

**Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for

failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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 rule 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 of the rule 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 11, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 30, 2003.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**Part 52—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart R—Kansas**

■ 2. Section 52.870 is amended by:

- a. Revising paragraph (b)(3); and
- b. In the table for paragraph (c) by removing the heading “Wyandotte County” and all entries for 2A–1 through 2A–32.

The revision reads as follows:

**§ 52.870 Identification of Plan.**

\* \* \* \* \*

(b) \* \* \*

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region VII, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC; or at the EPA Air and Radiation Docket and Information Center, Room B–108, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

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[FR Doc. 03–14456 Filed 6–9–03; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 206****RIN 1660-AA15****Disaster Assistance; Public Assistance Program and Community Disaster Loan Program Statutory Changes**

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Adoption of interim final rule as final.

**SUMMARY:** This final rule adopts the interim final rule, published in the **Federal Register** on May 4, 2001, to implement portions of the Disaster Mitigation Act of 2000 that affect large in-lieu contributions (alternate projects), irrigation facilities, critical/non-critical private nonprofit facilities, and community disaster loans.

**DATES:** The Interim Final Rule published on May 4, 2001 at 66 FR

22443 became effective on October 30, 2000.

**FOR FURTHER INFORMATION CONTACT:**

James Walke, FEMA, 500 C Street, SW., Washington, DC 20472, (facsimile) (202) 646-3304, or e-mail [james.walke@dhs.gov](mailto:james.walke@dhs.gov).

**SUPPLEMENTARY INFORMATION:** On May 4, 2001, FEMA published in the **Federal Register** an interim final rule to implement portions of the Disaster Mitigation Act of 2000 that affect large in-lieu contributions (alternate projects), irrigation facilities, critical/non-critical private nonprofit facilities, and community disaster loans (66 FR 22443, May 4, 2001). The closing date for the submission of comments was July 3, 2001.

**Comments on the Interim Final Rule**

By the close of the comment period, FEMA received one comment on the interim final rule from an emergency management association. The major concern expressed by the membership of the association was the reduction from 90% to 75% of the Federal share for alternate projects. The association recognized that this reduction is a statutory change to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5172 and therefore beyond the scope of FEMA's rulemaking authority.

**Adoption as Final Rule**

Accordingly, the interim final rule to implement portions of the Disaster Mitigation Act of 2000 that affect large in-lieu contributions (alternate projects), irrigation facilities, critical/non-critical private nonprofit facilities, and community disaster loans which was published at 66 FR 22443 on May 4, 2001, is adopted as a final rule without change.

**National Environmental Policy Act (NEPA)**

NEPA imposes requirements for considering the environmental impacts of agency decisions. It requires that an agency prepare an Environmental Impact Statement (EIS) for "major federal actions significantly affecting the quality of the human environment." If an action may or may not have a significant impact, the agency must prepare an environmental assessment (EA). If, as a result of this study, the agency makes a Finding of No Significant Impact (FONSI), no further action is necessary. If it will have a significant effect, then the agency uses the EA to develop an EIS.

Categorical Exclusions. Agencies can categorically identify actions (for

example, repair of a building damaged by a disaster) that do not normally have a significant impact on the environment. The purpose of this final rule is to amend our Stafford Act rules to incorporate part of the changes mandated by the Disaster Mitigation Act of 2000 for the Public Assistance Program and for Community Disaster Loans. Accordingly, we have determined that this rule is excluded from the preparation of an environmental assessment or environmental impact statement under 44 CFR 10.8(d)(2)(ii), where the rule is related to actions that qualify for categorical exclusion. The changes reflected in this rule are exempt from NEPA because they reflect administrative changes to the programs that have no potential to affect the environment. We would perform an environmental review under 44 CFR part 10, Environmental Considerations, on each proposed project that we would fund and implement under the authorities covered in this rule.

**Paperwork Reduction Act**

This rule is not subject to the provisions of the Paperwork Reduction Act. It does not require any new information collections and therefore would not revise the number and types of responses, frequency, and burden hours.

**Regulatory Planning and Review**

We have prepared and reviewed this final rule under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rule implements certain mandatory provisions of the Disaster Mitigation Act of 2000 that relate to the Public Assistance Program and the Community Disaster Loan Program. The authorities mandated would not of themselves have an annual effect on the economy of \$100 million or more. We anticipate that the impacts of the alternate projects provision will be neutral, expecting that the savings from reducing the Federal share of the Federal estimate from 90 percent to 75 percent will be offset by fewer applications for assistance under this authority. We do not anticipate any change in costs by adding irrigation facilities to the definition of eligible private nonprofit facilities inasmuch as the rule reflects the statute and codifies our current policy and practices. Most of the private nonprofit organizations that will have to apply for SBA disaster loans before being eligible to apply for FEMA disaster assistance have damages well below the SBA loan limit of \$1,500,000. We do not expect this provision will have an impact of \$100,000,000 or more per year. Finally, we do not anticipate that savings from amendments to the Community Disaster Loan provision will exceed \$100,000,000 over a several-year period—our experience is that disaster loan forgiveness rates are between 60 and 70 percent. Over the last 25 years, the annual amount of money forgiven has been an average of \$2.7 million. We know of no conditions that would qualify the rule as a significant regulatory action" within the definition of section 3(f) of the Executive Order. To the extent possible this rule adheres to the principles of regulation as set forth in Executive Order 12866. The Office of Management and Budget has not reviewed this rule under the provisions of Executive Order 12866.

