

approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

#### XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the

**Federal Register.** This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 15, 2011.

**Steven Bradbury,**  
*Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

#### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1309 is added to subpart D to read as follows:

#### § 180.1309 *Bacillus subtilis* strain CX-9060; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the microbial pesticide *Bacillus subtilis* strain CX-9060, in or on all food commodities, when applied or used in accordance with good agricultural practices.

[FR Doc. 2012-228 Filed 1-10-12; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 20 and 54

[WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208; FCC 11-189]

### Connect America Fund; Developing an Unified Inter-carrier Compensation Regime; Lifeline and Link Up

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission amends rules regarding the attributes of “voice telephony service” to be supported by the Federal universal service support mechanisms. This action is necessary to reflect the evolution of the marketplace and to limit supported services. The Commission also waives certain effective dates so that inter-carrier compensation for non-access traffic exchanged between Local Exchange

Carriers (LEC) and Commercial Mobile Radio Service (CMRS) providers pursuant to an interconnection agreement in effect as of December 23, 2011, will be subject to a default bill-and-keep methodology on July 1, 2012, rather than on December 29, 2011. This action is necessary to limit marketplace disruption by delaying bill-and-keep until carriers are eligible to receive recovery as part of the transitional revenue recovery mechanism for this type of traffic.

**DATES:** Effective January 11, 2012.

**FOR FURTHER INFORMATION CONTACT:** Amy Bender, Wireline Competition Bureau, (202) 418-1469, or Victoria Goldberg, Wireline Competition Bureau, (202) 418-7353, or TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Order on Reconsideration (Order) in WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, FCC 11-189, released on December 23, 2011. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street SW., Washington, DC 20554.

1. In this Order, the Commission modifies on its own motion two aspects of the *USF/ICC Transformation Order*, 76 FR 73830, November 18, 2011.

2. In the *USF/ICC Transformation Order*, the Commission eliminated its former list of nine supported services and amended § 54.101 of the Commission’s rules to specify that “voice telephony service” is supported by federal universal service support mechanisms. The Commission found this to be a more technologically neutral approach that focuses on the functionality offered instead of the technologies used, while allowing services to be provided over any platform. This approach also recognizes that many of the services enumerated in the previous rule are universal today and that the importance of operator services and directory assistance, in particular, has declined with changes in the marketplace. A number of parties have raised questions about how the amended rule should be understood to affect Lifeline-only ETCs and their compliance with section 214(e)(1)(A) of the Act, which requires a carrier to provide supported services using its own facilities, in whole or in part, in order to be eligible to receive support. Several parties have urged the Commission to take action to ensure that there is no disruption to the services currently being provided to

millions of eligible Lifeline consumers by ETCs that have already been designated based on their provision of supported services as previously defined by the Commission.

3. The Commission notes that, in adopting the new definition of “voice telephony” in § 54.101, it eliminated certain services and functionalities from the list of supported services, consistent with its findings regarding the evolution of the marketplace. To more clearly reflect its intent to specify the attributes of “voice telephony” in the new definition, the Commission amends § 54.101 to read: “Services designated for support. Voice telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).”

4. Additionally, the Commission affirms that only carriers that provide “voice telephony” as defined under § 54.101(a) as amended using their own facilities will be deemed to meet the requirements of section 214(e)(1). Thus, a Lifeline-only ETC does not meet the “own facilities” requirement of section 214(e)(1) if its only facilities are those used to provide functions that are no longer supported “voice telephony service” under 47 CFR 54.101, such as access to operator service or directory assistance. Therefore, to be in compliance with the Commission’s rules, Lifeline-only carriers that seek ETC designation after the December 29, 2011 effective date of the *USF/ICC Transformation Order*, as well as such carriers that had previously obtained ETC designation prior to December 29, 2011 on the basis of facilities associated solely with, for example, access to operator service or directory assistance, must either use their own facilities, in whole or in part, to provide the supported “voice telephony service,” or obtain forbearance from the “own facilities” requirement from the Commission. As discussed more fully below, the effective date of this minor modification to the language in amended § 54.101 is the date of **Federal Register** publication of the Order. To avoid disruption to consumers of

previously designated ETCs, however, the Commission set July 1, 2012 as the effective date of 47 CFR 54.101 for Lifeline-only ETCs in the service areas for which they were designated prior to December 29, 2011. The Commission anticipates that it may address the “own facilities” requirement for Lifeline providers in the near future in a subsequent order addressing the Commission’s Lifeline program. In the event that this Order is not published in the **Federal Register** before December 29, the Commission will consider the amended rule as adopted in the *USF/ICC Transformation Order* suspended with respect to this limited class of ETCs, so that the Commission’s actions in the *USF/ICC Transformation Order* do not impact existing state designations.

