

that this action will not have a significant impact on a substantial number of small entities. The rule amendments will not impose any new requirements on small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 1, 2005.

**Stephen L. Johnson,**

*Acting Administrator.*

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BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 02-60; FCC 04-289]

#### Rural Health Care Support Mechanism

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, we modify our rules to improve the effectiveness of the rural health care universal service support mechanism. In the *Further Notice of Proposed Rulemaking (FNPRM)*, we seek comment on whether we should increase the percentage discount that rural health care providers receive for Internet access and whether infrastructure development should be funded. Additionally, we seek comment on whether to modify our rules specifically to allow mobile rural health care providers to use services other than satellite.

**DATES:** Comments are due on or before April 8, 2005. Reply comments are due on or before May 9, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Regina Brown at (202) 418-0792 or Dana Bradford at (202) 418-1932, Wireline Competition Bureau, Telecommunications Access Policy Division, TTY (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Further Notice of Proposed Rulemaking*, in WC Docket No. 02-60 released on December 17, 2004. A companion *Report and Order* and *Order on Reconsideration* was also released on December 17, 2004. 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. Further Notice of Proposed Rulemaking

#### A. Internet Access

1. In the 2003 *Report and Order*, 68 FR 74492, December 24, 2003, the Commission concluded that support equal to 25 percent of the monthly cost for any form of Internet access reasonably related to the health care needs of the facility should be provided to rural health care providers. The Commission specifically noted that it was acting conservatively by choosing a 25 percent flat discount initially. Because requests for Internet access discounts have remained at low levels, to seek comment on whether a 25 percent flat discount off the cost of monthly Internet access for eligible rural health care providers is sufficient. We continue to believe that a flat discount will lead to greater predictability and fairness among health care providers. We encourage commenters to be specific as to the level of support that we should offer, and to provide us with the facts that they rely upon in advocating a level of support.

2. Further, to accurately gauge the demand for support under the rural health care mechanism, we seek comment on the effect that an increase in Internet access support would have on the demand for support from rural health care providers. We therefore seek comment from rural health care providers on the demand for Internet access, and from service providers on the cost of such services. We seek comment on whether demand for Internet access is likely to reach the \$400 million cap on the amount of support to be provided by the rural health care mechanism, and how increased demand would affect the operation of the rural health care mechanism.

3. We also seek comment on the positive or negative effects that a decision to increase Internet access support will have on the rural health care support mechanism, from the perspective of the health care providers, the service providers, and USAC. We encourage parties to discuss any issues relevant to whether we should provide increased support for Internet access, what level of support to provide, what restrictions, if any, we should place on such support, what administrative problems and concerns may arise if we provide increased support, and the impact of an increase in support on the

mechanism's ability to support other services. Specifically, we seek comment on whether an increase of support would have positive or negative effects on facilities-based broadband deployment in rural areas.

#### B. Support for Other Telecommunications Services for Mobile Rural Health Care Providers

4. In the companion *Report and Order*, we revise our policy to allow mobile rural health care clinics to receive discounts for satellite services calculated by comparing the actual cost of the satellite service to the rate for an urban wireline service with a similar bandwidth. We recognize that not only satellite services but other telecommunications platforms, such as terrestrial wireless, may provide the most cost-effective means of providing the telemedicine link. Because we want to encourage mobile health care providers to consider all available telecommunications services when determining which service best suits the needs of the telemedicine project, we seek comment on whether to modify our rules specifically to allow mobile rural health care providers to use services other than satellite. We seek comment on what other telecommunications services might be available to support mobile rural telemedicine projects. We ask commenters to address how such service may be a more cost-effective method of providing service than a satellite connection. We also request whether services other than satellite services would require different rules, different eligibility criteria or any other changes from the rules we establish today.

#### C. Support for Infrastructure Development

5. In the 1997 *Universal Service Order*, 62 FR 32862, June 17, 1997, the Commission requested comment on whether and how to support infrastructure development or "network buildout" needed to enhance public and not-for-profit health care providers' access to advanced telecommunications and information services. At the time, the Commission noted that the record contained anecdotal evidence regarding the need for support for infrastructure development. We now seek to refresh the record on this issue.

