The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0392.

OMB Approval Date: May 1, 2018.

OMB Expiration Date: May 31, 2021.

Title: 47 CFR Part 1, Subpart J—Pole Attachment Complaint Procedures.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,775 respondents; 1,775 responses.

Estimated Time per Response: 0.5–1.66 hours.

Frequency of Response: On occasion reporting and third-party disclosure requirements.

Obligation to Respond: Required to obtain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 224.

Total Annual Burden: 2,941 hours.

Total Annual Cost: $450,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No questions of a confidential nature are asked. However, respondents may request that materials or information submitted to the Commission in a complaint proceeding be withheld from public inspection under 47 CFR 0.459.

Needs and Uses: The Commission is requesting OMB approval for a revision to an existing information collection. 47 CFR 1.1424 states that the procedures for handling pole attachment complaints filed by incumbent local exchange carriers (ILECs) are the same as the procedures for handling other pole attachment complaints. Currently, OMB Collection No. 3060–0392, among other things, tracks the burdens associated with utilities defending against complaints brought by ILECs related to unreasonable rates, terms, and conditions for pole attachments. In *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment,* WC Docket No. 17–84, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, FCC 17–154 (rel. Nov. 29, 2017) (*Wireline Infrastructure Order*), the Commission, among other things, expanded the type of pole attachment complaints that can be filed by ILECs, now allowing them to file complaints related to a denial of pole access by utilities. The Commission will use the information collected under this revision to 47 CFR 1.1424 to hear and resolve pole access complaints brought by ILECs and to determine the merits of the complaints.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–09970 Filed 5–9–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 13–39; FCC 18–45]

Rural Call Completion

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission reorients its existing rural call completion rules to better reflect strategies that have worked to reduce rural call completion problems while at the same time reducing the overall burden of its rules on providers. This Second Report and Order (*Order*) adopts a new rule requiring ''covered providers''—entities that select the initial long-distance route for a large number of lines—to monitor the performance of the ''intermediate providers'' to which they hand off calls. The *Order* also eliminates the call completion reporting requirement for covered providers that was established by the Commission in 2013.

DATES: Effective June 11, 2018, except for the rule contained in 47 CFR 64.2113, which requires approval by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing approval of this requirement and the date the rule will become effective.

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, Zach Ross, at (202) 418–1033, or *zachary.ross@fcc.gov.* For further information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order in WC Docket No. 13–39, adopted and released on April 17, 2017. The full text of this document, including all Appendices, is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It is also available on the Commission's website at *https://www.fcc.gov/document/fcc-takes-new-steps-improve-rural-call-completion-0.*

I. Synopsis

A. Covered Provider Monitoring of Performance

1. Monitoring Requirement

1. The record in this proceeding and our complaint data establish that rural call completion issues persist. Covered providers have incentives both to serve customers well and minimize routing costs; but these incentives are in tension because least-cost routing can lead to poor call completion performance. While intercarrier compensation reform has the potential to greatly improve rural call completion, it is unlikely to eliminate all incentives that may lead to call completion issues in the foreseeable future. We are committed to refining our approach to better target these important issues.

2. Building on our proposal in the *RCC 2nd FNPRM,* 82 FR 34911, we specifically require that for each intermediate provider with which it contracts, a covered provider shall: (a) Monitor the intermediate provider's performance in the completion of call attempts to rural telephone companies from subscriber lines for which the covered provider makes the initial long-distance call path choice; and (b) based on the results of such monitoring, take steps that are reasonably calculated to correct any identified performance problem with the intermediate provider, including removing the intermediate provider from a particular route after sustained inadequate performance. We revise subsection (b) of the rule from our proposal in the *RCC 2nd FNPRM* to direct covered providers to correct performance problems, rather than hold intermediate providers accountable. To be clear, taking steps that are reasonably calculated to correct any identified performance problem with the intermediate provider often will involve holding the intermediate provider accountable for its performance. Nevertheless, we find this change to the rule text warranted to focus subsection (b) directly on resolving rural call completion problems, rather than a particular means for doing so. Additionally, the RCC Act gives us authority to hold intermediate providers accountable for meeting service quality standards, so specifically directing covered providers to hold intermediate providers accountable is less beneficial than prior to the RCC Act's enactment. We include the phrase ''take steps that

are reasonably calculated to'' and the word ''identified'' consistent with our conclusion that we do not impose strict liability on covered providers. As explained in detail below, the monitoring requirement we adopt entails both *prospective* evaluation to prevent problems and *retrospective* investigation of any problems that arise. We also require covered providers to take steps that are reasonably calculated to correct any identified performance problem with the intermediate provider.

3. The monitoring requirement we adopt has significant support in the record. It encourages covered providers to ensure that calls are completed, assigns clear responsibility for call completion issues, and enhances our ability to take enforcement action. We therefore reject arguments that Commission action is unnecessary. We anticipate that the monitoring rule we adopt will ensure better call completion to rural areas by covered providers. We recognize that as a hypothetical alternative means to increase the incentive for good rural call completion performance, we could instead increase the size of penalties for violations of the Act and our rules stemming from rural call completion failures. We nonetheless find the monitoring rule we adopt necessary for several reasons. Today's *Order* details appropriate action required of covered providers to serve this goal and adopts improved substantive measures, such as requiring prospective monitoring and disclosure of contact information. As these new measures will serve our goal to improve rural call completion, they should reduce the necessity for enforcement action, and aid our enforcement efforts when needed. Although the existence of statutory penalties may encourage compliance with the law, they should not supplant our efforts to facilitate compliance in the first instance. While sections 201 and 202 of the Act provide important support for our rural call completion efforts, establishing a new rule with more detailed guidelines will enhance our ability to take enforcement action and provide additional certainty to covered providers regarding the actions they must take. Call completion problems persist as to both traditional telephony and VoIP. Therefore, we reject VON's argument that we should continue to allow VoIP providers to self-regulate. The passage of the RCC Act does not obviate the need for covered provider regulation, contrary to ITTA's contention. In the *Further Notice* accompanying this *Order,* we seek comment on whether to change the monitoring requirements in light of the service quality standards for intermediate providers under consideration, for instance by creating a safe harbor for covered providers who work with intermediate providers that meet our quality standards. While we expect that implementing the RCC Act will lead to improved intermediate provider performance, we nonetheless agree with commenters who assert that covered providers have a responsibility to monitor intermediate provider performance. The record makes clear that it is important to hold a central party responsible for call completion issues. Given that covered providers select the initial long-distance path and therefore can choose how to route a call, we find it appropriate that they should have responsibility for monitoring rural call completion performance. Further, a covered provider that originates a call is easier to identify than an intermediate provider in a potentially lengthy and complicated call path, facilitating enforcement where needed.

4. *Prospective Monitoring.* As part of fulfilling the monitoring requirement, covered providers have a duty to prospectively evaluate intermediate providers to prevent reasonably foreseeable problems. We agree with NASUCA that after-the-fact remediation without other preventative actions is insufficient to prevent call completion problems from occurring. Required prospective monitoring includes regular observation of intermediate provider performance and call routing decision-making; periodic evaluation to determine whether to make changes to improve rural call completion performance; and actions to promote improved call completion performance where warranted. To ensure consistent prospective monitoring and facilitate Commission oversight, we expect covered providers to document their processes for prospective monitoring and identify staff responsible for such monitoring functions in the written documentation, and we expect covered providers to comply with that written documentation in conducting the required prospective monitoring.

5. We agree with numerous commenters that covered providers must have flexibility in determining and conducting prospective monitoring that is appropriate for their respective networks and mixes of traffic. Covered providers have unique ''network-specific demands and customer expectations'' and we agree that ''a one-size-fits-all implementation'' could unduly limit their ability to meet those demands and expectations. We therefore provide covered providers the flexibility to determine the standards and methods best suited to their individual networks. We agree with Comcast that regardless of how a covered provider engages in monitoring, its approach must involve comparing rural and non-rural areas to ensure that Americans living in rural areas are receiving adequate service. Covered providers may make this comparison based on any measures reasonably calculated to evaluate call completion efficacy. Such measures may include metrics such as call answer rate, call completion rate, or network effectiveness ratio; or evaluating the implementation of specific measures to ensure adequate performance that build on those we propose to require intermediate providers to meet to comply with the service quality standards required under the RCC Act. Verizon's consent decree provides negative traffic spikes as one internal investigation trigger. The Verizon rural call completion study, commissioned pursuant to this consent decree, explains that a negative spike is a ''sharp decrease from prior measurements over a short time.'' We encourage covered providers to consider this and other possible metrics for use in fulfilling the monitoring requirement. Although we do not believe that it should be unduly difficult for covered providers to evaluate and compare how their intermediate providers perform in delivering traffic to individual rural OCNs, we also note that the Bureau's RCC Data Report illustrates some challenges of metrics-based evaluations. Accordingly, we encourage providers to explore and test a wide range of approaches and, where successful, share those solutions with industry peers and the Commission.

