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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15 and 54

[MB Docket No. 07-148; FCC 08-119]

DTV Consumer Education Initiative

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission reconsider in part, *sua sponte*, our March 3, 2008, decision in this proceeding, in which we adopted digital television (DTV) transition consumer education and outreach requirements for a number of industry participants, and clarify some of those requirements. In this Order, the Commission modifies our requirements regarding the timing, scope, and content of manufacturer notices and the method of delivery of ETC notices, and clarifies other manufacturer requirements.

DATES: Effective May 30, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For more information on this proceeding, please contact Lyle Elder, Lyle.Elder@fcc.gov, or Eloise Gore, Eloise.Gore@fcc.gov, of the Media Bureau, Policy Division, (202) 418-2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams on (202) 418-2918, or via the Internet at PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order of Reconsideration (Order) in MB Docket No. 07-148, FCC 08-119, adopted April 23, 2008 and released April 23, 2008. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio

recording, and Braille), send an e-mail to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Summary of the Order of Reconsideration

I. Introduction

1. In this Order on Reconsideration, we reconsider in part, *sua sponte*, our March 3, 2008, decision in this proceeding, in which we adopted digital television (DTV) transition consumer education and outreach requirements for a number of industry participants, and clarify some of those requirements. In the *DTV Consumer Education Order* we required, among other things, that consumer electronics manufacturers include information about the DTV transition with certain products and eligible telecommunications carriers (ETC) include information about the DTV transition in customer bills. 73 FR 15431 March 24, 2008. In this Order, we modify our requirements regarding the timing, scope, and content of manufacturer notices and the method of delivery of ETC notices, and clarify other manufacturer requirements.

II. Background

2. In the *DTV Consumer Education Order* the Commission sought to ensure widespread consumer understanding of the benefits and mechanics of the transition by promoting a coordinated, national DTV consumer education campaign. One facet of this campaign was the establishment of a requirement that manufacturers of television receivers and related devices include information with those devices explaining the DTV transition and what effect, if any, it would have on the use of the device, and providing contact information for consumers to find out more. In particular, we required that such information had to be included with receivers and "related devices" (a term defined only by a non-exclusive list) that were "shipped" between the effective date of the rules and March 31, 2009, by any party that manufactured, imported, or shipped the device. The rules as adopted also required ETCs that receive federal universal service funds to provide DTV transition information to low-income subscribers and potential subscribers. In particular, we required that ETCs provide notice to their Lifeline and Link-Up customers, by notices in their monthly bills or billing notices. The rules also required education by a number of industry groups not at issue in the instant Order.

For example, full-power broadcasters are required to engage in extensive on-air education via public service announcements and other efforts, and must file quarterly reports with the Commission on their voluntary and mandatory efforts and make those reports available to the public. *Id.* at Appendix A.

3. Following release of the *DTV Consumer Education Order*, we received a number of ex parte filings and pleadings raising concerns about the manufacturer requirements and the manner of notification required by ETCs. Specifically, the Consumer Electronics Retailers Coalition (CERC), along with the Consumer Electronics Association (CEA) and several individual retailers and manufacturers, ask the Commission to clarify the parties responsible for inclusion of the notices, and the point in the manufacturing process that is relevant for application of the rules. CEA and CERC also seek delayed implementation of the rules with respect to manufacturers, the removal of manufacturers from the list of contacts from which consumers can seek further information, and a narrowing of the list of devices covered. On the separate issue of ETC education, Rural Cellular Corporation (RCC), followed by a number of other ETCs, filed petitions for reconsideration, or in the alternative, limited waiver, seeking authorization for using alternative methods (*i.e.*, not bill notices) to notify Lifeline and Link-Up customers of the transition.

