

21. On page 7646, column 3, § 1.280G–1, paragraph (f) of A–24:, *Example 4.*, line 3 from the bottom of the column, the language “would be on January 15, 2011. The” is corrected to read “would have been on January 15, 2011. The”.

22. On page 7648, column 1, § 1.280G–1, paragraph (c) of A–26:, line 13, the language “of section 129); or a no-additional-cost” is corrected to read “of section 129); a no-additional-cost”.

23. On page 7648, column 1, § 1.280G–1, paragraph (c) of A–26:, line 15, the language “132(b)) or qualified employee discount” is corrected to read “132(b)) qualified employee discount”.

24. On page 7648, column 1, § 1.280G–1, line 16, the language “(within the meaning of section 132(c));” is corrected to read “(within the meaning of section 132(c)) qualified retirement planning services under section 132(m);”.

25. On page 7649, column 1, § 1.280G–1, paragraph (d) of A–27:, *Example 4.*, lines 11 through 22, the language “Corporation P shareholders also owned Corporation O stock (overlapping shareholders) with a fair market value of 5 percent of the value of Corporation O stock. The overlapping shareholders consist of Mutual Company A Growth Fund, which prior to the transaction owns 3 percent of the value of Corporation O stock, Mutual Company A Income Fund, which prior to the transaction owns 1 percent of the value of Corporation O stock, and B, an individual who prior to the transaction owns 1 percent” is corrected to read “Corporation O shareholders also owned Corporation P stock (overlapping shareholders) exchanged for O stock with a fair market value of 5 percent of the value of Corporation O stock. The overlapping shareholders consist of Mutual Company A Growth Fund, which prior to the transaction owns P stock that is exchanged for 3 percent of the value of Corporation O stock, Mutual Company A Income Fund, which prior to the transaction owns P stock that is exchanged for 1 percent of the value of Corporation O stock, and B an individual who prior to the transaction owns P stock that is exchanged for 1 percent”

26. On page 7651, column 1, § 1.280G–1, A–32:, line 12, the language “24 and 35 of this section. However, for” is corrected to read “24 and 31 of this section. However, for”.

27. On page 7655, column 1, § 1.280G–1, paragraph (c) of A–42:, *Example 3.*, line 4, the language “services to Corporation N, when and if,” is corrected to read “services to Corporation N, when and if”.

28. On page 7656, column 2, § 1.280G–1, A–48: is corrected to read as follows:

**§ 1.280G–1 Golden parachute payments.**

\* \* \* \* \*

A–48: This section applies to any payments that are contingent on a change in ownership or control that occurs on or after January 1, 2004. Taxpayers can rely on these rules after February 20, 2002, for the treatment of any parachute payment.

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).*

[FR Doc. 02–15740 Filed 6–20–02; 8:45 am]

**BILLING CODE 4830–01–P**

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 53, 32, and 64**

**[WC Docket No. 02–112; FCC 02–148]**

**Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document initiates an inquiry regarding the sunset of the statutory requirements under section 272 imposed on Bell Operating Companies (BOCs) when they provide in-region, interLATA services and seeks comment on whether, and if so, under what conditions, the structural and nondiscrimination safeguards established in section 272 should be extended by the Commission either generally or with respect to specific states.

**DATES:** Comments are due July 22, 2002 and Reply Comments are due August 12, 2002. It is also available on the Commission’s website at <http://www.fcc.gov>. Written comments by the public on the proposed information collections are due July 22, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before August 20, 2002.

**ADDRESSES:** Federal Communications Commission, Secretary, 445 12th Street, SW, Room TW–B204F, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith B. Herman, Federal

Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to [jbherman@fcc.gov](mailto:jbherman@fcc.gov), and to Jeanette Thornton, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to [JThornto@omb.eop.gov](mailto:JThornto@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Claudia Pabo, Legal Assistant to the Chief, Competition Policy Division, or Jack Yachbes, Attorney Advisor, Wireline Competition Bureau, at (202) 418–1580. The complete text of this Notice of Proposed Rulemaking (NPRM) is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. Further information may also be obtained by calling the Common Carrier Bureau’s TTY number: (202) 418–0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Notice of Proposed Rulemaking in WC Docket No. 02–112, FCC 02–148, adopted May 16, 2002, and released May 24, 2002. This full text may be purchased from the Commission’s duplicating contractor, Qualex International, Portals 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). Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, “get form <your e-mail address>.” A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or

rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street,

SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

**Paperwork Reduction Act**

This Notice of Proposed Rulemaking (NPRM) contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding. This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due at the same time as

other comments on this NPRM; OMB notification of action is due August 20, 2002. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Control Number:* 3060-0734.

