



# PUBLIC NOTICE

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## WIRELINE COMPETITION BUREAU SEEKS COMMENT ON POTENTIAL WAIVER OF SECTION 52.13 OF THE COMMISSION'S RULES WITH RESPECT TO AREA CODES 207 AND 701

CC Docket No. 99-200

**Comments Due: March 11, 2022**

**Reply Comments Due: March 28, 2022**

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment on whether the public interest would be served if the Bureau were to issue a waiver that would forestall exhaustion of the single area codes used in Maine and North Dakota, area codes 207 and 701, respectively. We expect this waiver to slow number utilization in these areas, which will allow sufficient time for consideration of petitions filed by the Maine Public Utilities Commission (Maine PUC) and North Dakota Public Service Commission (North Dakota PSC). Concurrent with this Public Notice, the Bureau is undertaking consideration of ITN pooling trials proposed by the Maine PUC and the North Dakota PSC, by directing the expert North American Numbering Council (NANC) to report on the feasibility of ITN pooling trials, including technical, operational, and cost considerations.<sup>1</sup>

### I. INTRODUCTION AND BACKGROUND

One of the Commission's primary goals in exercising its jurisdiction over numbering matters pursuant to section 251(e) of the Communications Act of 1934, as amended (Act), is "to ensure that the limited numbering resources of the [North American Numbering Plan (NANP)] are used efficiently, to protect customers from the expense and inconvenience that result from the implementation of new area codes."<sup>2</sup> Further, the Commission has noted, "[i]nefficient use of numbering resources speeds the exhaust of area codes, imposing on carriers and customers alike the burdens and costs of implementing new area codes."<sup>3</sup> The Commission has taken a number of "area code relief" steps to slow the exhaust of existing area codes, also known as Numbering Plan Areas (NPAs), such as instituting the assignment of telephone numbers to service providers in blocks of 1,000 instead of entire central office codes of 10,000 numbers.<sup>4</sup>

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<sup>1</sup> See Letter from Kris Monteith, Chief, Wireline Competition Bureau, FCC, to Hon. Karen Charles Peterson, Chairwoman, North American Numbering Council (Feb. 9, 2022), <https://www.fcc.gov/about-fcc/advisory-committees/north-american-numbering-council/general/nanc-working-groups>.

<sup>2</sup> *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7577, para. 1 (2000) (*Numbering Resource Optimization First Report and Order*).

<sup>3</sup> Second Report and Order, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, CC Docket Nos. 96-98 and 99-200, 16 FCC Rcd 306, 310, para. 4 (2000) (*Numbering Resource Optimization Second Report and Order*). Moreover, "[i]t also shortens the life of the NANP as a whole." *Id.*

<sup>4</sup> See, e.g., *Numbering Resource Optimization Second Report and Order*, 16 FCC Rcd at 311, paras. 6-7.

Both the Maine PUC and North Dakota PSC seek to participate in trials of individual telephone number pooling (ITN pooling), which involve a numbering administrator<sup>5</sup> assigning telephone numbering resources one telephone number at a time, rather than at the current pooling level—blocks of 1,000 numbers.<sup>6</sup> Proponents of such trials argue that ITN pooling may meaningfully extend the life of affected area codes.<sup>7</sup>

At present, however, the NANPA projects the Maine and North Dakota area codes to be exhausted in the first quarter of 2025 and third quarter of 2026, respectively.<sup>8</sup> Due to the projected exhaust dates, it may not be possible for the Bureau to fully consider the ITN pooling trial proposals (as informed by the requested NANC report). This is due to the preparations necessary for any approved trials, and the amount of time needed for such trials to allow for any measurable effect.<sup>9</sup>

Therefore, to create sufficient time for the Bureau to consider these trials, and, if approved, for them to be conducted, the Bureau seeks comment on whether it should, on its own motion,<sup>10</sup> conditionally waive sections 52.13(b), (b)(3), and (d) with respect to the Maine and North Dakota area codes for a

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<sup>5</sup> The pertinent functions would likely be most similar to those of the Pooling Administrator. The Pooling Administrator functions are now combined with the North American Numbering Plan Administrator (NANPA) under a single Commission contract. *See* FCC Selects SomosGov as Next Telephone Number Administrator and Reassigned Numbers Database Administrator (Dec. 1, 2020), <https://docs.fcc.gov/public/attachments/DOC-368493A1.pdf>.

