

airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.¹¹⁵ The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.¹¹⁶ Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees.¹¹⁷ Based on that data, we conclude that most Carrier RespOrgs that operated with wireless-based technology are small.

29. *Non-Carrier RespOrgs.* Neither the Commission, the Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Non-Carrier RespOrgs are “Other Services Related To Advertising”¹¹⁸ and “Other Management Consulting Services.”¹¹⁹

30. The U.S. Census defines Other Services Related to Advertising as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services).¹²⁰ The SBA has established a size standard for this industry as annual receipts of \$15 million dollars or less.¹²¹ Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,249 operated with annual receipts of less than \$10 million.¹²² Based on that data we conclude that most Non-Carrier RespOrgs who provide TFN-related advertising services are small.

31. The U.S. Census defines Other Management Consulting Services as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting).

Establishments providing telecommunications or utilities management consulting services are included in this industry.¹²³ The SBA has established a size standard for this industry of \$15 million dollars or less.¹²⁴ Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than \$10 million in annual receipts.¹²⁵ Based on this data, we conclude that most non-carrier RespOrgs who provide TFN-related management consulting services are small.¹²⁶

32. In addition to the data contained in the four (see above) U.S. Census NAICS code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016, there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.¹²⁷

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

33. This *Report and Order* does not adopt any new reporting, recordkeeping, or other compliance requirements.

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

34. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from

coverage of the rule, or any part thereof, for small entities.¹²⁸

35. This *Report and Order* adopts new tiers in assessing regulatory fees for submarine cable systems. There should not be a significant impact on small entities because the fee is based on the number of systems and would therefore reflect the size of the entity. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. For example, the Commission has increased the de minimis threshold to \$1,000, which will impact many small entities that pay regulatory fees. This increase in the de minimis threshold to \$1,000 will relieve regulatees both financially and administratively. Regulatees may also seek waivers or other relief on the basis of financial hardship. See 47 CFR 1.1166.

F. Federal Rules That May Duplicate, Overlap, or Conflict

None.

V. Ordering Clause

36. Accordingly, *it is ordered* that, pursuant to Section 9(a), (b), (e), (f), and (g) of the Communications Act of 1934, as amended, 47 U.S.C. 159(a), (b), (e), (f), and (g), this *Report and Order is hereby adopted*.

Federal Communications Commission.

Marlene Dortch,
Secretary.

[FR Doc. 2018–15651 Filed 7–27–18; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[GN Docket No. 13–5; RM–11358; FCC 16–90]

Technology Transitions; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission’s discontinuance rules. This document is consistent with the

¹²⁸ 5 U.S.C. 603(c)(1)–(c)(4).

¹¹⁵ <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

¹¹⁶ 13 CFR 120.201, NAICS code 517120.

¹¹⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

¹¹⁸ 13 CFR 120.201, NAICS code 541890.

¹¹⁹ 13 CFR 120.201, NAICS code 541618.

¹²⁰ <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

¹²¹ 13 CFR 120.201, NAICS code 541890.

¹²² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

¹²³ <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

¹²⁴ 13 CFR 120.201, NAICS code 514618.

¹²⁵ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

¹²⁶ The four NAICS code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs. Therefore, all RespOrgs, including those not identified specifically or individually, must comply with the rules adopted in the Regulatory Fees Report and Order associated with this Final Regulatory Flexibility Analysis.

¹²⁷ Email from Jennifer Blanchard, Somos, July 1, 2016.

Technology Transitions et al. Declaratory Ruling, Second Report and Order, and Order on Reconsideration, FCC 16–90, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: The amendments to 47 CFR 63.19(a), 63.60(h), 63.71(a)(6)–(7), (f), (h), and 63.602, published at 81 FR 62632, September 12, 2016, are effective on July 30, 2018.

FOR FURTHER INFORMATION CONTACT: Michele Levy Berlove, Attorney Advisor, Wireline Competition Bureau, at (202) 418–1477, or by email at Michele.Berlove@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements, contact Nicole Ongele at (202) 418–2991 or nicole.ongele@fcc.gov.