6. Conversely, we reject the argument that we should mandate the standards and best practices contained in the ATIS RCC Handbook. The ATIS RCC Handbook intermediate provider best practices include, inter alia: Managing the number of intermediate providers (*i.e.* number of ''hops''); installation and use of test lines; contractual agreements with intermediate providers to govern intermediate provider conduct; management of direct and indirect looping; maintenance of sufficient direct termination capacity; non-manipulation of signaling information; inheritance of restrictions; intercarrier process requirements; and acceptance testing. As to the manipulation of signaling information, section 64.1601(a)(2) of the Commission's rules already requires intermediate providers within an interstate or intrastate call path that originate and/or terminate on the PSTN to pass unaltered to subsequent

providers in the call path signaling information identifying the telephone number, or billing number, if different, of the calling party that is received with a call. In addition, section 64.2201(b) already requires intermediate providers to return unaltered to providers in the call path any signaling information that indicates that the terminating provider is alerting the called party, such as by ringing. The highly regarded ATIS RCC Handbook is a voluntary, industry collaborative approach to help ''ensur[e] call completion'' for rural telephone company customers. We agree with commenters that mandating the ATIS RCC Handbook best practices ''could have a chilling effect on future industry cooperation to develop solutions to industry problems.''

7. However, we also agree with commenters that we should encourage adherence to the ATIS RCC Handbook best practices. As such, while we decline to mandate compliance with the ATIS RCC Handbook best practices, we will treat covered provider adherence to all the ATIS RCC Handbook best practices as a safe harbor that establishes compliance with the monitoring rule. Thus, a covered provider that adheres to all of the ATIS RCC Handbook best practices will be deemed to be compliant with the monitoring rule. This safe harbor applies only to the best practices set forth in the 2015 version of the ATIS RCC Handbook, identified above. We will also take the ATIS RCC Handbook best practices into account in evaluating whether a covered provider has developed sufficiently robust and compliant monitoring processes. We find that this approach will encourage adherence to the best practices while giving covered providers flexibility to tailor their practices to their particular networks and business arrangements. Where a rural telephone company has a test line, we encourage a covered provider to make use of that test line as a part of its regular observation of intermediate provider performance.

8. We strongly encourage covered providers to limit the number of intermediate providers in the call chain. We specifically encourage covered providers to take advantage of the Managing Intermediate Providers Safe Harbor. Managing the number of intermediate providers in the call chain is an ATIS RCC Handbook best practice, and the record shows that limiting the number of intermediate providers can help ensure call completion to rural areas. By requiring covered providers to monitor and take responsibility for the performance of their intermediate providers, we anticipate that the rules we adopt will encourage covered providers to limit the number of intermediate providers in the call chain. Nevertheless, consistent with our decision to give covered providers flexibility, we decline to mandate a specific limit on the number of intermediate providers in the call chain. Such a mandate would be unduly rigid, as even those who advocate such a mandate acknowledge that exceptions would be needed. We specifically reject HD Tandem's proposal to allow additional intermediate providers only upon a waiver request as unduly burdensome and too slow to be compatible with the dynamic routing needs of covered providers. We are concerned that a specific limit mandate conflates the number of ''hops'' with good hops; for example, it assumes that a small number of badly performing intermediate providers are better than multiple well-performing intermediate providers. Although proponents of a strict limit argue that it would impose ''virtually no burden on originating providers beyond the inclusion of effective clauses in their contracts with their intermediate providers,'' the record indicates that covered providers would face additional burdens if they lacked flexibility to efficiently route calls during periods of high call volume such as natural disasters and national security related events. We note that only two covered providers have stated that they meet the Managing Intermediate Provider Safe Harbor, notwithstanding the reduced burdens under the *RCC Order* that result. This fact suggests that the vast majority of covered providers have concluded that the benefits associated with always limiting to two the number of intermediate providers in the call path do not outweigh the associated costs.

9. While we decline to impose a strict limit on the number of intermediate providers in the call chain, we recognize that an animating concern of those who advocate for such a limit is avoiding an attenuated call path in which responsibility for problems is difficult or impossible to trace and in which no one party ''owns'' ensuring successful call completion. As discussed below, we require covered providers to exercise oversight regarding their entire intermediate provider call path to rural destinations. The RCC Act further requires that intermediate providers register with the Commission, and precludes covered providers from using intermediate providers who are not registered. These requirements will help to ensure that covered providers only use responsible intermediate providers and can identify intermediate providers in the call path. We therefore are able to address the underlying problem of diffuse responsibility without imposing a rigid mandate capping the number of intermediate providers.

10. *Retrospective Monitoring.* We also require covered providers to retrospectively investigate any rural call completion problems that arise. This requirement is consistent with our proposal in the *RCC 2nd FNPRM,* which several commenters support. Evidence of poor performance warranting investigation includes but is not limited to: Persistent low answer or completion rates; unexplained anomalies in performance reflected in the metrics used by the covered provider; repeated complaints to the Commission, state regulatory agencies, or covered providers by customers, rural incumbent LECs and their customers, competitive LECs, and others; or as determined by evolving industry best practices, including the ATIS RCC Handbook.

11. We interpret the retrospective monitoring requirement as encompassing, at minimum, the duties under sections 201, 202, and 217 of the Act set forth in the *2012 Declaratory Ruling.* In that decision, the Bureau clarified that ''it is an unjust and unreasonable practice in violation of section 201 of the Act for a carrier that knows or should know that it is providing degraded service to certain areas to fail to correct the problem or to fail to ensure that intermediate providers, least-cost routers, or other entities acting for or employed by the carrier are performing adequately.'' The Bureau further clarified that ''adopting or perpetuating routing practices that result in lower quality service to rural or high-cost localities than like service to urban or lower cost localities (including other lower cost rural areas) may, in the absence of a persuasive explanation, constitute unjust or unreasonable discrimination in practices, facilities, or services and violate section 202 of the Act.'' In the *2012 Declaratory Ruling,* the Bureau also stated: ''Service problems could be particularly problematic for TTY and amplified telephones used by persons with hearing disabilities. Carriers that fail to ensure that services are usable by and accessible to individuals with disabilities may be in violation of section 255 of the Act. Accordingly, practices that result in disparate quality of service delivered to rural areas could be found unlawful under sections 202 and 255 of the Act.'' Finally, the Bureau, relying on section 217 of the Act, stated that ''if an underlying provider is

blocking, choking, or otherwise restricting traffic, employing other unjust or unreasonable practices in violation of section 201, engaging in unjust or unreasonable discrimination in violation of section 202, or otherwise not complying with the Act or Commission rules, the carrier using that underlying provider to deliver traffic is liable for those actions if the underlying provider is an agent or other person acting for or employed by the carrier.'' We both affirm the *2012 Declaratory Ruling* as a clarification of the statutory provisions discussed by the Bureau and clarify that under the rule we adopt, the *2012 Declaratory Ruling* sets forth the minimum retrospective monitoring duty of covered providers. The statutory interpretations set forth in the *2012 Declaratory Ruling* (and clarified here) apply to carriers. The duties in the *2012 Declaratory Ruling* (and clarified here) apply to covered providers, and constitute the minimum bounds of the retrospective monitoring requirement. Based on these determinations, we find it unnecessary to codify separately the prohibition on blocking, choking, reducing, or restricting traffic explicated it in the *2012 Declaratory Ruling.*

12. We specifically highlight that under the *2012 Declaratory Ruling,* ''a carrier that knows or should know that calls are not being completed to certain areas, and that engages in acts (or omissions) that allow or effectively allow these conditions to persist'' may be liable for a violation of section 201 of the Act. Thus, willful ignorance will not excuse a failure by a covered provider or carrier to investigate evidence of poor performance to a rural area, such as repeated complaints, persistent low answer rates, or other indicia identified above. When this evidence of persistent poor performance exists with respect to a rural area, the provider should know that there may be a problem with calls being completed to that area and it has a duty to investigate. We further clarify that a covered provider or carrier may only deem the duty set forth in the *2012 Declaratory Ruling* satisfied if it: (a) Promptly resolves any anomalies or problems and takes action to ensure they do not recur; or (b) determines that responsibility lies with a party other than the provider itself or any of its downstream providers and uses commercially reasonable efforts to alert that party to the anomaly or problem. Below, we provide additional direction under the monitoring rule we establish regarding how covered providers must fulfill prong (a) above with respect to intermediate providers with which they contract.