<sup>6</sup> Petition by the Maine Public Utilities Commission for Additional Delegated Authority to Implement Number Optimization Measures in the 207 Area Code and Comments in Support of the Petition by the New Hampshire Public Utilities Commission for Additional Delegated Authority to Implement Number Optimization Measures in the 603 Area Code, CC Docket 99-200 (filed June 26, 2019), <https://ecfsapi.fcc.gov/file/10626976401465/2019-06-26%20MPUC%20Letter%20to%20FCC%2099-200.pdf> (Maine ITN Trial Petition); Petition by the North Dakota Public Service Commission for Additional Delegated Authority to Implement Number Optimization Measures in the 701 Area Code and Comments in Support of the Petition by the New Hampshire Public Utilities Commission and Maine Public Utilities Commission For Additional Delegated Authority to Implement Number Optimization Measures, CC Docket No. 99-200 (filed Sept. 10, 2020), <https://ecfsapi.fcc.gov/file/10915001409941/doc02766620210915094250.pdf> (North Dakota ITN Trial Petition). The Bureau sought comment on the Maine ITN Trial Petition, as well as on a related petition filed by the Maine PUC. Petition of the Maine Public Utilities Commission to Direct the North American Numbering Plan Administrator to Report on the Technical, Operational, and Cost Requirements to Implement Number Optimization Measures in the 207 Area code, CC Docket No. 99-200, at 2-3 (filed July 15, 2021), <https://ecfsapi.fcc.gov/file/107151133303627/2021-07-15%20MPUC%20Filing%20FCC%2099-200.pdf> (Maine ITN Feasibility Petition); *Wireline Competition Bureau Seeks Comment on Maine Public Utilities Commission Numbering Request*, CC Docket No. 99-200, Public Notice, DA 21-1012 (WCB Aug. 18, 2021).

<sup>7</sup> *See, e.g.*, Maine ITN Petition at 3; Maine ITN Feasibility Petition at 2; North Dakota Petition at 3; Petition by the New Hampshire Public Utilities Commission for Additional Delegated Authority to Implement Number Optimization Measures in the 603 Area Code, CC Docket No. 99-200 at 3 (April 26, 2019), <https://ecfsapi.fcc.gov/file/10426251258868/20190426-NHPUC-ITN-Petition-to-FCC.pdf> (New Hampshire ITN Trial Petition).

<sup>8</sup> October 2021 NANPA Exhaust Analysis, [https://nationalnanpa.com/reports/reports\\_npa.html](https://nationalnanpa.com/reports/reports_npa.html).

<sup>9</sup> We note that a third state regulatory commission, the New Hampshire Public Utilities Commission, filed the initial petition seeking authority to conduct an ITN pooling trial in its single area code, 603. *See* New Hampshire ITN Trial Petition. The Bureau has sought comment on it. *Wireline Competition Bureau Seeks Comment on New Hampshire Public Utilities Commission Petition For Additional Delegated Authority to Implement Individual Telephone Number Pooling in the 603 Area Code*, CC Docket No. 99-200, Public Notice, 34 FCC Rcd 3837 (WCB 2019). Unlike the Maine and North Dakota area codes, New Hampshire's area code is not projected to be exhausted until the second quarter of 2028, which is beyond the time frame of the waiver on which we seek comment.