SUPPLEMENTARY INFORMATION: This document announces that, on July 2, 2018, OMB approved, for a period of three years, the information collection requirements relating to certain discontinuance rules contained in the Commission's *Technology Transitions et al. Declaratory Ruling, Second Report and Order, and Order on Reconsideration*, FCC 16–90, published at 81 FR 62632, September 12, 2016, as specified above.

The OMB Control Number is 3060–0149. The Commission publishes this document as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1–A620, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060–0149, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on July 2, 2018, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 63. Under 5 CFR part

1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0149.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0149.

OMB Approval Date: July 2, 2018.

OMB Expiration Date: July 31, 2021.

Title: Part 63, Application and Supplemental Information Requirement, Technology Transitions, GN Docket No. 13–5, *et al.*

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 63 respondents; 83 responses.

Estimated Time per Response: 5.3 hours.

Frequency of Response: One-time reporting requirement and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 214 and 402 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,923 hours.

Total Annual Cost: \$27,900.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for a revision of a currently approved collection. The Commission will submit this information collection after this 60-day comment period. Section 214 of the Communications Act of 1934, as amended, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communications; or (2) discontinue, reduce or impair service over a line of communications. Part 63 of Title 47 of

the Code of Federal Regulations (CFR) implements Section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video which was approved under this OMB Control Number 3060–0149. In 2009, the Commission modified Part 63 to extend to providers of interconnected Voice of internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended. In 2014, the Commission adopted improved administrative filing procedures for domestic transfers of control, domestic discontinuances and notices of network changes, and among other adjustments, modified Part 63 to require electronic filing for applications for authorization to discontinue, reduce, or impair service under section 214(a) of the Act. In July 2016, the Commission concluded that applicants seeking to discontinue a legacy time division multiplexing (TDM)-based voice service as part of a transition to a new technology, whether internet Protocol (IP), wireless, or another type (technology transition discontinuance application) must demonstrate that an adequate replacement for the legacy service exists in order to be eligible for streamlined treatment and revised part 63 accordingly. For any other domestic service for which a discontinuance application is filed, the existing framework governs automatic grant procedures. Unlike traditional applicants, technology transition discontinuance applicants seeking streamlined treatment will be required to submit with their application either a certification or a showing as to whether an “adequate replacement” exists in the service area. Voice technology transition discontinuance applicants that decline to pursue this path are not eligible for streamlined treatment and will have their applications evaluated on a non-streamlined basis under the traditional five factor test. The Commission concluded that an applicant for a technology transition discontinuance may demonstrate that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers all of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications

for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors. One replacement service must satisfy all the criteria to retain eligibility for automatic grant. The Commission also determined that information about the price of the legacy service and the proposed replacement service should be provided as part of the application. To reduce burdens on carriers, the Commission (1) adopted a more streamlined approach for legacy voice discontinuances involving services that are substantially similar to those for which a Section 214 discontinuance meeting the adequate replacement criteria has previously been approved, and (2) now allows Section 214 discontinuance applications to be eligible for automatic grant if the applicant seeks to discontinue a legacy voice service operating at speeds lower than 1.544 Mbps that either has zero customers in the relevant service area and no requests for service in the last 30 days, or if the applicant plans to grandfather existing customers of the service while ceasing to accept new customers. The Commission estimates that there will be five respondents submitting 25 applications/responses related to these revisions. The Commission also estimates that these revisions will result in a total of 1,575 annual burden hours and a total annual cost of \$27,900. The Commission estimates that the total annual burden and annual cost of the entire collection, as revised, is 1,923 and \$27,900, respectively.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018-16198 Filed 7-27-18; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Chapter I

[Docket No. FWS-HQ-ES-2015-0165; FXES11140900000-178; FF09E33000]

Endangered and Threatened Wildlife and Plants; Endangered Species Act Compensatory Mitigation Policy

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Policy; withdrawal.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce we

are withdrawing the Endangered Species Act (ESA) Compensatory Mitigation Policy, published December 27, 2016 (ESA-CMP). In our document of November 6, 2017 we requested additional public comments regarding the policy's overall mitigation planning goal of net conservation gain. We are now withdrawing this policy. The Service does not have authority to require "net conservation gain" under the ESA, and the policy is inconsistent with current Executive branch policy. Except as otherwise specified, all policies or guidance documents that were superseded by ESA-CMP are reinstated.