III. Order on Reconsideration

4. In this Order on Reconsideration, we provide manufacturers and those acting on their behalf with greater certainty regarding the devices that are covered by these rules, additional time to prepare to include the required notices, and a modified list of contact points to list in those notices. We also clarify the parties responsible for inclusion of the notices, and the relevant point in the manufacturing process at which the requirement begins, and take this opportunity to revise the rules to better capture the devices and parties to which they apply. Finally, we revise our rules to permit ETCs to educate their low-income customers via targeted monthly mailings, as an alternative to inclusion of notices in or on billing statements.

A. Manufacturer Notice Requirements

1. Devices Covered

5. Every consumer electronics commenter supported changes to the "related devices" standard in § 15.124

paragraph (a) of the Commission's rules. CEA, in its initial *ex parte* filing, argues for excluding "related devices" from the rule entirely, and requiring notices only with television receivers. The consumer electronics commenters initially supported this proposal, but offered a number of variations over the course of their presentations to the Commission. See generally, e.g., Pioneer March 12 *ex parte* and Pioneer April 2 *ex parte*. We note that CERC's March 17 *ex parte* contained three distinct proposals, each of which, if adopted, would cover slightly different groups of devices. Our decision, *sua sponte*, is largely consistent with these proposals but eliminates the inconsistency and ambiguity. We agree with the essential thrust of these *ex partes*, that the group of "related devices" to which the notice requirement applies should be certain and clear. They support: (1) A discrete list of devices rather than the open ended category of "related devices," and (2) limiting that list to devices that work closely with television receivers.

6. Upon reconsideration, we will limit the "related devices" covered by this rule to the following categories, which are derived in large part from existing rule requirements, with specific adjustments that are appropriate to these consumer education requirements. The "related devices" included within this rule by no means constitute a full list of devices related to televisions. When used in the context of this Order, the term refers to the devices covered by the rule. Its use in this manner, however, reflects neither the limits of the term's meaning or the limits of the Commission's authority. The categories are: Television broadcast receivers as defined in § 15.3 paragraph (w) of the rules; TV interface devices as defined in § 15.3 paragraph (y) of the rules; devices that record and/or display signals received from television broadcast receivers (This category includes only those devices designed for use with television receivers, such as DVD and Blu-ray recorders. It also includes only those monitors with at least one baseband NTSC input, thus excluding monitors intended solely for use with computer equipment.); and set-top boxes available for sale at retail that receive video programming provided by multi-channel video programming distributors (MVPDs). This definition creates a discrete and definable universe of "related devices," most of which interact directly with a television receiver either by receiving information from it or relying on its presence to convey information to a viewer. The rule also requires manufacturers to

provide information with MVPD set-top boxes even if they do not contain or rely on a television receiver. This information is needed to counter consumer confusion about the functioning of such boxes in light of the over-the-air digital transition. In this instance, for example, the information provided could explain that the transition does not affect the use or functioning of these boxes or clarify that such boxes are not eligible for NTIA coupons.

7. We make these modest changes because we believe that some of the concerns of the consumer electronics commenters regarding scope are well taken. The devices related to televisions and television use are many and varied, and, upon reconsideration, we are convinced that requiring that notices be included with every such device will create a greater burden on consumer electronics manufacturers and importers than is justified by the incremental gains in consumer awareness. Because we find that this revised rule more clearly reflects the best approach to educating consumers, the Commission will exercise its enforcement discretion and decline to penalize entities for not adhering to the requirements of the original rule while waiting for the modified rule to go into effect.

2. Parties Responsible

8. The *DTV Consumer Education Order* imposed responsibility for compliance with the manufacturer rules on parties that "manufacture, import, or ship interstate television receivers and related devices." CERC, the first consumer electronic manufacturer to file an *ex parte* raising concern about this language, argued that the language was "potentially highly misleading," and, at best, "entirely redundant" because "law and regulation already define the parties responsible for part 15 compliance." Over the course of its filings, CERC argued that the language as written could impose responsibility and liability on parties far beyond "the party responsible as the 'manufacturer,'" and that this would expand the rule beyond that contemplated in the Notice of Proposed Rulemaking. Furthermore, as noted, CERC argued that the parties responsible for compliance were already clear under the rules, and that to go beyond that existing understanding would add burden by making it unclear which party was responsible for the notices without reaching any additional consumers. Subsequent filers agreed, and Pioneer in its April 4 filing proposed to revise § 15.124 paragraph

(c) of the rules to explicitly cite to § 2.909 of the Commission's rules.