<sup>10</sup> *See* 47 CFR § 1.3.

period not to exceed five years.<sup>11</sup> Specifically, the Bureau seeks comment on whether to extend the availability of telephone numbers in the single Maine and North Dakota area codes before they reach exhaust to an estimated five years from the release of an order by using established “Jeopardy” procedures contained in industry guidelines, subject to the directives described below. Pursuant to those procedures, the Bureau seeks comment on whether it should: (1) waive, in a narrow fashion and for a limited time, certain provisions of the Commission’s rules requiring the NANPA to administer numbering resources in a manner consistent with such industry guidelines; and (2) condition such waiver on the NANPA complying with directives from the Bureau necessary to ensure the contemplated minimum period of five years before numbering resource exhaust in the two area codes.

The approach on which the Bureau seeks comment is consistent with the Commission’s authority over numbering resources,<sup>12</sup> past orders directing the NANPA and allowing states to deviate from our numbering administration rules and industry guidelines (where the Commission determined that doing so is in the public interest),<sup>13</sup> and actions the Commission has taken to conserve numbering resources prior to a Jeopardy declaration.<sup>14</sup> As the Bureau has previously explained, industry numbering guidelines should be “adhered to” only “to the extent that they serve to further the Commission’s national numbering administration goals.”<sup>15</sup> In this case, a limited modification of those guidelines may be appropriate to achieve those goals. The primary purpose for the approach on which the Bureau seeks comment is to allow enough time to investigate whether to permit the requested ITN pooling trials in these two states. In addition, this proposal would provide enough time to measure the success of any approved trials, prior to the exhaust date of either the Maine and North Dakota area codes.

*Background on Area Code Relief Planning and Jeopardy Procedures.* Pursuant to various provisions of section 52.13 of the Commission’s rules,<sup>16</sup> the NANPA, which on behalf of the Commission administers the NANP, follows various industry guidelines established by the Industry Numbering

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<sup>11</sup> 47 CFR §§ 52.13(b), 52.13(b)(3), 52.13(d). Generally, the Commission’s rules may be waived for “good cause shown.” 47 CFR § 1.3; *WAIT Radio v. FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). The Commission may exercise its discretion to waive a rule where (a) the particular facts make strict compliance inconsistent with the public interest, (b) special circumstances warrant a deviation from the general rule, and (c) such deviation will serve the public interest.

<sup>12</sup> 47 U.S.C. § 251(e)(1).

<sup>13</sup> See, e.g., *Numbering Resource Optimization*, CC Docket No. 99-200, Order, 18 FCC Rcd 16860, 16867, para. 18 (2003) (granting California PUC waiver of contamination threshold rule to “defer exhaust in the interim period [before] implementation of area code relief.”); *Numbering Resource Optimization*, CC Docket No. 99-200, Order, 16 FCC Rcd 19538 (CCB 2001) (directing the NANPA to release a new central office code to Guam Cellular and waiving rule and industry guidelines for good cause shown, even though it did not meet the six-months-to-exhaust criteria in the rules or industry exhaust guidelines per submitted NANPA worksheets); *State of New York Department of Public Service Request for the Release of a New Area Code to Provide Relief for the 716 Numbering Plan Area*, CC Docket No. 96-98, Memorandum Opinion and Order, 16 FCC Rcd 6751, 6756, para. 13 (CCB 2001) (*New York Order*) (directing the NANPA to release a new NPA code even though doing so was inconsistent with industry area code relief guidelines because of the benefits that would result in this particular case and noting that “the NANPA need not be bound by the industry guideline” where a state has taken conservation steps); *Mr. Leon Jacobs*, CC Docket No. 96-98, Letter, 16 FCC Rcd 15860, 15862, para. 2 (CCB 2001) (directing the NANPA to release new NPA in deviation from numbering guidelines due to special circumstances and noting that “compelling reasons” justify doing so).

