Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 602

[REG–106542–98]

RIN 1545–AW24

Election To Treat Trust as Part of an Estate; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of date of public hearing; extension of time to submit outlines of oral comments.

SUMMARY: This document changes the date of the public hearing on the proposed regulations that relate to an election to have certain revocable trusts treated and taxed as part of an estate. It also extends the time to submit outlines of oral comments for the hearing.

DATES: The public hearing will be held April 11, 2001, beginning at 10 a.m. Additional outlines of oral comments must be received by March 21, 2001.

ADDRESSES: The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Send submissions to: Regulations Unit CC (REG–106542–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: Regulations Unit CC (REG–106542–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC. Alternatively, taxpayers may submit outlines of oral comments electronically directly to the IRS Internet site at http://www.irs.gov/tax_regs/reglist.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Faith Colson, (202) 622–3060; concerning submissions, LaNita Van Dyke, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

A notice of proposed rulemaking and notice of public hearing, appearing in the **Federal Register** on Monday, December 18, 2000 (65 FR 79015), announced that a public hearing on the proposed regulations relating to an election to have certain revocable trusts treated and taxed as part of an estate would be held on February 21, 2001, in the IRS Auditorium, Internal Revenue Building 1111 Constitution Avenue, NW., Washington, DC. Subsequently, the date of the public hearing has changed to April 11, 2001, at 10 a.m. in the IRS Auditorium. Outlines of oral comments must be received by March 21, 2001.

Cynthia Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–2985 Filed 2–7–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL165–2; FRL–6943–2]

Approval and Promulgation of Implementation Plans; Illinois Trading Program; Reopening of the Public Comment Period

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule; reopening of the public comment period.

SUMMARY: USEPA is reopening and extending the public comment period for a proposed rule published on December 27, 2000 (65 FR 81799). In the December 27, 2000 proposed rule, USEPA proposed to approve Illinois' emissions trading program provided Illinois resolves certain issues prior to the end of the public comment period. Specifically, USEPA proposed that Illinois must: Clarify the timeline and penalties for violating sources, satisfy USEPA's policy on environmental justice, provide for full-year offsets for new sources, commit to discount credits where emissions reductions are potentially accompanied by emission increases elsewhere, and commit to remedy any problems identified in its periodic program review. USEPA solicited public comment on Illinois' proposed trading program and on USEPA's proposed action. At the request of several environmental groups, USEPA is reopening the comment period through March 26, 2001. All comments received before March 26, 2001, including those received between the close of the comment period on January 26, 2001 and the publication of this proposed rule reopening the comment period, will be entered into the public record and considered by USEPA before taking final action on the proposed rule.

DATES: Comments must be received on or before March 26, 2001.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6067, (*summerhays.john@epa.gov*).

Dated: January 31, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–3282 Filed 2–7–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 99–200; FCC 00–429]

Numbering Resource Optimization

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document the Federal Communications Commission (FCC or Commission) continues to develop, adopt and implement a number of strategies to ensure that the numbering resources of the North American Numbering Plan (NANP) are used efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace.

DATES: Comments for the NPRM are due February 14, 2001 and reply comments are due March 7, 2001. Comments for the proposed information collection are due the same date as the comments on the NPRM and must be submitted by the Office of Management and Budget (OMB) on or before April 9, 2001.

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 proposed information collection contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to Edward.Springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Sanford Williams, (202) 418–2320 or email at *swilliam@fcc.gov* Cheryl Callahan at (202) 418–2320 or *ccallaha@fcc.gov.* For additional information concerning the information collection contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking in CC Docket No. 99–200 (*Second Further Notice*) that was released with the *Second Report and Order, Order on Reconsideration in CC Docket No. 96–98 and CC Docket No. 99–200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99–200,* adopted on December 7, 2000, and released on December 29, 2000 (For a review of the **Federal Register** summary for *Numbering Resource Optimization,* First Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (rel. March 31, 2000), *see* 65 Fed. Reg. 37749 (2000)). 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. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center. The complete text may also be obtained through the world wide web, at http://www.fcc.gov/Bureaus/CommonCarrier/Orders, or may be purchased from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036.

