by twice as much as the early NO_X deficit generated by the refinery).

(ix) The refiner shall comply with any condition or requirement prescribed by the Administrator as part of the petition approval.

(x) The refinery must comply with all standards in this paragraph and with all applicable anti-dumping standards in Subpart E of this section, except the NO_X standard.

(4) *Approval or disapproval of petitions.* The Administrator will approve or disapprove the petition within six months of receipt, in writing, and in the case of an approval will include any conditions or requirements to which the approval is subject.

(5) *Effective date for alternative averaging period.* (i) For an approved petition, the alternative averaging period shall become effective with the first day of the next calendar quarter, unless the first day of a later calendar quarter is requested.

(ii) If the final quarter of the alternative averaging period ends on a date other than December 31, then the refiner must demonstrate compliance with anti-dumping standards for gasoline produced during the remainder of that year and must demonstrate such compliance via the annual report as specified in § 80.105.

(6) *Refinery request for a change in alternative averaging period.* At any point during the pendency of an alternative conventional gasoline anti-dumping compliance period the Administrator may, upon application by a refiner, approve a different alternative compliance period for a refinery already operating subject to an alternative compliance period. In any such case:

(i) A refinery for which a change in the applicable alternative compliance period is approved shall thereafter operate as if the refinery had originally requested and received such alternative compliance period, and shall be subject to the standards and other requirements applicable under such alternative compliance period.

(ii) The Administrator will approve or disapprove any application for a different alternative compliance period, in writing, within six months of receipt, and in the case of an approval will include any conditions or other requirements to which the approval is subject;

(iii) Accept as specifically modified by this section, such refinery must continue to comply with all other standards and other requirements applicable under the conventional gasoline anti-dumping standards; and

(iv) No application may result in an alternative compliance period that extends beyond January 1, 2006.

(7) *Violations under this paragraph (k).* Any person who fails to meet a standard or other requirement under this paragraph (k) shall be liable for penalties under § 80.5. Additionally, in the event that the refiner fails to achieve the required NO_X benefit calculated under paragraph (k)(3)(ii) of this section, any NO_X credits still banked under paragraph (k)(3)(iii) of this section shall be forfeit.

[FR Doc. 00–22808 Filed 9–7–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 98–147; FCC 00–297]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document strengthens the collocation requirements placed upon incumbent local exchange carriers (LECs) pursuant to section 251(c)(6) of the Communications Act of 1934, as amended. The Order on Reconsideration adopts national standards that incumbent LECs must meet in processing physical collocation applications and provisioning physical collocation arrangements. The Order on Reconsideration also resolves issues and adopts requirements regarding adjunct collocation, space denial standards, safe-time work practices, and other collocation-related areas.

DATES: Effective October 10, 2000, except for §§ 51.321(f), 51.323(b) and 51.323(l)(1), which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

FOR FURTHER INFORMATION CONTACT: William Kehoe, Special Counsel, or Julie Patterson, Attorney Advisor, Common Carrier Bureau, Policy and Program Planning Division, 202–418–1580. Further information also may be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484. For additional information concerning the information collections in this Order on Reconsideration, contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in CC Docket No. 98–147, FCC 00–297, adopted on August 9, 2000, and released August 10, 2000. The complete text of this Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 Twelfth Street, S.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS), CY–B400, 445 Twelfth Street, S.W., Washington, D.C.

Synopsis of the Second Report and Order

1. The Commission adopts the Order on Reconsideration to further strengthen its collocation rules in response to Sprint Corporation's (Sprint's) June 1999 petition for partial reconsideration or clarification of the Advanced Services First Report and Order. Those rules implement section 251(c)(6) of the Communications Act of 1934, as amended, which requires incumbent LECs to provide for collocation of equipment necessary for interconnection or access to unbundled network elements on terms and conditions that are just, reasonable and non-discriminatory.