5. In the *USF/ICC Transformation Order*, the Commission adopted bill-and-keep as the default intercarrier compensation methodology for non-access traffic exchanged between local exchange carriers (LECs) and Commercial Mobile Radio Service (CMRS) providers. Rather than implementing a more gradual transition, the *USF/ICC Transformation Order* made the default bill-and-keep methodology applicable as of the effective date of the rules (December 29, 2011). This timing reflected the Commission’s balancing of the benefits of providing clarity and addressing arbitrage and, in particular, traffic pumping, against the apparently small risk of marketplace disruption from doing so. There was little, if any, evidence in the record that there would be significant harmful effects on any LECs as a result of this timing. One factor supporting the Commission’s conclusion with regard to incumbent LECs was the understanding that such carriers would be eligible to receive recovery as part of the transitional recovery mechanism for reductions in net reciprocal compensation payments. Another factor was adoption of an interim rule that limited the responsibility for transport costs applicable to non-access traffic exchanged between CMRS providers and rural, rate-of-return incumbent LECs.

6. In the Order the Commission reconsiders the balancing of benefits and burdens in this context. The Commission finds it more appropriate to make the default bill-and-keep compensation methodology for LEC–CMRS non-access traffic consistent with the start of the transitional intercarrier compensation recovery mechanism for carriers that were exchanging LEC–CMRS traffic under existing

interconnection agreements prior to the adoption date of the *USF/ICC Transformation Order*. Under the recovery rules as adopted in the *USF/ICC Transformation Order*, the transitional recovery mechanism does not begin until July 1, 2012, and it is unclear whether incumbent LECs will be eligible to receive recovery for reductions in revenues from December 29, 2011 through July 1, 2012. The Commission had anticipated carriers would continue to receive payment at the rates in place under existing interconnection agreements while they were being renegotiated. However, the Commission believes that this assumption is over-inclusive and not entirely accurate since interconnection agreements are negotiated between two parties and contain different terms and conditions for implementing change of law provisions—indeed, some may relate back to the effective date of the new rule, rather than when the renegotiated agreement is in place. Moreover, the Commission believed that, as a general matter, LEC–CMRS agreements contained rates at \$0.0007 or less as their reciprocal compensation rate. Parties indicate, however, that many existing LEC–CMRS agreements reflect reciprocal compensation rates “much higher than \$0.0007.” Thus, the supplemental record suggests that the Commission did not accurately assess the impact of its decision to immediately move to bill-and-keep for all LECs for this category of traffic.

7. Enabling carriers that have effective interconnection agreements governing the exchange of LEC–CMRS non-access traffic as of the adoption date of the *USF/ICC Transformation Order* to continue to exchange traffic and receive compensation pursuant to those existing agreements until July 1, 2012 will minimize market disruption, while enabling carriers to begin the process of revising such agreements immediately. In contrast, carriers exchanging LEC–CMRS non-access traffic without an interconnection agreement do not receive such compensation today, so the Commission finds no likelihood of marketplace disruption that would support reconsideration of its decision in that context. Accordingly, intercarrier compensation for non-access traffic exchanged between LECs and CMRS providers pursuant to an interconnection agreement in effect as of the adoption date of this Order, will be subject to a default bill-and-keep methodology on July 1, 2012 rather than on December 29, 2011. In the event that the Order is not published in the **Federal Register** before December 29,

2011, the Commission also finds good cause to waive these requirements to the extent necessary to preserve the status quo until such time that the Order goes into effect. The Commission may waive its rules for good cause shown. The Commission finds that waiver, if needed to preserve the status quo for a limited period consistent with the Order, will serve the public interest by protecting against the potential marketplace disruption, described above, that the Commission sought to avoid through the intercarrier compensation rule changes adopted in this Order. The Commission expects that, unless parties mutually agree otherwise, traffic will continue to be exchanged pursuant to existing interconnection agreements between the adoption date of the Order and June 30, 2012. The Commission cautions that parties should not use the Order as an opportunity to abuse the distinction between traffic subject to an interconnection agreement as of the adoption date of the *USF/ICC Transformation Order* and traffic not subject to an interconnection agreement in order to engage in arbitrage to avoid payment of intercarrier compensation charges. Indeed, the Commission will be monitoring the situation and will not hesitate to take action if it appears any such arbitrage is occurring.