9. Upon reconsideration, we revise § 15.124 paragraph (c) of the Commission's rules to clarify that the party responsible for inclusion of the notice is the "manufacturer," or the party acting as the manufacturer under our rules. We are revising the rule in accordance with the suggestion of Pioneer (speaking with the concurrence of all the consumer electronics commenters), to simply direct parties to § 2.909 of the rules in order to determine the "responsible party" for the purposes of enforcement of this rule. Because we find that this revised rule more clearly reflects the best approach to educating consumers, the Commission will exercise its enforcement discretion and decline to penalize entities for not adhering to the requirements of the original rule while waiting for the modified rule to go into effect.

3. Point of "Manufacture"

10. The consumer electronics commenters, including LG, Hitachi, and Samsung, argue that the current language of the rules, under which devices "shipped" during the effective period of the rules are covered by the rules, is neither clear as to its intent nor, on its face, limited to manufacturers and those acting in their stead. Instead, they argue that the word "manufactured" should be used to clarify that our rules do not "require notices to be applied at secondary logistics centers, which would require opening or repackaging, or to products staged in containers for delivery to dealers after such products had already been imported or shipped from the point of manufacture." Indeed, CERC argues that "a rule that would apply to all interstate shipments, whether or not from the factory, would be unworkable because identical products could be in various stages of preparation, shipment, and storage when the regulation becomes effective," and indeed under such a regime that it would be "impossible" to determine whether compliance was required for any given product. The industry commenters on this question ask the Commission to clarify that we are applying the rules to devices "packed and sealed" for eventual retail purchase, not simply devices shipped by any party during the effective period of the rules.

11. Upon reconsideration, we find that it is in the public interest to revise the language of our rules, replacing "shipped" with "manufactured" to more accurately and clearly reflect the intent of the rule. The requirement to ensure that each covered device

include, on or in the packaging, the required consumer education information, rests with the responsible party. Therefore, as under the existing rule, we will require notices to be included with any television receiver or related device if the date of manufacture of the final product occurs during the effective period of the rules. Because we find that this revised rule more clearly reflects the best approach to educating consumers, the Commission will exercise its enforcement discretion and decline to penalize entities for not adhering to the requirements of the original rule while waiting for the modified rule to go into effect.

4. Start Date

12. The *DTV Consumer Education Order* created consumer notice requirements requiring printed notices for three groups: MVPDs, ETCs, and manufacturers. In the Order as adopted, both MVPDs and ETCs were given 30 days from the effective date of the rules to begin complying, but manufacturers were required to begin compliance immediately (*i.e.*, on March 31, 2008). Shortly after the release of the *DTV Consumer Education Order*, CERC, CEA, Sony Electronics, Inc. (Sony), Pioneer North America, Inc. (Pioneer), and Panasonic Corporation of North America (Panasonic) (collectively, “the consumer electronics commenters”) made *ex parte* presentations requesting that manufacturers be granted the same time period for implementation of the DTV notice requirements as MVPDs and ETCs. The parties argued that a certain “lead time” is necessary to ensure compliance with the Commission requirements, due to the time necessary for reconfiguring packaging equipment and printing notices. CEA in particular expressed concern that the rules as drafted would put manufacturers out of compliance immediately upon becoming effective. Thus, they request that the Commission delay their effective date, as the Commission had done for the other groups who were required by the Order to provide written notice to consumers.

