

**FEDERAL COMMUNICATIONS COMMISSION**

[DA 00-912]

**Year 2000 Deadline for Compliance With Commission's Regulations Regarding Human Exposure to Radiofrequency Emissions****AGENCY:** Federal Communications Commission.**ACTION:** Notice.

**SUMMARY:** The Commission released a document on April 27, 2000, that reminds all of the Commission's licensees and grantees of the impending deadline for ensuring compliance with provisions of the Commission's rules. It is the responsibility of the licensee or grantee to either take action to bring the facility, operation or device into compliance or file an Environmental Assessment (EA) with the Commission no later than September 1, 2000. After September 1, 2000, if any facility, operation or device is found not to be in compliance with the Commission's RF exposure guidelines, and if the required EA has not been filed, the Commission will consider this to be a violation of its rules resulting in possible fines, forfeiture or other actions deemed appropriate by the Commission.

**FOR FURTHER INFORMATION CONTACT:** Robert Cleveland, Office of Engineering and Technology, (202) 418-2422.

**SUPPLEMENTARY INFORMATION:** This is a summary of the text of the Public Notice, DA 00-912, released April 27, 2000. The document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, NW Washington, DC 20036.

**Summary of Public Notice**

1. On August 25, 1997, the Commission adopted the second of two Orders finalizing its rules regarding compliance with safety limits for human exposure to radiofrequency (RF) emissions, 62 FR 47960, September 12, 1997. The effective dates for implementation of the revised rules were August 1, 1996, for devices subject to equipment authorization, such as cellular and PCS telephones, and October 15, 1997, for other transmitting facilities and operations (except the Amateur Radio Service for which the effective date was January 1, 1998). For devices, facilities and operations

authorized or licensed by the Commission prior to the appropriate effective date, the following provision was adopted in reference to 47 CFR 1.1307(b)(1) through 1.1307(b)(3): "All existing transmitting facilities, operations and devices regulated by the Commission must be in compliance with the requirements of paragraphs (b)(1) through (b)(3) of this section by September 1, 2000, or, if not in compliance, file an Environmental Assessment as specified in § 1.1307(b)(5) and 1.1311." If such an Environmental Assessment ("EA") is required, the obligation to file it would fall upon the licensee presently holding the permit or license to transmit, or the party presently holding the grant of equipment authorization.

2. An EA is a formal document required by the National Environmental Policy Act whenever an action may have a significant environmental impact. Section 1.1311 of the Commission's rules, 47 CFR 1.1311, explains what information must be included in an EA. The Commission's rules require that EAs accompany applications for licenses, renewals or other Commission actions when there is evidence of environmental impact for a variety of categories. An EA would be considered by the Commission to determine whether the environmental impact described is significant and whether further action is needed to minimize or eliminate the environmental effect. Filing procedures for EAs may vary depending on the specific authorizing bureau or office. Information on specific filing procedures can be obtained at the appropriate Web site address or phone number found at the end of this notice. With respect to antennas located on fixed structures, filers of EAs should be aware that non-RF environmental issues must be addressed in any EA filed with the Commission in accordance with the requirements of § 1.1311 and the Commission's environmental rules in § 1.1301 through 1.1319.

3. The purpose of this Public Notice is to remind all of the Commission's licensees and grantees of the impending September 1 deadline for ensuring compliance with these provisions of its rules. Therefore, if an existing facility, operation or device of a licensee or grantee is not in compliance with the provisions of 47 CFR 1.1307(b)(1) through (b)(3), it is the responsibility of the licensee or grantee to either take action to bring the facility, operation or device into compliance or file an EA with the Commission no later than September 1, 2000. After September 1, 2000, if any facility, operation or device

is found not to be in compliance with the Commission's RF exposure guidelines, and if the required EA has not been filed, the Commission will consider this to be a violation of its rules resulting in possible fines, forfeiture or other actions deemed appropriate by the Commission. With respect to antennas located on fixed structures, it is the responsibility of the respective licensees, not tower owners, to undertake an environmental evaluation and file EAs, if required, due to non-compliance with our RF rules.

4. It is important to note that the Commission's RF exposure rules apply to all facilities, operations and devices regulated by the Commission. While a given facility, operation or device might be categorically excluded from routine evaluation for RF exposure by § 1.1307(b)(1) of our rules, it must still comply with the FCC's exposure guidelines.

5. Consumers should be aware that hand-held cellular and PCS telephones that were authorized by the FCC after the August 1, 1996, effective date have been evaluated for compliance with FCC guidelines for safe exposure. Furthermore, PCS devices subject to equipment authorization have been required to comply with our RF guidelines since 1994. This means that a large number, if not the majority, of cellular and PCS telephones now in use in the United States have already been evaluated for compliance with the FCC's RF exposure limits. To the extent that a wireless handset received an FCC authorization prior to the August 1, 1996, effective date, and is still being produced and marketed, manufacturers of such handsets will be required to file EAs if the handset in question is not in compliance with the FCC's RF guidelines.