<sup>14</sup> See, e.g., *Numbering Resource Optimization*, CC Docket No. 99-200, Order, 21 FCC Rcd 13188, 13193, para. 11 (WCB 2006) (granting states authority to implement thousands-block number pooling even though the required time-to-exhaust and Jeopardy criteria in the rules were not met, concluding that “strict application of the Jeopardy requirement would only further delay the state Commissions’ ability to optimize numbering resources”).

<sup>15</sup> *New York Order*, 16 FCC Rcd at 6756, para. 13.

<sup>16</sup> 47 CFR §§ 52.13(b), 52.13(b)(3), 52.13(d).

Committee (INC),<sup>17</sup> including guidelines pertaining to the administration of thousand-number blocks and central office codes,<sup>18</sup> as well as area code relief planning.<sup>19</sup> The INC Guidelines<sup>20</sup> require the NANPA to begin area code relief planning 36 months before the date predicted by the NANPA for the exhaust of central office codes in an area code.<sup>21</sup> As the NANPA begins this 36-month area code relief planning process, it triggers a stream of activity, including NANPA-led industry meetings to develop a proposed relief plan. After industry reaches a consensus on a relief plan, the NANPA files with the pertinent state regulatory commission for consideration and approval of the plan.<sup>22</sup> Ideally, such approval is given no later than 18 months prior to exhaust, followed by a six-month transition period in which dialing either the old or new dialing pattern is allowed (permissive dialing).<sup>23</sup>

The INC Guidelines provide the NANPA with a Jeopardy procedure for use when the projected exhaust date is within certain time periods wherein there is risk of exhaust occurring before relief can be implemented.<sup>24</sup> Declaration of Jeopardy by the NANPA pursuant to the INC Guidelines triggers a specific set of procedures aimed at controlling allocation of the remaining number inventory to defer exhaust long enough to complete area code relief.<sup>25</sup> The INC Guidelines direct the NANPA to institute interim Jeopardy procedures initially, while convening the industry to develop final Jeopardy procedures.<sup>26</sup> Jeopardy procedures limit the number of central office codes that can be assigned to

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<sup>17</sup> See, *id.* The INC is a committee of the Alliance for Telecommunications Industry Solutions, Inc. (ATIS).

<sup>18</sup> The term “central office code” refers to the fourth through sixth digits in a ten-digit telephone number. Central office codes are also sometimes called “NXX codes”—in the telephone number 202-418-XXXX, 418 is the central office code.

<sup>19</sup> See, e.g., ATIS, Industry Numbering Committee, Thousands-Block and Central Office Code Administration Guidelines, (INC TBACOCAG Guidelines), ATIS 0300119(2022-01) (Jan. 14, 2022), [https://access.atis.org/apps/group\\_public/document.php?document\\_id=63430](https://access.atis.org/apps/group_public/document.php?document_id=63430); ATIS, Industry Numbering Committee, Code Relief Planning and Notification Guidelines (INC Code Relief Guidelines), ATIS 0300061(2021-07) (Jul. 2, 2021), [https://access.atis.org/apps/group\\_public/document.php?document\\_id=60267](https://access.atis.org/apps/group_public/document.php?document_id=60267).

<sup>20</sup> Both the INC TBACOCAG Guidelines and INC Code Relief Guidelines include provisions relating to area code relief planning and implementation, including Jeopardy procedures. For simplicity, we refer to the INC TBACOCAG Guidelines and INC Code Relief Guidelines together and separately as the INC Guidelines in the text of this Public Notice.

<sup>21</sup> INC Code Relief Guidelines 5. The NANPA’s exhaust forecast process is detailed in the INC Guidelines. INC TBACOCAG Guidelines 14.1.2, 14.1.4, 14.2.1, 15.1, 16.1.2, 16.1.3, 17.2.6, Appx. A; INC Code Relief Guidelines 4.2, 4.2.1, 5.1, 5.1.1, Appx. A, Annex D. The NANPA’s current exhaust forecasts can be found on the NANPA website at [https://nationalnanpa.com/reports/reports\\_npa.html](https://nationalnanpa.com/reports/reports_npa.html).

