

affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective June 24, 2002.

#### List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

**Authority:** This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 5, 2002.

**Gregg A. Cooke,**

*Regional Administrator, Region 6.*

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**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 32, 51 and 54

[CC Docket No. 00-199; FCC 02-68]

#### 2000 Biennial Regulatory Review — Comprehensive Review of the Accounting Requirements and Reporting Requirements for Incumbent Local Exchange Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; withdrawal of amendment and partial delay of effective date.

**SUMMARY:** In this document the Commission reinstates Account 3400, Accumulated amortization—tangible, a Class B Account. Reinstating Account 3400 is less burdensome for the Class B carriers. We also clarify that mid-sized carriers are not required to file ARMIS 43-02 (USOA Report), 43-03 (Joint Cost Report), and 43-04 (Separations and Access Report). The Commission delays the effective date of the changes to the part 32 chart of accounts, and derivative changes to parts 51 and 54 of the Commission rules. This delay would allow the accounting changes to be implemented at the beginning of the year.

**DATES:** The amendment removing § 32.3400, published at 67 FR 5688, (February 6, 2002), which was to become effective August 6, 2002 (however, carriers were permitted to implement part 32 accounting changes as of January 1, 2002) is withdrawn as of April 24, 2002. All other amendments to part 32 and parts 51 and 54 published at 67 FR 5679-5702, which were to become effective August 6, 2002 (however, carriers were permitted to implement part 32 accounting changes as of January 1, 2002) are delayed until January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Clifford Rand, Deputy Chief, PPD, Wireline Competition Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration adopted March 7, 2002 and released March 8, 2002. The full text of the document is available for public inspection and copying during regulator business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portal II 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-

863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

### Synopsis of Order

#### I. Background

The Commission undertook a comprehensive review of the accounting rules and Automated Reporting Management Information System (ARMIS) reporting requirements in the *Phase 2 Report and Order*, 67 FR 5669 (February 6, 2002). Among other things, the Commission eliminated many part 32 accounts and reduced ARMIS reporting requirements for mid-sized local exchange carriers (LECs). On the Commission's motion, pursuant to § 1.108 of the Commission's rules, the Commission issues this limited reconsideration of the rules adopted in the *Phase 2 Report and Order*. In this Order, the Commission reinstates Account 3400, Accumulated amortization—tangible, a Class B account, at the request of United States Telecom Association (USTA). At Sprint's request, the Commission clarifies that mid-sized carriers are not required to file ARMIS 43-02 (USOA Report), 43-03 (Joint Cost Report), and 43-04 (Separations and Access Report). Finally, at the request of the Bell Operating Companies (BOCs), the Commission extends the effective date of the changes to the Part 32 chart of accounts, and derivative changes to parts 51 and 54, adopted in the *Phase 2 Report and Order*, to January 1, 2003.

#### II. Discussion

*Account 3400, Accumulated amortization—tangible.* In the *Phase 2 Report and Order*, the Commission consolidated many of the Class A and Class B accounts. The Commission reduced the number of Class A accounts by 45 percent while retaining the accounts needed by the Commission or the states for regulatory purposes. The Commission also added several Class A subaccounts requested by commenters. The Commission concluded that the Class B account consolidation should correspond with the Class A account consolidation; otherwise, the result would be contrary to the intent to adopt a less burdensome accounting system for the Class B carriers. The Commission therefore reduced the number of Class B accounts by 27 percent. One of the Class B accounts eliminated was Account 3400, Accumulated amortization—tangible.

Account 3400, Accumulated amortization—tangible is used by Class B companies to record accumulated amortization of the type and character required of Class A companies in

Accounts 3410 and 3420. The Commission eliminated this account in the *Phase 2 Report and Order*, but required Class B carriers to use Account 3410, Accumulated amortization—capitalized leases for part of what was entered into Account 3400. The remaining portion of what was in Account 3400 was intended to go into Account 2682, Leasehold improvements.

USTA argues that it would be easier for the Class B companies to use Account 3400, rather than allocate what formerly was in this account between two other accounts. USTA therefore proposes that the Commission reinstate Account 3400. The streamlining measures adopted in the *Phase 2 Report and Order* were intended to benefit LECs, both large and small, by reducing the number of accounts they were required to maintain, while maintaining those needed for regulatory purposes. In light of USTA's assertion that it is less burdensome for the Class B carriers to keep Account 3400, the Commission concludes that it would be appropriate to retain this account. Therefore, on reconsideration, and at the request of USTA, the Commission retains Account 3400, Accumulated amortization—tangible.

**ARMIS Reports.** ARMIS is an automated reporting system developed by the Commission to collect financial, operating, service quality, and network infrastructure information that carriers are required to collect under Commission rules. ARMIS Reports 43-01, 43-02, 43-03, and 43-04 contain financial information of carriers with annual operating revenues that are equal to or above the indexed revenue threshold, currently \$117 million. ARMIS 43-04 (Separations and Access Report) collects information on how costs are separated between the federal and state jurisdictions.