13. *Remedying Problems Detected During Retrospective Monitoring.* We require that, based on the results of the required monitoring, covered providers must take steps that are reasonably calculated to correct any identified performance problem with the intermediate provider, including removing the intermediate provider from a particular route after sustained inadequate performance. We agree with NCTA that ''isolated call failures . . . have always been inherent in the exchange of voice traffic,'' and clarify that our monitoring rule does not require covered providers to take remedial action solely to address isolated downstream call failures. As USTelecom observed, ''carriers have found that the most effective means of identifying and resolving call completion issues has been through their own monitoring which includes investigating specific complaints and ensuring that intermediate providers are held accountable.'' Correcting identified performance problems is an important part of ensuring that monitoring leads to real improvements in the call completion process.

14. Where a covered provider detects a persistent problem based on retrospective monitoring, we require the covered provider to select a solution that is reasonably calculated to be effective. A temporary and quickly abandoned solution is not acceptable. Covered providers that do not effectively correct problems with call completion to specific areas have ''allow[ed] the conditions to persist'' and are subject to enforcement action for violation of the monitoring rule as well as the Act and our call blocking prohibition thereunder. We agree with NCTA that requiring a ''permanent'' solution is too rigid and may not account for a rapidly changing marketplace. At the same time, a covered provider's or carrier's responsibility under the monitoring rule and *2012 Declaratory Ruling* is not met by a temporary route correction and nothing more; providers and carriers are also responsible for ensuring that the problems do not recur.

15. Although we give covered providers flexibility in the remedial steps they choose so long as they pursue a solution that is reasonably calculated to be effective, we specifically require removing intermediate providers from routes where warranted. The ATIS RCC Handbook identifies ''temporarily or permanently removing the intermediate provider from the routing path'' as a best practice when an intermediate provider fails to perform at an acceptable service level, and we agree that this must be among the remedial steps that covered providers must take where appropriate. The California Public Utilities Commission (CPUC) endorses route removal as a remedy and suggests that the only exception for removal of sufficiently badly performing intermediates ''should be for call paths for which there are no alternative routes, so long as the lack of an alternative route can be reasonably documented.'' We agree with the CPUC and conclude that where an intermediate provider has sustained inadequate performance, removal from a particular route is necessary except where a covered provider can reasonably document that no alternative routes exist. Sustained inadequate performance is manifest when, even if a provider alters routing to a rural area, call completion problems with that provider persist or recur within days, weeks, or months after the routing change.

16. We reject arguments that fulfilling this obligation is unduly difficult or infeasible. Both the record and information gathered in enforcement investigations indicates that some providers have removed intermediate providers from call paths for poor performance. We disagree with Sprint that identifying ''sustained inadequate performance'' is ''extraordinarily difficult''—if a covered provider fulfills its monitoring duty, it will be able to identify persistent outliers and sources of repeated anomalies or problems. Further, the monitoring requirement we establish forecloses the argument that fulfilling the duty to correct identified performance problems is not feasible because a covered provider hands off traffic without exercising further oversight. The covered provider has the obligation to prevent poor rural call completion performance, and business models that foreclose performing this duty are unacceptable.

17. *Scope of Monitoring Requirement—Call Attempts to Rural Competitive LECs.* Although our recording, retention, and reporting requirements are limited to calls to incumbent LECs, we require covered providers to monitor rural call completion performance to both rural incumbent and rural competitive LECs. We recognize that rural competitive LEC subscribers also encounter rural call completion issues. Indeed, a significant percentage of the rural call completion complaints received by the Commission are from rural competitive LECs and their customers. In 2013, the Commission declined to extend the

recordkeeping requirements for call attempts to rural competitive LECs because ''rural CLEC calling areas generally overlap with nonrural ILEC calling areas, calling patterns to rural CLECs differ from those to rural ILECs, and rural CLECs generally employ different network architectures.'' Although these factors illustrate recordkeeping challenges, they do not explain why covered providers have any less responsibility to complete calls to customers of rural competitive LECs or to monitor the performance of intermediate providers that deliver traffic to these providers. In our proposed rule, we used the phrase ''rural incumbent LEC,'' which we proposed defining as an incumbent LEC that is a rural telephone company, as each of those terms are in 47 CFR 51.5. In our final rule, we replace the phrase ''rural incumbent LEC'' with ''rural telephone company,'' which encompasses both incumbent and competitive LECs. To ensure that covered providers have adequate information to monitor intermediate provider performance, we direct NECA to prepare on an annual basis and make publicly available a list of rural competitive LEC OCNs in addition to continuing its annual listing of rural and non-rural incumbent LEC OCNs. We recognize that because competitive LECs are not defined by incumbent service territories like incumbent LECs, identifying rural competitive LECs may be difficult in some cases, and NECA's rural competitive LEC OCN list may not be comprehensive. We direct NECA to use best efforts to identify rural competitive LECs and their OCNs for inclusion in the list. We do not require covered providers to monitor calls to rural competitive LECs or their OCNs that do not appear on NECA's list. We nevertheless view requiring monitoring to rural competitive LECs and NECA's preparation of the list as valuable to promote greater call completion to the customers of rural competitive LECs that do appear on the list. We encourage rural competitive LECs to identify their rural OCNs to NECA for use in preparation of this list.

2. Covered Provider Accountability

18. Under the monitoring rule we adopt today, covered providers must exercise responsibility for the performance of the entire intermediate provider call path to help ensure that calls to rural areas are completed. We will hold covered providers accountable for exercising oversight regarding the performance of all intermediate providers in the path of calls for which the covered provider makes the initial long-distance call path choice. We expect covered providers to take remedial measures where necessary and covered providers who fail to remediate problems are subject to enforcement action. As explained below, covered providers may fulfill their monitoring obligation through direct monitoring or a combination of direct monitoring and contractual restrictions.

19. We find that allocating this responsibility to covered providers is appropriate because, as the entity that makes the initial long-distance call path choice, covered providers are in a position to exercise responsibility over the downstream call path to the terminating LEC. As to covered provider carriers, Verizon correctly notes that our authority under sections 201 and 202, ''combined with [the Commission's] . . . longstanding policy,'' makes carriers ''responsible for the provision of service to their customers even when they contract with intermediate providers to carry calls to their destinations.'' Because the definition of ''covered provider'' excludes entities with low call volumes, we expect that covered providers are of sufficient size to put resources into monitoring and negotiate appropriate provisions with any intermediate providers with which they contract. In stating this, we do not suggest that smaller carriers are free from call completion obligations. We believe that placing responsibility on a single, readily identifiable party that ultimately controls the call path will be an effective measure in addressing rural call completion issues going forward. Further, covered providers are in a position to promptly remedy rural call completion issues when they arise by virtue of their contractual relationships with intermediate providers and their ability to modify call routing paths, enabling rural call completion issues to be resolved without waiting for Commission enforcement action, thereby benefiting rural consumers.

20. For common carriers, the duty to monitor the entire intermediate provider call path also flows from section 217, which states that ''the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or user, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or user as well as that of the person.'' As the *2012 Declaratory Ruling* explained, based on section 217, ''a carrier remains responsible for the provision of service to its customers even when it contracts with another provider to carry the call to its destination.'' The Commission has applied a similar policy to carriers in the slamming context, as well as to broadcast and wireless licensees. We find it appropriate to apply this same principle to all covered providers for the reasons set forth above. Thus, a covered provider is responsible when, for example, a downstream provider unlawfully injects ring tone on a call, in violation of 47 CFR 64.2201.

21. We give covered providers flexibility in how they fulfill this responsibility to determine the standards and methods best suited to their individual networks. Under the rule we adopt today, a covered provider is accountable for monitoring the performance of any intermediate provider with which it contracts, including that intermediate provider's decision as to whether calls may be handed off to additional downstream intermediate providers—and if so, how many—and whether it has taken sufficient steps to ensure that calls will be completed post-handoff. We require covered providers to directly monitor the performance of intermediate providers with which they have a contractual relationship, and we decline to impose an unnecessarily burdensome mandate requiring direct covered provider monitoring of the entire call chain. We use the term ''direct'' monitoring to distinguish active monitoring from reliance solely on contractual protections. With respect to ''direct'' monitoring, we permit covered providers to perform the monitoring themselves or rely on a third-party vendor, acting on behalf of the covered provider, that directly monitors the intermediate provider and reports back to the covered provider. We underscore that covered providers will remain ultimately responsible for monitoring even where they use a third-party vendor. Rather, a covered provider may manage the call path through (i) direct monitoring of all intermediate providers or (ii) a combination of direct monitoring of contracted intermediate providers and contractual restrictions on directly monitored intermediate providers that are reasonably calculated to ensure rural call completion through the responsible use of any further intermediate providers. The ATIS RCC Handbook provides that as a best practice, contractual agreements can be used to ensure that intermediate providers meet performance expectations and hold intermediates accountable for performance. Contractual measures that meet this standard include limiting the use of further intermediate providers and provisions that ensure quality call completion.

