

regulatory policies on matters that significantly or uniquely affect their communities. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. There are no communities of Indian tribal governments located in the vicinity of the facility. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. Does This Rule Comply With the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standard. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous materials, Recycling, Waste treatment and disposal.

Dated: June 8, 2000.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, part 261 of Chapter I of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

2. Section 261.4 is amended by adding paragraph (b)(16) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *
(16) Sludges resulting from the treatment of wastewaters (not including spent plating solutions) generated by the copper metallization process at the International Business Machines Corporation (IBM) semiconductor manufacturing facility in Essex Junction, VT, are exempt from the F006 listing, provided that:

(i) IBM provides the Agency with semi-annual reports (by January 15 and July 15 of each year) detailing constituent analyses measuring the concentrations of volatiles, semi-volatiles, and metals using methods presented in part 264, Appendix IX of this chapter of both the plating solution utilized by, and the rinsewaters generated by, the copper metallization process;

(ii) IBM provides the agency with semi-annual reports (by January 15 and July 15 of each year), through the year 2004, or when IBM has achieved its facility wide goal of a 50% reduction in greenhouse gas emissions from a 1995 base year (when normalized to production), whichever is first, that contain the following:

(A) Estimated greenhouse gas emissions, and estimated greenhouse gas emission reductions. Greenhouse gas emissions will be reported in terms of total mass emitted and mass emitted normalized to production; and

(B) The number of chemical vapor deposition chambers used in the semiconductor manufacturing production line that have been converted to either low flow C₂F₆ or NF₃ during the reporting period and the number of such chambers remaining to be converted to achieve the facility goal for global warming gas emission reductions.

(iii) No significant changes are made to the copper metallization process such that any of the constituents listed in 40 CFR part 261, appendix VII as the basis for the F006 listing are introduced into the process.

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[FR Doc. 00-15154 Filed 6-15-00; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

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

Numbering Resource Optimization

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: This document seeks further comments on the following matters: Thousands-block number pooling; charging for numbering resources; utilization thresholds for carriers, and consideration of a transition period for wireless service providers implementation of thousand-block number pooling. The foregoing issues were addressed in a previous proposed rule; however, the comments and information received were insufficient for the agency to proceed on these matters. Therefore, the agency has formulated further questions and is now seeking additional comment.

DATES: Comments are due June 30, 2000, and reply comments are due July 7, 2000.

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 e-mail 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 *Further Notice of Proposed Rulemaking* adopted on March 17, 2000, and released on March 31, 2000. The full text of this *Report and Order and Further Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center. 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 the Further Notice of Proposed Rulemaking

1. In this *Further Notice of Proposed Rulemaking* (FNPRM), we seek further comment on what specific utilization threshold carriers not participating in thousands-block number pooling carriers should meet in order to request growth numbering resources. Commenters that offered a specific utilization threshold suggested that utilization thresholds should be set as low as 60% and as high as 90%. However, very little information was

provided as to the basis for these specific threshold levels. We seek comment on specific utilization threshold(s). Comments should include rationale for the specific threshold(s) recommended, including the initial level, annual increases, and the maximum level. We tentatively conclude that a nationwide utilization threshold for growth numbering resources should be initially set at 50%. This threshold would increase by 10% annually until it reaches 80%. Additionally, we propose to require carriers to meet a specific rate center-based utilization threshold for the rate center in which it is seeking additional numbering resources. If parties propose a utilization threshold range, parties should explain in detail what criteria should be used to determine the specific rate-center based utilization threshold within that range. We seek further comment on whether state commissions should be allowed to set the rate-center based utilization threshold within this range based on criteria that we establish. We also seek further comment on utilization thresholds at the rate center level that should operate in unison with the thresholds at the NPA level.

2. *Implementation of pooling for non-LNP capable carriers.* We seek comment on whether covered CMRS carriers should be required to participate in pooling immediately upon expiration of the LNP forbearance period on November 24, 2002. In the alternative, we seek comment on whether we should allow some sort of transition period between the time that covered CMRS carriers must implement LNP, and the time that they must participate in pooling, and if so, what the minimum reasonable allowance for such a transition period would be. We note that by determining in this order that covered CMRS carriers will be required to participate in pooling once they have acquired LNP capability, we are providing a fairly long lead-time—more than two years—in which all of the necessary preparations may be accomplished. We further note that after they have acquired LNP capability, covered CMRS providers will be subject to the same terms and conditions regarding participation in thousands-block number pooling as are other LNP-capable carriers. For example, CMRS providers within and outside the top 100 MSAs will not be subject to pooling unless they have received a request for LNP from another carrier, and pooling will be limited to the same service area as their LNP deployment.

