

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: June 2, 2003.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[CC Docket No. 02-6; FCC 03-101]

#### Schools and Libraries Universal Service Support Mechanism

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on additional proposals to further improve the operation of the schools and libraries support mechanism. Specifically, the Commission seeks comment on specific rules and procedures implementing the Commission's policy to carry forward unused funds from the schools and libraries support mechanism in subsequent funding years of the schools and libraries support mechanism adopted in the First Report and Order adopted in this docket.

**DATES:** Comments are due on or before July 21, 2003. Reply comments are due on or before August 19, 2003.

**ADDRESSES:** All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See Supplementary Information for further filing instructions.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Secrest and Katherine Tofigh, Attorneys, Telecommunications Access Policy, Wireline Competition Bureau, (202) 418-7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking in CC Docket No. 02-6, FCC 03-101, released on April 30, 2003. This Further Notice of Proposed Rulemaking was also released with a companion Second Report and Order (Second Order). The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

## I. Introduction

1. After consideration of many of the important issues raised in the comments to the *Schools and Libraries NPRM*, 67 FR 7327, February 19, 2002, we find that it is appropriate to seek further comment on several additional matters. Therefore, in the Further Notice of Proposed Rulemaking (FNPRM), we seek comment on additional proposals to further improve the operation of the schools and libraries support mechanism. In particular, we seek comment on specific rules and procedures implementing the Commission's policy to carry forward unused funds from the schools and libraries support mechanism in subsequent funding years of the schools and libraries support mechanism adopted in the First Report and Order (*First Order*), 67 FR 41862, June 20, 2002, adopted in this docket. We seek comment regarding our existing rules governing the filing of an applicant's technology plan, and the viability of an online computerized eligible services list. We also seek comment on additional measures to limit waste, fraud, and abuse.

## II. Further Notice of Proposed Rulemaking

### A. Background

2. In the *First Order*, we determined that unused funds from the schools and libraries mechanism should be used to stabilize the contribution factor while the Commission considers whether and how to reform its methodology for contributions to the universal service support mechanism. We also determined that beginning no later than the second quarter of 2003, which began April 1, 2003, unused funds shall be carried forward for disbursement in subsequent funding years of the schools and libraries mechanism. Accordingly, in this FNPRM we seek comment on proposed rules regarding the carryover of unused funds from funding year to funding year of the schools and libraries support mechanism.

3. We also seek comment on several other matters relevant to the schools and libraries mechanism. We seek comment regarding our rules pertaining to when applicants file a technology plan. We seek further comment on the establishment of an online computerized eligible services list for telecommunications services and Internet access. Finally, we seek comment on additional measures to limit waste, fraud, and abuse.

### B. Proposed Unused Funds Carryover Rules

4. In this FNPRM, we propose specific rules implementing the Commission's decision to carry forward unused funds for use in subsequent funding years of the schools and libraries program. In general, we propose to amend our rules to require USAC to provide quarterly estimates to the Commission regarding the amount of unused funds that will be available to be carried forward. We further propose to amend our rules so that the Commission would carry forward available unused funds from prior years on an annual basis for use in the following full funding year of the schools and libraries program. We seek comment on the proposed rules and our proposed procedures implementing these rules.

5. We propose that on a quarterly basis, USAC, after consultation with the Schools and Libraries Committee, provide the Commission with an estimate of unused funds from the schools and libraries support mechanism for each of the prior funding years. By providing quarterly estimates of unused funds, we would establish a regular reporting cycle for USAC. In addition, quarterly estimates would provide schools and libraries with general notice regarding the amount of unused funds that may be made available for use in the subsequent funding year. We seek comment on this proposal.

6. We propose that USAC's estimate of unused funds for a particular funding year generally total the difference between the amount of funds collected, or made available for that particular funding year, and the amount of funds disbursed or to be disbursed. We expect that USAC's estimates will become more refined as a particular funding year progresses, given its unique skills and experience administering the schools and libraries mechanism. We seek comment on this proposal.

7. In addition, we propose that in the second quarter of each calendar year, the Commission will announce a specific amount of unused funds from prior funding years to be carried forward in accordance with the public interest for use in the next full funding year, in excess of the annual funding cap. For example, unused funds as of second quarter 2004 would be carried forward for use in the Schools and Libraries Funding Year 2004. Carrying forward unused funds in the second quarter of the calendar year would coincide with the time of year the SLD makes funding commitment decisions, which typically occurs in the second

and third quarters of the calendar year. Once added, the funding year would continue to operate normally, with the benefit of any additional unused funds. We believe that this will ensure minimal disruption of the administration of the schools and libraries program.