22. We encourage covered providers to incorporate the following provisions, suggested by NASUCA: (1) ''[r]equir[ing] each downstream carrier on an ongoing basis to provide specific information regarding its system and the limitations of its system, including information regarding any difficulties its system may have interoperating with other systems using different technologies''; (2) ''[r]equir[ig] each downstream carrier on an ongoing basis to provide specific information regarding any bandwidth or other capacity constraints that would prevent its system from completing calls to particular destinations at busy times''; (3) ''[r]equir[ing] each downstream carrier to use properly designed and properly functioning alarms in its system that ensure immediate notice of any outages on its system''; (4) ''[r]equir[ing] each downstream carrier to use properly designed and properly functioning mechanisms to ensure that the downstream carrier, if unable to complete a call, timely releases the call back to the upstream carrier''; (5) ''[r]equir[ing] each downstream carrier to use properly designed and properly functioning mechanisms to ensure that the downstream carrier, if making successive attempts to route the call through different lower-tiered downstream carriers, timely passes the call to a second (or third or fourth) lower-tiered downstream carrier if a first (or second or third) lower-tiered downstream carrier cannot complete it''; (6) ''[r]equir[ing] each downstream carrier to use properly designed and properly functioning mechanisms to detect and control looping, including the use of hop counters or other equivalent mechanisms that alert a carrier to the presence of a loop''; (7) ''[e]stablish[ing] direct measures of quality and requir[ing] downstream carriers to meet them''; (8) ''[e]stablish[ing] and implement[ing] appropriate sanctions for intermediate carriers that fail to meet standards''; (9) ''[r]equir[ing] downstream carriers to manage lower-tiered downstream carriers and to hold lower-tiered downstream carriers to the same standards that they themselves are held''; and (10) ''[d]efin[ing] the responsibilities of downstream carriers in a written agreement.'' Based on these suggestions, including ''[e]stablish[ing] direct measures of quality and requir[ing] downstream carriers to meet them,'' we do not agree with NCTA that '''direct monitoring' is only feasible with the first intermediate provider in the call path and not with subsequent intermediate providers.'' Additionally, we do not see any benefit to foreclosing the option to rely entirely on direct monitoring. Insofar as a covered provider relies on contractual restrictions rather than direct monitoring for downstream intermediate providers, the covered provider must ensure these restrictions flow down the entire intermediate provider call path. For example, suppose calls travel from covered provider X to intermediate providers A, B, and C in turn, and X contracts only with A. X must directly monitor A. X must ensure that A imposes contractual restrictions on B reasonably calculated to ensure rural call completion, and X must ensure that A or B imposes such restrictions on C. Thus, a covered provider may not avoid liability for poor performance by asserting that a rural call went awry at an unknown point down a lengthy chain of intermediate providers or by claiming solely that its contracts with initial downstream vendors prohibited unlawful conduct. Conversely, covered providers that engage in reasonable monitoring efforts will not be held responsible for intermediate provider conduct that is not, or could not be, identified through such reasonable monitoring efforts. This conclusion is consistent with our decision not to impose strict liability under the monitoring rule.

23. Our balanced approach ensures that covered providers exercise responsibility for rural call completion without imposing an unduly rigid or burdensome mandate. We therefore reject various ''all-or-nothing'' approaches. We reject the argument that covered providers should not bear any responsibility for the performance of non-contracted intermediate carriers. This argument mistakenly assumes that the covered provider is unable to reach the behavior of downstream intermediate providers through directly contracted intermediate providers, and the record indicates otherwise. Conversely, because we are able to require covered providers to exercise responsibility for the performance of the entire intermediate provider call path while providing significant flexibility in how they do so, we find mandating direct covered provider monitoring of the entire call chain unnecessarily burdensome. Similarly, we do not mandate that covered providers must directly contract with all intermediate providers in the call path. Such a requirement would be superfluous given covered provider responsibility for the overall call path, and we agree with CTIA that such a requirement would unduly prescribe provider conduct. Nonetheless, we encourage covered providers to directly contract with all intermediate providers in the call path consistent with the ATIS RCC Handbook best practices.

3. Covered Provider Point of Contact

24. Communication is key to addressing rural call completion issues. Of particular importance is communication between covered providers, which make the initial long-distance call path choice, and terminating rural LECs. Together, these entities account for the beginning and end of the long-distance call path. While ATIS maintains a contact list of service provider rural call completion points of contact, participation is voluntary, and accordingly the list only contains contact information for a ''limited number of covered providers.'' To participate in the ATIS NGIIF Service Provider Contact Directory for rural call completion, ATIS asks providers to submit the following information: Toll free number; contact; contact number; email; fax; website; and other information. As NTCA and WTA explain, ''[r]ural providers often report that they have no way to contact the responsible originating carrier or if they do, the person they contact has little to no understanding of the issue.'' Conversely, when participants in the call chain communicate, they are more likely to resolve issues that arise.

25. We agree with NTCA and WTA that we should require covered providers to provide and maintain contact information as a low-cost measure to facilitate industry collaboration to address call completion issues. We therefore will require covered providers to make available on their websites a telephone number and email address for the express purpose of receiving and responding promptly to any rural call completion issues. We note that ATIS requests similar information for its voluntary rural call completion service provider contact directory. We require covered providers to ensure that the contact information available on their website is easy to find and use. Further, covered providers must ensure that any staff reachable through this contact information has the technical capability to promptly respond to and address call completion concerns. As the operators and experts of their individual call networks, covered provider technical staff are best positioned to expeditiously solve issues as they arise and as such should be the first point of contact in identifying and resolving rural call completion issues. We expect that covered providers will ensure that there is a means by which

persons with disabilities can contact them and that the contact information is available on a covered provider's website in a manner accessible by persons with disabilities.

26. Covered providers must keep the contact information current on their websites, updating with any changes within ten business days. The same timeline for updates applies to contact information placed on websites for responding to closed captioning concerns under our television closed captioning rules. Furthermore, because call completion problems may jeopardize public health and safety, we require covered providers to respond to communications regarding rural call completion issues via the contact information required under the rule we adopt as soon as reasonably practicable and within no more than a single business day under ordinary circumstances. We recognize, however, that complex call completion issues may take longer than a single day to resolve, and clarify that this requirement refers to an initial response in such circumstances and does not indicate that all such issues must be resolved within a single business day.

27. We expect NECA to use the disclosures we require to establish and maintain a central, public list of covered provider contact information that can be easily accessed by rural providers on NECA's website. To facilitate creation of this list, we encourage covered providers to provide directly to NECA the same contact information that they make available on their websites pursuant to our requirement above, and we encourage covered providers to update NECA if they update the contact information on their websites. We would expect NECA to update its contact information directory regularly so that it remains current. We recognize that ATIS already maintains a voluntary contact directory. We expect NECA, given its role in compiling the list of rural carriers, would work with ATIS to develop a repository of covered provider contact information, ensuring a comprehensive list of covered provider contact information is available for reference by rural providers. We treat the contact information that NECA makes available in the same manner as the contact information that the covered provider makes available on its website in terms of the covered provider's duty to respond in a timely fashion. In other words, we require covered providers to respond to communications regarding rural call completion issues via the contact information that NECA makes available as soon as reasonably practicable, and within no more than a single business day under ordinary circumstances. An additional repository for contact information that is specific to covered providers will further encourage inter-and intra-industry cooperation to address call completion issues by offering carriers a centralized resource that facilitates communication if and when problems occur. We also encourage all providers, including rural providers, to submit their own contact information for inclusion in the ATIS Service Provider Contact Directory, which continues to be a helpful single source of contact information.

4. Other Issues

28. *Rural Incumbent LEC Lists.* Windstream and NCTA note that there ''is no reliable method for covered providers to identify calls to rural incumbent LECs, other than by using the list of rural operating company numbers (OCNs) currently generated by NECA.'' We therefore direct NECA to continue updating its rural and non-rural OCN lists on a yearly basis; this list will also facilitate continued compliance with the recording and retention rules. We continue to include non-rural OCNs both to facilitate comparisons of rural and non-rural call completion by covered providers and for use in continuing to comply with the recording and retention rules. As noted above, we also direct NECA to prepare a list of rural competitive LEC OCNs on a yearly basis.

29. *Performance Targets.* We decline to set specific performance targets or benchmarks for call answer rates, call completion rates, or any other performance metric. We agree with commenters who assert that ''the Commission should refrain from mandating specific performance metrics for covered carriers or for their intermediate carriers.'' In connection with this, we observe that what constitutes poor rural call completion performance varies according to context. For example, carriers with a high autodialer or robocall volume may experience low answer or completion rates, possibly leading to the conclusion that a low number answer rate percentage is an appropriate benchmark (and thus not poor performance) for such covered providers. Throughout this proceeding, both the Commission and industry have noted that it is uncertain whether covered providers can segregate autodialer and other telemarketing traffic from other types of traffic. In other contexts, that same percentage would be considered poor performance for covered providers originating only residential traffic. Similarly, the RCC Data Report identified a number of challenges in establishing metrics as a result of inaccurate signaling and misalignment in the mapping of ISUP cause codes to SIP response messages. We therefore opt to give individual covered providers flexibility to establish their own methodologies that are appropriate to their networks and systems in monitoring call performance.