3. *Pricing for Numbers.* In the *Notice of Proposed Rulemaking (NPRM)* (64 FR 32471, June 17, 1999) we indicated that

an alternative approach for improving the allocation and utilization of numbering resources would be to require carriers to pay for them. We noted that this approach could be in isolation or in combination with the administrative and numbering optimization approaches identified in the *NPRM*. One of the primary economic reasons given for opposing a market-based allocation system was that numbering resources are allocated in 10,000 blocks by rate center. Pricing under this paradigm, it was argued, would create a barrier to entry to new markets. In any case, we continue to believe that a market-based approach is the most pro-competitive, least intrusive way of ensuring that numbering resources are efficiently allocated. We believe that thousands-block pooling will substantially reduce the quantity of numbering resources new entrants will need to accumulate to enter a market. Therefore, we seek further comment on how a market-based allocation system for numbering resources could be implemented. Specifically, we seek comment on how a market-based allocation system would affect the efficiency of allocation of numbers among carriers. Given that our motivation in seeking comment on such an approach is to increase the efficiency with which numbering resources are allocated and not to raise additional funds, we also seek comment on whether funds collected in this way could be used to offset other payments carriers make such as contributions to the universal service and TRS programs. Commenters addressing this issue should specifically address how to account for the fact that some carriers, such as interexchange carriers, do not generally use numbering resources but currently contribute to these other programs. Commenters should also ensure that their proposals provide market-based incentives for carriers to economize their use of numbering resources.

4. *Recovery of Shared Industry and Direct Carrier-Specific Costs.* Requiring incumbent LECs to bear their own costs related to thousands-block number pooling will not disadvantage any telecommunications carrier. All other carriers are also required to bear their own shared industry and carrier-specific costs. In the *NPRM*, the Commission tentatively concluded that incumbent LECs subject to rate-of-return or price cap regulation may not recover their interstate carrier-specific costs directly related to thousands-block number pooling through a federal charge assessed on end-users, but may recover

the costs through other cost recovery mechanisms. Several parties agree with the tentative conclusion that thousands-block number pooling costs should not be recovered through a federal charge assessed on end users, but should be recovered through access charges. Some commenters recommend that price cap LECs should be allowed to treat the thousands-block pooling number costs as exogenous cost adjustments or, alternatively, place the costs in a new or existing price cap basket. Other parties, however, urge us to abandon our tentative conclusion because recovery through access charges would violate the competitive neutrality standard of section 251(e)(2).

5. In the *Notice*, we requested detailed estimates of the costs of thousands-block number pooling and asked that commenters separate the estimates by category of costs. We also sought comment on the appropriate methodology for developing these and other cost estimates. The amount and detail of the data provided in response to our request is insufficient for us to determine the amount and/or magnitude of the costs associated with thousands-block number pooling. Without sufficient cost data, it is difficult for us to determine the appropriate cost recovery mechanism for these costs. We, therefore, find it necessary to request additional cost information prior to making a final decision on the appropriate method of cost recovery. We seek further comment and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. We also seek comment and cost studies that take into account the cost savings associated with thousands-block pooling in comparison to the current numbering practices that result in more frequent area code changes.

Paperwork Reduction Act of 1995 Analysis

6. The actions contained in this *FNPRM* have been analyzed with respect to the Paperwork Reduction Act of 1995 and found that there are no new reporting requirements or burden on the public.

Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act 5 U.S.C. 603 (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this *FNPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA

and must be filed by the deadlines for comments on the *FNPRM* provided above in section VIII. The Commission will send a copy of the *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.¹ In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

8. *Need for and Objectives of the Proposed Rules.* The Commission is issuing this *Further Notice* to seek public comment on (a) What specific utilization threshold carriers not participating in thousands-block number pooling should meet in order to request growth numbering resources; (b) whether state commissions should be allowed to set rate-center based utilization thresholds based on criteria that we establish; (c) whether covered CMRS carriers should be required to participate in thousands-block number pooling immediately upon expiration of the LNP forbearance period on November 24, 2002, or whether a transition period should be allowed; and (d) how a market-based allocation system for numbering resources could be implemented. We also seek to obtain the following: (a) Cost studies that quantify the incremental costs of thousands-block number pooling; (b) cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling; and (c) cost studies that take into account the cost savings associated with thousands-block number pooling in comparison to the current numbering practices that result in more frequent area code changes.

9. The Commission seeks to ensure that the limited numbering resources of the NANP are used efficiently; to protect customers from the expense and inconvenience that result from the implementation of new area codes; to forestall the enormous expense that will be incurred in expanding the NANP, and to ensure that all carriers have the numbering resources they need to compete in the rapidly growing telecommunications marketplace.

