

**DATES:** Written comments or a request for an informal hearing (per 40 CFR part 750, subpart B) must be received by May 2, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2013-0396, by mail to RCRA Docket, Mail Code 28221T, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Attention Docket ID No. EPA-HQ-RCRA-2013-0396. Please include a total of two copies. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the Rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Kelly Greene, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, (MC: 5304P), 1200 Pennsylvania Avenue NW., Washington, DC 20460, Phone: 703-347-0363; or by email: [greenekelly@epa.gov](mailto:greenekelly@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Why is EPA proposing this rule?**

EPA is proposing to grant DLA's petition to revise 40 CFR 761.80, which will allow DLA to import its PCB waste from Japan back to the customs territory of the United States for proper disposal. In addition, in the Rules section of this **Federal Register**, EPA is promulgating a direct final rule to make the same revision as is being proposed here, for the reasons outlined in detail in the preamble to that direct final rule. The reason EPA is issuing a direct final rule elsewhere in this **Federal Register** is because we view this revision as a noncontroversial action and anticipate no adverse comment. However, if we receive adverse comment or a request for an informal hearing, we will withdraw the direct final rule (and therefore it will not take effect based on the direct final rule), and address all public comments in any subsequent final rule based on this proposed rule. Alternatively, if we receive no adverse comment (or request for an informal hearing) on the change we are promulgating today in the direct final rule, we will not take further action on this proposed rule. We do not intend to institute a second comment period on this action, unless an informal hearing is requested, in which case comments will be accepted until one week after the close of the informal hearing. Any parties interested in commenting should do so at this time, since there may not be an informal hearing. For further information, please see the information

provided in the **ADDRESSES** section of this document.

**II. Does this action apply to me?**

The discussion of the potentially affected entities by this proposed rule can be found in the preamble to the direct final rule located in the Rules section of this **Federal Register**.

**III. Statutory and Executive Order Reviews**

For a complete discussion of all the administrative requirements applicable to this action, see the direct final rule in the Rules section of this **Federal Register**.

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that is primarily engaged in hazardous waste treatment and disposal as defined by NAICS code 562211, with annual receipts of less than 12.5 million dollars (based on Small Business Administration size standards); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule merely allows DOD to bring its PCB waste back to the U.S. for proper disposal.

**List of Subjects in 40 CFR Part 761**

Environmental protection, Hazardous substances, and Polychlorinated biphenyls.

Dated: March 25, 2014.

**Mathy Stanislaus,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 2014-07390 Filed 4-1-14; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 36**

[CC Docket No. 80-286; FCC 14-27]

**Jurisdictional Separations and Referral to the Federal-State Joint Board**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) seeks public comment on a proposal to extend the freeze of jurisdictional separations category relationships and cost allocation factors in the Commission's rules for three years, through June 30, 2017. This document also proposes to direct the Wireline Competition Bureau to open a filing "window" to encourage (but not require) rate-of-return incumbent LECs that desire waivers of the category relationships freeze to file during the window.

**DATES:** Comments are due on or before April 16, 2014. Reply comments are due on or before April 23, 2014.

**ADDRESSES:** You may submit comments identified by CC Docket No. 80-286 by any of the following methods:

- Federal Communications Commission's Web site: <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Greg Haledjian, Wireline Competition Bureau, Pricing Policy Division, (202) 418-1520 or [gregory.haledjian@fcc.gov](mailto:gregory.haledjian@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 80-286, dated on March 26, 2014 and released on March 27, 2014. The full text of this document is available for public inspection during regular business hours in the Commission's Reference Center, 445 12th Street SW., Room CY-A257, Washington, DC, 20554. The full text of this document may be downloaded at the following Internet address: <http://www.fcc.gov/documents/>

----- The complete text may be purchased from Best Copy and Printing, Inc., 445 12th Street SW., Room CY-B402, Washington DC, 20554. To request alternative formats for persons with disabilities (e.g., accessible format documents, sign language, interpreters, CARTS, etc.), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See, *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

**People with Disabilities:** To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs

Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this FNPRM initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

## I. Further Notice of Proposed Rulemaking

### A. Introduction

1. In this Further Notice of Proposed Rulemaking, we propose to extend the freeze of jurisdictional separations category relationships and cost allocation factors in part 36 of the Commission's rules for three years, through June 30, 2017. We also propose to direct the Wireline Competition Bureau (Bureau) to open a filing "window" for rate-of-return incumbent

local exchange carriers (LECs) to file waiver requests to unfreeze their jurisdictional separations category relationships. That filing window would invite and encourage any rate-of-return incumbent LEC that opted, in 2001, to freeze its category relationships and no longer wishes to continue the freeze to submit its waiver petition within the filing window, so that such requests may be considered in a consistent and coordinated manner. We seek comment on these proposals.