Second Further Notice Initial Paperwork Reduction Analysis

This *Second Further Notice* contains a proposed information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in the *Second Further Notice,* 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 the *Second Further Notice;* OMB comments are due 60 days after publication of the *Second Further Notice* in the **Federal Register**. 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 enhance the quality, utility and clarity of the information collected; (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: None.

Title: Proposed Reporting Requirements for Secondary Market Transactions.

Form Number: N/A.

Type of Review: Proposed new collection.

Respondents: Business or other for profit.

Estimated Cost and Time Burden:

Title	Number of respondents	Estimated time per response	Total estimated annual burden	Cost
Proposed Reporting Requirements for Secondary Market Transactions.	2,500	Ten (10) minutes per transaction at 5000 transactions per year.	833 burden hours	$0

Needs and Uses: We propose to collect data that stems from secondary market transactions. In particular, we propose and seek comment on the types of reporting requirements that might be necessary to ensure that secondary markets are open, competitive, and effective. Data from such reporting will permit us to evaluate the efficacy of permitting the secondary market to reallocate numbering resources. We request comments on the type of data and the frequency with which they should be reported. At a minimum, we believe that quantities of numbers involved in transactions should be reported in the numbering resource utilization and forecast (NRUF) reports which are required to be filed by our current rules twice a year. We also request comment on whether we should require carriers to file information on purchase or lease prices and the quantities involved in the transaction. Commenters should address whether such reporting requirements would impose an unreasonable burden on either carriers or the NANPA. Finally, commenters should also comment on how numbers sold in the secondary market should be reported in the NRUF report.

Synopsis of the Second Further Notice of Proposed Rulemaking in CC Docket No. 99–200

1. In the *Second Further Notice,* we seek further comment on service-specific and technology-specific overlays. We specifically seek comment on the conditions under which service-specific and technology-specific overlays must be implemented in order to promote competitive equity, maximize the efficient use of numbering resources, and minimize customer inconvenience. We also seek comment on proposals to permit state commissions to implement service or technology-specific overlays on a phased in or transitional basis, subject to certain conditions. Comments should address the relative advantages from a numbering resource optimization perspective, a competitive perspective, and a consumer convenience perspective of service or technology-specific overlays as opposed to all-services overlays.

2. We seek comment on how the perceived advantages of service or technology-specific overlays relate to the specific conditions under which they are permitted. We also seek comment on whether it is appropriate to allow the creation of transitional technology-specific overlays that distinguish between carriers based on whether or not they have implemented

local number portability (LNP). We tentatively conclude that transitional technology-specific overlays must be prospective, and may not include mandatory ''take-backs'' (the taking back of numbers from existing customers of carriers assigned to the technology-specific overlay). We seek comment on this tentative conclusion. We further seek comment on whether geographic boundaries of a transitional technology-specific overlay should conform to the boundaries of an existing area code, or whether it would be appropriate to allow a transitional technology-specific overlay that covers a geographic area larger than the area covered by the pre-existing area code. We also seek comment on how transitional overlays should operate, and if state commissions' implementation of transitional overlays should be dependent on whether pooling has been or will be implemented. We seek comment on the appropriate time for transition from technology-specific to all-services overlays. We also seek comment on whether and how our mandatory ten-digit dialing rule should apply in the context of transitional technology-specific overlays. We seek comment on whether LNP-capable carriers should be prohibited from taking numbers out of the transitional overlay code prior to the time that it is converted to an all-services overlay.

3. We further seek comment on whether there should be any limitations on when states are permitted to implement transitional technology-specific overlays, and whether we should permit states that wish to designate transitional service or technology-specific area codes for groups besides non-LNP capable carriers to do so. We also seek comment on whether it would be appropriate for states to establish long-term overlays for certain services.