8. We also propose that after unused funds are identified and carried forward in the second quarter of the calendar year, USAC will begin to re-calculate unused funds, beginning with unused funds as of the third quarter of the calendar year. Such funds would be carried forward to the next full funding year. As a result, we believe that the described rolling methodology will provide certainty regarding when unused funds will be carried forward for use in the schools and libraries program. In addition, the proposed rules would ensure that schools and libraries have reasonable notice from the quarterly estimates of the approximate amount of funds that we expect to become available in the second quarter of the calendar year. In general, schools and libraries submit applications for funding between November and January, preceding the start of the funding year. Under our proposal, applicants would have the benefit of three quarterly estimates of unused funds before the filing window closes, and would be able to structure their applications appropriately. We seek comment regarding this proposal.

9. Further, we propose that USAC begin estimating unused funds from the schools and libraries mechanism in 2003, and that unused funds would be carried forward in accordance with the public interest for use in Funding Year 2004 of the schools and libraries program. In the *First Order*, the Commission determined that it would begin to carry forward unused funds from the schools and libraries program no later than second quarter 2003. We seek comment regarding this proposal.

### C. Technology Plan

10. To ensure that purchased services are used in a cost-effective manner, the Commission requires applicants to base their requests for services on an approved technology plan. Section 54.504(b)(vii) states that in its FCC Form 470 the applicant must certify that its technology plan has been approved by its state, the Administrator, or an independent entity approved by the Commission.

11. We propose modifying our existing rules governing the timing of the certification regarding the approval of the applicant's technology plan so that applicants can indicate that their

technology plan will be approved by an authorized body by the time that services supported by the universal service mechanism for schools and libraries begin. We believe that the rule change will improve program operation by recognizing that it may be difficult for an applicant to obtain approval of a technology plan well in advance of the commencement of a funding year. We seek comment on the costs and benefits of our proposal.

### D. Computerized Eligible Services List

12. In the Order, we have directed the Administrator to develop a pilot for an online computerized list for internal connections. While we gain operational experience through this pilot program, we seek further comment on the feasibility of an online eligible services list with brand name products in the telecommunications services and Internet access categories. We are concerned, as were many commenters, about the difficulties in describing and amassing information regarding brand name products in these categories. We seek comment on whether this list should be a "safe harbor." We seek comment on whether such a list raises any legal issues. We seek comment on what effect such a list would have on our statutory mandate to evaluate requests for discounts on a competitively neutral basis. For example, how would we create a safe harbor telecommunications services provider list? Would such a list vary by location, state, or region? If a geographic area only had one telecommunications carrier, would it foster or impede competition to place that carrier on the list? We further seek comment on these and other issues raised by the establishment of an online eligible services list.

### E. Other Measures To Prevent Waste, Fraud, and Abuse

13. In the Order, we have established rules to debar persons convicted or held civilly liable with respect to the schools and libraries support mechanism from participating in the program. We also believe, however, that there may be circumstances not culminating in a criminal conviction or civil judgment that may warrant debarment. We accordingly seek to further develop the record on debarment in situations where evidence of misconduct is less clear-cut. We also seek further comment on other measures to limit waste, fraud, and abuse.

14. *Adoption of Governmentwide Regulations*. A NPRM, 67 FR 3266, January 23, 2002, is pending that proposes, among other things, to allow

independent regulatory agencies to elect to participate in governmentwide debarment rules. We seek comment on whether we should adopt the governmentwide nonprocurement debarment regulations, which inform the rules we adopt today. The current governmentwide rules do not apply to independent agencies. However, the proposed governmentwide rules explicitly allow for adoption by independent agencies. We seek comment on whether, if these governmentwide rules are adopted, we should elect to participate in the governmentwide debarment rules for purposes of the schools and libraries universal service support mechanism, or whether, given the unique nature of the program, adoption of the proposed governmentwide rules would be inappropriate or less effective than other rules we adopt.

