

a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State Plan approvals under section 111 of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning State Plans on such grounds. *Union Electric Co. T1 v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

#### C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 13, 1998. 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 must 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 in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: October 24, 1997.

**William P. Yellowtail**,  
Regional Administrator, Region VIII.

40 CFR part 62 is amended as follows:

#### PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401-7642.

2. Subpart JJ is added to read as follows:

#### Subpart JJ—North Dakota

##### LANDFILL GAS EMISSIONS FROM EXISTING MUNICIPAL SOLID WASTE LANDFILLS

Sec.

- 62.8600 Identification of plan.
- 62.8601 Identification of sources.
- 62.8602 Effective date.

#### Subpart JJ—North Dakota

##### LANDFILL GAS EMISSIONS FROM EXISTING MUNICIPAL SOLID WASTE LANDFILLS

#### § 62.8600 Identification of plan.

"Section 111(d) Plan for Municipal Solid Waste Landfills" and the associated State regulation in section 33-15-12-02 of the North Dakota Administrative Code, submitted by the State on September 11, 1997.

#### § 62.8601 Identification of sources.

The plan applies to all existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991 that accepted waste at any time since November 8, 1987 or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

#### § 62.8602 Effective date.

The effective date of the plan for municipal solid waste landfills is February 13, 1998.

[FR Doc. 97-32640 Filed 12-12-97; 8:45 am]

BILLING CODE 6560-50-F

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 69

[CC Docket Nos. 96-262 and 91-213; FCC 97-401]

### Access Charge Reform; Transport Rate Structure and Pricing

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In the Third Report and Order, FCC 97-401, adopted and released November 26, 1997 (*Third Report and Order*), in its Access Charge Reform and Transport Rate Structure Pricing proceedings, the Commission amends its cost allocation rules to increase the allocation of certain general purpose computer and other general support facilities (GSF) costs by price cap local exchange carriers (LECs) to their nonregulated billing and collection categories and the *Third Report and Order* also requires affected price cap LECs to reduce their price cap indices (PCIs) and related basket indices to ensure that their regulated access and interexchange services do not continue to recover GSF costs attributable their nonregulated billing and collection services. These rule amendments and related exogenous adjustments are intended to reduce the subsidization of

nonregulated services by regulated services, foster competition in the provision of these services, and move access charges to more economically efficient levels.

**EFFECTIVE DATE:** December 17, 1997.

**FOR FURTHER INFORMATION CONTACT:**

Allen A. Barna or Richard Lerner, Competitive Pricing Division, Common Carrier Bureau, (202) 418-1530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Third Report and Order* adopted and released November 26, 1997. The full text is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M St., N.W., Washington, D.C. The complete text also may be obtained through the World Wide Web at [http://www.fcc.gov/Bureaus/Common\\_Carrier/Orders/1997/fcc97401.wp](http://www.fcc.gov/Bureaus/Common_Carrier/Orders/1997/fcc97401.wp), or may be purchased from the Commission's Copy Contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, N.W., Washington, DC 20036. On May 16, 1997, the Commission adopted a First Report and Order in the Access Charge Reform proceeding, FCC 97-158, 62 FR 31868 (June 11, 1997) and 62 FR 48485 (September 16, 1997), that included a *Further Notice of Proposed Rulemaking (Further Notice)*, 62 FR 31040 (June 6, 1997). The *Further Notice* sought comment on several specific proposals regarding the allocation of costs attributable to general purpose computers and other general support facilities (GSF) used by incumbent LECs to provide nonregulated billing and collection services to interexchange carriers. On May 7, 1997, the Commission adopted a Second Report and Order in CC Docket No. 96-262, FCC 97-159, 62 FR 31939 (June 11, 1997), that addressed separate matters in this proceeding. The rule amendments adopted in the *Third Report and Order* were made in response to the *Further Notice* and the comments received in the response to the *Further Notice* or otherwise in the course of these proceedings. This *Third Report and Order* was submitted to OMB for review under the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3520. The Commission received emergency approval of this collection from OMB on December 9, 1997.