*Title:* Accounting Safeguards, CC Docket No. 96-150, 47 U.S.C. Sections 260 and 271-276, and 47 CFR Sections 53.209, 53.211 and 53.213.

*Form No.:* N/A.

*Type of Review:* Proposed Revised Collection.

*Respondents:* Business or other for-profit.

Title	Number of respondents	Estimated time per response	Total annual burdens
Affiliate Transactions Rules/Estimated Fair Market Value—Recordkeeping Requirements .....	20	24	480
Section 272(b)(2)—Affiliated Company Books, Records and Accounts .....	20	6056.25	121,125
Section 272(b)(5)—Arm's Length Requirement .....	7	72	504
Biennial Federal/State Audit, Audit Planning, and Analysis and Evaluation .....	7	250	1750

*Total Annual Burden:* 123,859 hours.

*Total Annual Costs:* \$632,500.

*Needs and Uses:* In a Report and Order in CC Docket No. 96-150, the Commission prescribed the way ILECs, including the BOCs, must account for transactions with affiliates involving, and allocate costs incurred in the provision of, both regulated telecommunications services and nonregulated services, including telemessaging, interLATA telecommunications and information services, telecommunications equipment and CPE manufacturing and others pursuant to 47 U.S.C. sections 260 and 271 through 276. The Commission has issued a NPRM solicits comment regarding the sunset of the statutory requirements in 47 U.S.C. section 272.

**Synopsis of the Notice of Proposed Rulemaking (NPRM)**

1. Section 272(f)(1) provides that the provisions of that section, with one exception, expire three years after a BOC or any BOC affiliate is authorized under section 271 to provide in-region, interLATA services, "unless the Commission extends such 3-year period

by rule or order." In this NPRM, the Commission seeks to develop a full record so that it may properly assess: (1) Whether the structural safeguards established in section 272 should be extended by the Commission, either generally or with respect to specific states, despite the three-year sunset provision in the statute; and (2) to the extent we conclude the costs of continued application of those statutory requirements outweigh the benefits, the Commission seeks comment on whether any alternative safeguards should be put in place in states where the statutory requirements have sunset.

2. *Background.* Section 272 of the Act requires that the BOCs initially provide in-region, interLATA service through a separate corporate affiliate and comply with certain nondiscrimination requirements set forth in the statute. In addition, section 272(d) requires that a BOC obtain and pay for a biennial joint federal/state audit after section 271 approval to determine whether it has complied with section 272. The Commission adopted rules to implement the statutory requirements of section 272 in the *Accounting Safeguards Order* (67 FR 5670, February

6, 2002) and the *Non-Accounting Safeguards Order* (66 FR 36206, December 3, 2001). In the *Non-Accounting Safeguards Order*, the Commission found that the BOCs have market power in the provision of local exchange and exchange access services within their service areas. In particular, the Commission found the BOCs to be dominant carriers with the incentive and ability to discriminate in providing exchange access services and facilities that their interexchange competitors need to compete in the interLATA telecommunications services markets.

3. Section 272 (c) and (e) impose nondiscrimination safeguards on the BOC. Under section 272 and our implementing rules, a BOC and its section 272 affiliate may not jointly own transmission and switching equipment. The BOC may not perform any operating, installation, or maintenance functions for facilities owned or leased by the section 272 affiliate, and the section 272 affiliate may not perform any such functions on BOC facilities. The separate 272 affiliate must maintain separate books of account and have separate officers and directors. The separate 272 affiliate may not obtain

credit under arrangements that would permit the creditor to look to the assets of the BOC. The section 272 affiliate must conduct all transactions with the BOC on an arm's length basis, pursuant to the Commission's affiliate transaction rules, with any such transactions reduced to writing and available for public inspection. Specifically, the separate affiliate must post on the Internet within ten days of a transaction a detailed written description of the asset or service and the terms and conditions of the transaction. Section 272(d) requires a biennial audit post-entry to ensure compliance with the structural and transactional requirements of section 272.

4. Section 272(f)(1) provides that the provisions of the section, except for section 272(e), expire three years after a BOC or any BOC affiliate is authorized under section 271 to provide in-region, interLATA services. "unless the Commission extends such 3-year period by rule or order."

5. Section 271 approval is provided on a state-by-state basis. As such, the sunset dates for each BOC will vary depending upon when each state receives section 271 approval. Verizon's New York section 272 requirements will sunset in December of 2002, and SBC's Texas section 272 requirements will sunset in June of 2003, unless the Commission acts to extend them.