13. We find upon reconsideration that it is in the public interest to revise the start date for our manufacturer notice requirements. Due to the urgent need for consumer education, we found good cause to make the original rules effective immediately upon publication in the **Federal Register**. As a result, manufacturers did not get the more common 30 day lead time after notice of publication before the rules became effective. We are persuaded that they need additional time to come into compliance, and the approval and

publication process associated with implementation of the amended rules will give manufacturers sufficient time to fully comply. As noted above, CEA, later joined by CERC and other consumer electronics commenters, sought a delay of enforcement of the manufacturer notice rules, requesting “the same time period for implementation of the notice requirement that is required of MVPDs” and ETCs. CEA March 6 *ex parte* at 1. MVPDs and ETCs will be required to be compliant with the rules governing them on April 30, 2008. Because of the approval and publication process through which these revised manufacturer rules must go, they will be effective no earlier than May 30, 2008. Thus, consumer electronics commenters will have sufficient time to comply. To further assist the manufacturers in ensuring their readiness for compliance, we are establishing a date certain, May 30, 2008, as the effective date for these rules. The rule revisions adopted in this *Order on Reconsideration* modify information collections and will be effective May 30, 2008. We will be seeking emergency review by OMB, and will note in our request that the amended rules give manufacturers additional flexibility beyond that granted in the rules already in place, which were granted emergency review. Furthermore, as discussed above, the Commission will refrain from enforcement of any manufacturer rules until the new rules go into effect. Consequently, manufacturers will have ample time after adoption and release of this Order to come into compliance before the rules take effect.

5. Manufacturer Contact Information in Notices

14. The *DTV Consumer Education Order* required that the notices included with television receivers and related devices contain a number of contact points in order for consumers to be able to find more information about the transition. The rules required that one of these contact points be the “manufacturer at [telephone number].” CERC and CEA point out that “in many cases a manufacturer does not maintain an appropriate telephone number, so this requirement could result in consumer confusion.” The notices also must contain Web site addresses and contact information to allow consumers to find additional information about the DTV transition.

15. Upon reconsideration, we recognize and share the consumer electronics commenters’ concerns. We also recognize the importance of providing consumers with a variety of

effective resources. Therefore, in order to ensure that consumers have straightforward access to the best sources of information about the transition, we will eliminate the requirement that manufacturers include their phone number on the notices shipped with televisions and certain related devices, but will require that manufacturers include the FCC Call Center’s number on these notices.

B. Eligible Telecommunications Carrier Notice Requirements

16. As discussed above, the ETC education rules require that ETCs include transition notices in the monthly bills or bill notices of their low-income (Lifeline/Link-Up) customers. The Commission has received two independent Petitions for Reconsideration, on behalf of several ETCs in the Midwest, which seek expedited reconsideration of the *DTV Consumer Education Order*, or, in the alternative, limited waivers, to allow ETCs to provide notice via monthly postcards, rather than in the bills themselves. The ETCs argue that a monthly postcard would be significantly less expensive than a bill notice. They also argue that it would be, at a minimum, impractical to include notices in the bills of only Lifeline and Link-Up customers, and that a portion of the cost savings will come from targeting Lifeline/Link-up subscribers, as our Order required, instead of distributing the notices to all customers. The ETCs also argue that a postcard will be a better vehicle for customer education than a bill notice, because it is more noticeable than information included with a bill.

17. We find, upon reconsideration, that it is in the public interest to revise our rules to permit alternative methods of monthly outreach by ETCs to Lifeline and Link-Up customers. We adopt the proposal of RCC, to permit use of a monthly stand-alone mailer to these customers in lieu of inclusion of transition information in bills or billing notices. This change has no impact on the information which must be conveyed in the notice, it simply expands the permissible forms in which the notice may be provided. We also remind ETCs of their obligation to include DTV transition information in all Lifeline and Link-Up publicity and advertising, and that this obligation is not affected by these revisions. We note that the revised rules will not be effective until May 30, 2008, but that, pursuant to the existing effective rules, beginning April 30, 2008, ETCs must provide monthly DTV transition notices to their low-income customers. We

intend to enforce these existing rules, beginning on April 30. However, we will apply our prosecutorial discretion, and will not enforce the existing rules against ETCs that use a monthly stand-alone mailer (e.g., postcard, brochure), rather than a billing insert, prior to May 30, so long as they otherwise comply with the customer notice rules.