2. We conclude in this Order on Reconsideration that national collocation standards are necessary to ensure that incumbent LECs comply with the statutory obligation set forth in section 251(c)(6). We require that, except to the extent a state sets its own standards or the requesting carrier and the incumbent LEC have mutually agreed to alternative standards, an incumbent LEC must notify the requesting telecommunications carrier as to whether a collocation application has been accepted or denied within ten calendar days after receiving the application. We also require that if the incumbent LEC deems a collocation application unacceptable, it must advise the competitive LEC of any deficiencies within this ten calendar day period. We require that an incumbent LEC must provide sufficient detail so that the requesting carrier has a reasonable opportunity to cure each deficiency. We specify that to retain its place in the incumbent LEC's collocation queue, the competitive LEC must cure any deficiencies in its collocation application and resubmit the application within ten calendar days after being advised of them. We also

require that, if the requesting carrier informs an incumbent LEC that physical collocation should proceed within seven calendar days after receiving the incumbent LEC's price quotation, the incumbent LEC must comply with the 90 calendar day provisioning interval set forth below, or any alternative interval set by a state commission or agreed to by the requesting carrier and the incumbent LEC.

3. We require, in addition, that if the competitive LEC fails to meet this deadline, the provisioning interval will begin on the date the requesting carrier informs the incumbent LEC that physical collocation should proceed. We specify that an incumbent LEC must complete any technically feasible physical collocation arrangement, whether caged or cageless, no later than 90 calendar days after receiving an acceptable collocation application, where space, whether conditioned or unconditioned, is available in the incumbent LEC premises and the state commission does not set a different interval or the incumbent and requesting carrier have not agreed to a different interval. We specify that complete provisioning of a collocation arrangement, an incumbent LEC must finish construction in accordance with the requesting carrier's application and turn functioning space over to the requesting carrier.

4. We state that incumbent LECs and competitive LECs must comply with renegotiation clauses in their interconnection agreements in negotiating specific provisions to implement changes in our collocation rules, including the application processing deadline and 90 calendar day physical collocation interval we adopt above. We further conclude that, within October 10, 2000 this Order on Reconsideration, the incumbent LEC must file with the state commission proposed amendments to any tariff or statement of generally available terms and conditions (SGAT) that does not comply with the national standards. These amendments must provide for application processing intervals and physical collocation intervals no longer than the national standards except to the extent a state sets its own standard. We require that, for SGATs, the national standards shall take effect within 60 days after the amendment's filing except to the extent the state commission specifies other application processing or provisioning intervals for a particular type of collocation arrangement, such as cageless collocation. We also require that, where a tariff must be amended to reflect the national standards, those standards shall take effect at the earliest time permissible under applicable state requirements.

5. Absent the incumbent LEC's and requesting carrier's mutual consent, the ten calendar day deadline for responding to a collocation application and the 90 calendar day provisioning deadline will serve as maximum intervals, to the extent a state does not set its own deadlines. We require that an incumbent LEC must provide any information the state commission requires Where an incumbent LEC seeks a departure from either deadline, the incumbent also must provide any additional information the state commission requires to resolve whether an incumbent LEC should be allowed to depart from the ten day deadline for telling the requesting carrier whether a collocation application is acceptable or the 90 calendar day provisioning deadline.

6. We conclude that to the extent the state commission permits, the incumbent LEC may require a competitive LEC to pay reasonable application fees or portions of the total collocation charges prior to processing a collocation application or provisioning a collocation agreement. We specify that a competitive LEC's exercise of any right it has to dispute those fees or charges, or any of the rates, terms, or conditions under which an incumbent LEC seeks to provide collocation, shall not relieve the incumbent LEC of its obligation to comply with each of the time limits set forth in this section. We state that an incumbent LEC may require a competitive LEC to forecast its physical collocation demands. We also specify that, absent state action conditioning compliance with application processing and provisioning intervals upon forecasts, a competitive LEC's failure to submit timely forecasts will not relieve the incumbent LEC of its obligation to comply with deadlines described above.

