

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
<b>Maps available for inspection</b> at the Lexington County Planning Department, 212 South Lake Drive, 5th Floor, Administration Building, Lexington, South Carolina.	
<b>Pine Ridge (Town), Lexington County (FEMA Docket No. 7271)</b>	
<i>Congaree Creek:</i>	
Approximately 1,750 feet downstream of confluence with Savana Bridge .....	*143
Approximately 600 feet downstream of Southern Railway bridge .....	*148
<i>First Creek:</i>	
Approximately 1,125 feet downstream of Dogwood Road .....	*168
Approximately 320 feet upstream of Dogwood Road .....	*173
<i>Savana Branch:</i>	
At confluence with Congaree Creek .....	*144
Approximately 650 feet downstream of Old Dunbar Road .....	*147
<b>Maps available for inspection</b> at the Pine Ridge Town Hall, 1200 Fish Hatchery Road, West Columbia, South Carolina.	
<b>South Congaree (Town), Lexington County (FEMA Docket No. 7271)</b>	
<i>Congaree Creek:</i>	
Approximately 1,775 feet upstream of Southern Railway .....	*151
Approximately 1,150 feet upstream of the confluence of Red Bank Creek .....	*165
<i>First Creek:</i>	
At confluence with Congaree Creek .....	*152
Approximately 400 feet downstream of Dogwood Road .....	*170
<i>Red Bank Creek:</i>	
At confluence with Congaree Creek .....	*164
<b>Maps available for inspection</b> at the South Congaree Town Hall, 119 West Berry Road, West Columbia, South Carolina.	
<b>TENNESSEE</b>	
<b>Decatur County (Unincorporated Areas) (FEMA Docket No. 7279)</b>	
<i>Tennessee River:</i>	
Upstream county boundary ...	*374
At confluence of Rockets Creek .....	*376
At confluence of Cub Creek .....	*377
At confluence of Lick Creek ..	*377
At confluence of Beech River ..	*380
At confluence of Whites Creek .....	*383
At confluence of Turnbo Creek .....	*391
At confluence of Stewman Creek .....	*391

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At confluence of Doe Creek Downstream county boundary .....	*392
<b>Maps available for inspection</b> at the Decatur County Courthouse, County Executive Office, 22 Main Street, Decaturville, Tennessee.	*393
<b>VIRGINIA</b>	
<b>Halifax (Town), Halifax County (FEMA Docket No. 7283)</b>	
<i>Banister Lake:</i>	
Approximately 120 feet downstream of downstream corporate limit .....	*365
At the upstream corporate limit .....	*365
<b>Maps available for inspection</b> at the Halifax Town Hall, 70 Main Street, Halifax, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: September 27, 1999.

**Michael J. Armstrong,**  
*Associate Director for Mitigation.*

[FR Doc. 99-25802 Filed 10-4-99; 8:45 am]

BILLING CODE 6718-04-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CC Docket No. 96-115; FCC 99-227]

### Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document establishes rules to implement section 222(e) by requiring all telecommunications carriers to provide subscriber list information gathered in their capacity as providers of telephone exchange service to any person upon request for the purpose of publishing directories in any format, including Internet directories. The intended effect is to further Congress's goals of preventing unfair local exchange carrier (LEC) practices and encouraging the development of competition in directory publishing. **DATES:** Effective December 14, 1999. Written comments by the public on the information collection requirements are due November 4, 1999. OMB must submit written comments on the information collection requirements on or before December 6, 1999.

**FOR FURTHER INFORMATION CONTACT:** William A. Kehoe, Special Counsel, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580 or via the Internet at [bkehoe@fcc.gov](mailto:bkehoe@fcc.gov). Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202-418-0484. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order adopted August 23, 1999, and released September 9, 1999. The full text of this Third Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Room CY-A257, Washington, DC The complete text also may be obtained through the World Wide Web, at <http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc99227.wp>, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th St., NW, Washington, DC 20036. This Order contains information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. The general public and other federal agencies are invited to comment on the information collections contained in this proceeding.

### Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, the Order contains a Final Regulatory Flexibility Analysis which is set forth in an Appendix to the Order. A brief description of the analysis follows. Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the Order with regard to small entities. This analysis includes: (1) A succinct statement of the need for, and objectives of, the Commission's decisions in the Order; (2) A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the Commission's assessment of these issues, and a statement of any changes made in the Order as a result of the comments; (3) A description of and an estimate of the number of small entities to which the Order will apply; (4) A description of the projected reporting, recordkeeping and other compliance

requirements of the Order, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; (5) A description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the Order and why each one of the other significant alternatives to each of the Commission's decisions which affect small entities was rejected.

### Paperwork Reduction Act

This Order contains new and modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law 104-12. Persons wishing to comment on the information collections should submit comments on or before November 4, 1999. Comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the

information shall have practical utility; (b) The accuracy of the Commission's burden estimates; (c) Ways to enhance the quality, utility, and clarity of the information collected; and (d) Ways to minimize the burden of the collection of information on the respondents including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060-0715.

Title: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information.

Form No.: N/A.

Type of Review: Revised collection.

Information collection	No. of respondents (approx.)	Estimated time per response	Total annual burden
Provision of Subscriber List Information .....	2,000	2 hours (10 responses per year) .....	20,000
Notifications .....	1,000	.5 .....	500
Cost Study .....	100	100 .....	10,000
Certification .....	2,000	.5 .....	1,000
Disclosure of Contract Rates, Terms, and Conditions	2,000	.5 hours (2 responses per year) .....	2,000

**Total Annual Burden:** 33,500 hours  
**Respondents:** Businesses or other for-profit.

**Estimated costs per respondent:** \$0.

**Needs and Uses:** The Commission, in compliance with section 222(e) of the Communications Act, promulgates rules in this Order to further Congress' goals of preventing unfair LEC practices in relation to subscriber list information and of encouraging the development of competition in directory publishing. Our clarification and particularization of the obligations imposed on carriers by section 222(e) is necessary to achieve Congress' goals in relation to subscriber list information. This approach should reduce confusion and potential controversy with minimal burdens on carriers and directory publishers, many of whom are small businesses.

### Synopsis of Order

1. In this *Third Report and Order*, we require all telecommunications carriers to provide subscriber list information gathered in their capacity as providers of telephone exchange service to any person upon request for the purpose of publishing directories in any format, including Internet directories. We also define subscriber list information as "the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service) or any combination of such listed names, numbers, addresses, or classifications

\* \* \* that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format."

2. Not only LECs, but all telecommunications carriers, including interexchange carriers, cable operators, and other competitive LECs, must provide subscriber list information gathered in their capacity as providers of telephone exchange service to any person upon request for the purpose of publishing directories. Only the carrier that provides a subscriber with telephone exchange service is obligated to provide a particular telephone subscriber's subscriber list information. A carrier need not provide subscriber list information to requesting directory publishers pursuant to section 222(e) unless the carrier gathered that information in its capacity as a provider of telephone exchange service.

3. The definition of subscriber list information we adopt includes primary advertising classifications only if they are "assigned at the time of the establishment" of telephone exchange service. A primary advertising classification is assigned at the time of the establishment of telephone exchange service if the carrier that provides telephone exchange service assigns the classification or if a tariff or State requirement obligates the carrier to provide yellow pages listings as part of telephone exchange service to businesses.

4. Carriers are obligated to provide updated subscriber list information to

requesting directory publishers. For subscribers that have multiple telephone numbers, a carrier must provide requesting directory publishers with each telephone number that it has published, caused to be published, or accepted for publication in a directory.

5. Each carrier that gathers subscriber list information in its capacity as a provider of telephone exchange service is obligated to provide that information to requesting directory publishers at the same rates, terms, and conditions that the carrier provides the information to its own directory publishing operation, its directory publishing affiliate, or other directory publishers.