<sup>22</sup> INC TBACOCAG Guidelines 15.5.5.

<sup>23</sup> See INC Code Relief Guidelines 5.12 (summary of activity prior to action by the state regulatory commission); ATIS, Industry Numbering Committee, NPA Allocation Plan and Assignment Guidelines, ATIS-0300055, 9.2.2.3 (Nov. 6, 2020); Federal Communications Commission and SomosGov, Inc., NANPA/PA/RNDA Services, Contract, Award No. 273FCC21C0003, *Combined NANPA/PA Technical Requirements Document* 8.1.16 (Aug. 27, 2021); INC Code Relief Guidelines 5.1 (six-month permissive dialing period). INC Guidelines establish a goal of requiring subsequent mandatory dialing, that is, full implementation of area code relief, six months prior to projected exhaust. *Id.*

<sup>24</sup> INC TBACOCAG Guidelines 15.3.1.

<sup>25</sup> See *id.* 15-15.6.

<sup>26</sup> *Id.* 15.4. For both normal and Jeopardy situations, the NANPA notifies parties affected by area code relief activities and they are included in the planning and industry consensus processes. *Id.* at 15.3.2, 16.1.4; INC Code Relief Guidelines 3.2, 4.4, 5(c), 5.5. This includes parties “materially affected by decisions made via the consensus process during NPA relief planning activities for the affected NPA.” INC TBACOCAG Guidelines 16.2 n.340. *Cf.* INC Code Relief Guidelines 16 (definition of Affected Parties) (service providers “materially affected”).

applicants each month and use a lottery system to determine which applicants receive those resources.<sup>27</sup> As an example, in an area code in which there are 24 remaining central office codes that must last 12 months until the area code relief date, the NANPA would declare Jeopardy if projected demand exceeds 24 central office codes. Under the Jeopardy plan, the NANPA might limit central office code assignments to two per month.

*Significance of Maine and North Dakota.* Both Maine and North Dakota are among the remaining 11 states with a single area code.<sup>28</sup> The Maine PUC asserts that Maine's single area code, 207, is "intrinsicly tied to Maine's culture and economy" and is "a point of pride and identity."<sup>29</sup> The Maine PUC states it has "worked tirelessly with carriers on mitigation strategies."<sup>30</sup> The North Dakota PUC has described multiple efforts to slow the exhaust of North Dakota's single area code, 701.<sup>31</sup> As discussed above, both Maine and North Dakota have pending requests to conduct trials of ITN pooling and both have area codes that are projected to be exhausted less than five years from now (three years in the case of Maine, four-and-a-half years in the case of North Dakota).

## II. DISCUSSION

### A. Using Jeopardy Procedures to Allow for Possible ITN Trials and Potential Results

The Bureau seeks comment on whether the circumstances in Maine and North Dakota support issuing a waiver of section 52.13(b), (b)(3), and (d) of the Commission's rules for up to five years and, during the pendency of the waiver (and as a condition thereof), directing the NANPA to deviate from certain INC Jeopardy procedure initiation and implementation deadlines. Specifically, the Bureau seeks comment on whether the public interest would be served by directing the NANPA to deviate from the INC Guidelines by specifying the "planning/implementation interval for relief," as that term is used in the INC Guidelines, solely with respect to application of Jeopardy procedures, as beginning from the release of an order and ending five years later, the latter date also to be treated as the area code "relief date" (the date on which implementation is completed).<sup>32</sup>

Without deviation from the industry guidelines as described, the area code relief plan in Maine, for example, would likely use a date in the third quarter of 2024 as the area code relief date (pursuant to INC Guidelines, six months in advance of exhaust). The NANPA would manage central office code assignment accordingly. However, this area code relief date, as discussed above, is too soon for any ITN pooling trials to be fully considered and implemented, and for such trials to have a chance to show any effect on numbering resource exhaust. That is, ITN pooling would not come soon enough before exhaust to forestall the addition of a second area code in Maine.<sup>33</sup>