6. *Discussion.* In this NPRM, the Commission invites parties to comment on the sunset provisions of section 272. It asks whether, and, if so, under what conditions, the structural and nondiscrimination safeguards established should be extended by the Commission either generally or with respect to specific states, despite the three-year sunset in the statute. The Commission also seeks comment on what, if any, alternative safeguards should apply to BOC provisioning of in-region, interLATA, interexchange services in states where the statutory requirements have sunset.

7. *Procedural Framework for Evaluating Sunset.* Pursuant to the statute, the requirements of section 272 (except for subsection (e)) sunset three years after section 271 authorization unless extended by rule or order. The threshold question for the Commission is how it should evaluate whether these requirements of section 272 should sunset after three years or, alternatively, be extended. In particular, the Commission seeks comment on whether it should adopt a rule of general applicability or should proceed by examining each state on a case-by-case basis. If it were to proceed on a case-by-case basis, what would be the nature of

the proceeding? How far in advance of the sunset date should the Commission commence the proceeding?

8. The Commission seeks comment on what information it should consider in evaluating whether the statutory requirements should sunset after three years. Specifically, the Commission seeks comment on marketplace developments, but asks more generally what factors it should consider in undertaking this inquiry.

9. *Marketplace Developments.* In order to assess the statutory sunset, the Commission seeks comment on the nature of the marketplace three years post-entry. The Commission recognizes that the market opening requirements of the 1996 Act are designed to bring the benefits of competition to consumers in all markets. In enacting 272, Congress recognized that the local exchange market would not be fully competitive upon its opening. At the same time, Congress clearly contemplated that competitors would be entering the local market, and thereby would provide alternative sources of local exchange and originating access services. To the extent such alternatives exist in the marketplace, the BOCs should be constrained in their ability to discriminate against competing providers of interexchange service. How should these and other developments inform the Commission's consideration? Have circumstances changed in three years to support the sunset of statutory requirements? Has competition continued to develop in states where section 271 applications have been granted and, if so, on which geographic areas or types of customers has that competition been focused? What significance should the Commission place on such evidence in determining how to address the section 272 sunset?

10. The Commission to date has approved thirteen section 271 applications. It asks the BOCs to identify their section 272 affiliates; describe the services provided by each; and discuss why they have chosen to establish multiple affiliates. The Commission also asks interested parties to comment on the direct and indirect costs of continued application of the statutory requirements beyond three years. Would continued application of the statutory safeguards affect competition in the interexchange marketplace?

11. The purpose of the separate affiliate and nondiscrimination requirements in section 272 is to lessen the ability of a BOC to discriminate and/or misallocate costs to the advantage of its own operations, and to make it easier to detect any such behavior. In

evaluating alternatives, how should the Commission take into account the unique statutory treatment of the BOCs and their size? What evidence is there of such behavior and on what evidence should the Commission rely? For example, have there been complaints at either the federal or state level of such behavior, and, if so, do the data show that complaints have increased or decreased? Should the Commission take into account whether complaints have increased or decreased, or rely only on final regulatory or judicial findings of discrimination? Is there evidence that BOCs' wholesale performance has deteriorated or improved since grant of a section 271 application and should the Commission rely on allegations that a BOC has ceased to meet the conditions of its section 271 approval or Commission findings that such backsliding has occurred? Should the Commission rely on BOCs' performance under the state-approved performance plans?

12. The first section 272 biennial audits have been performed by independent auditors both for Verizon and SBC. The purpose of the audit under section 272 is to determine whether the BOCs are abiding by the separate affiliate and nondiscrimination requirements. The Commission asks that parties address whether factual findings contained in audit reports should in any way inform the sunset decision, and if so, how? For example, if audits were to reveal no patterns of discriminatory behavior, would that weigh in favor of permitting section 272 to sunset? Alternatively, if audits were to provide the Commission with evidence of clear patterns of BOC discriminatory behavior, might that weigh in favor of continuing the separate affiliate requirements, either generally, or with respect to that BOC?