10. *Legal Basis.* The proposed action is authorized under sections 1, 4(i) and (j), 201, 208, and 251 of the Communications Act of 1934, as amended.²

11. *Description and Estimate of the Number of Small Entities That May Be Affected by this Report and Order.* The RFA requires that an initial 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."³ The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁴ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁵ 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 Small Business Administration (SBA).⁶

12. In this IRFA, we have considered the potential impact of this *FNPRM* on all users of telephone numbering resources. The small entities possibly affected by these rules include wireline, wireless, and other entities, as described in Appendix B. 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.⁷ 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 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."⁸

³ 5 U.S.C. 605(b).

⁴ *Id.* section 601(6).

⁵ *Id.* section 601(3) (incorporating by reference the definition of "small business concern" in 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**."

⁶ Small Business Act, 15 U.S.C. 632.

⁷ See 13 CFR 121.201.

⁸ See 13 CFR 121.201, SIC code 4813. Since the time of the *Local Competition* decision, 11 FCC Rcd

13. 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)*.⁹ 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.

14. *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.¹⁰ 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.¹¹ 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."¹² 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.

15. *Description of Projected Reporting, Recordkeeping, and Other*

15499, 16144-45 (1996), 61 FR 45476 (Aug. 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs.

⁹ 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 Worksheets filed by carriers (Jan. 1999).

¹⁰ 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*).

¹¹ A description of the affected entities are list in the Final Regulatory Flexibility Act Analysis, Appendix B.

¹² See generally 15 U.S.C. 632(a)(1).

¹ See 5 U.S.C. 603(a).

² 47 U.S.C. 151, 154(i), 154(j), 201 and 251(e).

*Compliance Requirements.*¹³ This *FNPRM* requests comment and cost studies (1) that quantify the incremental costs of thousands-block number pooling; (2) that quantify shared industry and direct carrier-specific costs of thousands-block number pooling; and (3) that take into account the costs savings associated with thousands-block number pooling in comparison to the current number practices that result in more frequent area code changes.

16. *Recordkeeping.* None.

17. *Other Compliance Requirements.* None.

18. *Steps taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* We have stated that section 251(e) does not exclude any class of carriers and that all telecommunications carriers must bear numbering administration costs on a competitively neutral basis.¹⁴ Therefore, we find that section 251(e)(2) requires us to ensure that the costs of numbering administration, including thousands-block number pooling, do not affect the ability of carriers to compete. As such, the costs of thousands-block number pooling should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and should not have a disparate effect on competing providers' abilities to earn a normal return.

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

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 00-15200 Filed 6-15-00; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00-1237, MM Docket No. 00-104, RM-9812]

Digital Television Broadcast Service; Oklahoma City, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by

¹³ See *NPRM*, 64 FR 32471 (June 17, 1999) for an Initial Paperwork Reduction Act analysis.

¹⁴ *Telephone Number Portability Third Report and Order*, 13 FCC Rcd at 11731, 63 FR 35150 (June 29, 1998).

Paramount Stations Group of Oklahoma LLC, licensee of station KAUT-TV, NTSC Channel 43, Oklahoma City, Oklahoma, requesting the substitution of DTV Channel 40 for its assigned DTV 42. DTV Channel 40 can be allotted to Oklahoma City in compliance with the principle community coverage requirements of Section 73.625(a) at coordinates 35-35-22 N. and 97-29-03 W. DTV Channel 40 can be allotted to Oklahoma City with a power of 57.7 kW and a height above average terrain (HAAT) of 475 meters.

DATES: Comments must be filed on or before July 31, 2000, and reply comments on or before August 15, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James R. Bayes, E. Joseph Knoll III, Wiley, Rein & Fielding, 1776 K Street, NW, Washington, DC 20006 (Counsel for Paramount Stations Group of Oklahoma City LLC).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00-104, adopted June 7, 2000, and released June 8, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00-15265 Filed 6-15-00; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00-1238, MM Docket No. 00-103, RM-9878]

Digital Television Broadcast Service; Killeen, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by White Knight Broadcasting of Killeen License Corporation, licensee of Station KAKW(TV), NTSC Channel 62, Killeen, Texas, requesting the substitution of DTV Channel 13 for its assigned DTV Channel 23. DTV Channel 13 can be allotted to Killeen, Texas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (30-43-33 N and 97-59-24 W). As requested, we propose to allot DTV Channel 13 to Killeen with a power of 39.4 and a height above average terrain (HAAT) of 553 meters.

DATES: Comments must be filed on or before July 31, 2000, and reply comments on or before August 15, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Kathryn R. Schmeltzer, David S. Konczal, Fisher, Wayland, Cooper, Leader & Zaragoza, L.L.P., 2001 Pennsylvania Avenue, NW, Washington, DC 20006 (Counsel for White Knight Broadcasting of Killeen License Corporation).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00-103, adopted June 7, 2000, and released June 8, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased