Dated: September 3, 2021.

**J.W. Mauger,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 52

**[WC Docket Nos. 13–97, 07–243, 20–67; IB Docket No. 16–155; FCC 21–94; FR ID 43570]**

## Numbering Policies for Modern Communications

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission or FCC) proposes to update rules regarding direct access to numbers by providers of interconnected voice over internet Protocol (VoIP) services. The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act directed the Commission to examine ways to reduce access to telephone numbers by potential perpetrators of illegal robocalls. These proposals aim to safeguard the numbers and consumers, protect national security interests, promote public safety, and reduce opportunities for regulatory arbitrage.

**DATES:** Comments are due on or before October 14, 2021, and reply comments are due on or before November 15, 2021. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public and other interested parties on or before November 15, 2021.

**ADDRESSES:** You may send comments, identified by WC Docket Nos. 13–97, 07–243, 20–67, and IB Docket No. 16–155 by any of the following methods:

- *Federal Communications Commission's Website: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent 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. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- *Hand Delivery:* Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *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:** Wireline Competition Bureau, Competition Policy Division, Jordan Reth, at (202) 418–1418, *Jordan.Reth@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele, *Nicole.Ongele@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Further Notice of Proposed Rulemaking* (FNPRM) in WC Docket Nos. 13–97, 07–243, 20–67, and IB Docket No. 16–155, adopted on August 5, 2021, and released on August 6, 2021. The full text of the document is available on the Commission's website at *https://www.fcc.gov/document/fcc-proposes-updating-numbering-rules-fight-robocalls.* To request materials in accessible formats for people with disabilities (*e.g.,* braille, large print, electronic files, audio format, etc.), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

*Initial Paperwork Reduction Act of 1995 Analysis:* This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due November 15, 2021.

*Comments should address:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

### Synopsis

### I. Further Notice of Proposed Rulemaking

1. To provide additional guardrails to safeguard the Nation's finite numbering resources, protect consumers, curb illegal and harmful robocalling, reduce the opportunity for regulatory arbitrage, and further promote public safety, we propose and seek comment on a number of modifications to our rules governing the authorization process for interconnected VoIP providers' direct access to numbering resources. First, to enable Commission staff to have the necessary information to efficiently review direct access applications and continue protecting the public interest, we propose to require additional certifications as part of the direct access application process and clarify existing requirements. Second, to help address the risk of providing access to our numbering resources and databases to bad actors abroad, we propose clarifying that applicants must disclose foreign ownership information. Third, we propose clarifying that holders of a Commission direct access authorization must update the Commission and applicable states within 30 days of any change to the ownership information submitted to the Commission. Fourth, we seek comment whether any changes to our rules are necessary to clarify that holders of a Commission direct access

authorization must comply with state numbering requirements. Fifth, we propose to clarify that the Wireline Competition Bureau (the Bureau) retains the authority to determine when to release an Accepted-for-Filing Public Notice, and we propose to delegate authority to the Bureau to reject an application for direct access authorization if an applicant has engaged in behavior contrary to the public interest or has been found to have originated or transmitted illegal robocalls. Finally, we seek comment whether we should expand the direct access to numbers authorization process to one-way VoIP providers or other entities that use numbers.

*A. Clarifying and Refining Application Requirements*

2. To help curb illegal robocalls and improve the ability of Commission staff to safeguard the public interest and operate efficiently when reviewing VoIP direct access to numbers applications, we propose to require additional certifications as part of the direct access application process and clarify existing requirements. We seek comment on the burdens of imposing potential certification requirements, as discussed below, on applicants for numbering resources, particularly on small businesses.

3. *Certification Regarding Illegal Robocalls and/or Illegal Spoofing.* We propose to require a direct access applicant to certify that it will use numbering resources lawfully; will not encourage nor assist and facilitate illegal robocalls, illegal spoofing, or fraud; and will take reasonable steps to cease origination, termination, and/or transmission of illegal robocalls once discovered. We seek comment on whether we should adopt specific standards for what constitutes ''assisting and facilitating'' in this context, and if so, what would constitute ''reasonable'' measures for purposes of this proposal. How would any such specific standards impact the Commission's and our Federal partners' efforts to curb illegal robocalls? We also propose to require direct access applicants to certify that they will cooperate with the Commission, Federal and state law enforcement and regulatory agencies with relevant jurisdiction, and the industry-led registered consortium, regarding efforts to mitigate illegal or harmful robocalling or spoofing and tracebacks. A direct access applicant may already be subject to these or similar requirements under existing Commission rule. We believe the requirements we propose in this document are appropriate because they introduce additional trust into the assignment and use of telephone numbers; ensure that any entities not subject to our existing rules that seek direct access are not the source of illegal robocalls; and because they add another avenue for enforcement against bad actors. We seek comment on these proposals. Are there specific practices we should require applicants to address in their certifications? For example, should we require applicants to certify that the applicant will not supply numbers on a trial basis to new customers (*i.e.,* use of numbers for free for the first 30 days, etc.), a practice that commonly leads to bad actors gaining temporary control over numbers for the purposes of including misleading caller identification (ID) information? Should we require applicants to certify that they ''know their customer'' through customer identity verification, as the Commission raised previously? Would such additional certification requirements place interconnected VoIP providers at a competitive disadvantage with respect to their carrier counterparts?