At the request of Sprint, the Commission clarifies that mid-sized carriers are not required to file the ARMIS 43-02, 43-03, and 43-04 reports on April 1, 2002. As Sprint observes, one of the goals in this proceeding is to reduce reporting requirements for the mid-sized carriers. The Commission hereby clarifies that its intention was to eliminate the obligation of mid-sized carriers to file ARMIS 43-02, 43-03, and 43-04 on April 1, 2002, and to require the mid-sized carriers to file the revised 43-01 and 43-8 reports on the same schedule as the larger companies.

*Extending the effective date of revisions to the Part 32 chart of accounts to January 1, 2003.* In the *Phase 2 Report and Order*, the Commission adopted changes to the

accounting rules. BellSouth, on behalf of itself and SBC Communications, Verizon, and Qwest, requests that the Commission extend the effective date of the changes to the part 32 chart of accounts to January 1, 2003.

The Commission agrees with these carriers that extending the effective date of the new part 32 chart of accounts to January 1, 2003 would allow the accounting changes to be implemented at the beginning of the fiscal year and would avoid the dual data capturing that could occur if the part 32 chart of accounts changes were implemented in mid-year. The Commission also notes that this extension will give carriers additional time to revise their accounting systems to incorporate the many changes to the part 32 chart of accounts adopted in the *Phase 2 Report and Order*. Therefore, on reconsideration, and at the request of the Bell Operating Companies, the Commission is extending the effective date of the changes to the part 32 chart of accounts to January 1, 2003.

As a result of changes in the effective date for the accounting rules, carriers will not be able to report revised 2002 data on April 1, 2003. Consequently, the revisions to the ARMIS Reports 43-01, 43-02, and 43-03 shall be effective for filings due April 1, 2004.

Therefore, on the Commission's own motion, pursuant to § 1.108 of the Commission's rules, the Commission is extending the effective date of the new part 32 chart of accounts and derivative changes to parts 51 and 54 adopted in the *Phase 2 Report and Order* to January 1, 2003. The Commission is retaining Account 3400, Accumulated amortization—tangible, and the Commission is clarifying that mid-sized LECs are not required to file the ARMIS 43-02, 43-03, and 43-04 reports on April 1, 2002.

### III. Procedural Matters

**Final Regulatory Flexibility Certification.** The Regulatory Flexibility Act of 1980, as amended, (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 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: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

In the *Phase 2 Report and Order*, the Commission streamlined the Class A and Class B accounts and ARMIS reporting requirements for incumbent LECs, and further reduced the accounting and reporting requirements for mid-sized incumbent LECs. These rule changes generally reduced the accounting and reporting requirements for all incumbent LECs. In this Order on Reconsideration, the Commission is reinstating one Class B account, at the request of USTA. The Commission is also clarifying that mid-sized carriers are not required to file the ARMIS 43-02, 43-03, and 43-04 Reports, also at the request of USTA. Finally, the Commission is extending the effective date for the new chart of accounts adopted in the *Phase 2 Report and Order* to January 1, 2003, pursuant to the BOCs' request. This will allow carriers, including small entities, more time to make the necessary changes to their accounting systems. These rule changes and clarification will further reduce accounting and reporting burdens for incumbent LECs. Therefore, we certify, pursuant to section 605(b) of the RFA, that the rules adopted herein will not have a significant economic impact on a substantial number of small entities.

### IV. Ordering Clauses

Pursuant to section 220(g) of the Communications Act of 1934, as amended, 47 U.S.C. 220(g), changes to the chart of accounts in part 32, System of Accounts, adopted in the Report and Order in CC Docket No. 00-199 shall be effective January 1, 2003. We will, however, permit carriers to implement the § 32.3400 rule change as of January 1, 2002.

Pursuant to the authority contained in sections 1, 4(i), 4(j), 201-205, and 218-220 of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154(i), 154(j), 201-205, and 218-220, that mid-sized incumbent local exchange carriers are not required to file FCC Report 43-02, the USOA Report; FCC Report 43-03, the Joint Cost Report; and FCC Report 43-04, the Separations and Access Report for filings due April 1, 2002.

Pursuant to the authority contained in sections 1, 4(i), 4(j), 201-205, and 218-220 of the Communications Act of 1934, as amended, 47 U.S.C. sections 151,

154(i), 154(j), 201–205, and 218–220, that revisions to FCC Report 43–01, the Annual Summary Report; FCC Report 43–02, the USOA Report; and FCC Report 43–03, the Joint Cost Report as set forth previously shall be effective for filings due April 1, 2004.

Pursuant to the authority contained in § 0.291 of the Commission's rules, 47 CFR 0.291, that the Common Carrier Bureau is delegated authority to implement all changes to ARMIS reporting as above set forth.

#### List of Subject in 47 CFR Parts 32, 51 and 54.

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Communications Commission.