IV. Procedural Matters

A. Supplemental Final Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice of Proposed Rulemaking (NPRM)*. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. This present Supplemental Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Order on Reconsideration

19. Following release of the *DTV Consumer Education Order*, we received a number of *ex parte* filings and pleadings raising concerns about the manufacturer requirements and the manner of notification required by eligible telecommunications carriers (ETCs). Specifically, the Consumer Electronics Retailers Coalition (CERC), along with the Consumer Electronics Association (CEA) and several individual retailers and manufacturers, ask the Commission to clarify the parties responsible for inclusion of the notices, and the point in the manufacturing process that is relevant for application of the rules. CEA and CERC also seek delayed implementation of the rules with respect to manufacturers, and a narrowing of the list of devices covered. On the separate issue of ETC education, Rural Cellular Corporation (RCC), followed by a number of other ETCs, filed petitions for reconsideration, or in the alternative, limited waiver, seeking authorization for using alternative methods (i.e., not bill notices) to notify Lifeline and Link-Up customers of the transition. This *Order on Reconsideration* provides manufacturers and those acting on their behalf with greater certainty regarding the devices that are covered by the consumer education rules, and additional time to prepare to include the required notices. We also clarify the parties responsible for inclusion of the notices, and the relevant point in the manufacturing process at which the requirement begins, and take this

opportunity to revise the rules to better capture the devices and parties to which they apply. Finally, we revise our rules to permit ETCs to educate their low-income customers via targeted monthly mailings, as an alternative to inclusion of notices in or on billing statements. We make these modest changes because we believe that some of the concerns of the consumer electronics and ETC commenters are appropriate, and find that these revised rules more clearly reflect the best approach to educating consumers.

2. Summary of Issues Raised by Post-Order Filings

20. We received no filings directly in response to the previous FRFA.

3. Description and Estimate of the Number of Small Entities to Which the Report and Order Will Apply

21. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act. Under the Small Business Act, a small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The rules adopted herein will directly affect small consumer electronics (CE) manufacturers and those acting in that capacity (frequently CE retailers) and small eligible telecommunications carriers (ETCs). A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

22. *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 appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,307 carriers, an estimated 1,019 have 1,500 or fewer employees and 288 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses.

23. *Competitive Local Exchange Carriers, 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 size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 859 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are "Other Local Service Providers." Of the 44, an estimated 43 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, 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.

24. *Audio and Video Equipment Manufacturing*. These establishments manufacture "electronic audio and video equipment for home entertainment, motor vehicle, public address and musical instrument amplifications." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 750 or fewer employees. According to Census Bureau data, there were 571 establishments in this category that operated with payroll during 2002. Of these, 560 had employment of under 500, and ten establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

25. *Other Communications Equipment Manufacturing*. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment)." The SBA has developed a small business size standard for Other Communications Equipment Manufacturing, which is: All such firms

having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 503 establishments in this category that operated for the entire year. U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334290 (released May 26, 2005); <http://factfinder.census.gov>. The number of “establishments” is a less helpful indicator of small business prevalence in this context than would be the number of “firms” or “companies,” because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 471. Of this total, 493 had employment of under 500, and an additional 7 had employment of 500 to 999. *Id.* An additional 3 establishments had employment of 1,000 or more. Thus, under this size standard, the majority of firms can be considered small.

26. *Retailers.* The rules adopted herein will apply only to retailers that are subject to the Commission’s rules governing manufacturers because they qualify as the “responsible party” under § 2.909 of the Commission’s rules. The SBA has developed a small business size standard for Radio, Television, and Other Electronics Stores, which is: all such firms having \$8 million or less in annual receipts. This standard is described below.