6. We also require each carrier that is subject to section 222(e) to make available to requesting directory publishers any written contracts that it has executed for the provision of subscriber list information for directory publishing purposes to itself, an affiliate, or an entity that publishes directories on the carrier's behalf. In addition, to the extent any of a carrier's rates, terms, and conditions for providing subscriber list information for those operations are not set forth in a written contract, the carrier must keep a written record of, and make available to requesting directory publishers, those rates, terms, and conditions. Upon request, the carrier shall also provide these contracts and this information to this Commission. A carrier must not restrict a directory publisher's choice of directory format.

7. A carrier must provide subscriber list information at the time requested by the directory publisher, provided that the directory publisher has given at least thirty days advance notice and the carrier's internal systems permit the request to be filled within that time frame. We require carriers to unbundle subscriber list information, including updates, on any basis requested by a directory publisher that the carrier's internal systems can accommodate. A carrier, in addition, must not require directory publishers to purchase any product or service other than subscriber list information as a condition of obtaining subscriber list information. In unbundling subscriber list information for directory publishers, however, the carrier shall not disclose customer proprietary network information except as permitted by sections 222(c) and (d) of the Communications Act and our implementing rules. Upon request, a carrier that has received at least thirty days advance notice also must provide subscriber list information on any periodic basis that the carrier's internal systems can accommodate.

8. If the carrier's systems cannot accommodate the delivery schedule, the level of unbundling, or the format requested by a directory publisher, the carrier must inform the directory publisher of that fact, tell the publisher which delivery schedules, unbundling levels, or formats can be accommodated, and adhere to the schedule, unbundling level, or format the publisher chooses from among those available. The carrier must provide this information within thirty days of when it receives the publisher's request. If this process results in the provision of listings in addition to those the directory publisher requested, the carrier may impose charges for, and the directory publisher may publish, only the requested listings. A carrier, in addition, must not require directory publishers to purchase any product or service other than subscriber list information as a condition of obtaining subscriber list information.

9. If a carrier finds that it cannot accommodate all of a group of multiple or conflicting requests for subscriber list information within the specified time frames, the carrier shall respond to those requests on a nondiscriminatory basis. The carrier shall inform each affected directory publisher of the conflicting requests within thirty days of when it receives the publisher's request. Within that thirty-day period, the carrier also shall inform each affected directory publisher how it intends to resolve the conflict and the schedule on which it intends to provide

subscriber list information to each publisher.

10. In future disputes regarding the sufficiency of a carrier's internal subscriber list information systems, the burden will be on the carrier to show that those systems cannot accommodate the delivery schedule, unbundling level, and format the directory publisher requests.

11. We require carriers to provide requesting directory publishers with notice of changes in subscriber list information to the extent those changes reflect customers' decisions to cease having particular telephone numbers listed.

12. Based on the record before us, we conclude that \$0.04 per listing is a presumptively reasonable rate for base file subscriber list information, as defined below, and that \$0.06 per listing is a presumptively reasonable rate for other subscriber list information, including updates, that carriers provide directory publishers. We do not preclude a carrier from charging subscriber list information rates different from these presumptively reasonable rates. However, any carrier whose rates exceed either of these rates should be prepared to provide cost data and all other relevant information justifying the higher rate in the event a directory publisher files a complaint regarding that rate pursuant to section 208 of the Communications Act. Absent credible and verifiable data showing that the carrier's costs, including a reasonable profit, exceed the applicable presumptively reasonable rate, the Bureau or the Commission, depending on the circumstances, shall conclude that the rate is unreasonable and award damages accordingly.

