support; (3) it offers service meeting or exceeding the specified performance requirements for the same or lower rates in rural areas as it does for fixed wireline offerings in urban areas; or (4) both it and the price cap carrier are serving that census block and therefore its rates should be presumed reasonably comparable. After the adoption of the urban rate benchmark, the provider may present evidence that its rates are lower than the benchmark. If it successfully makes any of these showings, and the price cap carrier fails to offer sufficient contrary evidence, the provider will be deemed to be offering reasonably comparable rates. In responding to an unserved-to-served challenge, price cap carriers may contest the factual assertions made by the provider.

III. Procedural Matters

A. Paperwork Reduction Act

45. This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, the Bureau notes that pursuant to the Small Business Paperwork Relief Act of 2002, they previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

46. In this present document, the Bureau has assessed the effects of requiring price cap carriers to report certain information related to their Phase II service obligations. As all price cap carriers employ more than 25 employees, these changes will have no impact on businesses with fewer than 25 employees. Some changes adopted in this Order affect how unsubsidized competitors report information related to the challenge process. Unsubsidized competitors may be businesses with fewer than 25 employees. However, the changes adopted herein fall under previous OMB approval for the Phase II challenge process.

B. Final Regulatory Flexibility Certification

47. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''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).

48. The metrics and standards for determining compliance with the Commission's service requirements contained in the ''Price Cap Carrier Obligations'' section of this Order do not have a significant economic impact on a substantial number of small entities. The requirements in that section only directly affect price cap carriers that ultimately elect to accept Phase II support through the state-level commitment. The vast majority of these affected carriers are not small businesses. As separate and independent grounds, we also conclude that articulating objective quantitative metrics for demonstrating compliance with the standards adopted by the Commission creates only a de minimis economic impact. The metrics and standards adopted in the ''Unsubsidized Competitors'' section of this Order could affect a substantial number of small entities, depending on how many such entities participate in the challenge process. However, in setting the proxy by which we will determine whether an unsubsidized competitor offers 4 Mbps/1 Mbps service and stating a how an unsubsidized competitor can make a showing that its rates are reasonably comparable, we create only a de minimis economic impact. Therefore, we certify that the requirements of this Order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the order including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the order and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

C. Congressional Review Act

49. The Commission will send a copy of this order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

IV. Ordering Clauses

50. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 5(c), 201(b), 214, and 254 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 154(i), 155(c), 201(b), 214, 254, 1302, sections 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91, 0.291, and the delegations of authority in paragraphs 112, 170, and 171 of the *USF/ICC Transformation Order,* FCC 11–161, this Report and Order *is adopted,* effective thirty (30) days after publication of the text or summary thereof in the **Federal Register,** except for the provisions subject to the PRA, which will become effective upon announcement in the **Federal Register** of OMB approval of the subject information collection requirements.

Federal Comunications Commission.

Kimberly A. Scardino,

Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 2013–28341 Filed 11–26–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 236

[Docket No. FRA–2001–10160, Notice No. 5]

Need for Agency Approval of a Railroad's Use of Certain Technology That Has Been Previously Approved for Use by a Different Railroad

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Interim statement of agency interpretation, with request for public comment.

SUMMARY: FRA is providing interim guidance on a railroad's use of processor-based signal or train control technology subject to the requirements of 49 CFR part 236, subpart H, in the situation where the railroad has not previously obtained FRA's approval to use the technology, but a different railroad has already received FRA's approval to do so. Under these regulations, any railroad seeking to use signal or train control technology subject to the regulations must first adopt both a Railroad Safety Program

Plan and a Product Safety Plan covering the technology that have been approved by FRA. If FRA has already approved the use of a certain processor-based signal or train control technology by one railroad pursuant to that railroad's plans, a different railroad (a third-party railroad) may use as a model the Railroad Safety Program Plan and Product Safety Plan of the railroad that has FRA's approval for use of the technology, and the third-party railroad must submit its own plans and obtain FRA's approval before using the technology. FRA anticipates that there will be some railroad-by-railroad variances that will not be safety-critical, and such variances are required to be specified and are also subject to FRA approval.