27. *Radio, Television, and Other Electronics Stores.* The Census Bureau defines this economic census category as follows: “This U.S. industry comprises: (1) Establishments known as consumer electronics stores primarily engaged in retailing a general line of new consumer-type electronic products; (2) establishments specializing in retailing a single line of consumer-type electronic products (except computers); or (3) establishments primarily engaged in retailing these new electronic products in combination with repair services.” The SBA has developed a small business size standard for Radio, Television, and Other Electronics Stores, which is: all such firms having \$8 million or less in annual receipts. According to Census Bureau data for 2002, there were 10,380 firms in this category that operated for the entire

year. Of this total, 10,080 firms had annual sales of under \$5 million, and 177 firms had sales of \$5 million or more but less than \$10 million. *Id.* An additional 123 firms had annual sales of \$10 million or more. As a measure of small business prevalence, the data on annual sales are roughly equivalent to what one would expect from data on annual receipts. Thus, the majority of firms in this category can be considered small.

28. *Electronic Shopping.* According to the Census Bureau, this economic census category “comprises establishments engaged in retailing all types of merchandise using the Internet.” The SBA has developed a small business size standard for Electronic Shopping, which is: all such entities having \$23 million or less in annual receipts. According to Census Bureau data for 2002, there were 4,959 firms in this category that operated for the entire year. Of this total, 4,742 firms had annual sales of under \$10 million, and an additional 133 had sales of \$10 million to \$24,999,999. *Id.* An additional 84 firms had annual sales of \$25 million or more. Thus, the majority of firms in this category can be considered small.

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

29. The rules adopted by this *Order on Reconsideration* impose reporting and other compliance requirements on small entities. These burdens are less than those imposed by prior rules. Manufacturers or those acting in their stead must include DTV transition notices with certain devices manufactured between June 16, 2008, and March 31, 2009. ETCs must provide DTV transition notices to their low-income customers on a monthly basis, either via targeted mailings or by inclusion with or on bills or bill notices.

5. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

30. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance 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 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 small entities.

31. The rules adopted by this *Report and Order* limit the existing requirements on consumer electronics (CE) manufacturers and those acting in their stead, and provide greater flexibility to ETCs in their required consumer notifications. The rules clarify that only one party is the “responsible party” for purposes of enforcement of the manufacturer rules, and provide those responsible parties with additional time to come into compliance. They also more clearly delineate the devices to which the rules apply, and reduce the number of such devices. Finally, we revise our rules to permit the use of an alternative method by which ETCs may educate their low-income customers, as requested by several small ETCs. These reductions in burden apply to both small and non-small entities, while retaining the requirements for consumer education that are necessary to ensure the success of the transition. Thus, no alternative rules would be appropriate.

B. Report to Congress

32. The Commission will send a copy of the *Order on Reconsideration*, including this supplemental FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order on Reconsideration*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order on Reconsideration* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

1. Paperwork Reduction Act Analysis

33. This *Order on Reconsideration* was analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and contains modified information collection requirements, relating to the following approved collections: (1) Manufacturers of television receivers and related devices must provide notice to consumers buying their devices of the transition’s impact on that equipment; and (2) ETCs that receive federal universal service funds must provide notice of the transition to their low income customers and potential customers. The Commission will publish a separate **Federal Register** document seeking comments from OMB, the general public, and other Federal agencies on the final information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002,

we will also seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees” in the **Federal Register** document seeking comment on the information collections.

2. Congressional Review Act

34. The Commission will send a copy of this *Order on Reconsideration* in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.

C. Additional Information

35. For more information on this *Order on Reconsideration and Further Notice of Proposed Rulemaking*, please contact Lyle Elder, Lyle.Elder@fcc.gov, or Eloise Gore, Eloise.Gore@fcc.gov, of the Media Bureau, Policy Division, (202) 418-2120.