4. *Certification of Robocall Mitigation Database Filing.* The recently-established Robocall Mitigation Database serves as another important resource in the fight against illegal robocalling. To support this effort, we propose to require an applicant for direct access authorization to (1) certify that it has filed in the Robocall Mitigation Database and (2) to certify that it has either (A) fully implemented the Secure Telephone Identity Revisited (STIR) and Signature-based Handling of Asserted Information Using toKENs (SHAKEN) caller ID authentication protocols and framework or (B) that it has implemented either STIR/SHAKEN caller ID authentication or a robocall mitigation program for all calls for which it acts as a voice service provider. If the applicant relies in part or whole on a robocall mitigation program, we further propose to require it to certify that it has described in the Database the detailed steps it is taking regarding number use that can reasonably be expected to reduce the origination and transmission of illegal robocalls. We seek comment on our proposal. We believe that requiring this certification as part of a direct access application is another important step the Commission can take in protecting consumers from unwanted robocalls; a provider that is noncompliant with its Robocall Mitigation Database obligations may be more likely to use numbers for improper purposes, and applying our Robocall Mitigation Database rules to those providers not otherwise subject to them as a prerequisite for number access will promote trust in the assignment and use of numbers. Do commenters agree? Should the Commission require an applicant to provide any additional documentation in support of this certification? What would be the benefits and costs of doing so? We also seek comment on whether there are any additional steps the Commission should take to help protect against misuse of numbering resources or other fraudulent activities involving telephone numbers.

5. In furtherance of our goals of protecting our numbering resources and preventing illegal robocalls, we also propose to require a direct access applicant or authorization holder to inform the Commission if the applicant or authorization holder is subject—either at the time of its application or after its filing or its grant—to a Commission, law enforcement, or regulatory agency action, investigation, or inquiry due to its robocall mitigation plan being deemed insufficient or problematic, or due to suspected unlawful robocalling or spoofing, and to acknowledge this requirement it its application. We seek comment on our proposal. We tentatively conclude that this acknowledgement and post-grant notification requirement is essential to ensure that both direct access applicants and authorization holders are working with the Commission to fight illegal robocalling and spoofing. We seek comment regarding the most effective way to accomplish the proposed post-authorization mandatory notification requirement, including on the appropriate method by which we should require notification to Commission staff.

6. *Public Safety Certification—911 and CALEA.* The Commission's rules require direct access applicants to certify that they comply with a number of requirements, including 911 obligations pursuant to our rules. The Commission's rules also require interconnected VoIP providers to provide Enhanced 911 service, as well as the ability to provide Public Safety Answering Points with a caller's location and a call-back number for each 911 call. Interconnected VoIP providers also must comply with the Communications Assistance for Law Enforcement Act (CALEA). In furtherance of our public safety goals and consistent with these requirements, we propose to require direct access applicants to certify that they are compliant with 911 service and CALEA requirements, and to provide documentation to support proof of compliance. We seek comment on this

proposal. We also seek comment on whether there is additional documentation or information we should require. For example, technical specifications and call-flow diagrams have been helpful to Commission staff in assessing direct access applicants' compliance with 911 service and CALEA requirements in some cases. Would requiring such documentation be unduly burdensome or put interconnected VoIP providers at a competitive disadvantage? If so, how? We also seek comment on whether there are any additional public safety certifications or acknowledgements that we should require as part of the direct access application process. Finally, we seek comment on whether and how we should obtain these proposed certifications from interconnected VoIP providers holding an existing Commission authorization for direct access to numbers.

7. *Access Stimulation Acknowledgement.* To support our longstanding efforts to combat access stimulation and other intercarrier compensation abuses, we seek comment on any changes we should make to our direct access authorization rules to help eliminate access stimulation and other forms of intercarrier compensation arbitrage. Access stimulation creates call congestion, can disrupt telecommunications networks, and ultimately results in increased costs to consumers. In a recent complaint proceeding, the Commission found that the subject of the complaint had inserted an interconnected VoIP provider ''into the call path for the sole purpose of avoiding the financial obligations that accompany the Commission's access stimulation rules.'' We seek comment on any changes to our VoIP direct access rules that could help prevent a similar situation from arising. For example, should we require an applicant for direct access authorization to certify that it will not use its numbering resources to evade our access stimulation rules? Or should we require an applicant for direct access authorization to consent to treatment as a local exchange carrier serving end users for purposes of the Commission's access stimulation rules? Should we instead require each applicant to certify that its traffic will be included in the call ratio calculations of any local exchange carrier it delivers traffic to for purposes of the access stimulation definition in § 61.3 of the Commission's rules? Should direct access to number applicants certify that the VoIP numbers they are applying for will only be used to provide interconnected VoIP services as opposed to for example, application-based services? Should we clarify that interconnected VoIP providers that receive direct access to numbers must use those numbers for interconnected VoIP services? How and for what services are interconnected VoIP providers that currently hold a Commission direct access authorization using those numbers? What would be the benefits of any such requirements? Would there be unintended consequences of any of these requirements? What burdens would these proposals, and other alternatives commenters may suggest, impose on interconnected VoIP providers? Would adoption of rules addressing interconnected VoIP providers' role in access arbitrage schemes put interconnected VoIP providers at a competitive disadvantage with respect to their carrier counterparts?

8. *Clarification of Form 477 and 499 Filings.* Interconnected VoIP providers that have qualifying subscribers must file Forms 477 and 499, and we propose to clarify that as such, they must file proof of compliance with these Commission filing requirements, and any successor filing requirements, when applicable, such as the Broadband Data Collection (BDC), as part of the direct access application process. Currently, Commission staff independently check for compliance and follow-up with non-compliant applicants on a case-by-case basis. While this requirement is referenced in the *VoIP Direct Access Order,* 80 FR 66454 (Oct. 29, 2015), many applicants have expressed confusion regarding the requirement and the necessity of filing both forms as an interconnected VoIP provider with qualifying subscribers. For this reason, we propose to make explicit in our rules that an interconnected VoIP provider that has qualifying subscribers and is required to file Forms 477 and 499 must provide evidence of compliance with completing these forms, and any successor filing requirements, when applicable, in its application.

9. *Technical Information for Proof of Interconnected VoIP Service; Facilities Readiness Requirement.* We propose to require a direct access applicant to provide sufficient technical documentation and information that clearly demonstrates that it will provide interconnected VoIP services, as opposed to one-way or non-interconnected VoIP services, and seek comment on our proposal. An interconnected VoIP service is a service that: (i) Enables real-time, two-way voice communications; (ii) requires a broadband connection from the user's location; (iii) requires internet protocol-compatible customer premises equipment; and (iv) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. ''One-way VoIP'' differs from interconnected VoIP in that one-way VoIP permits users generally to receive calls that originate on the public switched telephone network *or* to terminate calls to the public switched telephone network, but not both. Non-interconnected VoIP is a broader category than one-way VoIP and includes both one-way VoIP and internet-based real-time voice communication that does not interconnect with the public switched telephone network. What specific types of information should we require? What burden would requiring submission of such technical information place on the applicant? In the alternative or in addition, should we require a certification from the applicant that it provides interconnected VoIP service?