30. *Good Faith.* We reject arguments that we should establish a ''good faith'' threshold for compliance whereby we would not impose liability on covered providers making ''a good faith effort to comply with the rules.'' The approach we adopt captures the desire for flexibility underlying some of these requests, and gives covered providers discretion to monitor as they see fit in a manner best suited to their individual networks and business arrangements. We do not impose strict liability on covered providers for a call completion failure; rather, we may impose a penalty where a covered provider fails to take actions to prevent reasonably foreseeable problems or, if it knows or should know that a problem has arisen, where it fails to investigate or take appropriate remedial action. Further, our monitoring rule focuses on persistent problems, and we will not impose liability under the monitoring rule for an isolated call failure. That said, a ''good faith'' threshold on top of the flexible approach we adopt would add a layer of unhelpful uncertainty as to what constitutes compliance. We are committed to ensuring call completion to all Americans, and we find a ''good faith'' threshold unduly lenient. We also agree with NASUCA that ''[i]njecting subjective questions of motivation into enforcement actions will compromise their effectiveness and compromise the reliability of the network.'' We agree with NASUCA that adopting a good faith limitation does not provide greater clarity to our rule.

31. *Exempt Class of Service.* CenturyLink suggests we allow covered providers to offer a second class of service that would be ''exempt from any new call completion rules.'' We decline to implement this approach. CenturyLink posits that call completion is ''less important'' to customers placing marketing calls—as opposed to those originating from residential customers—and therefore these calls should be exempt from any rural call completion monitoring requirements. This second class would presumably include autodialer traffic.

32. We reject allowing an exempt class of service for several reasons. First, we believe all Americans deserve all lawful calls to be completed, regardless

of their purpose. In particular, calling parties should not be able to decide unilaterally which calls rural Americans deserve to receive reliably. We also prefer an approach that is potentially over-inclusive in ensuring call completion compared to a system that is potentially under-inclusive. Next, the present call signaling system does not distinguish between residential calls and any other call made to a residential area. Because it therefore is not possible to evaluate a covered provider's class categorization decision, a covered provider could categorize traffic inaccurately to suggest superior call completion performance (and thus imply superior monitoring) without the possibility of detection. Finally, a two-class practice could lead to violations of section 201 of the Act insofar as it entails a carrier that knows or should know that calls are not being completed to certain areas engaging in acts or omissions that allow or effectively allow these conditions to persist.

33. *Certification, Audit, or Disclosure Requirement.* We decline to impose a certification or audit requirement in conjunction with the monitoring rule. The CPUC asserts that ''[a] certification or audit requirement would make clear to covered providers and intermediate providers the importance that the FCC attaches to rural call completion,'' but, recognizing that ''[s]uch a requirement could be burdensome and costly,'' suggests a one-year reporting interval. We expect all entities subject to our rules to comply at all times, and our actions today demonstrate the importance to us of ensuring that calls are completed to all Americans. Additionally, numerous covered providers attest that they are committed to ensuring that rural calls are completed, and we expect them to live up to this commitment. We decline to impose what we agree would be a costly requirement absent a clear and sufficiently tangible (as opposed to rhetorical) benefit.

34. We further decline to require covered providers to file their documented monitoring procedures publicly with the Commission, as NTCA suggests. NTCA contends that because we expect covered providers to document their processes for prospective monitoring, a filing requirement ''imposes no meaningful burden.'' But such documentation in many cases is likely to reveal important technical, personnel, and commercial details about the covered provider's network and business operations—so public disclosure would impose meaningful burdens. To the extent that a covered provider would be able to successfully obtain confidential treatment for part or all of its disclosure, it would mitigate the harm of disclosure but also would undercut any purported benefits. There is no countervailing benefit sufficient to warrant imposing this burden. We are able to obtain information on covered providers' monitoring practices in an investigation, so we do not need to impose a public disclosure requirement to effectively carry out our responsibilities. We therefore do not agree that a disclosure requirement would give covered providers ''greater incentives to comply with procedures on file with the Commission.'' We reiterate that we expect covered providers—and all regulated entities—to comply with our rules, and we are able to take enforcement action where they do not. Given the variance among covered providers' networks and operations and the flexibility our monitoring rule provides, we see little value to covered providers ''know[ing] what individual carriers' procedures are and hav[ing] benchmarks against which subsequent performance can be measured''—each covered provider is able to adopt its own approach.

35. *Test Lines.* We decline to mandate that terminating rural carriers activate an automated test line. Recommended as an ATIS best practice to help resolve call completion issues, test lines ''can expedite trouble resolution, avoid Customer Propriety Network Information-related issues and exclude problems that may be specific to the called party's access and customer premises equipment arrangements.'' However, the record is silent as to what added costs and logistical burdens this mandate would impose on rural carriers. Further, NTCA and WTA assert that test lines may generate false positives and have the ability to handle a limited number of test calls at any given time—sometimes only one. Verizon also contends that ''[i]n [its] experience, there is no correlation between test-line results and rural call completion performance.'' Because it is not clear whether the benefits of greater availability of test lines will outweigh any burden to rural LECs and subscribers, we decline to mandate activation of test lines at this time. However, we encourage, but do not require, covered providers to make use of test lines where available in monitoring intermediate provider performance, and we encourage rural carriers to make test lines available to covered providers.

36. *Trunk Augmentation.* We decline to adopt HD Tandem's proposal to require carriers to augment trunks used for RCC paths when they reach a monthly utilization rate of 80%. We agree with Verizon that mandating ''when and how carriers must purchase trunking capacity . . . contravene[s] the Commission's goal of ensuring covered providers have the flexibility they need.'' Although HD Tandem asserts that ''[w]hen trunk utilization exceeds 80%, the risk of dropped calls and poor quality calls dramatically increases'' and that ''[m]any tariffs require augmentation of trunks when they reach a utilization of 80% or more,'' it does not substantiate these claims. We decline to impose a precise mandate absent more details justifying the threshold HD Tandem suggests. The record does not contain enough detail confirming the costs or benefits of such a requirement to allow us to weigh any added benefits against the burden upon network flexibility and potential monetary compliance cost.

37. At the same time, we agree that maintaining adequate capacity is an important part of monitoring rural call completion performance. The ATIS RCC Handbook recommends that ''it is important for the original IXC to maintain sufficient termination facilities that it can complete its own traffic when an intermediate provider cannot complete the call'' because ''[g]iven the cost challenges'' intermediate providers have ''to maintain a lean network and the aggregation of loads from multiple IXCs they must handle, there is a greater chance that, on a moment-to-moment basis, [intermediate providers] will not have capacity to complete a call'' and ''[m]aintaining its own termination capacity gives an IXC flexibility to quickly stop using an intermediate provider should performance problems develop.'' Thus, while we do not mandate trunk augmentation at a specific utilization threshold, maintaining adequate capacity is an important part of being able to monitor the performance of intermediate providers and meet the rural call completion monitoring rule we adopt today.

38. *Phase-In of the Monitoring Requirement.* We adopt NCTA's recommendation that we allow a transition period before implementing the monitoring rule. We are persuaded that covered providers will need some time to evaluate and renegotiate contracts with intermediate providers in order to comply with the monitoring requirement. We reject NCTA's argument that such a transition period should last twelve months, however; the monitoring requirement addresses the ongoing call completion problems faced by rural Americans, and delay only

postpones when rural Americans will see the fruit of this solution. A six-month transition period will suffice to address NCTA's concerns while not unduly delaying the effective date of the monitoring rule. The monitoring rule therefore will go into effect six months from the date that this Order is released by the Commission, or 30 days after publication of a summary of this Order in the **Federal Register**, whichever is later. NCTA suggests that the monitoring requirement will be subject to approval by the Office of Management and Budget (OMB), and that its effective date should be tied to ''notice that the rule[has] been approved by [OMB].'' Because the monitoring requirement does not require approval under the Paperwork Reduction Act, we do not tie the effective date to OMB approval.

39. *Review of Rules Adopted in this Report and Order.* It is important for us to continue to periodically reexamine the effectiveness of our rural call completion rules. We therefore direct the Bureau, in conjunction with the Enforcement Bureau and the Consumer and Governmental Affairs Bureau, to review the progress that has been made in addressing rural call completion issues, and the effectiveness of our rules, within two years of the effective date of the rules. We direct the Bureau to publish its findings in a report that will be made available for public comment. We expect this report to benefit the Commission in its ongoing work to address rural call completion issues.