2. The Commission notes the need for expediency in completing this rulemaking because the freeze of our separations rules expires on July 1, 2014. In addition, interested parties are familiar with the issues involved in extending the freeze of our separations rules as the Commission has previously extended them multiple times.

### B. Background

3. Jurisdictional separations is the process by which incumbent LECs apportion regulated costs between the intrastate and interstate jurisdictions. Incumbent LECs record their costs pursuant to part 32 of the Commission's regulations. These costs are then divided between regulated and unregulated costs pursuant to part 64 of the Commission's regulations. Incumbent LECs then perform the jurisdictional separations process pursuant to part 36 of the Commission's rules.

4. The jurisdictional separations process itself has two parts. First, incumbent LECs assign regulated costs to various categories of plant and expenses. In certain instances, costs are further disaggregated among service categories. Second, the costs in each category are apportioned between the intrastate and interstate jurisdictions. These jurisdictional apportionments of categorized costs are based upon either a relative use factor, a fixed allocator, or, when specifically allowed in the part 36 of the Commission's rules, by direct assignment.

5. The statute requires the Commission to refer to the Federal-State Joint Board on Jurisdictional Separations (Joint Board) proceeding regarding "the jurisdictional separations of common carrier property and expenses between interstate and intrastate operations" that the Commission institutes pursuant to a notice of proposed rulemaking. In 1997, the Commission initiated a proceeding seeking comment on the extent to which legislative, technological, and market changes warranted comprehensive reform of the separations process. The Commission also invited the State

Members of the Joint Board to develop a report that would identify additional issues that should be addressed by the Commission in its comprehensive separations reform effort. The State Members filed a report setting forth additional issues that they believed should be addressed by the Joint Board and proposing an interim freeze, among other things, to reduce the impact of changes in telephone usage patterns and resulting cost shifts from year to year. The Commission noted that the current network infrastructure was vastly different from the network and services used to define the cost categories appearing in the Commission's part 36 rules.

6. On July 21, 2000, the Joint Board issued its 2000 Separations Recommended Decision, recommending that, until comprehensive reform could be achieved, the Commission: (i) freeze part 36 category relationships and jurisdictional allocation factors for incumbent LECs subject to price cap regulation (price cap incumbent LECs); and (ii) freeze the allocation factors for incumbent LECs subject to rate-of-return regulation (rate-of-return incumbent LECs). In the 2001 Separations Freeze Order, the Commission generally adopted the Joint Board's recommendation. The Commission concluded that the freeze would provide stability and regulatory certainty for incumbent LECs by minimizing any impacts on separations results that might occur due to circumstances not contemplated by the Commission's part 36 rules, such as growth in local competition and new technologies. Further, the Commission found that a freeze of the separations process would reduce regulatory burdens on incumbent LECs during the transition from a regulated monopoly to a deregulated, competitive environment in the local telecommunications marketplace. Under the freeze, price cap incumbent LECs calculate: (1) the relationships between categories of investment and expenses within part 32 accounts; and (2) the jurisdictional allocation factors, as of a specific point in time, and then lock or "freeze" those category relationships and allocation factors in place for a set period of time. The carriers use the "frozen" category relationships and allocation factors for their calculations of separations results and therefore are not required to conduct separations studies for the duration of the freeze. Rate-of-return incumbent LECs are only required to freeze their allocation factors, but were given the option of also freezing their

category relationships at the outset of the freeze.

7. The Commission ordered that the freeze would be in effect for a five-year period beginning July 1, 2001, or until the Commission completed comprehensive separations reform, whichever came first. In addition, the Commission stated that, prior to the expiration of the separations freeze, the Commission would, in consultation with the Joint Board, determine whether the freeze period should be extended. The Commission further stated that any decision to extend the freeze beyond the five-year period in the 2001 Separations Freeze Order would be based "upon whether, and to what extent, comprehensive reform of separations has been undertaken by that time."