15. *Debarring willful or repeated violators*. A rule allowing for debarment of willful or repeated violators of our rules could be an important tool for ensuring the integrity of the program, because there may be situations in which persons may not be convicted or held civilly liable, yet their continued program participation may still constitute a threat to the integrity of the program. Moreover, some applicants or service providers may reach settlement with prosecuting authorities in a given case without admission of liability, that otherwise would have resulted in a conviction or civil judgment. Accordingly, we tentatively conclude that the Commission should have the flexibility to debar a person whose willful or repeated violation of Commission rules threatens to undermine program integrity and result in waste, fraud, or abuse. Debarring those who have violated program rules in this manner not only ensures accountability within the program, but allows for additional funding for more deserving persons.

16. The "willful or repeated" standard is based upon existing Commission forfeiture authority under section 503(b). Consistent with section 312(f) of the Act, we propose to define "willful" as "the conscious and deliberate commission or omission of any act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States." We propose to define "repeated" as "the commission or omission of any act more than once or, if such commission or omission is continuous, for more than one day." We seek comment on the proposed definitions.

17. Because it is not our intention to debar persons that inadvertently make mistakes, even if repeated, with respect to program rules, we propose debarring only those willful or repeated offenders whose actions threaten to undermine program integrity and result in waste, fraud, or abuse. We believe that this standard adequately balances the need to strictly enforce our rules with our desire not to debar applicants whose mistakes do not undermine program integrity. We seek comment on these tentative conclusions.

18. *Determination of violation resulting in debarment.* We seek comment on how the Commission should determine when a person whose willful or repeated violation of Commission rules (or the Administrator's procedures) threatens to undermine program integrity and result in waste, fraud, or abuse. We also seek comment on whether only the violations of certain rules or procedures should be considered, and if so, which ones. We seek comment on the appropriate period of debarment and whether such period should be fixed or discretionary.

19. We also seek comment on the process whereby the Commission would determine that willful or repeated violations of our rules (or of the Administrator's procedures) have occurred. Ordinarily, SLD determines in the first instance whether an applicant has complied with program requirements in the course of reviewing requests for discounts. If SLD concludes that an application is not consistent with the Commission's rules, it issues a decision, and the applicant may seek Commission review of SLD's decision to deny discounts. We seek comment on how to implement debarment in the absence of a formal SLD decision denying a request for discounts. We propose that if SLD suspects that a person has willfully or repeatedly committed acts that threaten to undermine program integrity and result in waste, fraud, or abuse, either in the course of application review or subsequently, it may refer the matter to the Commission, which would then begin an investigation that may culminate in notice of proposed debarment to the person. We seek comment on this approach.

20. *Notification procedures for debarment.* We also seek comment on what procedures would ensure adequate notice to persons subject to debarment proceedings for willful or repeated violations, while still providing for expeditious Commission determinations in order to adequately protect the program. As informed by the federal agency rules, we propose that the

Commission shall give notice of proposed debarment on the ground of willful or repeated violations to the person by: (1) Giving the reasons for the proposed debarment in terms sufficient to put the person on notice of the conduct or transaction(s) upon which it is based and the cause relied upon; (2) explaining the applicable debarment procedures; (3) describing the potential effect of debarment. The person would be afforded an opportunity to respond and submit information and argument within 30 days after the notice is published. The Commission would then make a decision on the basis of all the information in the administrative record, including any submission made by the respondent, and provide notice to the respondent. We seek comment on these procedures.

21. *Other grounds for debarment.* We also seek comment on whether we should adopt a rule debarring persons who, in the course of their participation in the schools and libraries support mechanism, commit any other act indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the person. We also seek comment on whether to exercise discretion to debar persons who commit any other act indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the person, even if unrelated to schools and libraries support mechanism, and invite comment on specific examples of conduct that would warrant debarment. We seek comment on how, if the Commission adopts either provision, the Commission should implement debarment.

22. *Imputation for debarment.* We recognize that there may be circumstances in which debarment of one entity—whether under rules we adopt today or under any additional rules we may adopt in the future—may not adequately protect the integrity of the program. For example, there may be circumstances where one person is found liable for certain actions, but other individuals have also engaged in misconduct that threatens the integrity of the program. We seek comment on rules for imputation of conduct from one person to another, based upon the Federal agency rules governing imputation of conduct. Under our proposed rules, the conduct of a person may be imputed to another person when the conduct occurs in connection with the former's performance of duties for or on behalf of the latter, or with the latter's knowledge, approval, or acquiescence. One example of evidence

of such knowledge, approval, or acquiescence could be the latter's acceptance of the benefits derived from the conduct. The conduct may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the person who participated in, knew of, or had reason to know of the person's conduct. In addition, the conduct of one person may be imputed to other persons in a joint venture or similar arrangement if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of those persons. One example of evidence of such knowledge, approval, or acquiescence could be the latter's acceptance of the benefits derived from the conduct. We seek comment on the administrative process for making a finding that the conduct of one person should be imputed to another. We seek comment on these proposed rules.

