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.¹² We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

16. *Competitive Local Service Providers.* This category includes

competitive access providers (CAPs), competitive local exchange providers (CLECs), shared tenant service providers, local resellers, and other local service providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive local service providers. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.¹³ According to the most recent *Locator* data, 145 carriers reported that they were engaged in the provision of competitive local service.¹⁴ We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number of competitive local service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 145 small entity competitive local service providers that may be affected by the proposed rules, if adopted.

17. *Providers of Toll Service.* The toll industry includes providers of interexchange services (IXCs), satellite service providers and other toll service providers, primarily resellers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of toll service. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.¹⁵ According to the most recent *Locator* data, 164 carriers reported that they were engaged in the provision of toll services.¹⁶ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 164 small entity toll providers that may be affected by the proposed rules, if adopted.

18. *Resellers.* This category includes toll resellers, operator service providers, pre-paid calling card providers, and other toll service providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest

⁵ See 13 CFR 121.201, SIC code 4813. Since the time of the *Local Competition* decision, 61 FR 45476 (Aug. 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs.

⁶ FCC, *Carrier Locator: Interstate Service Providers* at 1-2. This report lists 3,604 companies that provided interstate telecommunications service as of December 31, 1997 and was compiled using information from Telecommunications Relay Service (TRS) Fund Worksheet filed by carriers (Jan. 1999).

⁷ U.S. Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1-123 (1995) (1992 Census).

⁸ See generally 15 U.S.C. 632(a)(1).

⁹ *Id.*

¹⁰ SOCC at Table 2.9.

¹¹ 5 U.S.C. 601(3).

¹² Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3)(RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996. *First Report and Order*. 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476 (Aug. 29, 1996)

¹³ 13 CFR 121.201, SIC code 4813.

¹⁴ *Locator* at 1-2.

¹⁵ 13 CFR 121.201, SIC code 4813.

¹⁶ *Locator* at 1-2.

applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.¹⁷ According to the most recent *Locator* data, 405 carriers reported that they were engaged in the resale of telephone service.¹⁸ We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 405 small entity resellers that may be affected by the proposed rules, if adopted.

19. *Wireless Telephony and Paging and Messaging.* Wireless telephony includes cellular, personal communications service (PCS) or specialized mobile radio (SMR) service providers. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees, or to providers of paging and messaging services. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.¹⁹ According to the most recent *Locator* data, 732 carriers reported that they were engaged in the provision of wireless telephony and 137 companies reported that they were engaged in the provision of paging and messaging service.²⁰ We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 732 carriers are engaged in the provision of wireless telephony and fewer than 137 companies are engaged in the provision of paging and messaging service.

20. *Cable and Pay Television Service Providers.* The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating \$11 million or less in revenue annually.²¹ This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multi-point distribution systems, satellite master antenna systems and subscription television services. According to the

Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.²²

21. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.²³ Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.²⁴ Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

22. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."²⁵ The Commission has determined that there are 66,000,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 660,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.²⁶ Based on available data, we find that the number of cable operators serving 660,000 subscribers or less totals 1,450.²⁷ We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,²⁸ and thus are unable at

²² 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, SIC code 4841 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

²³ 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of \$100 million or less. Implementation of Sections of the 1992 Cable Act: Rate Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (Feb. 27, 1995).

²⁴ Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

²⁵ 47 U.S.C. 543(m)(2).

²⁶ 47 CFR 76.1403(b).

²⁷ Paul Kagan Associates, Inc., *Cable TV Investor*, *supra*.

²⁸ We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does

this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total of 66,000,000 subscribers, and we have based our fee revenue estimates on that figure.

23. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.*²⁹ This *Report and Order* mandates the following information collection: All carriers that receive numbering resources from the NANPA (code holders), or that receive numbering resources from a pooling administrator in thousands-blocks (block holders), must report forecast and utilization data to the NANPA on a semi-annual basis. All carriers, except rural telephone companies as defined by the Communications Act of 1934, as amended, must report their utilization data at the thousands-block level per rate center. Rural telephone companies in areas where local number portability has not been implemented may report their utilization data at the NXX per rate center level. Forecast data will be reported at the thousands-block per rate center level in pooling NPAs, and in non-pooling NPAs at the NXX per NPA level. Furthermore, carriers not participating in thousands-block number pooling must report their utilization rate along with the months to exhaust worksheet at the time they request additional numbering resources.

24. We require all carriers, except rural telephone companies, to maintain internal records of their numbering resources for all 13 categories (5 major, and 8 subcategories) as defined in Section C. Carriers are to maintain this data for a period of not less than 5 years.

25. *Other Compliance Requirements.* None.

26. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* We have concluded that the cost of data collection will be minimized if done electronically. Although we have stated that all carriers must report their forecast and utilization data electronically, we have provided for more than one method. Large and mid-size carriers may submit by electronic file transfer similar to FTP. Smaller carriers may file using a

not qualify as a small cable operator pursuant to section 76.1403(b) of the Commission's rules. See 47 CFR 76.1403(d).

²⁹ See also Notice, 64 FR 32471, for an Initial Paperwork Reduction Act analysis.

¹⁷ 13 CFR 121.201, SIC code 4813.

¹⁸ *Locator* at 1-2.

¹⁹ 13 CFR 121.201, SIC code 4813.

²⁰ *Locator* at 1-2.

²¹ 13 CFR 121.201, SIC code 4841.

NANPA-developed spreadsheet format via Internet-based online access. Very small carriers may fax their data submissions to the NANPA. We find it reasonable to allow any carrier whose forecast and utilization data has not changed from the previous reporting period to simply refile the prior submission or indicate that there has been no change since the last reporting.

27. *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules.* None.

Ordering Clauses

28. Accordingly, it is ordered that, pursuant to sections 1, 3, 4, 201–205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, 251, and Part 52 of the Commission's rules are amended.

29. It is further ordered that the amendments to §§ 52.7 through 52.19 of the Commission's rules as set forth in the rule changes are effective July 17, 2000, except for § 52.15(f) which contains information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

30. It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *Report and Order and Further Notice of Proposed Rulemaking*, including the Initial and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of Small Business Administration.

List of Subjects in 47 CFR Part 52

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 52 as follows:

PART 52—NUMBERING

1. The authority citation for part 52 continues to read as follows:

Authority: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–205, 207–09, 218, 225–7, 251–2, 271 and 332 unless otherwise noted.

2. Section 52.5 is amended by adding paragraph (i) to read as follows:

§ 52.5 Definitions.

* * * * *

(i) *Service provider.* The term “service provider” refers to a telecommunications carrier or other entity that receives numbering resources from the NANPA, a Pooling Administrator or a telecommunications carrier for the purpose of providing or establishing telecommunications service.

3. Section 52.7 is amended by adding paragraphs (g), (h), (i) and (j) to read as follows:

§ 52.7 Definitions.

* * * * *

(g) *Pooling Administrator (PA).* The term “Pooling Administrator” refers to the entity or entities responsible for administering a thousands-block number pool.

(h) *Contamination.* Contamination occurs when at least one telephone number within a block of telephone numbers is not available for assignment to end users or customers. For purposes of this provision, a telephone number is “not available for assignment” if it is classified as administrative, aging, assigned, intermediate, or reserved as defined in § 52.15(f)(1).

(i) *Donation.* The term “donation” refers to the process by which carriers are required to contribute telephone numbers to a thousands-block number pool.

(j) *Inventory.* The term “inventory” refers to all telephone numbers distributed, assigned or allocated:

(1) To a service provider; or

(2) To a pooling administrator for the purpose of establishing or maintaining a thousands-block number pool.

4. Section 52.15 is amended by adding paragraphs (f), (g), (h), (i) and (j) to read as follows:

§ 52.15 Central office code administration.

* * * * *

(f) *Mandatory reporting requirements—*(1) *Number use categories.* Numbering resources must be classified in one of the following categories:

(i) *Administrative numbers* are numbers used by telecommunications carriers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards.

(ii) *Aging numbers* are disconnected numbers that are not available for assignment to another end user or customer for a specified period of time. Numbers previously assigned to residential customers may be aged for no more than 90 days. Numbers previously assigned to business

customers may be aged for no more than 360 days.

(iii) *Assigned numbers* are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working but having a customer service order pending. Numbers that are not yet working and have a service order pending for more than five days shall not be classified as assigned numbers.

(iv) *Available numbers* are numbers that are available for assignment to subscriber access lines, or their equivalents, within a switching entity or point of interconnection and are not classified as assigned, intermediate, administrative, aging, or reserved.

(v) *Intermediate numbers* are numbers that are made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer. Numbers ported for the purpose of transferring an established customer's service to another service provider shall not be classified as intermediate numbers.

(vi) *Reserved numbers* are numbers that are held by service providers at the request of specific end users or customers for their future use. Numbers held for specific end users or customers for more than 45 days shall not be classified as reserved numbers.

(2) *Reporting carrier.* The term “reporting carrier” refers to a telecommunications carrier that receives numbering resources from the NANPA, a Pooling Administrator or another telecommunications carrier.

(3) *Data collection procedures.* (i) Reporting carriers shall report utilization and forecast data to the NANPA.