7. We confirm that, when space is exhausted in a particular structure, the incumbent LEC must permit a competitive LEC to collocate in a controlled environmental vault or similar structure that the competitive LEC or a third party constructs adjacent to an incumbent LEC structure. We amend § 51.5 of our rules to make clear that ''premises'' includes all buildings and similar structures owned, leased, or otherwise controlled by the incumbent LEC that house its network facilities, all structures that house incumbent LEC facilities on public rights-of-way, and all land owned, leased, or otherwise controlled by an incumbent LEC that is adjacent to these structures.

8. We conclude that an incumbent must make available collocation in adjacent controlled environmental vaults or similar structures, to the extent technically feasible, at premises where physical collocation space is legitimately exhausted, even if virtual collocation space is not exhausted. We specify that if collocation space becomes available in a previously exhausted incumbent LEC structure, the incumbent LEC must not require a competitive LEC to move, or preclude an competitive LEC from moving, a collocation arrangement into that structure. Where technically feasible, an incumbent LEC must make physical collocation available in any incumbent LEC structure that houses network facilities and has space available for collocation. Such structures include, to the extent technically feasible, central offices, controlled environmental vaults, controlled environmental huts, cabinets, pedestals, and other remote terminals.

9. In the Advanced Services First Report and Order, 63 FR 45133, August 24, 1998, we required that an incumbent LEC that denies collocation of a competitor's equipment based on safety standards must, within five business days after the denial, provide the requesting carrier with an affidavit attesting that all equipment that the incumbent LEC locates at the premises in question meets or exceeds the safety standard that, according to the incumbent LEC, the competitor's equipment does not meet. In this Order, we require that the affidavit set forth in detail: the exact safety requirement that the requesting carrier's equipment does not satisfy; the incumbent LEC's basis for concluding that the requesting carrier's equipment does not meet this safety requirement; and the incumbent LEC's basis for concluding why collocation of equipment not meeting this safety requirement would compromise network safety.

10. We require that an incumbent LEC allow the carrier requesting collocation reasonable access to its selected collocation space while the incumbent LEC prepares that space for collocation. While we do not preclude an incumbent LEC from applying reasonable and nondiscriminatory ''safe-time'' work practices to itself and collocators, we specify requirements for when such a practice will be considered reasonable and nondiscriminatory.

11. In the Local Competition First Report and Order, 61 FR 45476, August 29, 1996, the Commission required any incumbent LEC that denies a request for physical collocation to provide the state commission with detailed floor plans or diagrams of its premises. In this Order, we require that each incumbent LEC provide the state commission with all

information necessary for the state commission to evaluate the reasonableness of the incumbent LEC's and its affiliates' reservations of space for future growth. We require that this information shall include any information the state commission may require to implement its specific space reservation policies, including which space, if any, the incumbent or any of its affiliates have reserved for future use. We also require that the incumbent shall provide the state commission with a detailed description of the specific future uses for which the space has been reserved. We require further that an incumbent LEC shall permit any requesting telecommunications carrier to inspect any floor plans or diagrams that the incumbent LEC provides a state commission, subject to any nondisclosure protections the state commission deems appropriate.

Paperwork Reduction Act of 1995 Analysis

12. The actions contained in this Order on Reconsideration have been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting requirements on the public.

Final Regulatory Flexibility Analysis (FRFA)

13. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Advanced Services Order and Notice of Proposed Rulemaking, 63 FR 45140, August 24, 1998, in CC Docket 98–147. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. We received no comments specifically directed toward the IRFA. In addition, we incorporated the Final Regulatory Flexibility Analysis (FRFA) into the Advanced Services First Report and Order and received no petitions for reconsideration specifically directed toward the FRFA. This Supplemental Final Regulatory Flexibility Analysis (SFRFA) conforms to the RFA.

Need for and Objectives of This Order on Reconsideration and the Rules Adopted Herein

14. This Order continues our efforts to facilitate the development of competition in telecommunications services. In the Advanced Services First Report and Order, we strengthened our collocation rules to reduce the costs and delays faced by competitors that seek to collocate equipment in incumbent LEC premises. In this Order, we take additional steps toward implementing Congress' goals in enacting section 251(c)(6) of the Communications Act by clarifying and further strengthening our collocation rules. These steps should eliminate the major problems competitive LECs have been encountering in seeking to collocate in incumbent LEC premises, and thereby reduce the barriers that frustrate competitive LECs' efforts to compete effectively in the provision of advanced services and other telecommunications services.