40. We decline to adopt NTCA's recommendation that ''the rules adopted in this order sunset after three years and revert to the rules [previously] in effect, absent a finding based on evidence and analysis that the new framework as adopted addresses rural call completion problems.'' NTCA does not provide any examples of the Commission making use of this kind of 'sunset and reversion' approach to rulemaking. The rules we adopt today are tailored to provide a more efficient and effective means to address persistent rural call completion issues than our prior rules. And, as outlined in the Further Notice, we propose and seek comment on further modifications to our rural call completion rules, including those we adopt today, as we work to implement the RCC Act. Imposing an arbitrary expiration date on these rules is therefore unnecessary and counterproductive, as it could undermine their overall effectiveness.

5. Definitions

41. We retain the Commission's current definition of ''covered provider,'' adopted in the *RCC Order.* We agree with the CPUC that this scope is ''a reasonable trade-off between covering an adequate number of calls without placing a burden on those smaller carriers that would be least able to bear it.'' We note that, regardless of size, all carriers are subject to the statutory requirements of the Act, including sections 201, 202, and 217, 47 U.S.C. 201, 202, 217, and that VoIP providers are prohibited from blocking calls to or from the PSTN. No commenter to the *RCC 2nd FNPRM* opposes this definition.

42. Because we require each covered provider to monitor calls to rural incumbent LECs and competitive LECs, the definition of ''rural incumbent LECs'' we proposed in the *RCC 2nd FNPRM* is no longer relevant. We proposed defining a ''rural incumbent LEC'' as an incumbent LEC that is a rural telephone company, as those terms are defined in 47 CFR 51.5. We instead employ the term ''rural telephone company,'' as that term is defined in 47 CFR 51.5. This term reaches the same scope of rural incumbent LECs captured by our proposed definition, and it also includes rural competitive LECs. We clarify that a determination that a competitive LEC meets the definition of a ''rural telephone company'' for purposes of our rural call completion rules has no bearing on whether a competitive LEC meets the definition of a ''rural CLEC'' for purposes of section 61.26 of the Commission's rules. We decline to exclude LECs engaged in access stimulation, as defined in 47 CFR 61.3(bbb), from the definition of rural telephone company for purposes of our rural call completion rules. AT&T does not adequately explain how the monitoring rule we adopt today ''benefit[s] access stimulation LECs'' or how including all rural telephone companies within the scope of the rule ''does not service consumers' best interests.'' AT&T's filing (submitted just before the proceeding closed for filings) did not attempt to quantify or otherwise specify the benefits that would accrue to access stimulation LECs or the extent to which those purported benefits would outweigh the benefits of broadly defining ''rural telephone company'' for purposes of this proceeding. Based on this incomplete record, we do not have enough information to decide the issue raised by AT&T at this time.

43. While we retain the definition of ''intermediate provider'' in our rules at present, the RCC Act definition of ''intermediate provider'' differs from the definition in our rules. Accordingly, in the *Third Further Notice of Proposed Rulemaking,* we propose to adopt that revised definition.

6. Legal Authority

44. The Commission has previously articulated its direct and ancillary authority to adopt rules addressing rural call completion issues, and we rely on that same authority here. In addition to the authority previously articulated, section 217 of the Act provides additional authority to mandate that covered provider carriers monitor the overall intermediate provider call path and correct any identified intermediate provider performance problems. Intermediate providers in the call path ''act for'' the covered provider; therefore, without holding covered providers responsible for the acts or omissions they initiate to and through intermediate providers, we cannot ensure that covered provider carriers are fulfilling their statutory duties.

B. Reporting Requirement

1. Removal of the Reporting Requirement

45. *Discussion.* We eliminate the reporting requirement for covered providers. We conclude that the existing reporting rules are burdensome on covered providers, while the resulting Form 480 reports are of limited utility to us in discovering the source of rural call completion problems. We agree with CTIA that the rules ''impose[ ] significant costs on covered providers,'' and that compliance costs can ''divert 'funds that covered providers could otherwise use to deploy broadband service, improve network quality, or offer richer service plans.'" We agree with the Bureau's negative evaluation of the reporting requirement and, based on the shortcomings it identified, reject the view that we should retain the reporting requirements as-is.

46. We find that the burdens associated with supplementing or replacing the existing reporting requirements are likely to outweigh any benefits to the data collection. We therefore decline to amend our reporting rule. We agree with the Bureau's conclusion in the RCC Data Report and commenters who suggest that addressing the ongoing data quality issues associated with Form 480 by supplementing or replacing the data collection rules with new requirements is likely to be prohibitively burdensome on covered providers, while potentially providing little value over the current regime. The record supports the

conclusion that standardization of the data collection is likely to be prohibitively costly while yielding an uncertain benefit. As Verizon explains, the ''significant resources providers expended to develop and build data systems to comply with the 2013 *RCC Order* are now sunk costs'' and we ''should not force providers to incur a second round of burdens and costs to comply with modified or new recording, retention, and reporting obligations that likely would be as ineffective as their predecessors.'' For these reasons, we also decline to supplement or replace our existing recording and retention rules with any new data collection requirements.

47. The monitoring rule we adopt will be more effective in promoting covered provider compliance and facilitating enforcement where needed than the reporting rules because the monitoring rule imposes a direct, substantive obligation and because the reporting rules have proven to be not as effective as originally hoped. Furthermore, as the Commission has found previously, rural call completion problems are likely to be addressed especially effectively by ongoing intercarrier compensation reform, a conclusion that is supported by the record. Removal of the reporting requirement will provide covered providers with prompt relief by obviating the need to spend time and resources compiling and filing reports that would otherwise be due to the Commission on May 1, 2018. Because we eliminate the reporting requirement, we eliminate section 64.2109, which provided that ''[p]roviders subject to the reporting requirements in § 64.2105 of this chapter may make requests for Commission nondisclosure of the data submitted under § 0.459 of this chapter by so indicating on the report at the time that the data are submitted'' and that ''[t]he Chief of the Wireline Competition Bureau will release information to states upon request, if the states are able to maintain the confidentiality of this information.'' We will continue to treat reports already submitted to the Commission in accordance with the prior rule, *i.e.,* we will honor confidentiality requests to the same extent as previously and will release information previously provided to the Commission to states that have requested access and are able to maintain the confidentiality of the information.

48. *Recording and Retention.* We choose to proceed incrementally and do not at this time eliminate the recording and retention rules. As we implement the rules we adopt today and as we continue to pursue more effective solutions to rural call completion problems through further intercarrier compensation reform and RCC Act implementation, we anticipate that the value of the recording and retention rules will diminish. These reforms include both the reductions in terminating switched access rates established by the *USF/ICC Transformation Order* and further intercarrier compensation reform that we anticipate undertaking. We seek comment in today's *Third Further Notice of Proposed Rulemaking* on whether to eliminate those requirements upon implementation of the RCC Act. Although we retain the recording and retention requirements at present, we emphatically reject the view that eliminating some or all of the data collection ''send[s] a signal'' that rural call completion problems are ''a low priority for the Commission.'' The rules we adopt today, our efforts to implement the RCC Act, and our intercarrier compensation reform efforts show that ensuring calls are completed to all Americans is a top priority for us.

2. Safe Harbor

49. In the *RCC Order,* the Commission instituted a safe harbor provision reducing the recording, retention, and reporting requirements. Specifically, the safe harbor qualifications require that a covered provider have: (1) No more than one additional intermediate provider in call path before termination; (2) a non-disclosure agreement with intermediate providers allowing the covered provider to identify its intermediates to the Commission and to rural LECs affected by intermediate provider performance; and (3) a process in place to monitor intermediate provider performance. Additionally, the RCC Act contains an exemption from its quality of service requirements for covered providers that meet our safe harbor requirements.

50. Following adoption of this Order, covered providers qualifying for the safe harbor will continue to be subject to reduced recording and retention requirements. And, upon our adoption of rules implementing the RCC Act, covered providers who qualify for the safe harbor provisions of section 64.2107(a) will also be exempt from the quality of service requirements of the RCC Act, per new section 262(h) of the Act. Retaining these safe harbor provisions will maintain the incentive for covered providers' to engage in call routing to rural areas that minimizes the use of multiple intermediate providers, a practice that contributes to rural call completion issues. We remind covered providers that safe harbor status can be revoked at any time by the Commission for covered providers that violate Commission rules, or are found to no longer be in compliance with the safe harbor provisions.