8. The Commission strongly urges all parties with such agreements to immediately begin preparations for the July 1 effective date of the transitional recovery mechanism, including by commencing discussions regarding change-of-law provisions, if applicable. LECs should not view the Order as an excuse for delaying negotiations or deferring preparations. To ensure that the change the Commission adopts does not create incentives to engage in such delay, and consistent with the balance of interests discussed above, the Commission provides that, unless parties mutually agree otherwise, starting on July 1, 2012, compensation for traffic exchanged during the re-negotiation of interconnection agreements with change-of-law provisions will be subject to true-up at the level of reciprocal compensation for non-access LEC-CMRS traffic established in the resulting interconnection agreement, whether the default of bill-and-keep or other pricing negotiated by the carriers. The Commission finds that this limited departure from the Commission's prior determination not to override compensation arrangements in existing contracts is justified to ensure that the onset of bill-and-keep is not unilaterally delayed beyond the intended transition

period due to delayed or extended re-negotiations under contractual change-of-law provisions. When the Commission set an immediate effective date for a default bill-and-keep methodology for this traffic in the *USF/ICC Transformation Order*, it found that re-negotiation under such provisions would help provide a reasonable transition for LECs with such agreements. Now, the change in the effective date for bill-and-keep provides a transition for non-access LEC-CMRS traffic to mitigate marketplace disruption for carriers for which these revenues may be significant today. Given that change, the Commission finds that this measure is necessary to maintain the balance of benefits to consumers and carriers from a default bill-and-keep methodology that the Commission intended in the *USF/ICC Transformation Order*. Further, because of the limited nature of this modification, the Commission finds that it will not have the harmful effects that concerned the Commission in adopting its general policy on existing agreements. The Commission also finds that adoption of this limited measure will have minimal adverse impact on carriers.

9. *Regulatory Flexibility Certification.* The Regulatory Flexibility Act (RFA) requires that agencies prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The Commission certifies that the rule revisions will not have a significant economic impact on a substantial number of small entities, because the action merely maintains the status quo for the entities affected. The Commission will send a copy of the Order, including such certification, to the Chief Counsel for Advocacy of the Small Business Administration.

10. *Paperwork Reduction Act Analysis.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

11. *Congressional Review Act.* The Commission will send a copy of the Order on Reconsideration in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act ("CRA").

12. *Effective Date.* The Commission concludes that good cause exists to make the effective date of the amendments to rule 47 CFR 54.101 effective immediately upon publication in the **Federal Register**, pursuant to § 553(d)(3) of the Administrative Procedure Act. Agencies determining whether there is good cause to make a rule revision take effect less than 30 days after **Federal Register** publication must balance the necessity for immediate implementation against principles of fundamental fairness that require that all affected persons be afforded a reasonable time to prepare for the effective date of a new rule. In this instance, no ETC will be prejudiced by the Order being effective immediately upon publication in the **Federal Register** because this action merely clarifies the intent of the *USF/ICC Transformation Order* and, by delaying the implementation date of the modified rule, restores the status quo for Lifeline-only ETCs in those states where they have already been designated that existed prior to the *USF/ICC Transformation Order* for a defined period of time. This will allow the Commission the opportunity to take further action with respect to the "own facilities" requirement for such providers in the context of the low-income program.

13. The Commission also concludes that good cause exists to make the revisions to §§ 20.11(e), 51.705(a), and 51.709(c) effective immediately upon publication in the **Federal Register**. As discussed above, allowing the rules subject to the Order to go into effect on December 29, 2011 may potentially result in a significant financial impact on LECs exchanging non-access LEC-CMRS traffic pursuant to interconnection agreements, contrary to the Commission's initial assumptions. Thus, the Commission finds good cause to make these rule revisions take effect upon publication in the **Federal Register**. Again, no parties will be prejudiced by this Order being effective immediately upon publication in the **Federal Register** because this action merely permits LECs and CMRS providers exchanging non-access traffic pursuant to an interconnection agreement to maintain the status quo for a defined period of time.