4. *Rate Center Issues.* We seek comment on the rate center problem, particularly on what policies could be implemented at the federal level to reduce the extent to which the rate center system contributes to and/or accelerates numbering resource exhaust. We recognize that rate center consolidation may deprive some carriers of toll revenue; therefore, we seek comment on ways of severing the connection between number assignment and call rating and routing. We also seek comment on past and present rate center consolidation efforts. We further seek comment on the costs and benefits of rate center consolidation in the 100 largest MSAs.

5. *Liability of Related Carriers.* We tentatively conclude that carriers should, in certain instances, have numbering resources withheld when related carriers are subject to withholding for failure to comply with our mandatory reporting requirements. We seek comment on how to identify the relationships among reporting carriers, and what geographic limitations should be placed on those relationships in determining liability among related carriers.

6. *State Commissions' Access to Mandatorily Reported Data.* We tentatively conclude that states should have password-protected access to mandatorily reported data received by the North American Numbering Plan Administrator (NANPA). We seek comment on whether password-protected access is sufficient to accommodate states' requirements for access to mandatorily reported data.

7. *Fee for Number Reservations.* In the *Second Report and Order,* we conclude that the period for reserving numbers should be a maximum of 180 days with no extensions. In the *Second Further Notice,* we seek comment on whether the reservation period should be extended, or if we should allow unlimited reservations of numbers on a month to month basis. Commenters should propose a time period for which numbers may be reserved. We also seek comment on whether charging a fee to carriers would provide appropriate incentives for efficient number use. Commenters should state whether a fee should be charged for reserving numbers, who should pay the fee, and what amount the fee should be. Commenters should also address how the fee revenues should be used or applied, particularly if the Commission imposes a fee on carriers.

8. *Enforcement.* We tentatively conclude that carriers that violate our numbering requirements, or that fail to cooperate with the auditor to conduct either a ''for cause'' or random audit, should be denied numbering resources in certain instances. We seek comment on this tentative conclusion. We seek comment on how this remedy should be invoked. We also seek comment on whether only the Commission should direct the NANPA or the Pooling Administrator to withhold numbering resources.

9. *State Commissions' Authority To Conduct ''For Cause'' and Random Audits.* We further seek comment on whether state commissions should be given independent authority to conduct ''for cause'' and random audits in lieu of or in addition to the national audit program established in the *Second Report and Order,* and what parameters should apply to any such authority. In particular, commenters should address concerns about state commissions employing different standards in performing ''for cause'' and random audits that might force carriers operating in multiple states to comply with different demands. In seeking comment on this issue, we do not address state commissions' authority to perform audits under state law.

10. *Developing Market-Based Approaches for Optimizing Numbering Resources.* In the *Second Further Notice,* we provide detailed information on the form that market-based mechanisms might take, and request that commenters propose specific market-based number allocation mechanisms. We seek comment on whether the Commission has the requisite authority to implement the proposals contained in the *Second Further Notice,* as well as any proposed by commenters. If such authority is lacking, we request that commenters address what authority would be necessary. Commenters should address the scope of the Commission's plenary authority over numbering resource allocation in the United States pursuant to section 251(e). Commenters should also address statutory provisions pertaining to the Commission's authority to collect funds from carriers, as well as the statutory requirements on how such funds should be expended.

11. We also seek comment on whether our authority under section 254 enables us to implement a market-based number allocation system as a means for funding universal services. We further seek comment on how the Commission could structure an efficient market-based allocation system that would work within the constraints of existing statutory authority. We also seek comment on how to structure a numbering resources market mechanism that treats all users of numbering resources and their customers in an equitable manner.

12. We tentatively conclude that any market-based allocation system for numbering resources that we consider should include both primary and secondary markets for numbering resources. We seek comment on whether the most direct approach for implementing a primary market, an auction, should be implemented, and whether it is cost effective. We also seek comment on whether the NANPA or the national thousands-block pooling administrator would be in the best position to conduct such auctions, and how an auction methodology should be designed. We further seek comment on how the supply of numbers to be

auctioned in each geographic area would be determined.

13. We also seek comment on whether prices for numbers in the primary market should be structured as a one-time charge, a recurring charge, or a combination of flat non-recurring and recurring charges, and on the feasibility of auctions under these scenarios. We tentatively conclude that it would be preferable for carriers to pay for all of the resources that they hold, and we seek comment on this tentative conclusion.