**Final Regulatory Flexibility Act Analysis and Certification**

1. In the *Further Notice*, the Commission stated that it intended to limit the scope of its proposals regarding the allocation of general

purpose computer and general support facilities (GSF) costs to incumbent price cap LECs. That *Further Notice* tentatively concluded that, because all such LECs have more than 1500 employees, they would not qualify as small entities. Because the Commission intended to limit the scope of its proposals to such incumbent price cap LECs, it stated that these options, if adopted, would not affect small entities. Currently, 14 incumbent LECs are subject to price cap regulation. The Commission sought comment on these proposals and tentative conclusions. No comments were received specifically concerning the conclusion that price cap carriers were not small entities or the limitation of the proposed rules to such carriers. As noted in the *Third Report and Order*, however, one comment was received concerning the impact on smaller carriers of the first of the two options presented, the special study option. That option was not adopted in the *Third Report and Order*. Given that comment and for the reasons described in the *Further Notice* and this *Third Report and Order*, the Commission certified that the Regulatory Flexibility Act (RFA), 5 U.S.C. § 601 *et seq.*, did not apply to this rulemaking proceeding because none of the rule amendments adopted in the *Third Report and Order* would have a significant economic impact on a substantial number of small entities. This certification conforms to the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996. The RFA, 5 U.S.C. §§ 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). We hereby affirm this analysis.

2. The Commission is sending a copy of this final certification, along with this *Third Report and Order*, in a report to Congress pursuant to the SBREFA, 5 U.S.C. § 801(a)(1)(A), and to the Chief Counsel for Advocacy of the Small Business Administration, 5 U.S.C. § 605(b).

**Paperwork Reduction Act**

3. The Federal Communications Commission (Commission) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor and a person is not required to respond to a collection of

information unless it displays a currently valid control number.

*OMB Approval Number:* 3060-0760.

*Title:* Access Charge Reform *Third Report and Order*.

*Expiration Date:* May 31, 1998.

*Frequency of Response:* One-time requirement.

*Respondents:* Business and other for profit.

*Number of Respondents:*

Approximately 14 respondents.

*Description:* A one-time burden of 4 hours per respondent for all 14 respondents to calculate their exogenous price cap index (PCI) adjustments plus an additional one-time average burden of 318 hours per respondent for 4 of these respondents to make the necessary additional tariff filings.

*Estimated Annual Burden:* A one-time burden of 54 hours for all respondents to calculate the exogenous adjustments and an additional one-time burden of 1272 hours for four of these respondents for a total one-time burden of 1328 hours for this group of respondents.

*Estimated Annual Reporting and Recordkeeping Cost Burden:* \$600 per respondent.

*Description:* In the *Third Report and Order*, the Commission adopts, consistent with principles of cost causation and economic efficiency, that, where price cap LECs use general purpose computers and other general support facilities (GSF) to provide nonregulated billing and collection services to interexchange carriers, such GSF costs should not be allocated to these LECs' regulated access and interexchange categories but, instead, should be allocated to their nonregulated billing and collection categories. The related collection of information follows:

a. In the *Third Report and Order*, the Commission requires affected price cap LECs to make certain exogenous adjustments to their respective price cap indices (PCIs) and related basket indices. LECs affected by this *Third Report and Order* are those price cap LECs that use regulated assets to provide nonregulated billing and collection services to interexchange carriers. For the purposes of estimating the information collection burdens, we assume all price cap LECs are affected by the *Third Report and Order*. Such LECs must determine the amount of GSF costs that they allocated to their respective access and interexchange categories during 1996 and then calculate the amount of such costs that would have been allocated to those categories during that year if the rule changes adopted in this *Third Report*

and Order had been in effect at that time. Once that difference is determined, each affected price cap LEC is required to make an exogenous adjustment to its PCIs and related basket indices to prevent the earlier misallocation of these costs from continuing to inflate the rates charges for regulated services. Separate from the possible tariff filing burden described below, we estimate that it would take each of these price cap LECs four (4) hours to complete the steps necessary to determine the amount of the exogenous price cap index (PCI) and related basket adjustments required by the *Third Report and Order*. Because we assume this particular burden applies to all 14 price cap LECs, we estimate the total burden to be 56 hours as indicated above.

b. Under the *Third Report and Order*, affected price cap LECs are required to make tariff revision filings on or before December 17, 1997, to implement these exogenous price cap adjustments. The Commission scheduled these filings to coincide with other access reform tariff filings to be made by price cap LECs on or before December 17, 1997, under other orders in the Access Charge Reform proceeding. Because most of these 14 price cap LECs have not yet made such filings, there should be little or no additional tariff filing burdens associated with these LECs' compliance with this *Third Report and Order*. For the four price cap LECs that have already made access reform tariff filings under other orders, we estimate that there will be an additional tariff filing burden of 1272 hours for these LECs as a group. Because this estimated additional burden of 1272 hours reflects an average burden of 318 hours for each of these four LECs, we have used the latter figure above to facilitate calculation of the overall hour burdens.