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<sup>27</sup> See INC TBACOCAG Guidelines 15.4, 15.4.1, 15.5.1-15.5.7. The NANPA posts current area code Jeopardy procedural plans on its website. NANPA, *Jeopardy Procedures*, [https://www.nationalnanpa.com/news/jeopardy\\_declaration\\_table.html](https://www.nationalnanpa.com/news/jeopardy_declaration_table.html).

<sup>28</sup> NANPA, *Geographic NPAs in Service Sorted by Location*, <https://nationalnanpa.com/enas/geoAreaCodeAlphabetReport.do>. Among U.S. Territories, American Samoa, Guam, the Northern Mariana Islands and the U.S. Virgin Islands have single area codes. *Id.* The District of Columbia has two area codes. *Id.*

<sup>29</sup> Maine ITN Feasibility Petition at 2-3.

<sup>30</sup> *Id.* at 2.

<sup>31</sup> North Dakota ITN Petition at 2, 3.

<sup>32</sup> See, e.g., INC TBACOCAG Guidelines 15.3.1 (detailed description of a Jeopardy condition), 21 (definition of Jeopardy NPA); INC Code Relief Guidelines 16 (definition of Jeopardy NPA).

<sup>33</sup> A similar scenario could play out in North Dakota, using dates somewhat further into the future.

In contrast, if this waiver were to be adopted with the conditions that we describe, the NANPA would manage central office codes in Maine, for example, to make the current inventory last until an area code relief date five years from the date of a waiver order. Because this area code relief date would be far past the currently-forecasted exhaust date (the first quarter of 2025), Jeopardy would be immediately triggered, and the NANPA would ration assignment of central office codes accordingly. This rationing would ensure that the Maine area code is not exhausted for five years, which would allow more time for any ITN pooling trials to have a positive effect on area code exhaust prior to a new area code having to be implemented. Even with the waiver, however, pursuant to INC Guidelines, the NANPA would eventually have to begin area code relief planning for Maine and North Dakota. As further condition of the waiver, we would require that any proposed area code relief plan have an implementation date (that is, area code relief date) no sooner than the end of the five-year period of the waiver.<sup>34</sup> We estimate that, using these types of modified procedures, the time left until exhaust of the Maine and North Dakota area codes would be extended by roughly two years and six months, respectively.

We seek comment on such an approach. We believe that a waiver, subject to the conditions that we describe below, may have multiple advantages in achieving the desired outcome of delaying area code exhaust. Most significantly, delaying the exhaust of the Maine and North Dakota area codes will facilitate Bureau consideration of the Maine and North Dakota ITN Trial Petitions and the potential conduct of those trials. If approved, such trials may result in slowing the exhaust of numbering resources. Do commenters believe that such a potential scenario is a sufficiently realistic potential advantage to justify issuing the waiver that we discuss? Are there additional circumstances we should consider?

The Bureau observes that the date used in any such waiver as the area code relief date (that is, the date until which central office code rationing may extend) must balance competing interests. There are the positive effects of potentially making any approved ITN pooling trials meaningful, balanced against the disadvantages to rationing central office codes for five years, a period substantially longer than the periods ordinarily framed in the INC Guidelines.<sup>35</sup> Extending the rationing period to five years, particularly at the likely required levels, may impose undue hardships on service providers.<sup>36</sup> For example, stretching the current inventory in Maine, scheduled to last three more years based on current demand, to five years, will very likely result in rationing levels well below continuing demand.