Summary of Significant Issues Raised by Public Comments in Response of the FRFA

15. In the IRFA, we stated that any rule changes would impose minimum burdens on small entities and solicited comments on alternatives to our proposed rules that would minimize the impact that might have on small entities. In the Final Regulatory Flexibility Analysis (FRFA), we discussed the impact on small entities of the rules adopted in the Advanced Services First Report and Order. As noted above, we have received no comments or petitions specifically directed to the IRFA or the FRFA. In making the determinations reflected in the Order, however, we have considered the impact of our actions on small entities.

Description and Estimate of the Number of Small Entities Affected by the Order on Reconsideration

16. In the IRFA to the Advanced Services Order and NPRM, we adopted the analysis and definitions set forth in determining the small entities affected by this Order for purposes of this SFRFA. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of entities that will be affected by the rules. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) meets any additional criteria established by the Small Business Administration (SBA). The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

17. The most reliable source of information regarding the total numbers of 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 report, derived from filings made in connection with the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 4,144 interstate carriers. These carriers include, inter alia, LECs, wireline carriers and service providers, interexchange carriers, competitive access providers, operators services providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

18. 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.'' 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. 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.

19. Total Number of Telephone Companies Affected. The United States 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. These firms include a variety of different categories of carriers, including LECs, 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 4,144 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 4,144 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

20. Wireline Carriers and Service Providers. SBA has developed a definition of small entities for telephone communications companies other than radiotelephone 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 SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,231 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 business concerns under 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 Order.

21. Local Exchange Carriers. The Commission has not developed a special size definition of small LECs or competitive LECs. The closest applicable definition for these types of carriers under SBA rules is, again, that used for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, there are 1,348 incumbent LECs, 212 competitive LECs, and 442 resellers. 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 these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are no more than 1,348 small entity incumbent LECs, 212 competitive LECs, and 442 resellers that may be affected by the decisions and rules adopted in this Order.

Description of Projected Reporting, Record Keeping, and Other Compliance Requirements

22. In this Order, we take a number of steps that may affect small entities that either provide or obtain collocation pursuant to section 251(c)(6) of the Communications Act. The requirements we adopt will require small incumbent LECs to improve their collocation provisioning processes and otherwise change their collocation practices. As Congress contemplated in enacting section 251(c)(6), however, our collocation requirements benefit small competitive LECs in their efforts to compete against incumbent LECs in the provision of telecommunications services, including advanced services. We believe that, on balance, the benefits to small competitive LECs of our actions in this Order far outweigh any burdens the Order places on small incumbent LECs.

23. Specifically, the national standards for physical collocation intervals that we adopt in this Order will decrease the costs and delays small competitive LECs encounter in seeking to collocate at incumbent LEC premises. In particular, the provisioning interval requirements we adopt (paragraphs 12–16 of this Supplemental FRFA), should enable competitive LECs that are small entities to bring services to potential customers more quickly than previously and thus increase their ability to compete against larger firms. Similarly, the adjunct collocation requirements (paragraphs 17 and 18), space denial standards (paragraphs 19 & 21), and safe-time work practice standards (paragraph 20), adopted in the Order should benefit competitive LECs that are small entities helping them obtain the collocation space they need to compete and otherwise helping them streamline their collocation-related operations.