13. In the event a directory publisher files a complaint regarding a carrier's subscriber list information rates, the carrier must present a cost study providing credible and verifiable cost data to justify each challenged rate. This cost study must clearly and specifically identify and justify:

a. *Incremental Costs.* Each specific function the carrier performs solely to provide subscriber list information to the complainant; and the incremental costs the carrier incurs in performing each of these specific functions.

b. *Common Costs.* The cost the carrier incurs in creating and maintaining its subscriber list information database and the methods the carrier uses to allocate that cost among supported services.

c. *Overheads.* Any other costs the carrier incurs to support its provision of subscriber list information to the complainant; the other activities those

costs support; and the methods the carrier uses to allocate those costs.

d. *Other Information.* The projected average number of listings the carrier provides to directory publishers and, if applicable, to other entities in a year; the rate of return on investment and depreciation costs the carrier uses in calculating its subscriber list information rates; and any other information necessary to make clear the carrier's costing process. The carrier should provide this information separately for both base file and updated subscriber list information if the complainant challenges both types of rates. We also expect the carrier to describe how its methods for allocating common costs compare to those the carrier uses in other contexts. In the absence of cost data showing that the carrier's costs exceed the presumptively reasonable rates, the Bureau or the Commission, depending on the circumstances, shall find in favor of the plaintiff, and award damages accordingly.

14. We require that directory publishers be allowed to purchase updated subscriber list information rather than having to repurchase a carrier's entire subscriber list information database each time the publisher wishes to update its own database.

15. Carriers may require directory publishers to certify that they will use subscriber list information obtained pursuant to section 222(e) only for directory publishing purposes. The certification may be either oral or written, at the carrier's option.

16. After consideration of possible alternatives, we conclude in the *Third Report and Order* that our clarification and particularization of the obligations imposed on carriers by section 222(e) is necessary to achieve Congress' goals in relation to subscriber list information. Our decision to act in this *Third Report and Order*, rather than exclusively through case-by-case adjudication, will reduce confusion and potential controversy with minimal burdens on carriers and directory publishers, many of whom are small entities.

17. As indicated above, our actions in this *Third Report and Order* will affect both carriers and directory publishers that, for purposes of the FRFA, we assume are classified as small entities. The record in this proceeding reflects the carriers' and directory publishers' conflicting views as to the meaning of the statutory language and, in particular, as to the application of statutory terms, such as "timely" and "reasonable," to specific situations. The record also makes clear that these disputes may

have prevented full realization of Congress' goals of preventing unfair carrier practices in relation to subscriber list information and encouraging the development of competition in directory publishing.

18. In resolving these disputes, we have considered significant alternatives, such as allowing value-based rates for subscriber list information carriers provide directory publishers. In choosing among the various alternatives, we have sought to minimize the adverse economic impact on carriers, including those that are small entities. We recognize, however, that Congress intended section 222(e) to prevent carriers from deriving economic benefits from refusing to provide subscriber list information on a timely and unbundled basis, charging discriminatory or unreasonable rates for that information, or imposing discriminatory or unreasonable terms or conditions in connection with the provision of that information. In implementing that section, we have sought to eliminate those benefits.

19. As discussed in this *Third Report and Order*, we recognize that the ability of independent directory publishers to improve customer service and to develop new products is dependent on telecommunications carriers' understanding and complying with their obligations under section 222(e). Many independent directory publishers are small, entrepreneurial businesses. Our actions in this *Third Report and Order* will benefit these directory publishers by facilitating their directory publishing operations. Those actions also will eliminate barriers to entering the directory publishing market, and thus benefit small entities as they take that step. In general in this *Third Report and Order*, we have attempted to implement section 222(e) in a manner that keeps burdens on carriers to a minimum while ensuring that directory publishers, including new entrants, are able to compete based on the quality of their directories. We believe that this *Third Report and Order* furthers our commitment to minimizing regulatory burdens on small entities in accordance with statutory requirements.

20. Accordingly, it is ordered that, pursuant to the authority contained in §§ 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f)(3), 251, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222(e), 222(f)(3), 303(r), and 403, the Third Report and Order is adopted.

21. It is further ordered that, pursuant to the authority contained in §§ 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f)(3),

303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 208, 222(e), 222(f)(3), 303(r), and 403, Part 64 of the Commission's rules, 47 CFR Part 64, is amended, as set forth below.

22. It is further ordered that, pursuant to the authority contained in §§ 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f)(3), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 208, 222(e), 222(f)(3), 303(r), and 403, and section 1.427 of the Commission's Rules, 47 CFR 1.427, that the requirements and rules adopted in the Third Report and Order shall be effective December 14, 1999, since the rules contain information collection requirements that are contingent on approval by the OMB.

23. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Third Report and Order, including the associated Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 605(b) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

#### List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

**Magalie Roman Salas,**  
Secretary.

#### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 64 as follows:

#### PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

**Authority:** 47 U.S.C. 1–5, 7, 201–05, 222.

2. Part 64 is amended by adding Subpart X to read as follows:

#### Subpart X—Subscriber List Information

- 64.2301 Basis and purpose.
- 64.2305 Definitions.
- 64.2309 Provision of subscriber list information.
- 64.2313 Timely basis.
- 64.2317 Unbundled basis.
- 64.2321 Nondiscriminatory rates, terms, and conditions.
- 64.2325 Reasonable rates, terms, and conditions.
- 64.2329 Format.
- 64.2333 Burden of proof.
- 64.2337 Directory publishing purposes.
- 64.2341 Record keeping.
- 64.2345 Primary advertising classification.

#### Subpart X—Subscriber List Information

##### § 64.2301 Basis and purpose.

(a) *Basis.* These rules are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of these rules is to implement section 222(e) of the Communications Act of 1934, as amended, 47 U.S.C. 222. Section 222(e) requires that “a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.”

##### § 64.2305 Definitions.

Terms used in this subpart have the following meanings:

(a) *Base file subscriber list information.* A directory publisher requests base file subscriber list information when the publisher requests, as of a given date, all of a carrier's subscriber list information that the publisher wishes to include in one or more directories.

(b) *Business subscriber.* Business subscriber refers to a subscriber to telephone exchange service for businesses.

(c) *Primary advertising classification.* A primary advertising classification is the principal business heading under which a subscriber to telephone exchange service for businesses chooses to be listed in the yellow pages, if the carrier either assigns that heading or is obligated to provide yellow pages listings as part of telephone exchange service to businesses. In other circumstances, a primary advertising classification is the classification of a subscriber to telephone exchange service as a business subscriber.

(d) *Residential subscriber.* Residential subscriber refers to a subscriber to telephone exchange service that is not a business subscriber.

(e) *Subscriber list information.* Subscriber list information is any information:

(1) Identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(2) That the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

(f) *Telecommunications carrier.* A telecommunications carrier is any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in 47 U.S.C. 226(a)(2)).

(g) *Telephone exchange service.* Telephone exchange service means:

(1) Service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or

(B) Comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

(h) *Updated subscriber list information.* A directory publisher requests updated subscriber list information when the publisher requests changes to all or any part of a carrier's subscriber list information occurring between specified dates.

**§ 64.2309 Provision of subscriber list information.**

(a) A telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

(b) The obligation under paragraph (a) to provide a particular telephone subscriber's subscriber list information extends only to the carrier that provides that subscriber with telephone exchange service.

**§ 64.2313 Timely basis.**

(a) For purposes of § 64.2309, a telecommunications carrier provides subscriber list information on a timely basis only if the carrier provides the requested information to the requesting directory publisher either:

(1) At the time at which, or according to the schedule under which, the directory publisher requests that the subscriber list information be provided;

(2) When the carrier does not receive at least thirty days advance notice of the time the directory publisher requests that subscriber list information be

provided, on the first business day that is at least thirty days from date the carrier receives that request; or

(3) At a time determined in accordance with paragraph (b) of this section.

(b) If a carrier's internal systems do not permit the carrier to provide subscriber list information within either of the time frames specified in paragraph (a)(1) of this section, the carrier shall:

(1) Within thirty days of receiving the publisher's request, inform the directory publisher that the requested schedule cannot be accommodated and tell the directory publisher which schedules can be accommodated; and

(2) Adhere to the schedule the directory publisher chooses from among the available schedules.

**§ 64.2317 Unbundled basis.**

(a) A directory publisher may request that a carrier unbundle subscriber list information on any basis for the purpose of publishing one or more directories.