8. On May 16, 2006, in the 2006 Separations Freeze Extension and FNPRM, the Commission extended the freeze for three years or until comprehensive reform could be completed, whichever came first. The Commission concluded that extending the freeze would provide stability to LECs that must comply with the Commission's jurisdictional separations rules pending further Commission action to reform the part 36 rules, and that more time was needed to study comprehensive reform. The freeze was subsequently extended by one year in 2009, 2010, and 2011 and by two years in 2012.

9. When it extended the freeze in 2009, the Commission referred a number of issues to the Joint Board and asked the Joint Board to prepare a recommended decision. The Commission asked the Joint Board to consider comprehensive jurisdictional separations reform, as well as an interim adjustment of the current jurisdictional separations freeze, and whether, how, and when the Commission's jurisdictional separations rules should be modified. On March 30, 2010, the State Members of the Joint Board released a proposal for interim and comprehensive separations reform. The Joint Board sought comment on the proposal. On September 24, 2010, the Joint Board held a roundtable meeting with consumer groups, industry representatives, and state regulators to discuss interim and comprehensive jurisdictional separations reform. The Joint Board staff conducted an extensive analysis of various approaches to separations reform, and the Joint Board is evaluating that analysis.

10. In addition, in 2011, the Commission comprehensively reformed the universal service and intercarrier compensation systems and proposed additional reforms. The Joint Board is

considering the impact of the reforms proposed by the *USF/ICC Transformation Order* and any subsequent changes on its analysis of the various approaches to separations reform.

### C. Discussion

#### 1. Jurisdictional Separations Freeze Extension

11. We believe that the Commission's fundamental reform of the universal support and intercarrier compensation systems in the *USF/ICC Transformation Order* and the ongoing reform we proposed in the FNPRM significantly affect the Joint Board's analysis of interim and comprehensive separations reform. We therefore propose extending the freeze to allow the Joint Board to consider these recent and proposed reforms before it issues a Recommended Decision. We propose to extend the freeze for three years, through June 30, 2017.

12. We also believe that a three-year freeze extension serves the public interest. The Commission has observed that, if the frozen separations rules were to take effect again, incumbent LECs would be required to reinstitute their separations processes that have not been used since the inception of the freeze more than twelve years ago. Reinstating these requirements would require substantial training and investment. Moreover, given the significant changes in technologies and investment decisions, as well as changes in regulatory approaches at both the State and federal levels, the existing separations rules are likely outdated. We thus question whether reinstating the rules would serve the public interest. The Joint Board on Jurisdictional Separations has a pending referral to consider broadly what changes to the separations rules are appropriate. It will take significant time to address any recommendations that the Joint Board may ultimately propose. We thus believe that a three-year extension is appropriate. We seek comment on these proposals.

13. We seek comment on the effect that our proposal to extend the freeze would have on small entities, and whether any rules that we adopt should apply differently to small entities. We seek comment on the costs and burdens of an extension on small incumbent LECs and whether the extension would disproportionately affect specific types of carriers or ratepayers.

14. We anticipate that extending the jurisdictional separations freeze would provide rate-of-return incumbent LECs with a reasonable methodology to

apportion costs and—due to the burden it would impose on incumbent LECs—would be preferable to allowing the previous separations requirements to resume. We seek comment on this matter. In addition, we propose that the freeze extension be implemented as described in the 2001 Separations Freeze Order. Specifically, price cap incumbent LECs will use the same relationships between categories of investment and expenses within part 32 accounts and the same jurisdictional allocation factors that have been in place since the inception of the current freeze on July 1, 2001. Rate-of-return incumbent LECs will use the same frozen jurisdictional allocation factors, and will (absent a waiver) use the same frozen category relationships if they had opted previously to freeze those. We seek comment on these proposals.

#### *B. Filing Window for Rate-of-Return Incumbent LECs To Petition To Unfreeze Their Cost Category Relationships*

15. In 2001, when the Commission initiated the freeze, rate-of-return incumbent LECs were given the option of freezing their cost category relationships. Fewer than 100 rate-of-return incumbent LECs elected to freeze their category relationships. Some of those incumbent LECs have since converted to price cap regulation. Since 2006, four rate-of-return incumbent LECs have sought waivers to unfreeze their category relationships. We granted two waiver petitions and two remain pending.