4. The public reporting burden for this collection of information is noted above. Comments regarding the burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, may be mailed to Performance Evaluation and Records Management, Federal Communications Commission, Washington, D.C. 20554.

#### Synopsis of the Third Report and Order

5.-6. Where LECs use general purpose computer and other general support facilities (GSF) to provide nonregulated billing and collection services to interexchange carriers, the *Further Notice* sought comment on the existence of significant problems with regard to the existing part 69 allocation of these GSF costs to the LECs' regulated access

and interexchange categories and, if such problems exist, whether the Commission should amend Part 69 to increase the allocation of these costs to the nonregulated billing and collection categories. Specifically, the Commission sought comment on two options to amend part 69 to address such misallocation of GSF costs by LECs.

7. Under the first option, each affected price cap LEC would conduct a special study of the uses made of the assets recorded in its general purpose computer account (Account 2124) to determine the percentage of interstate investment in this account that is actually used to provide nonregulated billing and collection services. That percentage would be used to allocate an appropriate portion of that LEC's Account 2124 investment to its nonregulated billing and collection category. Also, under existing Commission rules, this allocation of general purpose computer account investment would result in similar allocation of the LEC's general purpose computer account expenses (Account 6124).

8. Under the second option, the Commission would require use of a general expense allocator to apportion the interstate share of summary Account 2110 (Land and support assets) between the billing and collection category and all other elements and categories. Any investment in Account 2110 not allocated to the billing and collection category would then be apportioned among the access elements and the interexchange category using the current investment allocator. Regarding GSF expenses, the interstate portion of these expenses in Account 6120 would be apportioned among all elements and categories, including billing and collection, based upon the overall apportionment of GSF investment in Account 2110. The Commission also sought comment on its proposals to limit the application of these rule changes to price cap LECs and to require exogenous adjustments by these LECs to prevent the past misallocation of these costs from inflating future access rates.

9. In the *Third Report and Order*, the Commission acts on the proposals made in the *Further Notice*. In particular, the Commission found that significant problems continue to exist with regard to the allocation of general purpose computer and other GSF costs to the regulated categories. To address those problems, the Commission adopted a variation on the second option proposed in the *Further Notice*. Rather than apply the general expense allocator to the entire interstate portion of Account 2110, as proposed in the second option,

and rather than apply that allocator narrowly to only the general purpose computer account (Account 2124) as recommended by some commenters, the Commission, instead, applied that allocator to four of the accounts that comprise Account 2110, as recommended by other commenters. Under the four account approach adopted by the Commission, not only the general purpose computer account (Account 2124) but also three additional accounts, in which LECs also record investment attributable to their nonregulated billing and collection activities, will also be subject to the general expense allocator. Accordingly, appropriate portions of these accounts as well as the general purpose computer account (Account 2124) will be allocated the nonregulated billing and collection category. No change was needed in the rules applicable to the allocation of GSF expense accounts because, in general, such expense accounts are allocated in the same manner as their counterpart investment accounts. Accordingly, the Commission amended its part 69 cost allocation rules to provide for the increased allocation of these GSF costs to the nonregulated billing and collection categories and their reduced allocation to the regulated categories.

10. In addition, pending decisions in a related proceeding involving the allocation of such GSF costs by other LECs, the Commission determined that this new allocation rule would apply only to price cap LECs. Also, as explained above, the Commission required affected price cap LECs to reduce their price cap indices (PCIs) and related basket indices to ensure that regulated access and interexchange categories do not continue to recover GSF costs attributable to these nonregulated billing and collection services.

#### Ordering Clauses

11. Accordingly, *it is ordered*, pursuant to sections 1-4, 201-205, 218, 220, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, and 303(r) that the *Third Report and Order is adopted*.