10. Further, as noted above, our rules require that an applicant seeking direct access provide proof that it is capable of providing service within sixty days of the numbering resource activation date (''facilities readiness''). In the *VoIP Direct Access Order,* the Commission explained that applicants can achieve this through the submission of commercial agreements, specifically by (1) providing a combination of an agreement between the interconnected VoIP provider and its carrier partner and an interconnection agreement between that carrier and the relevant local exchange carrier (LEC), or (2) proof that the interconnected VoIP provider obtains interconnection with the Public Switched Telephone Network (PSTN) pursuant to a tariffed offering or a commercial arrangement (such as a time-division multiplexing (TDM)-to-internet Protocol (IP) or a VoIP interconnection agreement) that providers access to the PSTN. We have seen that some applicants do not submit commercial agreements or contracts that clearly illustrate their interconnection with the PSTN. We seek comment on whether we should dispel any confusion by specifying the types of documentation that we permit applicants to submit in the text of the rule. Are there other types of documents or information that we should permit applicants to file? We emphasize that unless and until we effect any change to our rules, VoIP direct access to numbers applicants must provide the requisite agreements to demonstrate that they

meet the facilities readiness requirement.

11. *Other.* Aside from the categories of possible certifications and information discussed above, are there other certifications or information that we should consider requiring applicants to submit as part of the direct access application process to effectively protect numbering resources and the public? If so, what certifications or information should we require?

12. *Truthful Certifications.* We remind applicants that Commission rules prohibit applicants for any Commission authorization from intentionally providing incorrect material factual information or intentionally omitting material information that is necessary to prevent any material factual statement from being incorrect or misleading. Our rules also prohibit applicants from providing material factual information that is incorrect (or omitting material information that is necessary to prevent any material factual statement that is made from being incorrect of misleading ''without a reasonable basis for believing that any such material factual statement is correct and not misleading. To the extent that there is any doubt, we propose to clarify that false certifications or statements made to the Commission may result in denial of a direct access application or revocation of authorization, and we propose to direct the Bureau to deny an application or begin the revocation process if it discovers that an applicant made a false statement. We seek comment on this proposal. Should we permit applicants or authorization holders an opportunity to correct mistaken certifications or other statements if made inadvertently and timely reported to Commission staff? Would an opportunity to cure a false certification run counter to the intent behind making a certification in the first place? In addition to potential denial of an application or revocation, a misrepresentation or lack of candor by an applicant may result in a forfeiture and/or other penalties. To further ensure accuracy, should we require an officer or responsible official to submit a declaration under penalty of perjury pursuant to § 1.16 of our rules attesting that all statements in the application and any appendices are true and accurate?

*B. Foreign Ownership*

13. Since the 2015 adoption of the *VoIP Direct Access Order,* a number of providers with substantial foreign ownership have applied to obtain direct access to numbering resources. Allowing these providers direct access to numbers and critical numbering databases raises a number of potential risks, including the impact to number conservation requirements; questions related to jurisdiction, oversight, and enforcement of numbering rules; consideration of assessment of taxes and fees upon foreign-owned entities; and potential national security and law enforcement risks with access to U.S. telecommunications network operations. The rules adopted in the *VoIP Direct Access Order* do not specifically require providers to disclose their ownership in the application process, nor do they establish specific procedures or processes by which to evaluate applications with substantial foreign ownership. It is vital that our rules governing VoIP providers' ability to obtain direct access to numbering resources address the risk of providing access to our numbering resources and databases to bad actors abroad. The Commission has, in its discretion, referred direct access to numbering applications with substantial foreign ownership to the relevant executive branch agencies for their review of and recommendations on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership. In this document, we propose to revise our rules to formalize that process to remove applications with reportable foreign ownership from streamlined processing.

14. To identify which applicants have foreign owners, we propose to require applicants for a Commission direct access authorization to disclose information, including the name, address, country of citizenship, and principal business of every person or entity that directly or indirectly owns at least 10 percent of the equity and/or voting interest, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities to the nearest one percent. We also propose that the applicant identify any interlocking directorates with a foreign carrier. We seek comment on these proposals. We tentatively conclude that applicants must disclose any 10 percent or greater ownership interests, including 10 percent or greater foreign ownership interests. We believe this is appropriate because it mirrors the disclosure required for domestic section 214 transfer of control applications and for applicants seeking an international section 214 authorization, as required by § 63.18 of the Commission's rules. Additionally, using the same threshold here as in the section 214 context serves the public interest because, in each case, we must ensure that ownership chains do not pose national security or law enforcement risks to the United States and its communications infrastructure. We seek comment on this tentative conclusion. Do commenters agree with this analysis? If not, what factors render the direct access to numbering applications different than applications to transfer authorizations to provide domestic common carrier service? Should the foreign ownership reporting obligations be triggered at a level lower than 10 percent or higher than 10 percent? We propose to adopt the calculations that § 63.18(h) uses for attribution of indirect ownership interests for direct access to numbering applicants. We seek comment on this proposal. Should we use different calculations for determining indirect ownership than those used in § 63.18(h)? If so, why, and what calculations should we use? Should we use aggregate foreign ownership rather than individual ownership? If so, at what level of aggregate foreign ownership should we require disclosure? We also specifically seek comment on the burdens of imposing these potential requirements on applicants for numbering resources, particularly on small businesses.

15. We also propose to require applicants for direct access to numbers to certify in their applications ''as to whether or not the applicant is, or is affiliated with, a foreign carrier,'' analogous to the certification required in § 63.18(i) for applicants for international section 214 authority. We seek comment on our proposal. Section 63.18(i) requires the certification to ''state with specificity each foreign country in which the applicant is, or is affiliated with, a foreign carrier.'' Would a similar certification for numbering resource applicants be in the public interest? Would such a certification provide information or confirmation not already included in the disclosure requirement? Would such a requirement in addition to the disclosure requirement be unduly burdensome to applicants?

16. The use of numbering resources by foreign entities may raise national security, law enforcement, foreign policy, or trade policy concerns. Consequently, we propose to direct the International Bureau, in coordination with the Wireline Competition Bureau, to generally refer applications with reportable foreign ownership—10 percent or greater direct or indirect ownership that is not a U.S. citizen or U.S. business entity—to the executive branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns

related to the foreign ownership of the applicant consistent with our referral of other applications. The Commission released the *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership* (*Executive Branch Review Order*), 85 FR 76360 (Nov. 27, 2020), delineating the types of applications the Commission will refer to the executive branch agencies and formalizing the review process and time frames, consistent with Executive order, *Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector* (*Executive Order 13913*), 85 FR 19643, April 4, 2020. which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). The Executive order also established various procedures, including specific time frames, for executive branch review of applications referred by the Commission. Pursuant to the *Executive Branch Review Order,* the Commission, in its discretion, recently has referred a number of direct access to numbering applications where there is substantial foreign ownership of the applicant to the Committee. Rather than refer under the Commission's discretionary authority, we propose to revise our rules and to generally require referral to the executive branch agencies of all direct access to numbering applications with reportable foreign ownership pursuant to subpart CC of part 1 of the Commission's rules. Accordingly, we propose to revise our rules to remove applications with reportable foreign ownership from streamlined processing. We seek comment on this proposal.

17. We propose that, we use the same procedures established by the Commission in the *Executive Branch Review Order* when we refer a direct access to numbering application to the executive branch agencies, including the 120-day initial review period, and 90-day secondary review period. As set forth in Executive Order 13913, the 120-day review period will begin when the Attorney General, the Chair of the Committee, determines that an applicant's responses are complete. We seek comment on this proposal. We also seek comment on alternative procedures for executive branch review of direct access to numbering applications. Should we consider different review periods, or no review period, in light of the fact that executive branch review of direct access to numbering applications is less established than executive branch review of section 214 authorizations or other types of applications?

18. The International Bureau, as directed by the Commission in the *Executive Branch Review Order,* is currently in the process of adopting a standardized set of national security and law enforcement questions (Standard Questions) ''that proponents of certain applications and petitions involving reportable foreign ownership will be required to answer as part of the review process.'' We seek comment on whether we should develop Standard Questions for direct access to numbering applicants. Should we direct the International Bureau, in coordination with the Wireline Competition Bureau, to draft, update as appropriate, and make available on a publicly available website, the Standard Questions that elicit the information needed by the Committee within those categories of information? By having an applicant file responses to Standard Questions with the Committee at the same time as the applicant files its application with the Commission, the Committee can begin its review of the application sooner and complete its review in a more timely manner. Should we employ the same procedures as in the *Executive Branch Review Order*—adopting the categories of information that will be required from applicants, rather than specific questions? If we were to adopt Standard Questions, should we require applicants to file their responses to the Standard Questions with the Committee prior to or at the same time they file their applications with the Commission?

19. We also seek comment on alternatives to the development and use of Standard Questions for direct access to numbering applications. We recognize that the executive Agencies may have less experience evaluating direct access to numbering applications than other types of applications (such as section 214 applications), and they may identify different national security or law enforcement risks in direct access to numbering applications than the ones associated with other types of applications (such as section 214 applications).

*C. Post-Grant Ownership Changes*

20. In the *VoIP Direct Access Order,* the Commission required each interconnected VoIP provider that has obtained direct access to numbers to maintain the accuracy of all contact information and certifications in its application and file a correction with the Commission and each applicable state within thirty (30) days of the change of contact information or certification. We propose clarifying that VoIP providers that have received direct access to numbers must also submit an update to the Commission and each applicable state within 30 days of any change to the ownership information submitted to the Commission, including any change to the name, address, citizenship and/or principal business of any person or entity that directly or indirectly owns at least ten percent of the equity or voting interests, or a controlling interest of the applicant, or to the percentage of equity and/or voting interests held by each of those entities. We preliminarily believe that obtaining such updates will help us to ensure that the ownership does not change post-authorization in a manner that evades the purpose of application review, for instance by introducing a bad actor-owner that facilitates unlawful robocalling, poses a threat to national security, evades or abuses intercarrier compensation requirements, or otherwise engages in conduct detrimental to the public interest. We seek comment on this proposal. Are there other benefits to receiving updated ownership information? What are the costs to providers or others of updating the Commission and applicable states, particularly on small businesses? As with updated contact and certification information, we propose to clarify that the Commission may use updated ownership information to determine whether a change in authorization status is warranted. We seek comment on our proposal. We also propose to delegate authority to the Bureau to direct the Numbering Administrator to suspend number requests if the Bureau determines that further review of the authorization is necessary.

21. We seek comment on whether we should expand, contract, or alter the specific scope of information we propose to require. Should we require updates on information that does not appear in the underlying application, and if so what information? We also seek comment on whether we should establish a materiality threshold for updates so that we do not burden VoIP providers with submitting updates that are unlikely to be important. For instance, should we require providers to update the ownership percentage of specific entities whose ownership has already been disclosed to the Commission only if that change exceeds a numerical threshold, such as an increase or decrease of 10 percent or more of total ownership interest?

22. We seek comment on whether we should specify the method of filing or format for post-authorization updates regarding changes to contact information, certifications, and

ownership information. The *VoIP Direct Access Order* and the rules adopted by the Commission in that Order do not specify how providers should submit updates. We propose requiring providers to submit any required post-authorization updates to the Commission via the ''Submit a Non-Docketed Filing'' module in the Electronic Comment Filing System (ECFS) established for the VoIP Direct Access proceeding (Inbox—52.15 VoIP Numbering Authorization Application) and via email to *DAA@fcc.gov,* our email alias for VoIP direct access to numbers applications. We preliminarily believe that this approach will facilitate informed and timely review by interested members of the public and Commission staff, and we seek comment on this proposal. Should we specify the means by which applicants must update applicable states, and if so how? Should we require applicants to submit diagrams illustrating their ownership structure with their applications and with any required post-application updates?