23. *Effect of debarment.* We seek comment on what effect, if any, suspension or debarment of a person should have with regard to the person's participation in other activities associated with the Commission. For example, should suspension or debarment of a service provider from the schools and libraries support mechanism preclude participation in providing certain services to the Commission, such as Internet access or telephone service? Similarly, should suspension or debarment from the schools and libraries support mechanism also result in suspension or debarment from other universal service support mechanisms?

24. *Changing service providers post-debarment.* We seek comment on whether our rules should permit applicants whose service provider has been debarred to change their service provider before their application for discounted services has been approved or after the last date for invoices. SLD's current operating procedures permit applicants whose service providers have been debarred to change service providers only after SLD has issued a funding commitment decision letter, and no later than the last date to submit an invoice. The existing procedure allowing SPIN changes within this window balances fairness to applicants and flexibility in the program with goals of program efficiency, including the importance of certainty and finality so that the Administrator can properly allocate limited funds among a large pool of applicants. If applicants were permitted to change service providers after they had applied for discounts but before SLD had made a funding

commitment decision, it may be more difficult for SLD to determine whether program requirements are met if an applicant changed service providers because of potential irregularities. Permitting applicants to change service providers after the last date for invoices to be submitted could introduce a lack of finality into the process, undermining our efforts to streamline program procedures.

25. We seek comment on whether applicants whose service providers have been debarred should be permitted to change service providers before a funding commitment decision has been issued, or after the last date for invoices. We seek comment on how such a rule might reconcile our goals of ensuring both fairness and finality. We seek comment on what procedures SLD might implement in such situations.

26. We further seek comment on whether applicants that are complicit in the bad acts of a debarred service provider, but who are not themselves convicted or held civilly liable, should be permitted to change service providers in the same manner as applicants that were not so complicit. While we do not intend to punish applicants that are merely innocent victims of a particular service provider, we also do not want to create incentives for applicants to undermine the goals of the program through complicity in program violations by a service provider. We therefore seek comment on whether complicit applicants should not be permitted to change service providers (and therefore are effectively debarred for that funding year), and if so, how such a standard of "complicity" should be defined. Finally, we seek comment generally on whether any other rules should be adopted relating to debarment that would serve our goals of protecting against waste, fraud, and abuse.

### III. Procedural Issues

#### A. Initial Paperwork Reduction Act of 1995 Analysis

27. This FNPRM contains no proposed or modified information collection. As part of a continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this FNPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. Public and agency comments are due at the same time as other comments on this FNPRM; OMB comments are due August 19, 2003. Comments should address: (a) Whether the proposed 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.

#### B. Initial Regulatory Flexibility Analysis

28. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission will send a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

29. In the *Schools and Libraries NPRM*, 67 FR 7327, February 19, 2002, we sought comment on whether to amend our rules regarding the treatment of unused funds from the schools and libraries universal service mechanism. In the *First Order*, 67 FR 41862, June 20, 2002, revising our rules regarding the treatment of unused funds from the schools and libraries universal service support mechanism, we determined that beginning no later than the second quarter of 2003, any unused funds from the schools and libraries support mechanism shall, consistent with the public interest, be carried forward for disbursement in subsequent funding years of the schools and libraries support mechanism. We also stated our intent to develop specific rules implementing this policy. In the FNPRM, we seek comment on proposed rules and procedures implementing that policy.

30. In addition, in the FNPRM, we seek further comment on the viability of an online eligible services list with brand name products in the telecommunications services and Internet access categories. We also seek comment on whether to modify our existing rules so that applicants no longer need to certify that their technology plan has been approved, but

instead can certify that it will be approved by the time that services supported by the universal service mechanism for schools and libraries begin. We seek comment on whether it may be appropriate to debar persons from participation in the schools and libraries program under circumstances that do not culminate in a criminal or civil judgment. Finally, we seek comment on the effect of a debarment on a provider's participation in other universal service programs, and on our rules regarding changing service providers post-debarment.