6. In the 1997 *Universal Service Order*, the Commission agreed with MCI that infrastructure development is not a "telecommunications service" within the scope of section 254(h)(1)(A) and concluded that the Commission has the discretionary authority to establish rules to implement a program of universal

service support for infrastructure development as a method to enhance access to advanced telecommunications and information services under section 254(h)(2)(A), as long as such a program is competitively neutral, technically feasible, and economically reasonable. Section 254(h)(2)(A) directs the Commission to establish competitively neutral rules "to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all \* \* \* health care providers." Extending or upgrading existing telecommunications infrastructure could enhance access to the advanced services that may be offered over that infrastructure. Alternatively, in the schools and libraries context, the Commission has recognized that some carrier infrastructure costs may be passed on as a component of monthly service charges.

7. Should the Commission authorize support for upgrades to the public switched or backbone networks? How would the program be structured so that it is competitively neutral, technically feasible and economically reasonable? If so, how should the Commission limit such support so that funds are only provided when such upgrades can be shown to be necessary to deliver services to eligible health care providers? Should certifications or other evidence of necessity attesting to the use of such support be required from the rural health care provider or the service provider? Are other safeguards required to ensure that no waste, fraud or abuse occurs? Should these charges be prorated over a specified number of years? Commenters should provide specific information on the probable costs, advantages, and disadvantages of supporting such upgrades. Commenters should also provide information regarding the effect on the fund's resources.

## II. Procedural Matters

### A. Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *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

*FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

### B. Need for, and Objectives of, the Proposed Rules

9. The Commission is required by section 254 of the Act to promulgate rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules that reformed its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Among other programs, the Commission adopted a program to provide discounted telecommunications services to public or non-profit health care providers that serve persons in rural areas. Important changes in the rural health community over the past few years, such as technological advances and the variety of needs of the rural health care community, prompt us to review the rural health care universal service support mechanism.

10. In this *FNPRM*, we seek comment on whether we should increase the percentage discount that rural health care providers receive for Internet access. To the extent that we were concerned, in the 2003 *Report and Order*, that demand for Internet access support would exceed the annual funding cap, to date, those concerns have not come to fruition at this time. Therefore, we take this opportunity to seek comment on whether a 25 percent flat discount off the cost of monthly Internet access for eligible rural health care providers is sufficient. We also seek comment, in the *FNPRM*, on whether infrastructure development should be funded. In the 1997 *Universal Service Order*, the Commission requested comment on whether and how to support infrastructure development or "network buildout" needed to enhance public and not-for-profit health care providers' access to advanced telecommunications and information services. At the time, the Commission noted that the record contained anecdotal evidence regarding the need for support for infrastructure development. We now seek to refresh the record on this issue. Additionally, in the *FNPRM*, we seek comment on whether to modify our rules specifically to allow mobile rural health care providers to use services other than satellite. In the companion *Report and Order*, we revise our policy to allow mobile rural health care providers to receive discounts for satellite services

calculated by comparing the actual cost of the satellite service to the rate for an urban wireline service with a similar bandwidth. However, we recognize that not only satellite services but other telecommunications platforms, such as terrestrial wireless, may provide the most cost-effective means of providing the telemedicine link. Therefore, because we want to encourage mobile health care providers to consider all available telecommunications services when determining which service best suits the needs of the telemedicine project, we seek comment on whether to allow mobile rural health care providers to use telecommunications services other than satellite.

### C. Legal Basis

11. This *FNPRM* is adopted pursuant to sections 1, 4(i), (4j), 201, 202, 254, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), 201, 202, 254, and 303.

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

12. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

13. We have described in detail in the Final Regulatory Flexibility Analysis (FRFA) to the companion *Report and Order* the categories of entities that may be directly affected by any rules or proposals adopted in our efforts to reform the universal service rural health care support mechanism. For this IRFA, we hereby incorporate those entity descriptions by reference.

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

14. This *FNPRM* seeks comment on whether we should increase the percentage discount that rural health care providers receive for Internet access and whether infrastructure development should be funded. These potential changes will not impact

reporting or recordkeeping requirements. They may, however, increase the number of applicants. Additionally, the *FNPRM* seeks comment on whether to modify our policy specifically to allow mobile rural health care providers to use services other than satellite services, such as terrestrial wireless. If this proposal is adopted, mobile rural health care providers could potentially be required to submit additional information regarding their mobile services, if they choose to seek discounts. Any reporting and/or recordkeeping requirements adopted as part of this modification would only minimally impact both small and large entities. However, any minimal impact of such requirements would be outweighed by the benefit of providing support necessary to make mobile telemedicine economical for rural health care providers to provide high-quality health care to rural and remote areas, and to make telecommunications rates for public and non-profit rural health care providers comparable to those paid in urban areas. Further, such requirement/s may be necessary to ensure that the statutory goals of section 254 of the Telecommunications Act of 1996 are met without waste, fraud, or abuse.

