

resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefor;

(viii) Where a number of technical changes become necessary for a system during the course of coordination, an attempt should be made to minimize the number of separate notifications for these changes. Where the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified. When changes are not numerous or complex, the party receiving the changed notification should make an effort to respond in less than 30 days. When the notifying party believes a shorter response time is reasonable and appropriate, it may be helpful for that party to so indicate in the notice and perhaps suggest a response date;

(ix) If, after coordination is successfully completed, it is determined

that a subsequent change could have no impact on some parties receiving the original notification, these parties must be notified of the change and of the coordinator's opinion that no response is required;

(x) Applicants, permittees and licensees should supply to all other applicants, permittees and licensees within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating applicants, permittees and licensees, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation;

(xi) Parties should keep other parties with whom they are coordinating advised of changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was initiated, parties may

assume that such frequency use is no longer desired unless a second notification has been received within 10 days of the end of the 6 month period. Renewal notifications are to be sent to all originally notified parties, even if coordination has not been successfully completed with those parties; and

(xii) Any frequency reserved by a licensee for future use in the bands subject to this part must be released for use by another licensee, permittee or applicant upon a showing by the latter that it requires an additional frequency and cannot coordinate one that is not reserved for future use.

58. Section 78.101 is amended by removing the entry for 2,025 to 2,110 MHz and adding a new entry for 1,990 to 2,110 MHz in numerical order in the table in paragraph (a) and adding paragraph (c) to read as follows:

§ 78.101 Power limitations.

(a) * * * *

Frequency band (MHz)	Maximum allowable transmitter power		Maximum allowable EIRP	
	Fixed (W)	Mobile (W)	Fixed (dBW)	Mobile (dBW)
1,990 to 2,110		20.0		+35
* * * *				

* * * *

(c) The EIRP of transmitters that use Automatic Transmitter Power Control (ATPC) shall not exceed the EIRP specified on the station authorization. The EIRP of non-ATPC transmitters shall be maintained as near as practicable to the EIRP specified on the station authorization.

§ 78.103 [Amended]

59. Section 78.103 is amended by removing the entry for 31,000 to 31,300 from the table in paragraph (e).

§ 78.105 [Amended]

60. Section 78.105 is amended by removing the entries for 31,000 to 31,300 and 38,600 to 40,000, and Footnotes 2 and 3 from the table in paragraph (a)(1).

61. Section 78.106 is revised to read as follows:

§ 78.106 Interference to geostationary-satellites.

Applicants and licensees must comply with § 101.145 of this chapter to minimize the potential of interference to geostationary satellites.

62. Section 78.108 is amended by revising paragraph (b) to read as follows:

§ 78.108 Minimum path lengths for fixed links.

* * * *

(b) For paths shorter than those specified in the Table in paragraph (a) of this section, the EIRP shall not exceed the value derived from the following equation:

$$EIRP = MAXEIRP - 40 \log(A/B) \text{ dBW}$$

Where:

EIRP = The new maximum EIRP (equivalent isotropically radiated power) in dBW.

MAXEIRP = Maximum EIRP as set forth in the Table in § 74.636 of this part.

A = Minimum path length from the Table above for the frequency band in kilometers.

B = The actual path length in kilometers.

Note to Paragraph (b): For transmitters using Automatic Transmitter Power Control, EIRP corresponds to the maximum transmitter power available, not the coordinated transmit power or the nominal transmit power.

* * * *

§ 78.111 [Amended]

63. Section 78.111 is amended by removing the entry for 31,000 to 31,300 from the table.

[FR Doc. 01-11539 Filed 5-23-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116; FCC 01-145]

Federal-State Joint Board on Universal Service.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers.

DATES: Comments are due on or before June 25, 2001. Reply comments are due on or before July 9, 2001. Written

comments by the public on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due on or before June 25, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before July 23, 2001.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, DC 20503, or via the Internet to vhuth@omb.eop.gov. Parties should also send three paper copies of their filings to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5-B540, Washington, D.C. 20554. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Sheryl Todd, Accounting Policy Division, Common Carrier

Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5-B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418-7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 released on May 8, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

This NPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

The NPRM contains a proposed information collection. The Commission, as part of its continuing

effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection(s) contained in this NPRM, as required by the PRA, Public Law 104-13. Public and agency comments on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due on or before June 25, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before July 23, 2001.