*D. Compliance With State Law*

23. As the Commission has explained, requiring interconnected VoIP providers that obtain numbers directly from the Numbering Administrator to comply with the same numbering requirements as carriers will help ''ensure competitive neutrality among providers of voice services.'' As a condition of obtaining a Commission authorization, interconnected VoIP providers must ''comply with guidelines and procedures adopted pursuant to numbering authority delegated to the states.'' The 2015 *VoIP Direct Access Order* references requiring compliance with specific forms of numbering authority delegated to the states with respect to number reclamation, area code relief, and thousands-block pooling. Because of that reference, there has been some confusion regarding whether interconnected VoIP providers with direct access to numbers must comply with state requirements other than those specifically identified in the Order. We seek comment whether we should revise our existing rules to clarify that interconnected VoIP providers holding a Commission numbering authorization must comply with state numbering requirements and other applicable requirements for businesses operating in the state. Is the fact that some interconnected VoIP providers provision non-fixed, or nomadic, services relevant in determining compliance with state requirements? We also seek comment on whether we should we require minimal state contacts to obtain numbering resources in a particular state. Finally, we seek comment whether it is necessary to clarify that the Bureau may direct the Numbering Administrator to deny requests for numbers from an interconnected VoIP provider that has failed to comply with state requirements. We note that we do not propose to address classification of interconnected VoIP services or states' general authority to regulate interconnected VoIP service, and we view these matters as beyond the scope of this proceeding.

*E. Bureau Authority To Review Applications*

24. We also propose to clarify that even once the procedural requirements have been met, the Bureau retains the authority to determine when an application is ready to be put out on an Accepted-for-Filing Public Notice based on public interest considerations, subject to the limits of the Administrative Procedure Act. We seek comment on our proposal. The *VoIP Direct Access Order* requires Bureau staff to review VoIP Numbering Authorization Applications for conformance with procedural rules, and ''assuming the applicant satisfies this initial procedural rule,'' then directs the Bureau staff to ''assign the application its own case-specific docket number and release an 'Accepted-For-Filing Public Notice,' seeking comment on the application.'' The Commission's rules permit the Bureau to halt the auto-grant process for a number of reasons, including when ''the Bureau determines that the request requires further analysis to determine whether a request of authorization for direct access to numbers would serve the public interest.'' Though we believe the Commission and the Bureau currently have the authority to withhold placing an application on streamlined processing that meets procedural requirements if the application raises public interest concerns, including concerns regarding illegal robocalling, arbitrage, and foreign ownership, we propose to make this authority explicit.

25. The Commission directed and delegated authority to the Bureau ''to implement and maintain the authorization process.'' The technological development and exponential growth of IP-based services has many potential benefits to consumers, including the development of innovative products and services and competitive pricing for such services. However, coupled with that innovation is an increase in the ease with which bad actors can engage in harmful and illegal robocalling and other fraudulent activity. The ease with which bad actors are able to form new entities, coupled with the rise in illegal and harmful robocalling since the adoption of the *VoIP Direct Access Order* in 2015, counsels us to propose clarifying explicitly that we delegate authority to the Bureau to determine at its discretion when it is appropriate to release an Accepted-For-Filing Public Notice, based on public interest considerations. We seek comment on this proposal. We propose clarifying that the Bureau may withhold issuance of an Accepted-for-Filing Public Notice based on, for instance, concerns regarding an applicant's (or an applicant's principals' or owners') involvement in illegal or harmful robocalling schemes or regulatory arbitrage. We seek comment on our proposal.

26. We also propose to explicitly delegate authority to the Bureau to reject an application for authorization for direct access to numbers if any applicant (or its owners or affiliates) has engaged in behavior contrary to public interest or been found to originate or transmit illegal robocalls by the Commission, industry-led registered consortium, or state or Federal authorities. The Commission has already found that ''at the Bureau's discretion, certain past violations may serve as a basis for denial of an application, such as, for example, repeated or egregious violations or instances of fraud or misrepresentation to the Commission.'' We propose to clarify the Commission's existing delegation to confirm that the Bureau may reject an application, at its discretion, by an entity which it has a reasonable basis to believe has engaged in behavior contrary to the public interest, including but not limited to, entity or entities that have been found to transmit illegal robocalls by the Commission, industry-led registered consortium, or state or Federal authorities. We seek comment on this proposal. Should we adopt more specific rules or standards for when the Bureau rejects and application based on these reasons, and if so, what rules or standards should we adopt? We believe that this explicit delegation will enable the Commission to more effectively guard against bad actors gaining access to numbering resources, which then may be ''stranded'' by the taint of harmful robocalling and contribute to number exhaust. Do commenters agree?

27. The *VoIP Direct Access Order* states that the Commission may revoke direct access to numbers for failure to comply with the Commission's numbering rules. We propose clarifying

that the Commission may also revoke authorization for failure to comply with any applicable law, where a provider no longer meets the qualifications that originally provided the basis for the grant of direct access to numbers, or where the authorization no longer serves the public interest (*e.g.,* due to a national security risk or risk of originating numerous unlawful robocalls), and we seek comment on this proposal. In our preliminary view, revoking authorization in such circumstances is appropriate to protect the public and preserve the limited pool of numbers. To facilitate efficient revocation where necessary, we propose to delegate authority to the Bureau to revoke authorizations where warranted pursuant to the standards we establish. The Commission's Bureaus and Offices have revoked licenses and authorizations where warranted and within the scope of their authority. We propose clarifying that if a provider's authorization is revoked, it may not obtain any new numbers directly from the Numbering Administrator. Should we also require the provider to return numbers that it has already obtained directly, or would such a requirement be too disruptive to end-user customers? To provide VoIP providers subject to revocation with appropriate due process, we propose to require the Bureau to provide a party subject to revocation with notice setting forth the proposed basis for revocation and an opportunity to respond to the allegations prior to revoking authorization, consistent with the requirements in 5 U.S.C. 558(c). We also propose to clarify that the Bureau may direct the Numbering Administrator to defer action on new requests for numbers by a provider on an interim basis during the pendency of any investigation or review of corrections or updates submitted, or proceeding to revoke authorization, and we seek comment on this proposal. We view such interim authority as necessary to allow the agency to respond nimbly to new risks that emerge.