14. We also seek comment on whether there will be a continuing need to retain existing administrative measures for allocating numbers in conjunction with the implementation of a market-based approach. We seek comment on the appropriate geographic scope of secondary markets, including areas where there is only one or no competitive LEC. We seek comment on the extent to which the Commission should regulate transactions in the secondary market, and whether we should determine how the market is organized.

15. We also seek comment on the types of reporting requirements that might be necessary to ensure that secondary markets are open, competitive, and effective. We seek comment on whether implementation of a market-based allocation system should be delayed until covered CMRS carriers are required to become LNP-capable, and whether we should limit implementation to areas where LNP has been deployed. We also seek comment on whether primary and secondary markets should be implemented simultaneously.

16. *Recovery of Pooling Shared Industry and Direct Carrier-Specific Costs.* We seek comment and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. Cost studies should take into account the cost savings associated with thousands-block number pooling in comparison to the current numbering practices that result in more frequent area code changes.

17. *Thousands-Block Number Pooling for Non-LNP Capable Carriers.* Under the Commission's current rules, certain carriers are exempt from pooling requirements, *e.g.*, carriers outside the 100 largest MSAs that have not received a request to deploy LNP from a competing carrier, and paging carriers. We seek comment about whether it would be appropriate to extend pooling requirements to these carriers. We seek comment on the extent to which these carriers' participation in thousands-block number pooling helps to avoid premature exhaust of numbering resources at the 10,000 number block level (NXXs) and extends the life of the NANP. We also seek comment on the specific types of implementation costs that would be imposed, and the magnitude of these costs. We seek comment on whether the incremental number optimization benefits of requiring these carriers to participate in pooling outweigh the associated costs. We also seek comment on the benefits of thousands-block number pooling for competing carriers that need initial numbering resources in each rate center for the purpose of establishing their ''footprints.''

18. We further seek comment on whether we should limit any additional pooling requirements to certain classes of carriers, and if so, what exemptions should be made. In addition, if we were to impose pooling requirements on carriers irrespective of their LNP status, we seek comment on whether rural carriers should be exempt from any such requirements.

19. Waiver of Growth Numbering Resource Requirements. We recognize the possibility that certain conditions may prevent carriers from meeting their rate center-based utilization threshold when they actually need additional numbers. We therefore seek comment on the need to establish a ''safety valve'' apart from the general waiver process to allow carriers that do not meet the utilization threshold in a given rate center to obtain additional numbering resources. We seek data on the extent to which this problem exists, and we seek comment on possible solutions. We also seek comment on whether the NANPA or state commissions should be given the authority to decide on requests for waiver of the utilization threshold requirement in certain narrowly defined instances. Proposals to adopt a ''safety valve'' should include specific criteria for determining when a waiver is warranted. We further seek comment on how any proposed ''safety valve'' would be consistent with other numbering optimization measures.

Initial Regulatory Flexibility Analysis

20. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in *Second Further Notice. See* 5 U.S.C. 603. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second Further Notice.* The Commission will send a copy of the *Second Further Notice,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). *See* 5 U.S.C. 603(a).

A. Need for, and Objectives of, the Proposed Rules

21. In the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Congress gave the Commission plenary jurisdiction over the NANP within the United States. 47 U.S.C. 251(e)(1). In discharging our authority over numbering resources, we seek to balance two competing goals. First, we must ensure that carriers have the numbering resources that they need to compete and bring new and innovative services to the consumer marketplace. Second, we must ensure that, to the extent possible, numbering resources are used efficiently. Inefficient use of numbering resources speeds the exhaust of area codes, imposing on carriers and consumers alike the burdens and costs of implementing new area codes. It also shortens the life of the NANP as a whole.

B. Legal Basis

22. The proposed action is authorized under Sections 1, 3, 4, 201–205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, and 251.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

23. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). 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 for its activities. 5 U.S.C. 601(3). 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 SBA. 15 U.S.C. 632.

24. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the

number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report and the data in its *Carrier Locator: Interstate Service Providers Report.* However, in a recent news release, the Commission indicated that there are 4,144 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

25. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' 5 U.S.C. 601(3). The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

26. *Total Number of Telephone Companies Affected.* The U.S. Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' *See generally* 15 U.S.C. 632(a)(1). For example, a personal communications system provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the proposed regulations.

D. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

27. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed 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. 5 U.S.C. 603(c).

28. *Service-Specific and Technology-Specific Overlays.* Due to the numbering crisis, we are reconsidering our prohibition against using service-specific and technology-specific overlays as methods for area code relief. We seek comment, especially from small entities, on when and if these overlays should occur and if so, the conditions under which service-specific and technology-specific overlays should be implemented in order to promote competitive equity, maximize the efficient use of numbering resources, and minimize customer inconvenience. In determining appropriate conditions for implementing these overlays, we will examine how such conditions would impact small businesses.

29. *The Rate Center Problem.* In this *Second Further Notice* we seek comment on rate center consolidation. Such consolidation efforts should significantly impact numbering resources by providing small and large businesses with access to more numbers. In responding to this issue, commenters should also consider alternatives to rate center consolidation, such as extending local calling areas.

30. *Fee for Number Reservations.* We encourage comments regarding any unique small business needs related to the reservation of numbers, and the disproportionate impact, if any, of fees on small businesses.

31. *Audit Compliance and Enforcement.* We tentatively conclude that, at a minimum, carriers that fail to cooperate with the auditor should be denied numbering resources. The imposition of penalties would encourage both large and small carriers to comply with auditors' requests.

32. *State Authority to Perform Audits.* In addition to maintaining a national audit program, we seek comment on whether state commissions, given their extensive involvement in numbering issues, should be permitted to conduct independently ''for cause'' and random audits of carrier data. Small businesses should comment, in particular, on whether the potential existence of differing state audit standards would be a significant cost burden for them.

33. *Market for Numbering Resources.* Proper implementation of a market-based number allocation system should encourage the efficient use of numbering resources by carriers as well as be competitively neutral, especially towards small businesses. The system's benefits (*i.e.,* more efficient use of numbers) should outweigh carriers' concerns over costs. We believe that alternatives to this system (*i.e.,* allocating numbers for free) do not promote the efficient use of numbers as effectively. Commenters are encouraged to propose ways to implement such a system so as to minimize any unfavorable impact on small entities.

34. *Recovery of Pooling Shared Industry and Direct Carrier Specific Costs.* We determined in this *Second Further Notice* that we still do not possess sufficient cost data to establish a cost recovery mechanism at this time. Cost studies from commenters quantifying shared industry and direct carrier-specific costs of thousands-block number pooling should assist us in ascertaining an appropriate cost recovery mechanism for small carriers.

35. *Mandating LNP Capability for Thousands-Block Number Pooling.* We seek comment on whether we should require carriers to become LNP capable for the purpose of participating in thousands-block number pooling. In the alternative, we seek comment on whether carriers can utilize other network architecture to increase participation in thousands-block number pooling, or at least central office code sharing, without having fully deployed LNP. In examining alternatives to improve the efficient use of numbering resources, we request comments from all carriers, but especially small businesses that may become disadvantaged by a requirement to become LNP-capable.

36. *Waiver of Growth Numbering Resource Requirement.* Currently, carriers may obtain a waiver of growth numbering resource requirements by demonstrating their need for additional numbering resources. Commenters are encouraged to provide data demonstrating small business' need for a ''safety valve'' mechanism (when they fail to meet the utilization threshold in a given rate center) as well as specific criteria for granting a waiver that would

impose a minimal burden on small entities.

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

37. None.

Ordering Clauses

38. Pursuant to Sections 1, 3, 4, 201–205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, and 251, this *Second Further Notice of Proposed Rulemaking* is hereby *Adopted*.

39. The Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of this *Second Report and Order and Second Further Notice of Proposed Rulemaking,* including the Initial and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of Small Business Administration.