Does using an area code relief date five years from the release date of an order appropriately balance these competing interests? Would the rationing that would result from this waiver negatively affect service provider operations? Would it be materially different from other circumstances in which service providers have adapted to central office code rationing? Could operating in this rationing environment allow service providers the opportunity to learn any novel number conservation techniques that they might not learn in ordinary circumstances? Do parties suggest any waiver using a central office code rationing period less than or greater than five years? If so, why? Further, do parties believe that the

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<sup>34</sup> We acknowledge that INC Guidelines on area code relief planning direct NANPA to suggest that area code relief be completed six months prior to projected exhaust. INC Code Relief Guidelines 5.1. In this waiver we would not prohibit the NANPA and industry from reaching consensus agreement to adjust central office code rationing to extend projected exhaust to a later date, so as to provide additional time for such a six-month buffer in the plan.

<sup>35</sup> As discussed above, central office code rationing under Jeopardy procedures is calculated using the area code “relief date” as a target date to which the current inventory must last. The INC Guidelines specify that Jeopardy exists prior to area code relief planning if central office code inventory becomes depleted to a 30-month supply, or if relief planning has begun, when inventory is down to a 24-month supply. See INC TBACOCAG Guidelines 15.3.1(a)-(b).

<sup>36</sup> We note it is not a certainty that the NANPA would have to ration central office codes in Maine or North Dakota if area code relief planning were to occur on the schedule dictated by current exhaust forecasts. For the reasons explained above, however, we are more confident that rationing would be required if current inventories had to be stretched to last for five years.

waiver being contemplated is consistent with the requirement in section 251(e)(1) of the Act that the NANPA “make . . . numbers available on an equitable basis?”<sup>37</sup>

The Bureau believes there may be other, additional advantages to the waiver on which it seeks comment. Based on arguments made by proponents of ITN pooling trials,<sup>38</sup> it appears that even if the Bureau does not approve an ITN pooling trial in Maine and/or North Dakota, there may still be inherent value in delaying the need for new area codes in those states. Do commenters agree? Further, instituting central office code rationing earlier than would otherwise occur without a waiver (and for a longer period) may potentially be a useful tool to use in forestalling numbering resource exhaust in other circumstances, at least on a selective basis. Is there value to assessing whether this is the case?

Are there any disadvantages to the potential waiver that have not been discussed above? The Bureau notes that it seeks to lengthen the life of the Maine and North Dakota area codes through a minor modification of a familiar and administratively simple process in this particular situation, and does not intend for this Public Notice to serve as an omnibus examination of policies for numbering resource conservation. We nevertheless invite commenters to suggest alternative, administratively simple means of extending the life of the Maine and North Dakota area codes by a similar length of time that they believe are, on balance, more suitable.

## **B. Implementation Conditions**

The Bureau also seeks comment on certain implementation matters. Specifically, we seek comment on requiring the NANPA to deviate from the INC Guidelines as waiver conditions. While the potential waiver, as described, is intended to be as consistent with INC Guidelines as possible to minimize any disruption it would have on standard practices, certain additional deviations from the INC Guidelines beyond those described above may be necessary for the NANPA to administer Jeopardy procedures in this case.

First, we believe that the maximum number of central office codes that the NANPA may allocate per month under initial interim Jeopardy procedures (prior to adoption of final Jeopardy plans) needs to be limited here more than the INC Guidelines specify.<sup>39</sup> These interim Jeopardy allocation levels are important because they persist until industry agrees on final Jeopardy plans. The INC guidelines permit the NANPA during interim Jeopardy to allocate up to three central office codes per month in an area code, far more than even the roughly one central office code now being allocated per month in Maine and North Dakota. Because we are concerned that service providers would have an incentive to inflate demand for central office codes during interim Jeopardy in anticipation of tighter limitation under the final Jeopardy procedures, we believe any potential waiver should be conditioned on the NANPA assigning only one central office code per month in each of the two area codes during interim Jeopardy. In this case, we do not expect these interim Jeopardy periods (in which the NANPA may be allocating central office codes at a higher rate than it will under final Jeopardy plans) to be unreasonably long, as industry has a strong incentive to establish a final plan quickly to limit the severity of rationing over the long term.<sup>40</sup>

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<sup>37</sup> 47 U.S.C. § 251(e)(1).