### *F. Expanding Direct Access to Numbering Resources*

28. We seek comment whether we should expand the Commission's authorization process for direct access to numbers to one-way VoIP providers or other entities that use numbers. Currently, only interconnected VoIP providers may apply for and thereby receive a Commission authorization for direct access to numbers. While the Commission stated that it ''may consider permitting other types of entities to obtain numbers directly from the Numbering Administrators in the future,'' it declined to do so in the *VoIP Direct Access Order,* finding that it lacked an adequate record regarding the appropriate terms and conditions for obtaining numbers for entities other than interconnected VoIP providers. We seek comment whether there is a need for direct access to numbering resources for entities other than interconnected VoIP providers, including one-way VoIP providers. How do one-way VoIP providers and other entities use numbering resources?

29. We seek comment on the potential benefits and risks of allowing one-way VoIP providers and other entities direct access to numbering resources. Would enabling such entities to request and directly access numbering resources promote competition among providers and services? What impact would enabling direct access to numbering resources for such entities have on number exhaust? We also seek comment on whether allowing other entities to access numbering resources directly could aid in enforcement efforts against illegal robocalling. Would enabling such entities direct access to numbering resources make it easier or harder to perform tracebacks and monitor bad actors? If the Commission were to permit other entities to apply for authorization for direct access to numbers, should the Commission impose the same conditions and requirements for access as it does for interconnected VoIP providers? If not, what requirements should we adopt? Our rules require interconnected VoIP providers, as a condition of maintaining their authorization for direct access to numbers to ''continue to provide their customers the ability to access 911 and 711,'' and to ''give their customers access to Commission-designated N11 numbers in use in a given rate center where an interconnected VoIP provider has requested numbering resources, to the extent that the provision of these dialing arrangements is technically feasible.'' Are such requirements technically feasible for providers of one-way VoIP and other services? If not, would enabling such entities direct access to numbering resources cause customer confusion with respect to critical short dialing codes? Are there additional conditions that would be necessary to protect against illegal robocalling, number exhaust, and other public interest harms for one-way VoIP providers and other entities?

### *G. Expected Benefits and Costs*

30. The proposals in this *FNPRM* generally reflect a mandate from the TRACED Act. We request comments on the relative costs and benefits of different means of achieving the goals mandated by the statute. With regard to benefits, the Commission found in the *TRACED Act Section 6(a) Order and FNPRM,* 85 FR 22029 (Apr. 21, 2020) and 85 FR 22099 (Apr. 21, 2020), that widespread deployment of STIR/SHAKEN will increase the effectiveness of the framework for both voice service providers and their subscribers, producing a potential benefit floor of $13.5 billion due to the reduction in nuisance calls and fraud. In addition, that Order identified many non-quantifiable benefits, such as restoring confidence in incoming calls and reliable access to emergency and healthcare communications. The proposals in this *FNPRM* are intended, consistent with the TRACED Act, to make progress in unlocking those expected benefits, among others.

31. With regard to costs, we expect that the minimal costs imposed on applicants by our proposed clarification changes will be far exceeded by the benefit to consumers, which we estimate to be a substantial share of the $13.5 billion annual benefit floor. Moreover, as the Commission stated in the *TRACED Act Section 6(a) Order and FNPRM,* an overall reduction in robocalls will greatly lower network costs by eliminating both the unwanted traffic and the labor costs of handling numerous customer complaints. In addition, the proposed clarifications to the direct access application process will minimize staff time and review, thereby minimizing cost. We therefore tentatively conclude that the proposals in this *FNPRM* will impose only a minimal cost on direct access applicants while having the overall effect of lowering network costs and raising consumer benefits. We seek comment on this tentative conclusion. We also seek detailed comments on the costs of the proposals in this *FNPRM.* What are the costs associated with each proposed change? Will these costs vary according to the size of the direct access applicant? Do the benefits of our proposals outweigh the costs in each case?

### *H. Legal Authority*

32. We propose concluding that section 251(e)(1) of the Communications Act of 1934, as amended (the Act), which grants us ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States,'' provides us with authority to adopt our proposals. In the *VoIP Direct Access Order,* the Commission concluded that section 251(e)(1) provided it with authority ''to

extend to interconnected VoIP providers both the rights and obligations associated with using telephone numbers.'' The Commission also has relied on section 251(e)(1) to require interconnected and one-way VoIP providers to (1) implement the STIR/SHAKEN caller ID authentication framework and (2) allow customers to reach the National Suicide Prevention Lifeline by dialing 988 beginning no later than July 16, 2022. Consistent with the Commission's well-established reliance on section 251(e) numbering authority with respect to VoIP providers, we propose concluding that section 251(e)(1) allows us to further refine our processes governing direct access to numbers by interconnected VoIP providers, and we seek comment on this proposal. We similarly propose concluding that, just as section 251(e)(1) provides the Commission with authority to require one-way VoIP providers to implement 988 and STIR/SHAKEN, section 251(e)(1) provides us with authority to authorize and regulate direct access to numbers by one-way VoIP providers and other entities that use numbering resources, and we seek comment on this proposal. Consistent with the *VoIP Direct Access Order,* we propose concluding that refining our application and post-application direct access processes would not conflict with sections 251(b)(2) or 251(e)(2) of the Act, and we seek comment on this proposal.