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

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

16. In the *FNPRM*, we seek comment on whether we should increase the percentage discount that rural health care providers receive for Internet. We

also seek comment on whether infrastructure development should be funded by the universal service fund. Further, in the *Further Notice*, we seek comment on whether to modify our rules specifically to allow mobile rural health care providers to use services other than satellite, such as terrestrial wireless, to provide support to mobile rural health care providers. If these proposals are adopted, we believe the proposed changes will help small businesses by providing additional support under the rural health care mechanism than is currently available and provide rural health care providers with greater flexibility in choosing the services that best suit their needs. These proposed changes could potentially increase the number of applicants, including small entities, seeking support under the rural health care support mechanism. Affected small businesses could include rural health care providers and small companies serving those rural health care providers. In seeking to minimize any burdens imposed on small entities, where doing so does not compromise the goals of the universal service mechanism, we invite comment on alternative ways to minimize any significant economic impact of our proposals on small entities and on any alternatives to these proposals that may be more beneficial to small entities.

*G. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

17. None

*H. Filing Procedures*

18. We invite comment on the issues and questions set forth in the *FNPRM* and IRFAs contained herein. Pursuant to sections 1.415 and 1.419 of the Commission's rules, comments are due on or before April 8, 2005, and reply comments on or before May 9, 2005. In order to facilitate review of comments and reply comments, parties should include the name of the filing party and the date of the filing on all pleadings. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

19. Comments filed through the ECFS can be sent as an electronic file via the

Internet to <http://www.fcc.gov/cgb/ecfs>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get 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." A sample form and directions will be sent in reply. Or you may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

20. Parties that choose to file by paper must file an original and four copies 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 (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, 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.

21. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

| If you are sending this type of document or using this delivery method . . .   | It should be addressed for delivery to . . .                                       |
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| 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 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.).          |

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| If you are sending this type of document or using this delivery method . . .    | It should be addressed for delivery to . . . |
| United States Postal Service first-class mail, Express Mail, and Priority Mail. | 445 12th Street, SW., Washington, DC 20554.  |

22. Parties who choose to file by paper should also submit their comments on diskette. These diskettes, plus one paper copy, should be submitted to: Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications, at the filing window at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using 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 WC Docket No. 02-60, 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 pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CYB402, Washington, DC 20554 (see alternative addresses above for delivery by hand or messenger).

23. 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, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., CY-B402, Washington, DC 20554 (see alternative addresses above for delivery by hand or messenger) (telephone (202) 488-5300; facsimile (202) 488-5563) or via e-mail at [qualxint@aol.com](mailto:qualxint@aol.com).

24. 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, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail [qualxint@aol.com](mailto:qualxint@aol.com).

### I. Further Information

25. 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/universalservice/highcost>.

26. For further information, contact Regina Brown at (202) 418-0792 or Dana Bradford at (202) 418-1932 in the Telecommunications Access Policy Division, Wireline Competition Bureau.

### III. Ordering Clauses

27. Pursuant to the authority contained in §§ 1, 4(i), 4(j), 201-205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201-205, 214, 254, and 403, this *Further Notice of Proposed Rulemaking* is adopted.

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

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

[FR Doc. 05-2268 Filed 2-4-05; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF DEFENSE

### 48 CFR Part 250

[DFARS Case 2003-D048]

### Defense Federal Acquisition Regulation Supplement; Extraordinary Contractual Actions

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to processing of requests for extraordinary contract adjustments. This proposed rule is a result of a transformation initiative

undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 8, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D048, using any of the following methods:

- Federal eRulemaking Portal:  
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003-D048 in the subject line of the message.
- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations Council, Attn: Mr. Euclides Barrera, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.
- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Euclides Barrera, (703) 602-0296.

**SUPPLEMENTARY INFORMATION:**

### A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.