16. Rate-of-return incumbent LECs that elected to freeze their cost category relationships did so with the expectation that the freeze would likely last only five years. Instead the freeze has remained in effect for 13 years. Since 2006, there have been many changes in technology, customer demand and investment decisions that could not have been anticipated in 2001 when rate-of-return carriers had to decide whether to elect the cost category relationships freeze. In addition, the *USF/ICC Transformation Order* modified rules that affect rate-of-return incumbent LECs' opportunities to recover costs assigned to switched services.

17. We thus recognize that rate-of-return carriers that elected to freeze their cost category relationships did so with the expectation that the election would be limited in duration. Because the freeze has been extended multiple times, those carriers may be at a disadvantage relative to rate-of-return carriers that did not elect the freeze. Based on these facts, we propose to

direct the Bureau to provide “frozen” rate-of-return incumbent LECs a specific opportunity (a filing window) to request approval to unfreeze their cost category relationships. Such petitions must contain the necessary documentation to support a waiver, including: the unique circumstances of petitioner's service area, such as size and configuration; changes made to petitioner's network since initiation of the 2001 freeze and the reasons for those changes; and demonstration of the impact that a waiver would have on petitioner's rates, revenue recovery and the Universal Service Fund. To prevent overrecovery, the Bureau will also require, as a condition of receiving a waiver, that the carrier file certain revised 2011 rate-of-return Base Period Revenue data reflecting changes in category relationships the carrier makes pursuant to any relief granted. Opening a filing window would permit the Bureau to consider waivers in a consistent and coordinated manner. Carriers would not be required to seek waivers during the window nor barred from filing waivers after the window has closed, but we believe that a filing window would create a more efficient process for all interested parties. We seek comment on this proposal.

## **II. Procedural Matters**

### *A. Filing Instructions*

18. *Comment Filing Procedures.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

19. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

20. *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

21. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

22. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

23. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

24. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

25. *Accessible Formats.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

26. *Ex Parte Presentations.* The proceeding this FNPRM initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte

presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

#### *B. Paperwork Reduction Act*

27. 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).

#### *C. Initial Regulatory Flexibility Analysis*

28. As required by the Regulatory Flexibility Act of 1980, as amended (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 this Further Notice of Proposed Rulemaking (FNPRM). 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 FNPRM provided above. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and the IRFA (or summaries thereof) will be published in the **Federal Register**.

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

29. In the 1997 Separations Notice, the Commission noted that the network infrastructure by that time had become vastly different from the network and services used to define the cost categories appearing in the Commission's part 36 jurisdictional separations rules, and that the separations process codified in part 36 was developed during a time when common carrier regulation presumed that interstate and intrastate telecommunications service must be provided through a regulated monopoly. Thus, the Commission initiated a proceeding with the goal of reviewing comprehensively the Commission's part 36 procedures to ensure that they meet the objectives of the

Telecommunications Act of 1996 (1996 Act). The Commission sought comment on the extent to which legislative changes, technological changes, and market changes might warrant comprehensive reform of the separations process. More than fourteen years have elapsed since the closing of the comment cycle on the 1997 Separations Notice, and over twelve years have elapsed since the imposition of the freeze. The industry has experienced myriad changes during that time, including reform of universal service and intercarrier compensation; therefore, we ask for comment on the impact of a further extension of the freeze.

30. The purpose of the proposed extension of the freeze is to ensure that the Commission's separations rules meet the objectives of the 1996 Act, and to allow the Commission additional time to consider changes that may need to be made to the separations process in light of changes in the law, technology, and market structure of the telecommunications industry.

#### *B. Legal Basis*

31. The legal basis for the Further Notice of Proposed Rulemaking is contained in sections 1, 2, 4(i), 201-205, 215, 218, 220, and 410 of the Communications Act of 1934, as amended.

#### *C. Description and Estimate of the Number of Small Entities to Which Rules May Apply*

32. 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. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" 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 Small Business Administration (SBA). Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.