DATES: This document is effective on November 27, 2013. Public comments on the interim interpretation are due by January 27, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments on the interim interpretation set forth in this document, identified as Docket No. FRA–2001–10160, Notice No. 5,[1] by any of the following methods:

- *Web site:* The Federal eRulemaking Portal, *http://www.regulations.gov.* Follow the Web site's online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this interim statement of agency policy and interpretation. Note that all submissions received will be posted without change to *http://www.regulations.gov* including any personal information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

[1] Prior to publication of the interim interpretation, FRA published a total of four documents in the **Federal Register** under Docket No. FRA–2001–10160.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Hartong, PE., Senior Scientific/Technical Advisor, Office of Safety Assurance and Compliance, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: (202) 493–1332), email (*mark.hartong@dot.gov*); Mr. Jason Schlosberg, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: (202) 493–6032), email (*jason.schlosberg@dot.gov*); or Mr. Matthew Prince, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: (202) 493–6146), email (*matthew.prince@dot.gov*).

SUPPLEMENTARY INFORMATION: FRA's regulations at Subpart H of 49 CFR part 236 (Subpart H), most of which FRA issued in 2005, set forth minimum performance standards for the development and use of certain technologies, namely safety-critical processor-based signal or train control systems, including subsystems and components thereof, developed under the terms and conditions of that subpart. See 70 FR 11095 (Mar. 7, 2005); 49 CFR 236.0(h), 236.901. The term ''processor-based'' means dependent on a digital processor in order to function properly. See 49 CFR 236.903. The subpart does not apply to a processor-based signal or train control system (including a subsystem or component thereof) that was in service as of June 6, 2005. See 49 CFR 236.911(a). For brevity, the subpart defines the term ''product'' to mean ''a processor-based signal or train control system, subsystem, or component.'' See 49 CFR 236.903.

Under Subpart H, a railroad that wishes to develop and use a safety-critical product or products covered by Subpart H must develop a Railroad Safety Program Plan (RSPP). The RSPP is intended to serve as the railroad's principal safety document for all of the railroad's safety-critical products subject to Subpart H. The railroad's RSPP must outline its methods of evaluation, risk assessment, safety assessment, system verification and validation, human factors analysis, and configuration management practices for all of its products subject to Subpart H. Using the methods described in its RSPP, the railroad then must develop a Product Safety Plan (PSP), for each product, which is intended to describe in detail all of the safety aspects of each particular product. Then the railroad must submit its RSPP and PSP(s) to FRA for approval. See 49 CFR 236.905(c) and 236.913.

FRA recognizes that Subpart H does not explicitly discuss how a third party may use the same processor-based signal or train control technology after FRA has approved it for use on the basis of a different railroad's PSP. However, FRA did discuss the potential for ''portable'' PSPs to be used by multiple railroads. *See* 70 FR 11080. This Interim Statement of Agency Interpretation describes the process by which a railroad may most readily receive FRA's approval for the railroad's implementation and use of a technology subject to Subpart H, where the technology has previously been approved for use by another railroad. This Interim Statement of Agency Interpretation does not amend Subpart H, but rather provides public notice of the standards that FRA will use to evaluate a PSP submitted under Subpart H by a third-party railroad. As indicated above, this interpretation becomes effective upon publication. RSPPs and PSPs that were acceptable prior to the effective date of this document will not be rendered unacceptable by this document; therefore, prior notice of the interpretation is not necessary.

Any third-party railroad seeking to implement a product subject to Subpart H must first develop and adopt its own RSPP in accordance with 49 CFR 236.905. This holds true even where a railroad will only be using technologies subject to an FRA-approved PSP developed by a different railroad. The third-party railroad must then submit an informational filing or petition for approval of a PSP in accordance with 49 CFR 236.913. An RSPP and PSP are necessary in order for a railroad to establish the performance requirements to which it will be held by FRA, and an RSPP and PSP are, therefore, required even for the use of previously-approved technologies. If a railroad submits an RSPP that includes only minor, non-safety-critical changes from an RSPP previously-approved by FRA and if the railroad indicates both the source of the RSPP and the variances from the FRA-approved version, FRA anticipates few difficulties in the RSPP-approval process. If a railroad does not plan to develop a PSP independently, the most important element of the RSPP is the ''configuration management control plan'' required by 49 CFR 236.905(b)(4).