#### 2. Legal Basis

31. The legal basis for the FNPRM is contained in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151 through 154, 201 through 205, 254, 303(r), and 403, and § 1.411 of the Commission's rules.

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

32. We have described in detail in the Final Regulatory Flexibility Analysis in this proceeding the categories of entities that may be directly affected by our proposals. For this Initial Regulatory Flexibility Analysis, we hereby incorporate those entity descriptions by reference.

#### 4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

33. The specific proposals under consideration in the FNPRM would not, if adopted, result in additional recordkeeping requirements for small businesses. The proposal to have the Universal Service Administrative Company report unused fund data to the Commission does not add any reporting, recordkeeping, or compliance requirements to small entities.

34. In the FNPRM, we ask for further comment on the feasibility of an online eligibility list including brand name products in the telecommunications services and Internet access categories to help applicants in the application process. We conclude in the Second Order that the establishment of a similar program with regard to internal connections is likely to reduce compliance burdens on small applicants because it would help facilitate the application process, as commenters noted. We believe that such a list would help all schools, libraries, local governments applying for these entities, all of which include small entities, and reduce any costs by facilitating the

application process. We invite comment on whether an online eligibility list including brand name products in the telecommunications services and Internet access categories would affect the cost of complying for small businesses.

35. In addition, the proposal to modify our existing requirement that applicants can certify that their technology plan will be approved does not add a requirement for small entities, but rather extends the timing of the requirement to allow more time to meet the requirement of the program. As we noted in the Order, we believe that the rule change will reduce any burden on applicants in obtaining approval of a technology plan well in advance of the commencement of a funding year. We seek comment on the costs and benefits of our proposal.

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

36. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.

37. As noted, in the *First Order* we revised our rules regarding the treatment of unused funds from the schools and libraries universal service support mechanism. In the FNPRM, we seek comment on how to implement the Commission's policy to carry over unused funds to subsequent years of the schools and libraries mechanism. We propose that in the second quarter of each calendar year, the Commission will announce a specific amount of unused funds from prior funding years to be carried forward in accordance with the public interest for use in the next full funding year, in excess of the annual funding cap. We propose that USAC provide the Commission with quarterly estimates of the amount of unused funds, and that the Commission would carry forward available unused funds from prior years on an annual basis. Consistent with our analysis in the *First Order*, we believe that the rules and procedures that we propose will have a similar impact on both small and large

entities, because schools and libraries will benefit equally from the additional funds made available. We invite commenters to discuss the benefits of these proposed rules and procedures and whether these benefits are outweighed by resulting costs to any other small entities.

38. Regarding an online eligible services list including brand name products in the telecommunications services and Internet access categories, we direct the Administrator in the Order to create a pilot program for a similar item, internal connections discounts. In the Second Order, we also direct the Administrator to report back to the Commission about the ramifications of the pilot program for internal connections. We believe this will help us in our assessment of the feasibility of an online eligible services list including brand name products in the telecommunications services and Internet access categories. We request that commenters, in proposing possible alternatives to an online eligible services list including brand name products in the telecommunications services and Internet access categories, discuss the economic impact that changes may have on small entities.

39. In addition, in the FNPRM, we seek comment on the allocation of funds for Priority One services in the event that requests for such services exceed the funding cap. Although the program has not had a funding year in which this has happened, if the requests for Priority One services exceed the funding cap, there currently are no rules that govern the way the Priority One requests would be awarded discounts. The way in which such funding is disbursed may have an impact upon those small entities applying for discounts and any small companies providing such goods and services. We request that commenters, in proposing possible alternatives to our rules, discuss the economic impact that changes may have on small entities.

40. We also consider whether it is appropriate to debar certain persons from participation in the schools and libraries universal service mechanism under certain circumstances that may not culminate in a criminal conviction or civil judgment. We believe that providing the Commission the flexibility to debar persons who, for example, willfully or repeatedly violate Commission's rules, ensures accountability in the program and allows for addition funding for more deserving applicants. This would potentially benefit applicants that abide by the Commission's rules, including small entities. We also seek comment on

whether there should be a process whereby the Commission could delay, reverse, or modify suspension or debarment on a case-by-case basis. Such action may provide the Commission with additional flexibility to take into account the various situations that may arise under the debarment program. In addition, we seek comment on whether our rules should permit applicants whose service provider has been debarred to change service providers before their application for discounted services has been approved or after the last date for invoices. We believe that such action would provide greater flexibility to all entities, including small entities, to change service providers under a greater range of circumstances. We request that commenters, in proposing possible alternatives to these rules, discuss the economic impact that changes may have on small entities.