33. *Incumbent Local Exchange Carriers (incumbent LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of incumbent local exchange services. The closest applicable size standard under the SBA

rules is for Wired Telecommunications Carriers. Under the SBA definition, a carrier is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 1,307 incumbent LECs reported that they were engaged in the provision of local exchange services. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most incumbent LECs are small entities that may be affected by the rules and policies adopted herein.

34. We have included small incumbent LECs in this 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." 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. Because our proposals concerning the Part 36 separations process will affect all incumbent LECs providing interstate services, some entities employing 1,500 or fewer employees may be affected by the proposals made in this FNPRM. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

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

35. None.

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

36. 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 and 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 part thereof, for small entities.

37. As described above, more than twelve years have elapsed since the imposition of the freeze, thus, we are seeking comment on the impact of a further extension of the freeze. We seek comment on the effects our proposals would have on small entities, and whether any rules that we adopt should apply differently to small entities. We direct commenters to consider the costs and burdens of an extension on small incumbent LECs and whether the extension would disproportionately affect specific types of carriers or ratepayers.

38. We believe that implementation of the proposed freeze extension would ease the administrative burden of regulatory compliance for LECs, including small incumbent LECs. The freeze has eliminated the need for all incumbent LECs, including incumbent LECs with 1,500 employees or fewer, to complete certain annual studies formerly required by the Commission's rules. If an extension of the freeze can be said to have any effect under the RFA, it is to reduce a regulatory compliance burden for small incumbent LECs by relieving these carriers from the burden of preparing separations studies and providing these carriers with greater regulatory certainty.

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

39. None.

### III. Ordering Clauses

40. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 201–205, 215, 218, 220, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201–205, 215, 218, 220, 410, this Further Notice of Proposed Rulemaking *is adopted*.

41. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

42. *It is further ordered*, pursuant to sections 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), that this Further Notice of Proposed Rulemaking shall be effective on the date of publication in the **Federal Register**.

Federal Communications Commission.

**Marlene H. Dortch**,

*Secretary*.

[FR Doc. 2014–07456 Filed 4–1–14; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1, 3, 12, and 52

[FAR Case 2013–022; Docket No. 2013–0022; Sequence No. 1]

RIN 9000–AM69

#### Federal Acquisition Regulation; Extension of Limitations on Contractor Employee Personal Conflicts of Interest

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year 2013 to extend the limitations on contractor employee personal conflicts of interest to apply to the performance of all functions that are closely associated with inherently governmental functions and contracts for personal services.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before June 2, 2014 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2013–022 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2013–022.” Select the link “Comment Now” that corresponds with “FAR Case 2013–022.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FAR Case 2013–022” on your attached document.

- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1800 F

Street NW., 2nd Floor, Washington, DC 20405.

**Instructions:** Please submit comments only and cite FAR Case 2013–022, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2013–022.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD, GSA, and NASA are proposing to revise the FAR to implement section 829 of the NDAA for Fiscal Year 2013 (Pub. L. 112–239). Section 829 required the Secretary of Defense to review the guidance on personal conflicts of interest for contractor employees, issued pursuant to section 841(a) of the NDAA for Fiscal Year 2009 (Pub. L. 110–417), in order to determine whether it would be in the best interest of DoD and the taxpayers to extend such guidance to personal conflicts of interest by contractor personnel performing any of the following:

(1) Functions other than acquisition functions that are closely associated with inherently governmental functions (as that term is defined at 10 U.S.C. 2383(b)(3)).

(2) Personal services contracts (as that term is defined in 10 U.S.C. 2330a(g)(5)).

(3) Contracts for staff augmentation services (as that term is defined in section 808(d)(3) of the NDAA for Fiscal Year 2012 (Pub. L. 112–81)).

##### A. Section 841(a) of the National Defense Authorization Act for Fiscal Year 2008

1. Section 841(a) (now codified at 41 U.S.C. 2303(b)) required the Administrator for Federal Procurement Policy to develop and issue a policy to address personal conflicts of interest for contractor employees who perform acquisition functions closely associated with inherently governmental functions. The final rule to implement section 841(a) in the FAR was published in the **Federal Register** at 76 FR 68017 on November 2, 2011, effective December 2, 2011. The rule added FAR subpart 3.11, Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions, and FAR clause 52.203–16, Preventing Personal Conflicts of Interest.