51. We decline to institute the amendments to the safe harbor qualifications suggested by Verizon, including allowing the ''*de minimis*'' use of a third intermediate provider during network congestion or outages, and clarifying that the safe harbor applies only to rural LEC destined traffic. We find Verizon's suggestion that we limit the safe-harbor certification to traffic destined to rural LECs contrary to the objective of the safe harbor, which is intended to discourage the use of multiple different intermediate providers. Verizon suggests that we create a presumption that use of an additional intermediate provider for a small percentage (*e.g.,* not more than 3%) of all calls is part of a ''bona fide network overflow arrangement'' and would not invalidate a covered provider's safe-harbor status. Verizon's proposed threshold is based on internal review of its overflow traffic on a single day in December 2013, on which it observed that ''only 0.1% of its traffic on that day went to its overflow provider for termination.'' However, Verizon does not explain how the findings of its single-day study support a 3% *de minimis* threshold for overflow routing applicable to all covered providers, and it acknowledges that other providers ''may have different arrangements for overflow.'' We therefore reject this proposal. Furthermore, codifying these changes to our rules would require the Commission to either set a threshold for congestion, or allow providers to set it themselves, which could undermine the purpose of the safe harbor regime we have established. Allowing covered providers to set their own thresholds could result in a wide range of varying standards that would effectively render the safe harbor meaningless. Alternatively, the Commission setting a congestion threshold would raise the same problems as setting performance thresholds with respect to the monitoring requirement we adopt.

II. Final Regulatory Flexibility Analysis

52. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Second Further Notice of Proposed Rulemaking* (*RCC 2nd FNRPM*) for the Rural Call Completion proceeding. The Commission sought written public comment on the proposals in the *RCC 2nd FNRPM,* including comment on the IRFA. The Commission received no

comments on the IRFA. Because the Commission amends its rules in this *Order,* the Commission has included this Final Regulatory Flexibility Analysis (FRFA). This present FRFA conforms to the RFA.

A. Need for, and Objectives of, the Rules

53. In this Order, we revise our rules to better address ongoing problems in the completion of long-distance telephone calls to rural areas. Specifically, we require covered providers to monitor intermediate provider performance, and eliminate the data reporting requirements created by the Commission in 2013. The requirements we adopt today will be more effective and less burdensome than the prior reporting regime established in the *RCC Order.*

54. All Americans should have confidence that when a call is made to them, they will receive it. But for Americans living in rural or remote areas of the country, too often that is not the case. Call completion problems manifest in a variety of ways—for example, callers may experience false ring tones or busy signals while the called party's phone may never ring at all; or when a call goes through, one or both parties to a call may be unable to hear the other; or the caller ID may show an inaccurate number; or calls to rural numbers may be significantly delayed. Regardless of how the caller and/or called party experiences a call completion problem, the failures have serious repercussions, imposing needless economic and personal costs, and potentially threatening public safety in local communities. We continue to conclude that a key reason for rural call completion issues is that calls to rural areas are often handled by numerous different providers, and that providers' incentives to minimize their intercarrier compensation payments contributes to problems involving carriers blocking or degrading traffic to rural areas.

55. The actions that we take today demonstrate and reflect our continued commitment to solve the ongoing problems in the completion of long-distance telephone calls to rural areas using a multi-faceted approach requiring diverse solutions and aggressive action by all participants in the call completion process. Given our experience collecting and analyzing rural call completion data and addressing rural call completion problems identified by rural consumers, we reorient our existing rural call completion rules to better reflect strategies that have worked to reduce rural call completion problems while at the same time reducing the overall burden of our rules on providers. Our new measures are informed by the record in this proceeding and our investigations of entities that have failed to ensure that calls are appropriately routed and delivered to rural areas.

56. First, we adopt a new rule requiring ''covered providers''—entities that select the initial long-distance route for a large number of lines—to monitor the performance of the ''intermediate providers'' to which they hand off calls. By holding a central party responsible for call completion issues, it will be less likely for calls to ''fall through the cracks'' along a lengthy chain of intermediate providers. The monitoring rule encourages covered providers to ensure that calls are completed, assigns clear responsibility for call completion issues, and enhances our ability to take enforcement action where needed. To facilitate communication about problems that arise, we also require covered providers to make available a point of contact to address rural call completion issues. Our balanced approach ensures that covered providers exercise responsibility for rural call completion without imposing an unduly rigid or burdensome mandate; in addition, it seeks to expedite both the identification and resolution of call completion issues if and when they arise.

57. Next, we eliminate the reporting requirement for covered providers established in 2013 in the *RCC Order.* We conclude that the existing reporting rules are burdensome on covered providers, while the resulting Form 480 reports are of limited utility to us in discovering the source of rural call completion problems and a pathway to their resolution. We further conclude that the monitoring rule we adopt will be more effective than the less-effective-than-hoped reporting obligation because it imposes a direct, substantive obligation.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

58. The Commission did not receive comments specifically addressing the rules and policies proposed in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

59. The Chief Counsel did not file any comments in response to this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

60. The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the final rules adopted pursuant to the *RCC 2nd FNPRM.* 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.

61. *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 comprehensive small entity size standards 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% of all businesses in the United States which translates to 28.8 million businesses.

62. 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.'' Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

63. 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 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and

12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

64. *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. Census data for 2012 shows 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.

65. *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 NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 11 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census 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. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

66. *Incumbent Local Exchange Carriers (incumbent 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 as defined in paragraph 11 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that 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 the rules and policies adopted. One thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

67. *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, as defined in paragraph 11 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census 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 this 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 local exchange services or competitive access provider 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. In addition, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer 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 that may be affected by the adopted rules.

68. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 11 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. According to 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 and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted.

69. *Local Resellers.* The SBA has developed a small business size standard for the category of 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 (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

70. *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. Mobile virtual network operators (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. Census data for 2012 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.

71. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows 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 category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by rules adopted pursuant to the *RCC 2nd FNRPM.*

72. *Prepaid Calling Card Providers.* The SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's Form 499 Filer Database, 500 companies reported that they were engaged in the provision of prepaid calling cards. The Commission does not have data regarding how many of these 500 companies have 1,500 or fewer employees. Consequently, the Commission estimates that there are 500 or fewer prepaid calling card providers that may be affected by the rules.

73. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, 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, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small 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) services. Of this total, an estimated 261 have 1,500 or fewer employees. Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

74. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

75. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

76. *Cable and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA has established a size standard for this industry stating that a business in this industry is small if it has 1,500 or fewer employees. The 2012 Economic Census indicates that 367 firms were operational for that entire year. Of this total, 357 operated with less than 1,000 employees. Accordingly we conclude that a substantial majority of firms in this industry are small under the applicable SBA size standard.

77. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but nine cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

78. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000 are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all

but nine incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

79. *All Other Telecommunications.* ''All Other Telecommunications'' is defined as follows: ''This U.S. industry is comprised of establishments that are 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 voice over internet protocol (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 gross annual receipts of $32.5 million or less. For this category, 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. Consequently, we conclude that the majority of All Other Telecommunications firms can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

80. In this *Order,* we revise our rules to better address ongoing problems in the completion of long-distance telephone calls to rural areas. Specifically, we require covered providers to actively monitor intermediate provider performance, and eliminate the data reporting requirements created by the Commission in 2013.

81. Regarding our monitoring requirements, we require covered providers to monitor the performance of each intermediate provider with which they contract. Required monitoring entails both prospective evaluation to prevent problems and retrospective investigation of any problems that arise. We also require covered providers take steps that are reasonably calculated to correct any identified performance problem with the intermediate provider. Additionally, we specify that covered providers must publish point of contact information for rural call completion issues.

82. Regarding our rural call completion recording, retention, and reporting rules, we eliminate the data reporting requirement. The safe harbor provisions established in the *RCC Order* will remain in effect; covered providers qualifying for the safe harbor will continue to be exempt from the remaining recording and retention requirements.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

83. 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 and reporting requirements under the rules 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.

84. The *Order* adopts reforms that are likely to reduce burdens on covered providers, including small entities. As described in the *Order,* in adopting these reforms, we have sought comment on the impact of our rule changes on smaller providers, and considered significant alternatives. Regarding our intermediate provider monitoring requirement for covered providers, we considered, but declined to adopt, a mandate that covered providers adhere to the standards and best practices outlined in the ATIS *Intercarrier Call Completion/Call Termination Handbook* (ATIS RCC Handbook), finding that mandating the ATIS RCC Handbook best practices could have a chilling effect on future industry cooperation to develop solutions to industry problems, and that covered providers should have the flexibility to determine the standards and methods best suited to their individual networks.

85. Under the monitoring requirement, covered providers must exercise responsibility for the entire intermediate provider call path to help ensure that calls to rural areas are completed. Because ''covered providers'' excludes entities with low call volumes, we expect that covered providers are of sufficient size to negotiate appropriate provisions with any intermediate providers with which they contract. As stated above, although we encourage limiting the use of intermediate providers, we do not impose a rigid cap on the number of intermediate providers. Similarly, we do not mandate that covered providers must contract with all intermediate providers in the call path. In adopting this approach, we considered, but declined to adopt, a requirement that covered providers directly monitor the performance of intermediate providers with which they lack a contractual relationship. Because covered providers must monitor the performance of intermediate providers with which they contract and must ensure that those covered providers take appropriate measures to ensure calls are completed, we find mandating direct covered provider monitoring of the entire call chain unnecessarily burdensome. Regarding our requirement that covered providers provide and maintain point of contact information for rural call completion issues, we find that this is a low-cost measure to facilitate industry collaboration to address call completion issues.