**William F. Caton,**

*Acting Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 222 and 223

[Docket No. 020418089–2089–01; I.D. 041702B]

RIN 0648–AP96

#### Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary area gear restriction.

**SUMMARY:** NMFS is closing, for a short 2–week period, all inshore waters and offshore waters 10 nautical miles (nm) (18.5 km) seaward of the COLREGS demarcation line, bounded by 31° N. lat. (approximately St. Andrews Sound, Georgia) and 32° N. lat. (approximately Tybee Island, Georgia) within the Leatherback Conservation Zone, to fishing by shrimp trawlers required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, unless the TED has an escape opening large enough to exclude leatherback turtles, as specified in the regulations. This action is necessary to reduce mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls.

**DATES:** This action is effective from April 19, 2002 through 11:59 p.m. (local time) on May 3, 2002.

**ADDRESSES:** Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

#### FOR FURTHER INFORMATION CONTACT:

David Bernhart (ph. 727–570–5312, fax 727–570–5517, e-mail

*David.Bernhart@noaa.gov*); or Barbara Schroeder (ph. 301–713–1401, fax 301–713–0376, e-mail *Barbara.Schroeder@noaa.gov*).

For assistance in modifying TED escape openings to exclude leatherback sea turtles, fishermen may contact gear specialists at the NMFS, Pascagoula, MS laboratory by phone 228–762–4591 or fax 228–769–8699.

#### SUPPLEMENTARY INFORMATION:

**SUPPLEMENTARY INFORMATION:** Prohibitions on taking sea turtles are governed by regulations implementing the Endangered Species Act at 50 CFR parts 222 and 223. The incidental take of turtles during shrimp fishing in the Atlantic Ocean off the coast of the southeastern United States and in the Gulf of Mexico is excepted from the taking prohibition pursuant to sea turtle conservation regulations at 50 CFR 223.206, which include a requirement that shrimp trawlers have a NMFS-approved TED installed in each net rigged for fishing. The use of TEDs significantly reduces mortality of loggerhead, green, Kemp's ridley, and hawksbill sea turtles. Because leatherback turtles are larger than the escape openings of most NMFS-approved TEDs, use of these TEDs is not an effective means of protecting leatherback turtles.

Through a final rule (60 FR 47713 September 14, 1995), NMFS established regulations to provide protection for leatherback turtles when they occur in locally high densities during their annual, spring northward migration along the Atlantic seaboard. Within the Leatherback Conservation Zone, NMFS may close an area for 2 weeks when leatherback sightings exceed 10 animals per 50 nm (92.6 km) during repeated aerial surveys pursuant to § 223.206(d)(2)(iv)(A) through (C).

An initial aerial survey conducted on March 29, 2002, along the Georgia coast documented 17 leatherback turtles over a total survey trackline of approximately 80 nm (148 km). Concentrations were noted in waters off Wassaw, Ossabaw, St. Catherines, and Sapelo Islands. No shrimp trawlers were seen working. Due to mechanical difficulties, the survey

did not continue south of Sapelo Island. A replicate survey was flown along the entire Georgia coast on April 15, 2002. Thirty-three leatherback turtles and 77 shrimp trawlers were spotted, over a total survey trackline of approximately 190 nautical miles (352 km). Leatherbacks were concentrated again off Ossabaw, St. Catherines, and Sapelo Islands and also off Jekyll and St. Simons Islands. Leatherbacks were also spotted off Tybee Island in the north and Cumberland Island in the south. The sighting frequencies in the original and replicate surveys all met or exceeded the regulatory standard of at least 10 animals within a 50 nautical mile (92.6 km) length of survey trackline.

The Assistant Administrator for Fisheries, NOAA (AA), is closing all inshore waters and offshore waters within 10 nm (18.5 km) seaward of the COLREGS demarcation line, bounded by 31° N. lat. and 32° N. lat., within the Leatherback Conservation Zone to fishing by shrimp trawlers required to have a TED installed in each net that is rigged for fishing, unless the TED installed has an escape opening large enough to exclude leatherback turtles, meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B)(1) or (2) or 223.207(c)(1)(iv)(B). These regulations specify modifications that can be made to either single-grid hard TEDs or Parker soft TEDs to allow leatherbacks to escape.

The regulations at 50 CFR 223.206(d)(2)(iv) also state that fishermen operating in the closed area with TEDs modified to exclude leatherback turtles must notify the NMFS Southeast Regional Administrator of their intention to fish in the closed area. This aspect of the regulations does not have a current Office of Management and Budget control number, issued pursuant to the Paperwork Reduction Act. Consequently, fishermen are not required to notify the Regional Administrator prior to fishing in the closed area, but they must still meet the gear requirements.

#### Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA is taking this action in accordance with the requirements of 50 CFR 223.206(d)(2)(iv) to provide protection for endangered leatherback sea turtles from incidental capture and drowning in shrimp trawls. Leatherback sea turtles are occurring in high concentrations in coastal waters in shrimp fishery statistical zone 31. This