12. *It is further ordered* that the provisions in this Order will be effective December 17, 1997. Although this date is less than thirty days after publication of the rule in the **Federal Register**, we find good cause under 5 U.S.C. § 553(d)(3) to make the rule effective less than thirty days after publication, because local exchange carriers subject to price cap regulation must file access reform tariffs no later than December 17, 1997, in order for them to be effective

by January 1, 1998. In addition, to ensure that the local exchange carriers subject to price cap regulation have actual notice of this rule immediately following its release, we are serving those entities by overnight mail. The collections of information contained are contingent upon approval by the Office of Management and Budget.

13. *It is further ordered* that, for local exchange carriers subject to price cap regulation making tariff revisions pursuant to this Order, prior to December 17, 1997, to become effective January 1, 1998, §§ 61.58 and 61.59 of the Commission's rules, 47 CFR 61.58 and 61.59, *are hereby waived*. For these purposes, affected local exchange carriers shall cite the "FCC 97-401" as the authority for making such filings.

14. *It is further ordered*, that 47 C.F.R., Part 69, *is amended* as set forth in the rule changes.

15. *It is further ordered*, that the Commission's Office of Managing Director *shall send* a copy of this *Third Report and Order*, including the Final Regulatory Flexibility Act Analysis and Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 69**

Communications Common Carriers, Tariffs.  
Federal Communications Commission.  
**Magalie Roman Salas,**  
*Secretary.*

**Rule Changes**

Part 69 of title 47 of the Code of Federal Regulations is amended as follows:

**PART 69—ACCESS CHARGES**

1. The authority citation for part 69 continues to read as follows:

**Authority:** 47 U.S.C. §§ 154 (i) and (j), 201, 202, 203, 205, 218, 254, and 403.

**§ 69.30 [Amended]**

2. Section 69.307 is amended by revising paragraph (c) and adding new paragraph (d) to read as follows:

\* \* \* \* \*

(c) For all local exchange carriers not subject to price cap regulation and for other carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information,

Transport, and Special Access elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(d) For local exchange carriers subject to price cap regulation and not covered by Section 69.307(c), a portion of General purpose computer investment (Account 2124), investment in Land (Account 2111), Buildings (Account 2121), and Office equipment (Account 2123) shall be apportioned to the billing and collection category on the basis of the Big Three Expense Factors allocator, defined in Section 69.2 of this Part, modified to exclude expenses that are apportioned on the basis of allocators that include General Support Facilities investment. The remaining portion of investment in these four accounts together with all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access Elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 971208295-7295-01; I.D. 111897A]

**Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Interim 1998 Harvest Specifications**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Interim 1998 harvest specifications for groundfish and associated management measures.

**SUMMARY:** NMFS issues interim 1998 total allowable catch (TAC) amounts for each category of groundfish and specifications for prohibited species bycatch allowances for the groundfish fishery of the Gulf of Alaska (GOA). The intended effect is to conserve and manage the groundfish resources in the GOA.

**EFFECTIVE DATE:** 0001 hrs, Alaska local time (A.l.t.), January 1, 1998, until the

effective date of the final 1998 harvest specifications for GOA groundfish, which will be published in the **Federal Register**.

**ADDRESSES:** The preliminary 1998 Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1997, is available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, telephone 907-586-7237.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-486-6919.

**SUPPLEMENTARY INFORMATION:**

**Background**

Groundfish fisheries in the GOA are governed by Federal regulations at 50 CFR part 679 that implement the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The FMP is implemented by regulations at 50 CFR part 679. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 600.

The Council met September 22-29, 1997, to review scientific information concerning groundfish stocks. The Council adopted for public review the preliminary SAFE Report for the 1998 GOA groundfish fisheries. The preliminary SAFE Report, dated September 1997, provides an update on the status of stocks. Copies of the preliminary SAFE Report are available from the Council (see **ADDRESSES**). The Council recommended a preliminary total TAC of 309,715 metric tons (mt) and a preliminary total acceptable biological catch (ABC) of 532,020 mt for the 1998 fishing year.

Under § 679.20(c)(1)(ii), NMFS is publishing in the Proposed Rules section of this issue of the **Federal Register** for review and comment proposed harvest specifications for groundfish and associated management measures in the GOA for the 1998 fishing year. That document contains a detailed discussion of the 1998 specification process and of the proposed 1998 ABCs and overfishing levels, proposed establishment of the 1998 annual TAC and initial TAC amounts and apportionments thereof and reserves for each target species and the "other species" category, apportionments of pollock and Pacific cod TAC, apportionments of the sablefish TAC to vessels using hook-and-line and trawl gear, and halibut prohibited species catch (PSC) limits.