13. *Alternative Approaches.* In evaluating how to proceed under section 272(f)(1), there are a range of options before the Commission. As discussed more fully in the NPRM, those options include, but are not limited to: (1) Allow the statutory requirements to sunset three years after section 271 authorization; (2) extend the statutory requirements for a defined period of time for all BOCs; (3) allow the statutory requirements to sunset after three years, but adopt less stringent structural separation requirements; (4) allow the statutory separate affiliate requirements to sunset, but retain the statutory biennial audit requirements; or (5) allow the statutory requirements to sunset after three years, but adopt some form of nonstructural safeguards, such as reporting requirements. The

Commission seeks comment on the costs and benefits of each of these alternatives, and invites commenters to suggest other alternatives. It asks commenters to address how our cost-benefit analysis for each alternative should take into account the fact that the BOC will still be required to use a separate affiliate in states where the sunset date has not yet occurred. Additionally, the Commission seeks comment on a BOC-specific approach, whereby discriminatory behavior may lead to targeted retention of requirements in specific states. Finally, the Commission asks commenters to address how other proceedings currently underway, should inform our analysis.

14. The statute provides that most section 272 requirements will sunset three years after section 271 authorization, absent further Commission action. The Commission seeks comment on this sunset alternative. In particular, it seeks comment on the sufficiency of such a framework. Does the Commission have sufficient tools under pre-existing rules to address any residual concerns about cost misallocation and discrimination by the BOCs?

15. Under the Commission's current rules, the second biennial audit results for a particular state will not be available until after the three year statutory period has passed. Should the Commission permit the statutory requirements to sunset in a particular state prior to the completion of the second biennial audit? Furthermore, the Commission seeks comment on the interrelationship between the sunset provision and section 272(e) of the Act. Section 272(e) states that a BOC affiliate subject to section 251(c) "shall fulfill any requests from an unaffiliated entity for telephone exchange services and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates." The Commission recognizes on the one hand, that both sections 272(e)(2) and (e)(4) could be interpreted as subject to the sunset provision because they depend on the existence of a separate affiliate. On the other hand, the Commission found that section 272(f) specifically exempts section 272(e) from the sunset requirements. The Commission held that section 272(e)(2) and (e)(4) "can be applied to a BOC after sunset only if that BOC retains a separate affiliate." Should the Commission reconsider this conclusion? If so, as a practical matter, how would these requirements be applied in the absence of a separate

affiliate? Would continued application of these nondiscriminatory requirements, or ones similar to these, be sufficient to constrain potential anti-competitive behavior by a BOC in the absence of a separate affiliate?

16. In evaluating whether to extend the statutory requirements, the Commission is interested in the costs of continued application of the section 272 requirements. How should it take into account the fact that a number of BOCs have chosen to establish multiple section 272 affiliates? The Commission asks parties to address the efficiency loss and other possible business costs associated with the prohibition of joint ownership of facilities. The Commission further asks parties to identify any other administrative, regulatory or economic costs associated with use of a separate affiliate. What are the costs and benefits of requiring the BOCs to post all transactions on the Internet?

17. What would be an appropriate time period, should the Commission decide to extend the statutory requirements—three more years or something shorter? For example, should we consider extending the statutory requirements long enough to receive the results of the second biennial audit for a particular state? Would extending these requirements assist in protecting interexchange competition and consumer choice? What conditions would warrant adoption of alternative, less stringent structural separation requirements? If the Commission were to conclude that some less burdensome set of structural safeguards should be put in place, what would such a more limited set of alternative safeguards be? Should we require BOCs to establish a separate subsidiary that follows the provisions established in the *Competitive Carrier Fifth Report and Order* (49 FR 34824, October 23, 1998)? Sections 272(e)(1) and (e)(3) continue to exist even if the other requirements of section 272 have sunset. In that vein, the Commission asks for comment on how it should ensure compliance with those provisions, and whether there may be a need for some form of biennial audit on these discrete requirements even after the other section 272 requirements have sunset.

18. The Commission seeks comment on whether it should replace the separate corporate affiliate requirements with nonstructural safeguards. It asks that parties comment on what, if any, requirements or mechanisms may be established as a form of nonstructural safeguard in order to facilitate the detection of discrimination against competing interexchange carriers and cost misallocation. For example, the

Commission seeks comment on whether it should impose reporting and/or other nonstructural safeguard requirements on BOCs. What effect, if any, would these safeguards have on preventing cost misallocation, price and non-price discrimination, or a price squeeze? Section 272(e)(3), which does not sunset, requires the BOCs to impute an amount for access no less than that charged to interexchange competitors. Does the Commission need to adopt any rules to implement this imputation requirement?

19. The Commission recently released two Notices addressing national performance measurements and standards, including the *Special Access Measurements and Standards* proceeding. (66 FR 59759, December 17, 2001 and 66 FR 63651, December 10, 2001) The Commission asks that parties comment on whether adoption of measures considered in the *Special Access* proceeding would provide an adequate safeguard, should the section 272 requirements sunset. To what extent, if any, would these performance measurements, if adopted, serve as an effective mechanism in identifying BOC discriminatory behavior?