6. Further information on the Commission's RF exposure rules and on evaluating compliance with FCC RF guidelines may be found at the Commission's RF Safety Web page: [www.fcc.gov/oet/rfsafety](http://www.fcc.gov/oet/rfsafety). In particular, the Office of Engineering and Technology's OET Bulletin 65 and supplements to this bulletin (all available at the Web Site for viewing and downloading) offer detailed guidance on evaluating compliance. Requests for information or copies of these documents can also be directed to the FCC's RF Safety Program in the Office of Engineering and Technology, (202) 418-2464 or by e-mail to: [rfsafety@fcc.gov](mailto:rfsafety@fcc.gov).

7. For information on specific filing procedures for EAs, licensees and grantees should consult the following

Web Sites or contact the appropriate FCC office or bureau:

- Wireless Telecommunications Bureau: [www.fcc.gov/wtb](http://www.fcc.gov/wtb); Irene Griffith: (202) 418-1315.
- Mass Media Bureau: [www.fcc.gov/mmb](http://www.fcc.gov/mmb); FM (Brian Butler): (202) 418-2700;
- AM (Joseph Szczesny): (202) 418-2700; TV (John Morgan): (202) 418-1600.
- International Bureau: [www.fcc.gov/ib](http://www.fcc.gov/ib); (202) 418-2222.
- Office of Engineering and Technology: [www.fcc.gov/oet](http://www.fcc.gov/oet); (202) 418-2464.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96-237; FCC 00-140]

### Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Federal Communications Commission affirms in part and modifies in part its original Report and Order implementing section 259 of the Telecommunications Act of 1996 ("1996 Act"). This action is taken to respond to Petitions for Reconsideration that were received by the Commission following release of its original Report and Order. By affirming and clarifying its original Report and Order, the Commission provides parties negotiating section 259 arrangements with a better understanding of their responsibilities.

#### FOR FURTHER INFORMATION CONTACT:

Gregory Guice, Industry Analysis Division, Common Carrier Bureau, at (202) 418-0095.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Order on Reconsideration released April 27, 2000 (FCC 00-140). The full text of the Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857-3800, 1231 20th Street, NW, Washington, DC 20037. Additionally,

the complete item is available on the Commission's website at <[http://www.fcc.gov/Bureaus/Common\\_Carrier/Orders/2000](http://www.fcc.gov/Bureaus/Common_Carrier/Orders/2000)>.

### Synopsis of the Inquiry

1. In the document summarized here, the Federal Communications Commission affirms in part and clarifies in part its original Report and Order implementing section 259 of the Telecommunications Act of 1996 ("1996 Act"). In the 1996 Act, Congress moved to restructure the local telecommunications market by removing legal, regulatory, and economic impediments to competition that sustain a monopoly environment. As part of this restructuring, Congress adopted section 259, which requires incumbent LECs to make available, under certain conditions, public switched network infrastructure and other capabilities to a carrier requesting access, or a "qualifying carrier," that is providing telephone exchange service outside the incumbent LEC's area. On February 7, 1997, the Commission promulgated general rules and guidelines to define the obligations imposed by section 259.

*Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996*, 62 FR 9704 (Mar. 4, 1997) ("Infrastructure Sharing Order"). Recognizing that a qualifying carrier may not use the facilities or functions of the incumbent LEC to compete in the incumbent's telephone exchange area, as is the case in other market opening provisions of the 1996 Act such as sections 251 and 252, the *Infrastructure Sharing Order* adopted an approach that depends in large part on negotiations among the interested parties.

2. Specifically in this Order on Reconsideration, the Commission affirms its decision to implement section 259 through a negotiation-driven approach that relies on parties to reach mutually-satisfactory terms for infrastructure sharing. It further affirms its decision to not rely on definitions that are restrictively based on perceptions of present network requirements, and therefore, affirms that things which might be characterized as "services" by the incumbent LEC are not *per se* excluded from section 259 arrangements.

3. The Commission modifies, however, the *Infrastructure Sharing Order* in the following manner. First, the Commission clarifies that because 259(b)(6) prevents qualifying carriers from using section 259-requested infrastructure to compete with the providing incumbent LEC in its

telephone exchange area, "resale," as that term is used in conjunction with section 251 of the 1996 Act, is not permitted under section 259 arrangements. Second, the Commission clarifies that nothing in its rules would require an incumbent LEC to make available the intellectual property of third parties without necessary licensing or in violation of existing licensing agreements. Third, the Commission modifies the *Infrastructure Sharing Order* by placing the primary burden to obtain third-party intellectual property and licensing rights on the carrier requesting access to the incumbent LECs infrastructure. However, the Commission requires that incumbent LECs engage in good faith efforts, whenever requested, to help resolve intellectual property and licensing disputes between qualifying carriers and third-party vendors.

4. Finally, the Commission rejects a petition by MCI requesting the Commission exercise pricing authority and mandate particular prices for shared infrastructure obtained by qualifying carriers pursuant to section 259.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00-11238 Filed 5-4-00; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

*Title:* Make Your Mark on the Floodplain—High Water Mark Form.

*Type of Information Collection:* Extension of a currently approved collection.

*OMB Number:* 3067-0268.

*Abstract:* The Federal Emergency Management Agency (FEMA) has entered into a partnership with the U.S. Army Corps of Engineers (COE) in the Portland District to assist the Agency in providing floodplain management assistance at the most basic and needed level, that of local floodplain managers