33. We propose concluding that section 6(a) of the TRACED Act provides us with additional authority to adopt our proposals related to fighting illegal robocalls. Section 6(a)(1) directs that not later than 180 days after the date of the enactment of the Act, the Commission shall commence a proceeding to determine how Commission policies regarding access to number resources, including number resources for toll-free and non-toll-free telephone numbers, could be modified, including by establishing registration and compliance obligations, and requirements that providers of voice service given access to number resources take sufficient steps to know the identity of the customers of such providers, to help reduce access to numbers by potential perpetrators of violations of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)).

The Commission commenced the proceeding as required in March 2020 (*TRACED Act Section 6(a) Order and FNPRM,* 85 FR 22029 (Apr. 21, 2020) and 85 FR 22099 (Apr. 21, 2020)), and this *FNPRM* expands on those inquiries. Section 6(a)(2) of the TRACED Act states that ''[i]f the Commission determines under paragraph (1) that modifying the policies described in that paragraph could help achieve the goal described in that paragraph, the Commission shall prescribe regulations to implement those policy modifications.'' We propose concluding that section 6(a) of the TRACED Act, by directing us to prescribe regulations implementing policy changes to reduce access to numbers by potential perpetrators of illegal robocalls, provides an independent basis to adopt the changes we propose to the direct access process with respect to fighting unlawful robocalls, and we seek comment on this proposal. Should we interpret section 6(a) of the TRACED Act as an independent grant of authority on which we may rely here? Section 6(b) of the TRACED Act authorizes imposition of forfeitures on certain parties found in violation ''of a regulation prescribed under subsection (a),'' which we preliminarily conclude supports our proposal to find that section 6(a) of the TRACED Act is an independent grant of rulemaking authority. Should we codify or adopt any regulations to implement the forfeiture authorization in section 6(b) of the TRACED Act, and if so, what regulations should we adopt?

## II. Initial Regulatory Flexibility Analysis

34. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the potential policy and rule changes that the Commission seeks comment on in this *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 as specified in the *FNPRM.* 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 IRFA (or summaries thereof) will be published in the **Federal Register**.

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

35. In the TRACED Act, Congress directed the Commission to examine whether and how to modify its policies to reduce access to numbers by potential perpetrators of illegal robocalls. Consistent with Congress's direction, the *FNPRM* proposes to update our rules regarding direct access to numbers by providers of interconnected VoIP services to help stem the tide of illegal robocalls. Today, widely available VoIP software allows malicious callers to make spoofed calls with minimal experience and cost. Therefore, as we continue to refine our process for allowing VoIP providers direct access to telephone numbers, we must account both for the benefits of competition and the potential risks of allowing bad actors to leverage access to numbers to harm Americans.

36. The Commission first began to allow interconnected VoIP providers to obtain numbers for customers directly from the Numbering Administrator rather than relying on a carrier partner in 2015. Based on our experience since that time, the *FNPRM* proposes to adopt clarifications and guardrails to better ensure that VoIP providers that obtain the benefit of direct access to numbers comply with existing legal obligations and do not facilitate illegal robocalls, pose national security risks, or evade or abuse intercarrier compensation requirements.

37. To provide additional guardrails to safeguard the Nation's finite numbering resources, protect consumers, curb illegal and harmful robocalling, and further promote public safety, we propose and seek comment on a number of modifications to our rules establishing the authorization process for interconnected VoIP providers' direct access to numbering resources. First, to help curb illegal and spoofed robocalls and improve the ability of Commission staff to safeguard the public interest and operate efficiently when reviewing VoIP direct access to numbers applications and continue protecting the public interest, the *FNPRM* proposes to require additional certifications as part of the direct access application process and clarify existing requirements. Second, to help address the risk of providing access to our numbering resources and databases to bad actors abroad, the *FNPRM* proposes clarifying that applicants must disclose foreign ownership information. Third, we propose clarifying that holders of a Commission direct access authorization must update the Commission and applicable states within 30 days of any change to the ownership information submitted to the Commission. We preliminarily believe that obtaining such updates will help us to ensure that the ownership chain does not change post-authorization in a manner that evades the purpose of application review, for instance by introducing a bad actor-owner that facilitates unlawful robocalling, poses a threat to national

security, evades or abuses intercarrier compensation requirements, or otherwise engages in conduct detrimental to the public interest.

38. Fourth, we seek comment on whether we need to revise our rules to clarify that holders of a Commission direct access authorization must comply with state numbering requirements and other applicable requirements. Fifth, we propose to clarify that the Bureau retains the authority to determine when to release an Accepted-for-Filing Public Notice based on public interest considerations, and we propose to explicitly delegate authority to the Bureau to reject an application for direct access authorization if an applicant has engaged in behavior contrary to public interest or been found to originate or transmit illegal robocalls by the Commission, Industry Traceback Group, or state or Federal authorities. The technological development and exponential growth of IP-based services has many potential benefits to consumers, including the development of innovative products and services and competitive pricing for such services. However, coupled with that innovation is an increase in the ease with which bad actors can engage in harmful and illegal robocalling and other fraudulent activity. The ease with which bad actors are able to form new entities, coupled with the rise in illegal and harmful robocalling since the adoption of the *VoIP Direct Access Order* in 2015, counsels us to propose clarifying explicitly that we delegate authority to the Bureau to determine at its discretion when it is appropriate to release an Accepted-For-Filing Public Notice, based on public interest considerations. Further, we preliminarily believe that this explicit delegation will enable the Commission to more effectively guard against bad actors gaining access to numbering resources, which then may be ''stranded'' by the taint of harmful robocalling and contribute to number exhaust. Finally, we seek comment whether we should expand the direct access to numbers authorization process to one-way VoIP providers or other entities that use numbers.

*B. Legal Basis*

39. The legal basis for any action that may be taken pursuant to this *FNPRM* is contained in sections 1, 3, 4, 201–205, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, 251, 303(r), and section 6(a) of the TRACED Act, Public Law 116–105, sec. 6(a)(1)–(2), 133 Stat. 3274, 3277 (2019).

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

40. 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 and policies, 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 SBA.

41. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9 percent of all businesses in the United States, which translates to 30.7 million businesses.

42. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

43. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000.

1. Wireline Carriers

44. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

45. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable North American Industry Classification System (NAICS) Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

46. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission

nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, one thousand three hundred seven (1,307) incumbent LECs reported that they were incumbent LEC providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus, using the SBA's size standard the majority of incumbent LECs can be considered small entities.

47. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for IXCs. The closest applicable NAICS Code category is Wired Telecommunications Carriers. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

48. *Competitive Local Exchange Carriers (Competitive LECs). Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers and under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on these data, the Commission concludes that the majority of competitive LECs, CAPs, shared-tenant service providers, and other local service providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive LEC services or CAP services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are shared-tenant service providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are other local service providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, shared-tenant service providers, and other local service providers are small entities.

49. *Local Resellers.* The SBA has not developed a small business size standard specifically for local resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNO) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 2012 U.S. Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of local resellers are small entities.

50. *Toll Resellers.* The Commission has not developed a definition for toll resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 2012 U.S. Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

2. Wireless Carriers

51. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed of 1000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except Satellite) are small entities.

52. The Commission's own data—available in its Universal Licensing System—indicate that, as of August 31, 2018, there are 265 cellular licensees that will be affected by our actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged

in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

3. Other Entities

53. *Internet Service Providers (Broadband).* Broadband internet service providers include wired (*e.g.,* cable, digital subscriber line (DSL)) and VoIP service providers using their own operated wired telecommunications infrastructure fall in the category of wired telecommunication carriers. Wired telecommunications carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, under this size standard the majority of firms in this industry can be considered small.

54. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or VoIP services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

*D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

55. The proposals in the *FNPRM* may create new or additional reporting or recordkeeping and/or other compliance obligations on small entities, if adopted. Specifically, the *FNPRM* seeks comment on proposals to impose additional certification requirements with respect to robocall mitigation, 911, CALEA, and other public safety compliance requirements, and, if adopted, could impose additional reporting and compliance obligations on entities. As part of the direct access application process, the *FNPRM* also proposes to require applicants to file proof of compliance with Commission Form 477 and 499 filing requirements, if applicable, and to provide sufficient technical information to demonstrate that it provides interconnected VoIP services. The *FNPRM* also proposes to require a direct access applicant or authorization holder to inform relevant Commission staff if the applicant is later subject to a Commission, law enforcement, or regulatory agency action, investigation, or inquiry due to its robocall mitigation plan being deemed insufficient or problematic, or due to suspected unlawful robocalling or spoofing, and to acknowledge this requirement it its application. In addition, the *FNPRM* seeks comment on any changes we should make to our direct access authorization rules to protect against access stimulation schemes.

56. The *FNPRM* proposes to require applicants for a Commission direct access authorization to disclose information, including the name, address, country of citizenship, and principal business of every person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities to the nearest one percent, and also to certify in their applications ''as to whether or not the applicant is, or is affiliated with, a foreign carrier.'' The *FNPRM* also proposes to clarify that VoIP providers that have received direct access to numbers must also submit an update to the Commission and each applicable state within 30 days of any change to the ownership information submitted to the Commission, including any change to the name, address, citizenship and/or principal business of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, or to the percentage of equity owned by each of those entities. In addition, the *FNPRM* seeks comment whether we should revise our existing rules to clarify that interconnected VoIP providers holding a Commission numbering authorization must comply with state numbering requirements and other applicable requirements.

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

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

58. The *FNPRM* proposes and seeks comment on a number of clarifications to the Commission's rules establishing the VoIP direct access to numbering resources authorization process. We anticipate that the additional certainty that these clarifications will provide will likely benefit small entities through lowered compliance costs. More specifically, we anticipate that clarifying what information must be included with an application, when ownership changes must be reported, and the scope of the Bureau's review authority, will better enable small entities to understand what is required of them, streamlining the application process.

59. Regarding the proposals in the *FNPRM,* we seek comment on alternatives that the Commission consider, the impact of the proposals on small businesses, as well as the competitive impact of the proposals on VoIP providers applying for a Commission authorization for direct access to numbering resources. We also seek comment on how the proposals can protect the Nation's numbering resources and minimize unwanted and illegal robocalls, both of which we anticipate would benefit interconnected VoIP providers. We seek comment on the costs and benefits associated with

our proposals in the *FNPRM.* We expect to consider the economic impact on small entities as part of review of comments filed in response to the *FNPRM* and this IFRA.

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

60. None.

**III. Procedural Matters**

61. *Regulatory Flexibility Act.* The RFA, requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared an IRFA concerning potential rule and policy changes contained in this *FNPRM.*

62. *Paperwork Reduction Act.* This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

63. *Comment Period and Filing Requirements.* Pursuant to §§ 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 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://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent 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.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

64. Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, 35 FCC Rcd 2788, 2788–89 (OS 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

65. *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* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

66. 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 rule § 1.1206(b). In proceedings governed by rule § 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.

67. *Contact Person.* For further information about this proceeding, please contact Jordan Reth, FCC Wireline Competition Bureau, Competition Policy Division, at (202) 418–1418, or *Jordan.Reth@fcc.gov.*

**IV. Ordering Clauses**

68. Accordingly, *it is ordered* that, pursuant to sections 1, 3, 4, 201–205, 251, and 303(r) of the Communications Act of 1934, 47 U.S.C. 151, 153, 154, 201–205, 251, 303(r), and section 6(a) of the TRACED Act, Public Law 116–105, sec. 6(a)(1)–(2), 133 Stat. 3274, 3277 (2019), this *Further Notice of Proposed Rulemaking is adopted.*

69. *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.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer.*

[FR Doc. 2021–18175 Filed 9–13–21; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Parts 531, 533, 536, and 537

**[NHTSA–2021–0053, NHTSA–2021–0054]**

**RIN 2127–AM34**

## Public Hearing for Corporate Average Fuel Economy Standards for Model Years 2024–2026 Passenger Cars and Light Trucks

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notification of public hearing.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) is