Similarly, if a third-party railroad submits a PSP for a product based upon a PSP for the same product that was previously approved by FRA and if the third-party railroad identifies all variances in the product and its use from the approved version, FRA expects that the review process will focus only on those areas where variances exist in the product design or intended use. Where a PSP makes reference to a

previously-approved PSP, it is not necessary for a railroad to resubmit design information to demonstrate that the development of the technology complies with Subpart H, except where development changes were made from the approved version of the technology. Accordingly, in such cases the elements of the PSP defined in 49 CFR 236.907(a)(1)–(a)(11) are satisfied if the applicant makes explicit reference to an FRA-approved PSP; [2] the content of the original PSP relating to those paragraphs need not be repeated in the third-party PSP filings. However, because paragraphs (a)(12)–(a)(20) of 49 CFR 236.907 address a railroad's use of the technology, including training, installation, maintenance, security, and other elements, information called for by these paragraphs must be included within the third-party's PSP expressly. A railroad may choose to copy these elements from an approved PSP, and FRA encourages this practice, but it is necessary for railroads to explicitly adopt the practices required for the use of the technology. This reiteration of the description of these required practices will ensure that a railroad has adequate notice of its obligations under its PSP, which are subject to enforcement under Subpart H. If variances exist in the third-party railroad's PSP information responsive to paragraphs (a)(12)–(a)(20) of 49 CFR 236.907, then those variances must be supported by the safety analysis of the original railroad or the third-party railroad contained within the RSPP and material in the PSP responsive to paragraphs (a)(1)–(a)(11) of 49 CFR 236.907.

Once FRA approves a railroad's PSP (submitted through either an informational filing or a petition for approval), the submitting railroad becomes subject to Subpart H in its entirety, including the requirement set forth in 49 CFR 236.915 that the railroad comply with the terms of its FRA-approved PSP.

Authority: 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20157, 20301–20303, 20306, 20701–20703, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

Issued in Washington, DC, on November 21, 2013.

Melissa L. Porter,

Chief Counsel, Federal Railroad Administration.

[FR Doc. 2013–28406 Filed 11–26–13; 8:45 am]

BILLING CODE 4910–06–P

[2] Note that FRA approvals of PSPs are published on regulations.gov. Generally, railroads would know of the approved PSP for a product from the supplier of the product.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 111220786–1781–01]

RIN 0648–XC998

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for the State of New Jersey

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the 2013 summer flounder commercial quota allocated to the State of New Jersey has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New Jersey for the remainder of calendar year 2013, unless additional quota becomes available through a transfer from another state. Regulations governing the summer flounder fishery require publication of this notification to advise New Jersey that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing summer flounder in New Jersey.

DATES: Effective 1801 hours, November 27, 2013, through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Carly Bari, (978) 281–9224, or *Carly.Bari@noaa.gov.*

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102.

The initial total commercial quota for summer flounder for the 2013 fishing year is 11,793,596 lb (5,349,575 kg) (77 FR 76942, December 31, 2012). The percent allocated to vessels landing summer flounder in New Jersey is 16.72499 percent, resulting in a commercial quota of 1,972,478 lb (894,716 kg). The 2013 allocation was adjusted to 1,972,066 lb (894,514 kg) after deduction of research set-aside, adjustment for 2012 quota overages, and adjustments for quota transfers between states.

The Administrator, Northeast Region, NMFS (Regional Administrator), monitors the state commercial landings and determines when a state's commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information that, New Jersey has harvested its quota for 2013.

Section 648.4(b) provides that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 1801 hours, November 27, 2013, landings of summer flounder in New Jersey by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2013 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 1801 hours, November 27, 2013, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in New Jersey for the remainder of the calendar year, or until additional quota becomes available through a transfer from another state.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the summer flounder fishery for New Jersey until January 1, 2014, under current regulations. The regulations at § 648.103(b) require such action to ensure that summer flounder vessels do not exceed quotas allocated to the states. If implementation of this closure was delayed to solicit prior public comment, the quota for this fishing year will be exceeded, thereby undermining the conservation objectives of the Summer Flounder Fishery Management Plan. The AA further finds, pursuant to 5 U.S.C.