List of Subjects

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–3173 Filed 2–7–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH33

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Appalachian Elktoe

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to designate critical habitat for the Appalachian elktoe (*Alasmidonta raveneliana*) under the Endangered Species Act of 1973, as amended (Act). The areas proposed for critical habitat designation include approximately 231.1 kilometers (km) (144.3 river miles [rm]) of various segments of rivers in Tennessee and North Carolina.

If this proposal is made final, section 7(a)(2) of the Act requires that Federal agencies ensure that actions they fund, permit, or carry out are not likely to result in the destruction or adverse modification of critical habitat. The regulatory effect of the critical habitat designation does not extend beyond those activities funded, permitted, or carried out by Federal agencies. State or private actions, with no Federal involvement, are not affected.

Section 4 of the Act requires us to consider the economic and other relevant impacts of specifying any particular area as critical habitat. We solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designation. We may revise this proposal to incorporate or address comments and other information received during the comment period.

DATES: We will consider comments received by April 9, 2001. Requests for public hearings must be received, in writing, at the address shown in the **ADDRESSES** section by March 26, 2001.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information to the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801.

2. You may hand-deliver written comments to our Asheville Field Office, at the above address, or fax your comments to 828/258–5330.

3. You may send comments by electronic mail (e-mail) to john_fridell@fws.gov. For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John A. Fridell, Fish and Wildlife Biologist, (828)258–3939.

SUPPLEMENTARY INFORMATION:

Background

The Appalachian elktoe (*Alasmidonta raveneliana*) is a freshwater mussel that has a thin, kidney-shaped shell, reaching up to about 10 centimeters (4 inches) (J.A. Fridell, pers. observation 1999). Juveniles generally have a yellowish-brown periostracum (outer shell surface), while the periostracum of the adults is usually dark brown to greenish-black in color. Although rays are prominent on some shells, particularly in the posterior portion of the shell, many individuals have only obscure greenish rays. The shell nacre (inside shell surface) is shiny, often white to bluish-white, changing to a salmon, pinkish, or brownish color in the central and beak cavity portions of the shell; some specimens may be marked with irregular brownish blotches (adapted from Clarke 1981). Clarke (1981) contains a detailed description of the species' shell, with illustrations; Ortmann (1921) discussed soft parts.

Distribution, Habitat, and Life History

The Appalachian elktoe is known only from the mountain streams of western North Carolina and eastern Tennessee. Although the complete historical range of the Appalachian elktoe is unknown, available information suggests that the species once lived in the majority of the rivers and larger creeks of the upper Tennessee River system in North Carolina. In Tennessee, the species is known only from its present range in the main stem of the Nolichucky River.

Currently, the Appalachian elktoe has a very fragmented, relict distribution. The species still survives in scattered pockets of suitable habitat in portions of the Little Tennessee River system, Pigeon River system, the Little River in North Carolina, and the Nolichucky River system in North Carolina and Tennessee. In the Little Tennessee River system in North Carolina, populations survive in the reach of the main stem of the Little Tennessee River, between the city of Franklin and Fontana Reservoir, in Swain and Macon Counties (Service 1994, 1996; McGrath 1999; J.A. Fridell, pers. observation 2000), and in scattered reaches of the main stem of the Tuckasegee River in Jackson and Swain Counties (M. Cantrell, Service, pers. comm. 1996; J.A. Fridell, pers. observation 1996, 1997; McGrath 1998), from below the town of Cullowhee downstream to Bryson City. A single live individual and one shell have also been recently recorded from the Cheoah River, below Santeetlah Lake, in Graham County (W. Pennington, Pennington and Associates, Inc., Knoxville, Tennessee, pers. comm. 2000).

In the Pigeon River system in North Carolina, a small population of the Appalachian elktoe occurs in small scattered sites in the West Fork Pigeon River and in the main stem of the Pigeon River, above Canton, in Haywood County (J.A. Fridell, pers. observation 1999; McGrath 1998). The Little River (upper French Broad River system) population of the species, in Transylvania County, North Carolina (J.A. Fridell, pers. observation 2000; C. McGrath, North Carolina Wildlife Resources Commission (NCWRC), pers.