(b) For purposes of § 64.2309, a telecommunications carrier provides subscriber list information on an unbundled basis only if the carrier provides:

(1) The listings the directory publisher requests and no other listings, products, or services; or

(2) Subscriber list information on a basis determined in accordance with paragraph (c) of this section.

(c) If the carrier's internal systems do not permit it unbundle subscriber list information on the basis a directory publisher requests, the carrier must:

(1) Within thirty days of receiving the publisher's request, inform the directory publisher that it cannot unbundle subscriber list information on the requested basis and tell the directory publisher the bases on which the carrier can unbundle subscriber list information; and

(2) In accordance with paragraph (d) of this section, provide subscriber list information to the directory publisher unbundled on the basis the directory publisher chooses from among the available bases.

(d) If a carrier provides a directory publisher listings in addition to those the directory publisher requests, the carrier may impose charges for, and the directory publisher may publish, only the requested listings.

(e) A carrier must not require directory publishers to purchase any product or service other than subscriber list information as a condition of obtaining subscriber list information.

**§ 64.2321 Nondiscriminatory rates, terms, and conditions.**

For purposes of § 64.2309, a telecommunications carrier provides subscriber list information under nondiscriminatory rates, terms, and conditions only if the carrier provides subscriber list information gathered in its capacity as a provider of telephone exchange service to a requesting directory publisher at the same rates, terms, and conditions that the carrier provides the information to its own directory publishing operation, its directory publishing affiliate, or other directory publishers.

**§ 64.2325 Reasonable rates, terms, and conditions.**

(a) For purposes of § 64.2309, a telecommunications carrier will be presumed to provide subscriber list information under reasonable rates if its rates are no more than \$0.04 a listing for base file subscriber list information and no more than \$0.06 a listing for updated subscriber list information.

(b) For purposes of § 64.2309, a telecommunications carrier provides subscriber list information under reasonable terms and conditions only if the carrier does not restrict a directory publisher's choice of directory format.

**§ 64.2329 Format.**

(a) A carrier shall provide subscriber list information obtained in its capacity as a provider of telephone exchange service to a requesting directory publisher in the format the publisher specifies, if the carrier's internal systems can accommodate that format.

(b) If a carrier's internal systems do not permit the carrier to provide subscriber list information in the format the directory publisher specifies, the carrier shall:

(1) Within thirty days of receiving the publisher's request, inform the directory publisher that the requested format cannot be accommodated and tell the directory publisher which formats can be accommodated; and

(2) Provide the requested subscriber list information in the format the directory publisher chooses from among the available formats.

**§ 64.2333 Burden of proof.**

(a) In any future proceeding arising under section 222(e) of the Communications Act or § 64.2309, the burden of proof will be on the carrier to the extent it claims its internal subscriber list information systems cannot accommodate the delivery time, delivery schedule, unbundling level, or format requested by a directory publisher.

(b) In any future proceeding arising under section 222(e) of the Communications Act or § 64.2309, the burden of proof will be on the carrier to the extent it seeks a rate exceeding \$0.04 per listing for base file subscriber list information or \$0.06 per listing for updated subscriber list information.

#### § 64.2337 Directory publishing purposes.

(a) Except to the extent the carrier and directory publisher otherwise agree, a directory publisher shall use subscriber list information obtained pursuant to section 222(e) of the Communications Act or § 64.2309 only for the purpose of publishing directories.

(b) A directory publisher uses subscriber list information "for the purpose of publishing directories" if the publisher includes that information in a directory, or uses that information to determine what information should be included in a directory, solicit advertisers for a directory, or deliver directories.

(c) A telecommunications carrier may require any person requesting subscriber list information pursuant to section 222(e) of the Communications Act or § 64.2309 to certify that the publisher will use the information only for purposes of publishing a directory.

(d) A carrier must provide subscriber list information to a requesting directory publisher even if the carrier believes that the directory publisher will use that information for purposes other than or in addition to directory publishing.