24. We require that, except to the extent a state sets its own standards or the requesting carrier and the incumbent LEC have mutually agreed to alternative standards, an incumbent LEC must notify the requesting telecommunications carrier as to whether a collocation application has been accepted or denied within ten calendar days after receiving the application. We also require that if the incumbent LEC deems a collocation application unacceptable, it must advise the competitive LEC of any deficiencies within this ten calendar day period. We require that an incumbent LEC must provide sufficient detail so that the requesting carrier has a reasonable opportunity to cure each deficiency. We specify that to retain its place in the incumbent LEC's collocation queue, the competitive LEC must cure any deficiencies in its collocation application and resubmit the application within ten calendar days after being advised of them. We also require that, if the requesting carrier informs an incumbent LEC that physical collocation should proceed within seven calendar days after receiving the incumbent LEC's price quotation, the incumbent LEC must comply with the 90 calendar day provisioning interval set forth below, or any alternative interval set by a state commission or agreed to by the requesting carrier and the incumbent LEC.

25. We require, in addition, that if the competitive LEC fails to meet this deadline, the provisioning interval will begin on the date the requesting carrier informs the incumbent LEC that physical collocation should proceed. We specify that an incumbent LEC must complete any technically feasible physical collocation arrangement, whether caged or cageless, no later than 90 calendar days after receiving an acceptable collocation application, where space, whether conditioned or unconditioned, is available in the incumbent LEC premises and the state commission does not set a different interval or the incumbent and requesting carrier have not agreed to a different interval. We specify that complete provisioning of a collocation arrangement, an incumbent LEC must finish construction in accordance with the requesting carrier's application and turn functioning space over to the requesting carrier.

26. We state that incumbent LECs and competitive LECs must comply with renegotiation clauses in their interconnection agreements in negotiating specific provisions to implement changes in our collocation rules, including the application processing deadline and 90 calendar day physical collocation interval we adopt above. We further conclude that, within October 10, 2000 this Order on Reconsideration, the incumbent LEC must file with the state commission proposed amendments to any tariff or statement of generally available terms and conditions (SGAT) that does not comply with the national standards. These amendments must provide for application processing intervals and physical collocation intervals no longer than the national standards except to the extent a state sets its own standard.

We require that, for SGAT, the national standards shall take effect within 60 days after the amendment's filing except to the extent the state commission specifies other application processing or provisioning intervals for a particular type of collocation arrangement, such as cageless collocation. We also require that, where a tariff must be amended to reflect the national standards, those standards shall take effect at the earliest time permissible under applicable state requirements.

27. Absent the incumbent LEC's and requesting carrier's mutual consent, the ten calendar day deadline for responding to a collocation application and the 90 calendar day provisioning deadline will serve as maximum intervals, to the extent a state does not set its own deadlines. We require that an incumbent LEC must provide any information the state commission requires. Where an incumbent LEC seeks a departure from either deadline, the incumbent also must provide any additional information the state commission requires to resolve whether an incumbent LEC should be allowed to depart from the ten day deadline for telling the requesting carrier whether a collocation application is acceptable on the 90 calendar day provisioning deadline.

28. We conclude that to the extent the state commission permits, the incumbent LEC may require a competitive LEC to pay reasonable application fees or portions of the total collocation charges prior to processing a collocation application or provisioning a collocation agreement. We specify that a competitive LEC's exercise of any right it has to dispute those fees or charges, or any of the rates, terms, or conditions under which an incumbent LEC seeks to provide collocation, shall not relieve the incumbent LEC of its obligation to comply with each of the time limits set forth in this section. We state that an incumbent LEC may require a competitive LEC to forecast its physical collocation demands. We also specify that, absent state action conditioning compliance with application processing and provisioning intervals upon forecasts, a competitive LEC's failure to submit timely forecasts will not relieve the incumbent LEC of its obligation to comply with deadlines described above.

29. We confirm that, when space is exhausted in a particular structure, the incumbent LEC must permit a competitive LEC to collocate in a controlled environmental vault or similar structure that the competitive LEC or a third party constructs adjacent to an incumbent LEC structure. We amend § 51.5 of our rules to make clear that ''premises'' includes all buildings and similar structures owned, leased, or otherwise controlled by the incumbent LEC that house its network facilities, all structures that house incumbent LEC facilities on public rights-of-way, and all land owned, leased, or otherwise controlled by an incumbent LEC that is adjacent to these structures.