#### List of Subjects

##### 47 CFR Part 20

Communications common carriers, Commercial mobile radio services, Interconnection, Intercarrier compensation.

## 47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 20 and 54 as follows:

#### **PART 20—COMMERCIAL MOBILE RADIO SERVICES**

■ 1. The authority citation for part 20 continues to read as follows:

**Authority:** 47 U.S.C. 154, 160, 201, 251–254, 301, 303, 316, and 332 unless otherwise noted. Section 20.12 is also issued under 47 U.S.C. 1302.

■ 2. Section 20.11 is amended by revising paragraph (e) to read as follows:

##### **§ 20.11 Interconnection to facilities of local exchange carriers.**

\* \* \* \* \*

(e) An incumbent local exchange carrier may request interconnection from a commercial mobile radio service provider and invoke the negotiation and arbitration procedures contained in section 252 of the Act. A commercial mobile radio service provider receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission.

\* \* \* \* \*

#### **PART 54—UNIVERSAL SERVICE**

■ 3. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

##### **Subpart B—Services Designated for Support**

■ 4. Section 54.101 is amended by revising paragraph (a) to read as follows:

##### **§ 54.101 Supported services for rural, insular and high cost areas.**

(a) *Services designated for support.* Voice telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911

and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).

\* \* \* \* \*

[FR Doc. 2012–349 Filed 1–10–12; 8:45 am]

**BILLING CODE 6712–01–P**

#### **DEPARTMENT OF DEFENSE**

##### **GENERAL SERVICES ADMINISTRATION**

##### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

##### **48 CFR Parts 1, 9, 12, 42, and 52**

[Correction; FAC 2005–55; FAR Case 2010–016; Item V; Docket 2010–0016, Sequence 1]

RIN 9000–AL94

##### **Federal Acquisition Regulation; Public Access to the Federal Awardee Performance and Integrity Information System; Correction**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Correction.

**SUMMARY:** This document contains a correction to the final rule that was published in the **Federal Register** at 77 FR 197 on January 3, 2012. An applicability date to the rule was inadvertently omitted.

**DATES:** The effective date for the rule published at 77 FR 197 remains January 3, 2012.

**Applicability Date:** The clause prescription of this rule applies to solicitations issued on or after January 17, 2012, and resultant contracts.

With regard to information entered by the Government into FAPIIS on and after January 17, 2012—

(1) There will be a 14-calendar-day delay in the posting to the publicly available segment of FAPIIS; and

(2) The notification generated when the Government posts new information to the contractor's record will inform the contractor of the 14-calendar-day delay and the contractor's right to request withdrawal of the posted information if the contractor asserts that the information is covered by a disclosure exemption under the Freedom of Information Act, as set forth in FAR 9.105–2(b)(2)(iv).

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward Loeb, Procurement Analyst, at (202) 501–0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–55, FAR Case 2010–016; Correction.

**SUPPLEMENTARY INFORMATION:** This document contains a correction to the final rule that was published in the **Federal Register** at 77 FR 197 on January 3, 2012, by adding an applicability date to the rule that was inadvertently omitted.

DoD, GSA, and NASA adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement section 3010 of the Supplemental Appropriations Act, 2010. Section 3010 requires that the information in the Federal Awardee Performance and Integrity Information System (FAPIIS), excluding past performance reviews, shall be made publicly available. The interim rule notified contractors of this new statutory requirement for public access to FAPIIS.

The delayed application of the final rule will allow time for the Government to complete necessary system changes to support the 14-day wait period. The current system was designed to automatically transfer to the publicly available segment of FAPIIS all information posted by the Government (other than past performance information). As a result, until the change is implemented, there will not be an opportunity for a contractor to request withholding of the information before it is posted to the publicly available segment of FAPIIS. Any information entered into FAPIIS by the Government on or after January 17, 2012 (other than past performance information, which will not transfer to the publicly available segment of FAPIIS), will be subject to a 14-calendar-day delay before it is transferred to the publicly available segment of FAPIIS, regardless of whether the contract includes the January 2012 version or the January 2011 version of FAR 52.209–9, Updates of Publicly Available Information Regarding Responsibility Matters. This will allow all contractors opportunity to assert for the Government's consideration, within 7 calendar days of being posted, that the information is covered by a disclosure exemption under the Freedom of Information Act.