<sup>38</sup> New Hampshire ITN Trial Petition at 7; Massachusetts Department of Television and Cable Reply Comments at 2-3 (July 15, 2019).

<sup>39</sup> When an area code is initially put into Jeopardy status, the INC Guidelines for Jeopardy procedures require the NANPA to implement interim Jeopardy procedures as a stop gap until final Jeopardy procedures are determined. *See* INC TBACOCAG Guidelines 15.4.

<sup>40</sup> A long delay (extending the interim Jeopardy period in which one central office code may be allocated every month) is detrimental to industry in the long run as it would leave fewer central office codes remaining to ration over the period under the final Jeopardy plan.



Second, we believe that, in the specific instance of the potential approach for the Maine and North Dakota area codes, the INC Guidelines leave certain gaps that must be filled regarding when the NANPA would conduct lotteries for the allocation of central office codes. At present, there are 36 central office codes available for allocation in Maine.<sup>41</sup> Even using this current inventory (which would likely be lower by the time any order is adopted due to continuing central office code assignment) there would be no more than an average of 0.6 central office codes per month to allocate in Maine, in order for that inventory to last until five years from release of an order. The INC Guidelines, however, describe a monthly lottery for central office code allocations and do not explicitly describe a process for having them less frequently than monthly.<sup>42</sup> We believe any potential waiver should be conditioned on the requirement for the NANPA to work with industry to develop whatever schedule and process they see fit for scheduling less-than-monthly lotteries to accommodate that need here.<sup>43</sup>

We seek comment on these waiver conditions. Do they address the material aspects of the INC Guidelines that may be insufficient or in conflict with the approach for which we seek comment and, if so, do they address those aspects in a reasonable manner? We invite commenters generally to propose alternatives that they believe would be more appropriate. Are there other details that commenters believe the Bureau should address?

### III. PROCEDURAL MATTERS

*Filing Requirements.* Interested parties may file comments on or before **March 11, 2022** and reply comments on or before **March 28, 2022**. All filings addressing the request must reference WC Docket No. 99-200. All comments or oppositions must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Electronic Filers: Comments and oppositions may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS): [www.fcc.gov/ecfs](http://www.fcc.gov/ecfs).<sup>44</sup>
- Paper Filers: Parties who choose to file paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, N.E., Washington, DC 20544.
  - Until further notice, the Commission will not accept any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals and mitigate the transmission of COVID-19.

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<sup>41</sup> NANPA, *Available Codes Report*, <https://nationalnanpa.com/enas/coCodeReportUnsecured.do?reportType=6> (last visited Feb. 8, 2022).

<sup>42</sup> See, e.g., INC TBACOCAG Guidelines 15.4, 15.4.1.

<sup>43</sup> There are presently 60 central office codes available for assignment in the North Dakota area code, a level that would not necessarily require a less-than-monthly lottery. NANPA, *Available Codes Report*, <https://nationalnanpa.com/enas/coCodeReportUnsecured.do?reportType=6> (last visited Feb. 8, 2022). We acknowledge that the industry may wish to set a central office code rationing level that allows a certain amount of spare inventory remaining at five years from the release of an order. Our proposal permits an industry consensus to agree to such a lower rationing level if it so desires.

<sup>44</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).



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The proceedings this Notice initiates shall be treated as “permit-but-disclose” proceedings in accordance with the Commission’s *ex parte* rules.<sup>45</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission’s *ex parte* rules.

For further information, please contact Janice Gorin, Competition Policy Division, Wireline Competition Bureau, by e-mail at [Janice.Gorin@fcc.gov](mailto:Janice.Gorin@fcc.gov), or (202) 418-0637.

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<sup>45</sup> 47 CFR § 1.1200 *et seq.*