(ii) Reporting shall be by separate legal entity and must include company name, company headquarters address, OCN, parent company OCN(s), and the primary type of business for which the numbers are being used.

(iii) All data shall be filed electronically in a format approved by the Common Carrier Bureau.

(4) *Forecast data reporting.* (i) Reporting carriers shall submit to the NANPA a five-year forecast of their yearly numbering resource requirements.

(ii) In areas where thousands-block number pooling has been implemented:

(A) Reporting carriers that are required to participate in thousands-block number pooling shall report forecast data at the thousands-block (NXX–X) level per rate center;

(B) Reporting carriers that are not required to participate in thousands-block number pooling shall report forecast data at the central office code (NXX) level per rate center.

(iii) In areas where thousands-block number pooling has not been implemented, reporting carriers shall report forecast data at the central office code (NXX) level per NPA.

(iv) Reporting carriers shall identify and report separately initial numbering resources and growth numbering resources.

(5) *Utilization data reporting.* (i) Reporting carriers shall submit to the NANPA a utilization report of their current inventory of numbering resources. The report shall classify numbering resources in the following number use categories: *assigned, intermediate, reserved, aging, and administrative.*

(ii) Rural telephone companies, as defined in the Communications Act of 1934, as amended, 47 U.S.C. 153(37), that provide telecommunications service in areas where local number portability has not been implemented shall report utilization data at the central office code (NXX) level per rate center in those areas.

(iii) All other reporting carriers shall report utilization data at the thousands-block (NXX-X) level per rate center.

(6) *Reporting frequency.* (i) Reporting carriers shall file forecast and utilization reports semi-annually on or before February 1 for the preceding reporting period ending on December 31, and on or before August 1 for the preceding reporting period ending on June 30. Mandatory reporting shall commence August 1, 2000.

(ii) State commissions may reduce the reporting frequency for NPAs in their states to annual. Reporting carriers operating in such NPAs shall file forecast and utilization reports annually on or before August 1 for the preceding reporting period ending on June 30, commencing August 1, 2000.

(iii) A state commission seeking to reduce the reporting frequency pursuant to paragraph (f) (6)(ii) of this section shall notify the Common Carrier Bureau and the NANPA in writing prior to reducing the reporting frequency.

(7) *Access to data and confidentiality*—States shall have access to data reported to the NANPA provided that they have appropriate protections in place to prevent public disclosure of disaggregated, carrier-specific data.

(g) *Applications for numbering resources*—(1) *General requirements.* All applications for numbering resources must include the company name, company headquarters address,

OCN, parent company's OCN(s), and the primary type of business in which the numbering resources will be used.

(2) *Initial numbering resources.* Applications for initial numbering resources shall include evidence that:

(i) The applicant is authorized to provide service in the area for which the numbering resources are being requested; and

(ii) The applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date.

(3) *Growth numbering resources.* (i) Applications for growth numbering resources shall include:

(A) A Months-to-Exhaust Worksheet that provides utilization by rate center for the preceding six months and projected monthly utilization for the next twelve (12) months; and

(B) The applicant's current numbering resource utilization level for the rate center in which it is seeking growth numbering resources.

(ii) The numbering resource utilization level shall be calculated by dividing all *assigned numbers* by the total numbering resources in the applicant's inventory and multiplying the result by 100. Numbering resources activated in the Local Exchange Routing Guide (LERG) within the preceding 90 days of reporting utilization levels may be excluded from the utilization calculation.

(iii) All service providers shall maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.

(iv) The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state regulatory commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination of compliance with the reporting and numbering resource application requirements herein.

(h) [Reserved]

(i) *Reclamation of numbering resources.* (1) Reclamation refers to the process by which service providers are

required to return numbering resources to the NANPA or the Pooling Administrator.

(2) State commissions may investigate and determine whether service providers have activated their numbering resources and may request proof from all service providers that numbering resources have been activated and assignment of telephone numbers has commenced.

(3) Service providers may be required to reduce contamination levels to facilitate reclamation and/or pooling.

(4) State commissions shall provide service providers an opportunity to explain the circumstances causing the delay in activating and commencing assignment of their numbering resources prior to initiating reclamation.

(5) The NANPA and the Pooling Administrator shall abide by the state commission's determination to reclaim numbering resources if the state commission is satisfied that the service provider has not activated and commenced assignment to end users of their numbering resources within six months of receipt.

(6) The NANPA and Pooling Administrator shall initiate reclamation within sixty days of expiration of the service provider's applicable activation deadline.

(7) If a state commission declines to exercise the authority delegated to it in this paragraph, the entity or entities designated by the Commission to serve as the NANPA shall exercise this authority with respect to NXX codes and the Pooling Administrator shall exercise this authority with respect to thousands-blocks. The NANPA and the Pooling Administrator shall consult with the Common Carrier Bureau prior to exercising the authority delegated to it in this provision.