V. Ordering Clauses

36. *It is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 7, 254, 303, and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 157, 254, 303, and 309, this Order on Reconsideration is adopted and parts 15 and 54 of the Commission’s rules are amended as set forth in Appendix A. These amended rules will be effective beginning May 30, 2008. We anticipate that the summary of the Order will be published in the **Federal Register** at least 30 days before the effective date of May 30, 2008. In the event that publication is delayed, however, we find good cause for these rules to be effective on May 30, 2008, to ensure that consumers are informed about the digital television transition on February 17, 2009, the statutory deadline for all full power television broadcasters to transition to all digital service.

37. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Order on Reconsideration and Further Notice of Proposed Rulemaking*, including the Supplemental Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 15 and 54

Communications common carriers, Communications equipment, Digital television, Digital television equipment, Labeling, Radio, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 15 and 54 to read as follows:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

■ 2. Section 15.124 is revised to read as follows:

§ 15.124 DTV Transition Notices by Manufacturers of Televisions and Related Devices.

(a) Television receivers and related devices manufactured between May 30, 2008, and March 31, 2009, must include notices about the digital television (DTV) transition. Related devices covered by this requirement: All television broadcast receivers as defined in § 15.3(w); TV interface devices as defined in § 15.3(y); devices that record and/or display signals received from television broadcast receivers; and set-top boxes available for sale at retail that receive video programming provided by multi-channel video programming distributors.

(b) The notices required under paragraph (a) of this section must:

- (1) Be in clear and conspicuous print;
- (2) Convey at least the following information about the DTV transition:

(i) After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive full power over-the-air broadcasts with an antenna because of the Nation’s transition to digital broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.

(ii) Information about the DTV transition is available from <http://www.DTV.gov> or 1-888-CALL-FCC, and from <http://www.dtv2009.gov> or 1-888-DTV-2009 for information about subsidized coupons for digital-to-analog converter boxes; and

(3) Explain clearly what effect, if any, the DTV transition will have on the use of the receiver or related device, including any limitations or requirements associated with

connecting a related device to a DTV receiver.

(c) This notice requirement applies to all responsible parties, as defined in § 2.909 of this chapter.

PART 54—UNIVERSAL SERVICE

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

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, and 254 unless otherwise noted.

■ 4. Section 54.418 is revised to read as follows:

§ 54.418 Digital Television Transition Notices by Eligible Telecommunications Carriers.

(a) Eligible telecommunications carriers (ETCs) that receive federal universal service funds shall provide their Lifeline or Link-Up customers with notices about the transition for over-the-air full power broadcasting from analog to digital service (the “DTV Transition”) in the monthly bills or bill notices received by such customers, or as a monthly stand-alone mailer (*e.g.*, postcard, brochure), beginning April 30, 2008, and concluding in March 2009.

(b) The notice must be provided as part of an information section on the bill or bill notice itself or on a secondary document mailed with the bill or bill notice, or as part of a monthly stand-alone mailer (*e.g.*, postcard, brochure) in the same language or languages as the customer’s bill or bill notice. These notices must:

- (1) Be in clear and conspicuous print;
- (2) Convey at least the following information about the DTV transition:

(i) After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive full power over-the-air broadcasts with an antenna because of the Nation’s transition to digital broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.

(ii) Information about the DTV transition is available from <http://www.DTV.gov>, and from <http://www.dtv2009.gov> or 1-888-DTV-2009 for information about subsidized coupons for digital-to-analog converter boxes;

(c) If an ETC’s Lifeline or Link-Up customer does not receive paper versions of either a bill or a notice of billing, then that customer must be provided with equivalent monthly notices in whatever medium they

receive information about their monthly bill or as a monthly stand-alone mailer (e.g., postcard, brochure).