#### 6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

41. None.

#### C. Comment Filing Procedures

42. We invite comment on the issues and questions set forth in the Further Notice of Proposed Rulemaking and Initial Regulatory Flexibility Analysis contained herein. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments are due on or before July 21, 2003. Reply comments are due on or before August 19, 2003. All filings should refer to CC Docket No. 02-6. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

43. Comments filed through ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is CC Docket No. 02-6. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message: get form <your e-mail address>. A sample form and directions will be sent in reply.

44. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding,

commenters must submit two additional copies for each additional docket or rulemaking number. Parties who choose to file by paper are hereby notified that effective December 18, 2001, the Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, DC. The address is 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location will be 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. This facility is the only location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. Accordingly, the Commission will no longer accept these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service (USPS) Express Mail and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location will be open 8 a.m. to 5:30 p.m. The USPS first-class mail, Express Mail, and Priority Mail should continue to be addressed to the Commission's headquarters at 445 12th Street, SW., Washington, DC 20554. The USPS mail addressed to the Commission's headquarters actually goes to our Capitol Heights facility for screening prior to delivery at the Commission.

If you are sending this type of document or using this delivery method . . .	It should be addressed for delivery to . . .
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary.	236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002 (8 a.m. to 7 p.m.)
Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail).	9300 East Hampton Drive, Capitol Heights, MD 20743 (8 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail.	445 12th Street, SW., Washington, DC 20554.

45. Parties who choose to file by paper should also submit their comments on diskette to Sheryl Todd, Telecommunications Access Policy

Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5-B540, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case, CC Docket No. 02-6), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

46. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. In addition, the full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

47. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth

in the FNPRM in order to facilitate our internal review process.

*D. Further Information*

48. Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 voice, (202) 418-7365 TTY, or [bmillin@fcc.gov](mailto:bmillin@fcc.gov). This FNPRM can also be downloaded in Microsoft Word and ASCII formats at [http://www.fcc.gov/ccb/universal\\_service/highcost](http://www.fcc.gov/ccb/universal_service/highcost).

**IV. Ordering Clauses**

49. Pursuant to the authority contained in sections 1, 4(i), 4(j), 201-205, 214, 254, and 403 of the Communications Act of 1934, as amended, this Further Notice of Proposed Rulemaking is adopted.

50. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Final Regulatory Flexibility Analysis and Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subject in 47 CFR Part 54**

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 as follows:

**PART 54—UNIVERSAL SERVICE**

1. The authority citation continues to read as follows:

**Authority:** 47 U.S.C. 1, 4(i), 201, 205, 214 and 254 unless otherwise noted.

2. Amend § 54.507 by adding paragraphs (a)(1) and (a)(2) to read as follows:

**§ 54.507 Cap.**

(a) \* \* \*

(1) *Amount of unused funds.*

Beginning in the second quarter 2003, the Administrator shall report to the Commission funding that is unused from prior years of the schools and libraries support mechanism on a quarterly basis.

(2) *Application of unused funds.* On an annual basis, in the second quarter of each calendar year, all funds that are collected and that are unused from prior

years shall be available for use in the next full funding year of the schools and libraries mechanism in accordance with the public interest and notwithstanding the annual cap.

\* \* \* \* \*

[FR Doc. 03-14929 Filed 6-19-03; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF DEFENSE

### 48 CFR Chapter 2

#### Notice of Public Meeting; Utilities Privatization

**AGENCY:** Department of Defense.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Director, Defense Procurement and Acquisition Policy, and the Deputy Under Secretary of Defense, Installations and Environment, are co-sponsoring a public meeting to discuss potential deviations to Federal Acquisition Regulation (FAR) Part 31 (Contract Cost Principles and Procedures) for contracts awarded under the statutory authority at 10 U.S.C. 2688 (Utility systems; conveyance authority). Under the Department of Defense Utilities Privatization Program, by September 2005, the Department will complete a privatization evaluation of each utility system at every Active Duty, Reserve, and Guard installation, within the United States and overseas, that is not designated for closure under a base closure law. The co-sponsors of the meeting would like to hear the views of interested parties regarding which provisions, if any, of FAR part 31 are significantly problematic for utility contractors and the reasons why.