#### § 64.2341 Record keeping.

(a) A telecommunications carrier must retain, for at least one year after its expiration, each written contract that it has executed for the provision of subscriber list information for directory publishing purposes to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

(b) A telecommunications carrier must maintain, for at least one year after the carrier provides subscriber list information for directory publishing purposes to itself, an affiliate, or an entity that publishes directories on the carrier's behalf, records of any of its rates, terms, and conditions for providing that subscriber list information which are not set forth in a written contract.

(c) A carrier shall make the contracts and records described in paragraphs (a) and (b) of this section available, upon request, to the Commission and to any directory publisher that requests those contracts and records for the purpose of publishing a directory.

#### § 64.2345 Primary advertising classification.

A primary advertising classification is assigned at the time of the establishment of telephone exchange service if the carrier that provides telephone exchange service assigns the classification or if a tariff or State requirement obligates the carrier to provide yellow pages listings as part of telephone exchange service to businesses.

[FR Doc. 99-25648 Filed 10-4-99; 8:45 am]

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### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 092299D]

#### Atlantic Highly Migratory Species (HMS) Fisheries; Large Coastal Shark Fishery; Season Adjustments

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

**ACTION:** Postponement of closure; fishing season notification.

**SUMMARY:** NMFS has determined that the large coastal shark (LCS) commercial fishery quota for the second semiannual fishing season has not been reached. Therefore, NMFS notifies eligible participants that the commercial fishery for LCS in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, which was scheduled to close September 30, 1999, at 11:30 p.m. local time, has been extended to October 15, 1999, at 11:30 p.m. local time. Both the ridgeback and non-ridgeback sectors of the LCS fishery will remain open until the issued closure date. This action is necessary to ensure adequate opportunity for eligible fishery participants to harvest the available quota and to ensure that the adjusted semiannual quota for LCS for the period July 1 through December 31, 1999, is not exceeded.

**DATES:** The commercial fishery for LCS will close on October 15, 1999, at 11:30 p.m. local time and will remain closed through December 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** Margo Schulze or Steve Meyers, 301-713-2347; fax 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fishery is managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks

(HMS FMP), and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

On June 30, 1999, the NMFS received a Court Order from Judge Steven D. Merryday relative to the May, 1997, lawsuit challenging commercial harvest quotas for Atlantic sharks. Specifically, the court forbid NMFS from enforcing the 1999 regulations, 64 FR 29090 (May, 28, 1999) on Atlantic shark commercial catch quotas and fish-counting methods (including the counting of dead discards and state commercial landings after federal closures) that are different from the quotas and fish counting methods prescribed by the 1997 Atlantic shark regulations, 62 FR 16648 (April 7, 1997). Therefore, the LCS quota reverted to its 1997 level of 1,285 metric tons dressed weight (all species of LCS included), with no minimum size on ridgeback LCS, the pelagic and small coastal shark quotas also revert to their 1997 levels, the 1997 prohibited species list now applies in commercial fisheries only (five prohibited species: white, basking, whale, sand tiger and bigeye sand tiger). The limited access provisions do still apply, however, including trip limits for directed and incidental shark permit holders.

The annual commercial quota of LCS to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters is apportioned between two equal semiannual fishing seasons. The second semiannual quota for LCS of 642 metric tons dressed weight (mt dw) was reduced by the overharvest of 57 mt dw in the first semiannual fishing season such that 585 mt dw were available for harvest for the semiannual period beginning July 1, 1999. The second semiannual fishing season was opened July 1, 1999 and closed on July 28, 1999 (64 FR 37883, July 14, 1999), with 306.5 mt dw of the LCS quota remaining unharvested. On September 1, 1999, the fishing season was again opened through September 30, 1999 (64 FR 47713, September 1, 1999) to allow fishing participants to harvest the remaining quota.

Dealer reports and state landings summaries for the period July 1 through September 15, 1999, indicate that approximately 375 mt dw of the available second semiannual LCS subquota of 585 mt dw have been harvested. Given a catch rate of approximately 62.5 mt dw per week, NMFS believes that the available quota of 210 mt dw should be attained by October 15, 1999. Extending the season for 2 more weeks should allow adequate