30. We conclude that an incumbent must make available collocation in adjacent controlled environmental vaults or similar structures, to the extent technically feasible, at premises where physical collocation space is legitimately exhausted, even if virtual collocation space is not exhausted. We specify that if collocation space becomes available in a previously exhausted incumbent LEC structure, the incumbent LEC must not require a competitive LEC to move, or preclude an competitive LEC from moving a collocation arrangement into that structure. Where technically feasible, an incumbent LEC must make physical collocation available in any incumbent LEC structure that houses network facilities and has space available for collocation. Such structures include, to the extent technically feasible, central offices, controlled environmental vaults, controlled environmental huts, cabinets, pedestals, and other remote terminals.

31. In the Advanced Services First Report and Order, we required that an incumbent LEC that denies collocation of a competitor's equipment based on safety standards must, within five business days after the denial, provide the requesting carrier with an affidavit attesting that all equipment that the incumbent LEC locates at the premises in question meets or exceeds the safety standard that, according to the incumbent LEC, the competitor's equipment does not meet. In this Order, we require that the affidavit set forth in detail: the exact safety requirement that the requesting carrier's equipment does not satisfy; the incumbent LEC's basis for concluding that the requesting carrier's equipment does not meet this safety requirement; and the incumbent LEC's basis for concluding why collocation of equipment not meeting this safety requirement would compromise network safety.

32. We require that an incumbent LEC allow the carrier requesting collocation reasonable access to its selected collocation space while the incumbent LEC prepares that space for collocation. While we do not preclude an incumbent LEC from applying reasonable and nondiscriminatory ''safe-time'' work practices to itself and collocators, we specify requirements for when such a practice will be considered reasonable and nondiscriminatory.

33. In the Local Competition First Report and Order, the Commission required any incumbent LEC that denies a request for physical collocation to provide the state commission with detailed floor plans or diagrams of its premises. In this Order, we require that each incumbent LEC provide the state commission with all information necessary for the state commission to evaluate the reasonableness of the incumbent LEC's and its affiliates' reservations of space for future growth. We require that this information shall include any information the state commission may require to implement its specific space reservation policies, including which space, if any, the incumbent or any of its affiliates have reserved for future use. We also require that the incumbent shall provide the state commission with a detailed description of the specific future uses for which the space has been reserved. We require further that an incumbent LEC shall permit any requesting telecommunications carrier to inspect any floor plans or diagrams that the incumbent LEC provides a state commission, subject to any nondisclosure protections the state commission deems appropriate. As indicated, all these requirements will produce benefits to small competitive LECs that far outweigh any burdens the Order places on small incumbent LECs.

Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

34. In this Order, we clarify and strengthen our collocation rules in implementation of section 251(c)(6) of the Communications Act. These actions will affect both telecommunications carriers that request collocation and the incumbent LECs that, under section 251(c)(6), must provide collocation. As indicated above, both groups of carriers include entities that, for purposes of this SFRFA, are classified as small entities.

35. The record makes clear that, despite our actions in the Advanced Services First Report and Order, incumbent LECs have continued to impede requesting telecommunications carriers collocation efforts. Our actions in this Order should benefit requesting telecommunications carriers, many of which may be small entities, by reducing barriers they encounter in seeking to compete effectively in the provision of advanced services and other telecommunications services. These actions include requiring that, where a state does not set its own standard, an incumbent LEC must

provide physical collocation, including cageless collocation, within 90 calendar days after receiving a collocation application.

36. In taking the actions in this Order, we have considered significant alternatives, such as setting maximum collocation provisioning intervals either shorter or longer than 90 calendar days. We selected 90 calendar days, however, based on the balance of competing considerations, including competitive LECs' need for a provisioning interval of relatively short duration. We also considered adopting shorter collocation intervals for particular types of collocation arrangements, different adjunct collocation requirements, and requirements regarding reserving space for future use, but instead invite comment on those requirements in the Second Further Notice (publish elsewhere in this issue). Finally, any alternative space denial and safe-time work practice requirements would decrease the ability of competitive LECs that are small entities to compete effectively. In choosing among the various alternatives, we have sought to minimize the adverse economic impact on carriers, including those that are small entities. We recognize that, while our actions should benefit competitive LECs, they may impose economic burdens on incumbent LECs, as Congress envisioned when it enacted section 251(c)(6). In comparison to incumbent LECs, however, many competitive LECs are small, entrepreneurial businesses. Our actions in this Order should reduce the costs and delays these competitive LECs encounter in seeking to collocate in incumbent LEC premises.