(d) ETCs that receive federal universal service funds shall provide information on the DTV Transition that is equivalent to the information provided pursuant to paragraph (b)(2) of this section as part of any Lifeline or Link-Up publicity campaigns conducted by the ETC between March 27, 2008, and March 31, 2009.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070717351-8507-02]

RIN 0648-AV64

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to modify the Individual Fishing Quota (IFQ) Program and the Community Development Quota (CDQ) Program for the fixed-gear commercial Pacific halibut and sablefish fisheries. This action amends current regulations to allow the use of longline pot fishing gear in the Bering Sea sablefish IFQ and sablefish CDQ fisheries in the month of June. This action also adds regulatory provisions to allow members of the National Guard and military reserves who are mobilized to active duty to temporarily transfer their annual halibut and sablefish IFQ to other eligible IFQ recipients. This final rule is necessary to increase the efficiency of fishermen operating longline pot vessels in the Bering Sea sablefish fishery and to allow guardsmen and reservists to accrue some economic benefit from their annual IFQ if unable to harvest it due to military service. This action is intended to promote the conservation and management provisions in the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) and the Northern Pacific Halibut Act of 1982 (Halibut Act).

DATES: Effective June 18, 2008, except the amendment to § 679.24(c)(4), which is effective May 19, 2008.

ADDRESSES: Copies of the Regulatory Impact Review (RIR) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available by mail from NMFS, Alaska Region, P. O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or via the NMFS, Alaska Region website at <http://www.fakr.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS at the above address and by e-mail to David_Rostker@omb.eop.gov or by fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT:

Obren Davis, 907-586-7228 or obren.davis@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) in the Exclusive Economic Zone (EEZ) under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson-Stevens Act) and is implemented by regulations at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. NMFS manages fishing for sablefish (*Anoplopoma fimbria*) through regulations established under the authority of the Magnuson-Stevens Act. Sablefish is managed as a groundfish species under the FMP, as well as under the IFQ Program that allocates sablefish and Pacific halibut (*Hippoglossus stenolepis*) harvesting privileges among U.S. fishermen.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention) and the Halibut Act. The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by these two officials, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62 (73 FR 12280; March

7, 2008). Federal regulations governing the halibut fisheries in the BSAI management area appear at 50 CFR parts 300 and 679.

Background and Need for Action

The background and need for this action were described in detail in the preamble to the proposed rule published in the **Federal Register** on March 5, 2008 (73 FR 11851). The proposed rule's comment period ended April 4, 2008. NMFS received two responses that contained four unique comments. These comments are summarized under "Response to Comments."

In summary, this final rule removes a regulation that prohibits using longline pot gear in the Bering Sea during the month of June and amends regulations to allow military reservists and National Guard members to temporarily transfer their IFQ if mobilized to active duty. This action also makes several administrative changes to amend certain modifiers that describe IFQ and CDQ permits in paragraphs (d) and (e) of § 679.4. This includes revising terms such as "original," "copy," and "valid" to read "legible copy." These changes are intended to make the descriptors used in association with such permits consistent throughout these paragraphs.

Description of Regulatory Amendments

The following sections explain in detail the regulatory amendments contained in this final rule.

Allow Longline Pot Gear to be Used in the Bering Sea Sablefish Fishery in June

This rule will amend regulations in 50 CFR part 679 to remove a prohibition against the use of longline pot gear in the Bering Sea sablefish fishery during the month of June. Existing regulations prohibit deployment of longline pot gear during this month, due to past concerns about conflicts between vessel operators that use different types of fishing gear. Specifically, § 679.24(c)(4) is revised to remove a June closure for longline pot gear in the Bering Sea sablefish fishery.

The use of longline pot gear in the Bering Sea sablefish fishery became an issue in 1991. The nature of longline pot gear and strategies used in fishing with longline pot gear were once thought to deter fishermen from deploying hook-and-line gear on fishing grounds where longline pot gear is set. The groundline (to which baited pots are attached) used with longline pot gear is heavier and stronger than that used for longline hook-and-line gear. If longline pot gear is set over previously deployed longline hook-and-line gear, the weaker hook-and-line gear could be damaged or lost