20. *Other Issues.* The Commission seeks comment on what enforcement tools would be available to it, should the statutory requirements sunset. Should the Commission decide to allow the statutory requirements to sunset, would section 271(d) be available to address instances of potential discrimination or cost misallocation? If the Commission were to adopt less intrusive safeguards in lieu of the statutory requirements, should it adopt mechanisms for modifying or removing these safeguards in the future? The Commission seeks comment on two alternatives. First, the Commission seeks comment on whether BOCs should petition for relief from any safeguards adopted, based on a specific showing, e.g., that their market power over the local exchange and exchange access market has eroded. Second, the Commission seeks comment on whether to set a defined time period for revisiting any safeguards adopted, in order to determine the necessity for and cost effectiveness of maintaining such safeguards.

#### **Initial Regulatory Flexibility Analysis**

21. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making 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 the term "small entity" as having the same meaning as the terms "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. 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).

22. In the context of this Regulatory Flexibility Analysis, SBA regulations define small telecommunications entities in SIC code 4813 (Telephone Companies Except Radio Telephone) as entities with fewer than 1,500 employees. This NPRM initiates an inquiry concerning the sunset of the statutory requirements under section 272 that apply to the BOCs when they provide in-region, interLATA services. In particular, this NPRM seeks to develop a full record so that the Commission may properly assess, as contemplated by the statute: (1) Whether the structural safeguards and nondiscrimination requirements applied to the BOCs by section 272 should be extended by the Commission, despite the three-year sunset provision in the statute; and (2) whether any alternative safeguards should be put in place for the BOCs in states where the statutory requirements have sunset.

23. The issues under consideration in this proceeding directly affect only the BOCs and their affiliates, which do not qualify as small entities under the RFA. In particular, none of the BOCs is a small entity because each BOC is an affiliate of a Regional Holding Company (RHC), and all of the BOCs or their RHCs have more than 1,500 employees. Insofar as this proceeding applies to other BOC or RHC affiliates, those affiliates are controlled by the BOCs or by the RHC. Accordingly, they are not "independently owned and operated" entities for purposes of the RFA.

24. Therefore, the proposals in this NPRM, if adopted, will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the NPRM, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration. This Initial Certification will also be published in the **Federal Register**.

### Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

25. None.

#### Ordering Clauses

26. Accordingly, pursuant to the authority contained in sections 1, 2, 4(i)–4(j), 201, 202, 205, 251, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–4(j), 201, 202, 205, 251, 271, 272, and 303(r), this NPRM is adopted.

27. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this NPRM, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 02–15676 Filed 6–20–02; 8:45 am]

**BILLING CODE 6712–01–P**

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 02–1372; MM Docket No. 01–131; RM–10148]

#### Radio Broadcasting Services; Benjamin, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal.

**SUMMARY:** This document dismisses the petition for rule making that underlies the *Notice of Proposed Rule Making* ("Notice"), 66 FR 35406 (July 5, 2001) in this proceeding because the petition is mutually exclusive with a proposal contained in a counterproposal in a prior-filed rulemaking proceeding, namely, *Quanah, Texas*, MM Docket No. 00–148, and was filed seven months after the deadline for filing counterproposals in the *Quanah, Texas*, proceeding. Therefore, the rulemaking petition is dismissed as untimely and the proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01–131, adopted June 5, 2002, and released June 14, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445

12th Street, SW., Room CY–A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals 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).

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.*

[FR Doc. 02–15674 Filed 6–20–02; 8:45 am]

**BILLING CODE 6712–01–P**

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 02–1373; MM Docket No. 02–69; RM–10385]

#### Radio Broadcasting Services; Jennings and Iowa, LA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; withdrawal

**SUMMARY:** This document dismisses a petition for rule making filed by Apex Broadcasting, Inc. requesting the reallocation of Channel 225C2 from Jennings, Louisiana to Iowa, Louisiana and modification of the authorization for Station KJEF–FM accordingly. *See* 67 FR 17670, April 11, 2002. Apex Broadcasting, Inc. withdrew its interest in the allotment of Channel 225C2 at Iowa, Louisiana. With this action, this proceeding is terminated.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 02–69, adopted June 5, 2002, and released June 14, 2002. The full text of this Commission decision is available for public inspection and copying during regular 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, Portals 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).