86. Further, we considered, but declined to adopt, specific performance targets or benchmarks for call answer rates, call completion rates, or any other performance metric, or certification or audit requirements in conjunction with the monitoring rule, finding the burdens associated with these approaches to outweigh their likely benefits. For the same reason, after consideration, we declined to adopt a mandate that terminating rural carriers activate an automated test line, or augment trunks used for RCC paths when they reach a monthly utilization rate of 80%.

87. Regarding our recording, retention, and reporting requirements, we find that eliminating the data reporting requirements created by the *RCC Order* is likely to offer a better and more efficient balance between our need for information pertaining to rural call completion problems and the burdens such data collection efforts place on service providers, including any affected small entities. In adopting this approach, we considered, but declined

to adopt, a modified or supplementary data collection requirement, finding that the burdens of such an approach on covered providers would outweigh the likely benefits.

G. Report to Congress

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

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

89. As required by the Regulatory Flexibility Act of 1980, see 5 U.S.C. 604, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules, as proposed, addressed in this Second Report and Order. The FRFA is set forth above. The Commission will send a copy of this Second Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

B. Paperwork Reduction Act

90. This *Second Report and Order* contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA, 44 U.S.C. 3507. OMB, the general public, and other Federal agencies will be invited to comment on the revised information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

91. In this present document, we require covered providers to provide and maintain contact information on their websites a telephone number and email address for the express purpose of receiving and responding promptly to any rural call completion issues. We have assessed the effects of this rule, and find that any burden on small businesses will be minimal because this is a low-cost measure to facilitate industry collaboration to address call completion issues.

92. Congressional Review Act (CRA). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

C. Contact Person

93. For further information about this proceeding, please contact Zach Ross, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C211, 445 12th Street SW, Washington, DC 20554, at (202) 418–1033 or *Zachary.Ross@fcc.gov.*

IV. Ordering Clauses

94. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 201(b), 202(a), 217, 218, 220(a), 251(a), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 217, 218, 220(a), 251(a), and 403, this *Second Report and Order is adopted.*

95. *It is further ordered* that Part 64 of the Commission's rules are amended as set forth in Appendix B.

96. *It is further ordered* that, pursuant to sections 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), this *Second Report and Order shall be effective* 30 days after publication of a summary in the **Federal Register**, except for the addition of section 64.2113 to the Commission's rules, which will become effective upon announcement in the **Federal Register** of Office of Management and Budget (OMB) approval and an effective date of the rules.

97. *It is further ordered* that the Commission *shall send* a copy of this *Second Report and Order* to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

98. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons set forth above, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. Revise the authority citation for part 64 to read as follows:

Authority: 47 U.S.C. 154, 202, 225, 251(e), 254(k), 403(b)(2)(B), (c), 616, 620, Public Law 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, unless otherwise noted.

■ 2. Revise the heading of Subpart V to read as follows:

Subpart V—Rural Call Completion

■ 3. Amend § 64.2101 by adding a definition of ''Rural telephone company'' in alphabetical order to read as follows:

§ 64.2101 Definitions.

* * * * *

Rural telephone company. The term ''rural telephone company'' shall have the same meaning as in § 51.5 of this chapter.

§ 64.2105 [Removed and Reserved]

■ 4. Remove and reserve § 64.2105.

■ 5. Amend § 64.2107 as follows:

■ a. Revise the section heading;

■ b. Revise the first sentence of paragraph (a)(1);

■ c. Remove paragraph (c);

■ d. Redesignate paragraph (d) as new paragraph (c), to

The revision reads as follows:

§ 64.2107 Reduced recording and retention requirements for qualifying providers under the Safe Harbor.

(a)(1) A covered provider may reduce its recording and retention requirements under § 64.2103 if it files one of the following certifications, signed by an officer or director of the covered provider regarding the accuracy and completeness of the information provided, in WC Docket No. 13–39.

* * * * *

§ 64.2109 [Removed and Reserved]

■ 6. Remove and reserve § 64.2109.

■ 7. Add § 64.2111 to subpart V to read as follows:

§ 64.2111 Covered provider rural call completion practices.

For each intermediate provider with which it contracts, a covered provider shall:

(a) Monitor the intermediate provider's performance in the completion of call attempts to rural telephone companies from subscriber lines for which the covered provider makes the initial long-distance call path choice; and

(b) Based on the results of such monitoring, take steps that are reasonably calculated to correct any identified performance problem with the intermediate provider, including removing the intermediate provider from a particular route after sustained inadequate performance.

■ 8. Add § 64.2113 to subpart V to read as follows:

§ 64.2113 Covered provider point of contact.

Covered providers shall make publicly available contact information for the receipt and handling of rural call completion issues. Covered providers must designate a telephone number and email address for the express purpose of receiving and responding to any rural call completion issues. Covered providers shall include this information on their websites, and the required contact information must be easy to find and use. Covered providers shall keep this information current and update it to reflect any changes within ten (10) business days. Covered providers shall ensure that any staff reachable through this contact information has the technical capability to promptly respond to and address rural call completion issues. Covered providers must respond to communications regarding rural call completion issues via the contact information required under this rule as soon as reasonably practicable and, under ordinary circumstances, within a single business day.

[FR Doc. 2018–09969 Filed 5–9–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 170601529–8177–0]

RIN 0648–BG90

2018 Annual Determination To Implement the Sea Turtle Observer Requirement

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

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its final Annual Determination (AD) for 2018, pursuant to its authority under the Endangered Species Act (ESA). Through the AD, NMFS identifies U.S. fisheries operating in the Atlantic Ocean, Gulf of Mexico, and Pacific Ocean that will be required to take fisheries observers upon NMFS' request. The purpose of observing identified fisheries is to learn more about sea turtle interactions in a given fishery, evaluate measures to prevent or reduce sea turtle takes and to implement the prohibition against sea turtle takes. Fisheries identified on the 2018 AD (see Table 1) will be eligible to carry observers as of the effective date of this rulemaking, and will remain on the AD for a five-year period until December 31, 2022.

DATES: Effective June 9, 2018.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for a listing of all Regional Offices.

FOR FURTHER INFORMATION CONTACT: Sara Wissmann, Office of Protected Resources, (301) 427–8402; Ellen Keane, Greater Atlantic Region, (978) 282–8476; Dennis Klemm, Southeast Region, (727) 824–5312; Dan Lawson, West Coast Region, (206) 526–4740; Irene Kelly, Pacific Islands Region, (808) 725–5141. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1 (800) 877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Availability of Published Materials

Information regarding the Marine Mammal Protection Act (MMPA) List of Fisheries (LOF) may be obtained at *http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html* or from any NMFS Regional Office at the addresses listed below:

- NMFS, Greater Atlantic Region, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930;
- NMFS, Southeast Region, Protected Resources Division, 263 13th Avenue South, St. Petersburg, FL 33701;
- NMFS, West Coast Region, Protected Resources Division, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802;
- NMFS, Pacific Islands Region, Protected Resources Division, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Purpose of the Sea Turtle Observer Requirement

Under the ESA, 16 U.S.C. 1531 *et seq.,* NMFS has the responsibility to implement programs to conserve marine life listed as endangered or threatened. All sea turtles found in U.S. waters are listed as either endangered or threatened under the ESA. Kemp's ridley (*Lepidochelys kempii*), loggerhead (*Caretta caretta;* North Pacific distinct population segment), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles are listed as endangered. Loggerhead (*Caretta caretta;* Northwest Atlantic distinct population segment), green (*Chelonia mydas;* North Atlantic, South Atlantic, and East Pacific distinct population segments), and olive ridley (*Lepidochelys olivacea*) sea turtles are listed as threatened, except for breeding colony populations of olive ridleys on the Pacific coast of Mexico, which are listed as endangered. Due to the inability to distinguish between populations of olive ridley turtles away from the nesting beach, NMFS considers these turtles endangered wherever they occur in U.S. waters. While some sea turtle populations have shown signs of recovery, many populations continue to decline.

Incidental take, or bycatch, in fishing gear is the primary anthropogenic source of sea turtle injury and mortality in U.S. waters. Section 9 of the ESA prohibits the take (defined to include harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting or attempting to engage in any such conduct), including incidental take, of endangered sea turtles. Pursuant to section 4(d) of the ESA, NMFS has issued regulations extending the prohibition of take, with exceptions, to threatened sea turtles (50 CFR 223.205 and 223.206). Section 11 of the ESA provides for civil and criminal penalties for anyone who violates the Act or a regulation issued to implement the Act. NMFS may grant exceptions to