Report to Congress

37. The Commission will send a copy of the Order, including this SFRFA, in a report to be sent to Congress pursuant to the SBREFA. See 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Order,* including the SFRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order* and the SFRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

Procedural Matters

38. Pursuant to sections 1–4, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201, 202, 251–254, 256, 271, and 303(r), that the Petition for Partial Reconsideration and/or Clarification filed June 1, 1999, by Sprint Corporation *Is Granted* to the extent indicated herein and otherwise *Is Denied.*

39. Pursuant to sections 1–4, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201, 202, 251–254, 256, 271, and 303(r), that part 51 of the Commission's rules, 47 CFR part 51, *Is Amended,* as set forth in Rule changes.

40. Pursuant to sections 1–4, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201, 202, 251–254, 256, 271, and 303(r), that the requirements and rules adopted in this Order on Reconsideration not pertaining to new or modified reporting or recordkeeping requirements *Shall Become Effective* October 10, 2000.

41. Pursuant to sections 1–4, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201, 202, 251–254, 256, 271, and 303(r), that the requirements and rules adopted in this Order on Reconsideration pertaining to new or modified reporting or recordkeeping requirements are subject to approval by the Office of Management and Budget (OMB) as prescribed by the Paperwork Reduction Act and *Shall Become Effective* upon announcement in the **Federal Register** of OMB approval.

42. The Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of this Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98–147 and this Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96–98, including the Supplemental Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 51

Communications, Common carriers, Telecommunications, Collocation.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 51 as follows:

PART 51—INTERCONNECTION

1. The authority for part 51 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, unless otherwise noted.

2. Section 51.5 is amended by revising the definition of ''premises'' and by adding in alphabetical order a definition of ''day'' to read as follows:

§ 51.5 Terms and definitions.

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Day. Day means calendar day.

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Premises. Premises refers to an incumbent LEC's central offices and serving wire centers; all buildings or similar structures owned, leased, or otherwise controlled by an incumbent LEC that house its network facilities; all structures that house incumbent LEC facilities on public rights-of-way, including but not limited to vaults containing loop concentrators or similar structures; and all land owned, leased, or otherwise controlled by an incumbent LEC that is adjacent to these central offices, wire centers, buildings, and structures.

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3. Section 51.321 is amended by revising paragraph (f) to read as follows:

§ 51.321 Methods of obtaining interconnection and access to unbundled elements under section 251 of the Act.

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(f) An incumbent LEC shall submit to the state commission, subject to any protective order as the state commission may deem necessary, detailed floor plans or diagrams of any premises where the incumbent LEC claims that physical collocation is not practical because of space limitations. These floor plans or diagrams must show what space, if any, the incumbent LEC or any of its affiliates has reserved for future use, and must describe in detail the specific future uses for which the space has been reserved and the length of time for each reservation. An incumbent LEC that contends space for physical collocation is not available in an incumbent LEC premises must also allow the requesting carrier to tour the entire premises in question, not only the area in which space was denied, without charge, within ten days of the receipt of the incumbent's denial of space. An incumbent LEC must allow a requesting telecommunications carrier reasonable access to its selected collocation space during construction.

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4. Section 51.323 is amended revising paragraphs (b) introductory text, (f)(4), and (k)(3), and adding paragraph (l) to read as follows:

§ 51.323 Standards for physical collocation and virtual collocation.