DATES: Withdrawal effective on July 30, 2018.

ADDRESSES: Comments and materials received, as well as supporting documentation, are available on the internet at <http://www.regulations.gov> at Docket Number FWS-HQ-ES-2015-0165.

FOR FURTHER INFORMATION CONTACT: Craig Aubrey, U.S. Fish and Wildlife Service, Division of Environmental Review, 5275 Leesburg Pike, Falls Church, VA 22041-3803, telephone 703-358-2442.

SUPPLEMENTARY INFORMATION: The ESA-CMP (81 FR 95316, December 27, 2016) was developed to ensure consistency with existing directives in effect at the time of issuance, including former President Obama's Memorandum on Mitigating Impacts on Natural Resources From Development and Encouraging Related Private Investment (November 3, 2015). Under the memorandum, all Federal mitigation policies were directed to clearly set a net-benefit goal or, at minimum, a no-net-loss goal for natural resources, wherever doing so is allowed by existing statutory authority and is consistent with agency mission and established natural resource objectives. The Presidential Memorandum was subsequently rescinded by Executive Order 13783, "Promoting Energy Independence and Economic Growth" (March 28, 2017).

The ESA-CMP also described its consistency with the Secretary of the Interior's Order 3330 on Improving Mitigation Policies and Practices of the Department of the Interior (October 31, 2013), which established a Department-wide mitigation strategy to ensure consistency and efficiency in the review and permitting of infrastructure-development projects and in conserving natural and cultural resources. The Secretary's Order was subsequently revoked by Secretary of the Interior's Order 3349 on American Energy

Independence (March 29, 2017). It directed Department of the Interior bureaus to reexamine mitigation policies and practices to better balance conservation strategies and policies with job creation for American families.

In light of the revocation of the 2015 Presidential Memorandum and Secretary's Order 3330, on November 6, 2017, the Service requested comment on the ESA-CMP, along with the Service-Wide Mitigation Policy (81 FR 83440, November 21, 2016), specifically "regarding whether to retain or remove net conservation gain as a mitigation planning goal within our mitigation policies." Mitigation Policies of the U.S. Fish and Wildlife Service; Request for Comment (82 FR 51382, 51383, November 6, 2017). The comment period for this request ended on January 5, 2018.

Under Supreme Court precedent, the Takings Clause of the Fifth Amendment of the United States Constitution limits the ability of government to require monetary exactions as a condition of permitting private activities, particularly private activities on private property. In *Koontz v. St. Johns River Water Management District*, 570 U.S. 595 (2013), the Supreme Court held that a proposal to fund offsite mitigation proposed by the State of Florida as a condition of granting a land-use permit must satisfy the test established in *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Specifically, "a unit of government may not condition the approval of a land-use permit on the owner's relinquishment of a portion of his property unless there is a 'nexus' and 'rough proportionality' between the government's demand and the effects of the proposed land use." *Id.* at 599. Compensatory mitigation raises serious questions of whether there is a sufficient nexus between the potential harm and the proposed remedy to satisfy constitutional muster.

Further, because by definition compensatory mitigation does not directly avoid or minimize the anticipated harm, its application is particularly ripe for abuse. At times the nexus between a proposed undertaking and compensatory mitigation requirements is far from clear. These concerns are particularly acute when coupled with a net conservation gain goal, which necessarily seeks to go beyond mitigating actual or anticipated harm to forcing participants to pay to address harms they, by definition, did not cause.

In light of the change in national policy reflected in Executive Order