**Executive Order 13132, Federalism**

Executive Order 13132 sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this final rule under Executive Order 13132 and have

determined that the rule does not have federalism implications as defined by the Executive Order. The rule would define and establish the conditions and criteria under which FEMA would grant public assistance and make community disaster loans. The rule would in no way that we foresee affect the distribution of power and responsibilities among the various levels of government or limit the policymaking discretion of the States.

The interim final rule published on May 4, 2001 at 66 FR 22443 is adopted as final without change.

Dated: June 2, 2003.

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response.*

[FR Doc. 03-14487 Filed 6-9-03; 8:45 am]

BILLING CODE 6718-02-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 21

[WT Docket No. 03-66; RM-10586; WT Docket No. 03-67; MM Docket No. 97-217; WT Docket No. 02-68; RM-9718; FCC 03-56]

#### Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; suspension of effectiveness.

**SUMMARY:** This document suspends construction deadlines for Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS) authorization holders until the completion of a companion rulemaking proceeding. The MO&O also temporarily suspends acceptance of applications to amend or modify either ITFS or MDS stations in the 2500-2690 MHz band, subject to certain exceptions. The purpose of the MO&O is to ensure that the Federal Communications Commission (FCC) neither requires nor allows significant investments in new or modified facilities that would be inconsistent with new rules proposed in the companion NPRM.

**DATES:** Effective June 10, 2003, § 21.930 is suspended indefinitely.

**FOR FURTHER INFORMATION CONTACT:** Nancy Zaczek or Charles Oliver at (202) 418-0680, Public Safety and Private Wireless Division, Wireless

Telecommunications Bureau or via the Internet to [nzaczek@fcc.gov](mailto:nzaczek@fcc.gov) or [coliver@fcc.gov](mailto:coliver@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the FCC's Memorandum Opinion and Order, FCC 03-56, adopted on March 13, 2003, and released on April 2, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365 or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

- 1. In this *Memorandum Opinion and Order*, the FCC:
  - Temporarily suspends, until the completion of this rulemaking proceeding, acceptance of applications for new ITFS licenses and applications to amend or modify either ITFS or MDS stations in the 2500-2690 MHz band, subject to certain exceptions; and
  - Suspends the current construction deadline for MDS and ITFS authorization holders until the completion of this rulemaking proceeding.

#### Ordering Clauses

2. Accordingly, *it is ordered*, pursuant to sections 1, 2, 4(i), 7, 10, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, 333 and 706 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 157, 160, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, 333, and 706, that this Memorandum Opinion and Order is hereby *adopted*.

3. The five-year build-out requirement in § 21.930 of the FCC's rules, 47 CFR 21.930, *is suspended* until further notice.

4. The build-out requirements for site-based ITFS and MDS licensees and permittees that have not expired as of the release date of this *Memorandum Opinion and Order* are *suspended* until further notice.

5. Applications for new ITFS licenses, major modifications of MDS stations, or changes to ITFS stations other than minor modifications, applications for license assignments or transfers of control *will not be accepted* until further notice.

6. Mutually exclusive ITFS applications for acceptance of

settlement agreements filed after the release date of this *Memorandum Opinion and Order* will not be accepted.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

#### Rule Changes

- For the reasons discussed in the preamble, the Federal Communications Commission suspends 47 CFR 21.930 indefinitely.

#### § 21.930 [Suspended]

Section 21.930 is suspended indefinitely.

[FR Doc. 03-14221 Filed 6-9-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 52

[CC Docket No. 95-116; DA 03-1753]

#### Petition for Declaratory Ruling on Local Number Portability Implementation Issues

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for declaratory ruling.

**SUMMARY:** The Commission seeks comment on a petition for declaratory ruling from the Cellular Telecommunications & Internet Association (CTIA) asking the Commission to clarify carrier obligations with respect to a number of local number portability (LNP) implementation issues.

**DATES:** Comments are due on or before June 13, 2003, and reply comments are due on or before June 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Salhus, Attorney, 202-418-1310.

#### SUPPLEMENTARY INFORMATION:

1. On May 13, 2003, the Cellular Telecommunications & Internet Association filed a Petition for Declaratory Ruling (Petition), asking the Commission to clarify carrier obligations (as found at 47 CFR 52.23-52.33) with respect to a number of local number portability implementation issues. CTIA contends that, although many of the issues associated with the implementation of LNP have been resolved by consensus in industry fora, including the North American Numbering Council (NANC), there are a number of outstanding issues that cannot be resolved without specific direction from the Commission.