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(b) Whenever an incumbent LEC objects to collocation of equipment by a requesting telecommunications carrier for the purposes within the scope of section 251(c)(6) of the Act, the incumbent LEC shall prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements. An incumbent LEC may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that the incumbent LEC applies to its own equipment. An incumbent LEC may not object to the collocation of equipment on the ground that the equipment fails to comply with Network Equipment and Building Specifications performance standards or any other performance standards. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days of the denial a list of all equipment that the incumbent LEC locates at the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. This affidavit must set forth in detail: the exact safety requirement that the requesting carrier's equipment does not satisfy; the incumbent LEC's basis for concluding that the requesting carrier's equipment does not meet this safety requirement; and the incumbent LEC's basis for concluding why collocation of equipment not meeting this safety requirement would compromise network safety. Equipment used for interconnection or access to unbundled network elements includes, but is not limited to:

* * * * *

(f) * * *

(4) An incumbent LEC may retain a limited amount of floor space for its own specific future uses, provided, however, that neither the incumbent LEC nor any of its affiliates may reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use;

* * * * *

(k) * * *

(3) *Adjacent space collocation.* An incumbent LEC must make available, where physical collocation space is legitimately exhausted in a particular incumbent LEC structure, collocation in adjacent controlled environmental vaults, controlled environmental huts, or similar structures located at the incumbent LEC premises to the extent technically feasible. The incumbent LEC must permit a requesting telecommunications carrier to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as applicable to any other physical collocation arrangement. The incumbent LEC must permit the requesting carrier to place its own equipment, including, but not limited to, copper cables, coaxial cables, fiber cables, and telecommunications equipment, in adjacent facilities constructed by the incumbent LEC, the requesting carrier, or a third-party. If physical collocation space becomes available in a previously exhausted incumbent LEC structure, the incumbent LEC must not require a carrier to move, or prohibit a competitive LEC from moving, a collocation arrangement into that structure. Instead, the incumbent LEC must continue to allow the carrier to collocate in any adjacent controlled environmental vault, controlled environmental vault, or similar structure that the carrier has constructed or otherwise procured.

(l) An incumbent LEC must offer to provide and provide all forms of physical collocation (*i.e.,* caged, cageless, shared, and adjacent) within the following deadlines, except to the extent a state sets its own deadlines or the incumbent LEC has demonstrated to the state commission that physical collocation is not practical for technical reasons or because of space limitations.

(1) Within ten days after receiving an application for physical collocation, an incumbent LEC must inform the requesting carrier whether the application meets each of the incumbent LEC's established collocation standards. A requesting carrier that resubmits a revised application curing any deficiencies in an application for physical collocation within ten days after being informed of them retains its position within any collocation queue that the incumbent LEC maintains pursuant to paragraph (f)(1) of this section.

(2) Except as stated in paragraphs (l)(3) and (l)(4) of this section, an incumbent LEC must complete provisioning of a requested physical collocation arrangement within 90 days after receiving an application that meets the incumbent LEC's established collocation application standards.

(3) An incumbent LEC need not meet the deadline set forth in paragraph (l)(2) of this section if, after receipt of any price quotation provided by the incumbent LEC, the telecommunications carrier requesting collocation does not notify the incumbent LEC that physical collocation should proceed.

(4) If, within seven days of the requesting carrier's receipt of any price quotation provided by the incumbent LEC, the telecommunications carrier requesting collocation does not notify the incumbent LEC that physical collocation should proceed, then the incumbent LEC need not complete provisioning of a requested physical collocation arrangement until 90 days after receiving such notification from the requesting telecommunications carrier.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1828 and 1852

Insurance—Partial or Total Immunity From Tort Liability for State Agencies and Charitable Institutions

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule amends the NASA FAR Supplement (NFS) to allow State agencies and charitable institutions partial or total immunity from tort liability on NASA contracts.

EFFECTIVE DATE: September 8, 2000.

FOR FURTHER INFORMATION CONTACT: Richard Kall, NASA, Office of Procurement, Contract Management Division (Code HK), (202) 358–0459.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the **Federal Register** on April 25, 2000 (65 FR 24170–24171). No comments were received. This final rule adopts the proposed rule without change.

B. Regulatory Flexibility Act

NASA certifies that this rule will not have a significant economic impact on a substantial number of small business