(j) *Sequential number assignment.* (1) All service providers shall assign all available telephone numbers within an opened thousands-block before assigning telephone numbers from an uncontaminated thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a specific customer request. This requirement shall apply to a service provider's existing numbering resources as well as any new numbering resources it obtains in the future.

(2) A service provider that opens an uncontaminated thousands-block prior to assigning all available telephone numbers within an opened thousands-block should be prepared to demonstrate to the state commission:

(i) A genuine request from a customer detailing the specific need for telephone numbers; and

(ii) The service provider's inability to meet the specific customer request for telephone numbers from the available numbers within the service provider's opened thousands-blocks.

(3) Upon a finding by a state commission that a service provider inappropriately assigned telephone numbers from an uncontaminated thousands-block, the NANPA or the Pooling Administrator shall suspend assignment or allocation of any additional numbering resources to that service provider in the applicable NPA until the service provider demonstrates that it does not have sufficient numbering resources to meet a specific customer request.

5. Add § 52.20 to read as follows:

§ 52.20 Thousands-block number pooling.

(a) *Definition.* Thousands-block number pooling is a process by which the 10,000 numbers in a central office code (NXX) are separated into ten sequential blocks of 1,000 numbers each (thousands-blocks), and allocated separately within a rate center.

(b) *General requirements.* Pursuant to the Commission's adoption of thousands-block number pooling as a mandatory nationwide numbering resource optimization strategy, all carriers capable of providing local number portability (LNP) must participate in thousands-block number pooling where it is implemented and consistent with the national thousands-block number pooling framework established by the Commission.

(c) *Donation of thousands-blocks.* (1) All service providers required to participate in thousands-block number pooling shall donate thousands-blocks with less than ten percent contamination to the thousands-block number pool for the rate center within which the numbering resources are assigned.

(2) All service providers required to participate in thousands-block number pooling shall be allowed to maintain at least one thousands-block per rate center, even if the thousands-block is less than ten-percent contaminated, as an initial block or footprint block.

(3) Telephone numbers assigned to customers of service providers from donated thousands-blocks that are contaminated shall be ported back to the donating service provider.

(d) *Thousands-Block Pooling Administrator.* (1) The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunication industry segment, and shall comply with the same

neutrality requirements that the NANPA is subject to under this part.

(2) The Pooling Administrator shall maintain no more than a six-month inventory of telephone numbers in each thousands-block number pool.

[FR Doc. 00-15199 Filed 6-15-00; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00-1208, MM Docket No. 97-116; RM-9050 & RM-9123]

Radio Broadcasting Services; Estero, Everglades City, LaBelle, and Key West, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed by Keith L. Reising a *Notice of Proposed Rule Making* was issued proposing the allotment of Channel 224A at Everglades City, Florida. See 62 FR 22900, April 28, 1997. In response to a counterproposal filed by InterMart Broadcasting West Coast, Inc., this document substitutes Channel 223C3 for Channel 223A at LaBelle, Florida, reallocates Channel 223C3 to Estero, Florida, and modifies the license for Station WWWD to specify Estero as its community of license. The coordinates for Channel 223C3 at Estero are 26-21-50 and 81-46-00. To accommodate the channel at Estero, we have substituted Channel 224C1 for Channel 223C1 at Key West, Florida, and modified the license for Station WEOW accordingly. The coordinates for Channel 224C1 at Key West are 24-40-35 and 81-30-41. The proposal for Everglades City is dismissed as it has been determined that a first local service at Estero will serve a larger population than an allotment at Everglades City. With this action, this proceeding is terminated.

DATES: Effective July 17, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97-116, adopted May 24, 2000, and released June 2, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased

from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing LaBelle, Channel 223C1 and adding Estero, Channel 223C3 and by removing Channel 223C1 and adding Channel 224C1 at Key West.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00-15261 Filed 6-15-00; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00-1206; MM Docket No. 99-279; RM-9716]

Radio Broadcasting Services; Greeley and Broomfield, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a proposal filed on behalf of Chancellor Media/Shamrock Radio, Licensees L.L.C., the Commission reallocates Channel 223C1 from Greeley to Broomfield, Colorado as that community's first local aural transmission service, and modifies the license for Station KDJM (formerly KVOD-FM) accordingly. See 64 FR 54270, October 6, 1999. Coordinates used for Channel 223C1 at Broomfield, Colorado, are 40-03-15 NL and 105-04-12 WL.

DATES: Effective July 17, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99-279, adopted May 24, 2000, and released