**DATES:** The meeting will be held on July 21, 2003, from 9 a.m. to 5 p.m., local time.

**ADDRESSES:** The meeting will be held in Room C-43, Crystal Mall 3, 1931 Jefferson Davis Highway, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Capitano, Office of the Director, Defense Procurement and Acquisition Policy, by telephone at 703-847-7486 or by e-mail at [david.capitano@osd.mil](mailto:david.capitano@osd.mil).

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

[FR Doc. 03-15656 Filed 6-19-03; 8:45 am]

BILLING CODE 5001-08-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 030604143-3143-01; I.D. 030403C]

RIN 0648-AQ90

#### Atlantic Highly Migratory Species; Atlantic Swordfish Quotas

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes to amend the regulations governing the North and South Atlantic swordfish fisheries to implement recommendations adopted at the 2002 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT). Specifically, NMFS proposes increasing the North Atlantic swordfish quota to 3,877 metric tons (mt) whole weight (ww) in 2003 and to 3,907 mt ww in 2004 and 2005. Additionally, NMFS proposes establishing a dead discard allowance of 80 mt ww for 2003; transferring 25 mt ww of North Atlantic swordfish quota to Canada in 2003, 2004, and 2005; and allowing up to 200 mt ww of North Atlantic swordfish to be caught between 5° North latitude and 50 South latitude. Finally, NMFS proposes establishing a South Atlantic swordfish quota of 100 mt ww in 2003, 2004, and 2005 and 120 mt ww in 2006. Public hearings on this proposed rule will be announced in a separate **Federal Register** document.

**DATES:** Written comments on the proposed rule must be received by 5 p.m. on August 4, 2003.

**ADDRESSES:** Comments should be sent to, and copies of the Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) may be obtained from Christopher Rogers, Chief, Highly Migratory Species Management Division F/SF1, 1315 East-West Highway, Silver Spring, MD 20910. These documents are also available from the Highly Migratory Species Management Division website at [www.nmfs.noaa.gov/sfa/hmspg.html](http://www.nmfs.noaa.gov/sfa/hmspg.html). Comments also may be sent via facsimile (fax) to 301-713-1917. Comments will not be accepted if submitted via e-mail or on the Internet.

**FOR FURTHER INFORMATION CONTACT:** Tyson Kade, by phone: 301-713-2347; by fax: 301-713-1917; or by email: [Tyson.Kade@noaa.gov](mailto:Tyson.Kade@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The U.S. Atlantic swordfish fishery and the tuna fisheries are managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and regulations at 50 CFR part 635 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* Regulations issued under the authority of ATCA carry out the recommendations of ICCAT.

#### North Atlantic Swordfish Quota

Prior to the 2002 meeting, ICCAT conducted a stock assessment examining North Atlantic swordfish. The Standing Committee on Research and Statistics (SCRS) concluded that the assessment indicated that the stock could support an increase in the total allowable catch (TAC) of North Atlantic swordfish. According to the stock assessment, the biomass at the start of 2002 was estimated to be 94 percent of the biomass needed to produce maximum sustainable yield (MSY). The SCRS felt that there was a greater than 50-percent chance that a TAC of 14,000 mt ww would allow the stock to rebuild to MSY by the end of 2009. Based on this information, ICCAT set a TAC of 14,000 mt ww for 2003, 2004, and 2005, which is an increase from 10,400 mt ww in 2002. Of the 14,000 mt ww, the United States is allowed to catch 3,877 mt ww (2,915 mt dw) in 2003 and 3,907 mt ww (2,938 mt dw) in 2004 and 2005. The ICCAT recommendation also states that 200 mt ww (150 mt dw) of the U.S. catch limit may be harvested from an area between 5° North latitude and 50 South latitude.

In addition to adjusting the quota, ICCAT recommended that a dead discard allowance be established by deducting 100 mt ww from the 2003 North Atlantic swordfish TAC. The United States is allocated 80 percent or 80 mt ww (60 mt dw) of this allowance in addition to the country specific quota allocation. If the amount of the dead discards exceeds the allowance, the excess must be deducted from the quota the following year. The ICCAT recommendation says that the dead discard allowance will be phased out by 2004.

ICCAT also recommended that the United States transfer 25 mt ww (18.8 mt dw) of North Atlantic swordfish quota to Canada in 2003, 2004, and 2005. The transfer of these fish would not change the relative allocation share that each country has been given. NMFS is proposing to use the 185 mt ww (139.1 mt dw) remaining in the reserve