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.

OMB Control Number: 3060-0855.

Title: Telecommunications Reporting Worksheet and Associated Requirements, CC Docket No. 96-45.

Form No.: FCC Form 499.

Type of Review: Proposed Revised Collection.

Respondents: Business or other for-profit.

Title	Number of respondents	Est. time per response	Total annual burden
1. Assessment on a Revenue Basis	5,000	9.5*	81,250
Total Annual Burden:			81,250
Cost to Respondents: \$0.			

*9.5 hours for respondents that file the annual filing and 6 hours for respondent that file the quarterly filing.

Title	Number of respondents	Est. time per response	Total annual burden
2. Assessment on a Flat Fee Basis	5,000	6*	45,000
Total Annual Burden:			45,000
Cost to Respondents: \$0.			

*6 hours for respondents that file the annual filing and 3 hours for respondent that file the quarterly filing.

Title	Number of respondents	Est. time per response	Total annual burden
3. Recovery of Universal Service Contributions—Lifeline Exception	5,000	1*	7,500
Total Annual Burden:			7,500
Cost to Respondents: \$0.			

*1 hour for respondents that file the annual filing and .5 hour for respondent that file the quarterly filing.

Needs and Uses: In this Notice of Proposed Rulemaking, we seek

comment on how to streamline and reform both the manner in which the

Commission assesses carrier contributions to the universal service

fund and the manner in which carriers may recover those costs from their customers. Section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, requires carriers providing interstate telecommunications services to contribute to universal service. Under the current universal service rules, carriers' contributions are assessed as a percentage of their interstate and international end-user telecommunications revenues. The Universal Service Administrative Company would use information filed on carrier revenues, line counts, or number of accounts to determine the quarterly universal service contribution factor.

Synopsis of NPRM

I. Introduction

1. In this Notice of Proposed Rulemaking (NPRM), we seek comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. Section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), requires carriers providing interstate telecommunications services to contribute to universal service. Under the current universal service rules, carriers' contributions are assessed as a percentage of their interstate and international end-user telecommunications revenues. For carriers electing to recover their universal service contributions from their customers, the Commission generally has not specified a particular method of recovery. Rather, the Commission has required that contributors not shift more than an equitable share of their contributions to any customer or group of customers, and that carriers provide accurate, truthful, and complete information regarding the nature of the charge.

2. In this NPRM, we seek comment on whether and how to streamline and reform the universal service contribution methodology. We seek comment on specific proposals to require carriers to contribute based on a percentage of collected revenues, or to contribute on the basis of a flat-fee charge, such as a per-line charge. Additionally, we seek comment on limiting the manner in which carriers recover their contribution costs from their customers. If carriers choose to recover universal service contributions from their customers through line items, we propose to require carriers to do so

through a uniform universal service line item that corresponds to the contribution assessment on the carrier.

3. We believe that we may need to revisit the concepts underlying the existing contribution system, in light of current market trends, to ensure that providers of interstate telecommunications services continue to "contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service." Since the Commission's initial implementation of section 254 of the Act in 1997, we have seen many significant developments in the interstate telecommunications marketplace. We have witnessed the entry of new providers into the long distance market, including Regional Bell Operating Companies (RBOCs) that have received approval under section 271 of the Act to provide interstate telecommunications. We also are seeing certain wireline interexchange carriers suffer declining revenues in light of growing competition. Growth in the wireless telecommunications sector, as well as the advent of Internet Protocol (IP) telephony, has changed the dynamics of the interstate telecommunications market. Furthermore, many carriers are bundling services together in creative ways, such as offering flat-rate packages that include both interstate and intrastate telecommunications and non-telecommunications products and services.

4. Changes to the universal service contribution methodology may be necessary to simplify and streamline the contribution process for carriers. For example, although not mandated by the Commission, many carriers choose to recover most, if not all, of their universal service contributions through line items on their customers' bills. Even though the Commission sets a uniform contribution factor for universal service, carriers may decide to boost this factor in order to account for "uncollectible" revenue and other variables. We believe that this process may require carriers to engage in complex calculations in order to fully recover their contribution costs through a line item on customer bills.

5. We also have concerns about the extent to which the universal service line item fee varies from one carrier to the next, even though the contribution factor set by the Commission is uniform across carriers. For example, in the fourth quarter 2000, the Commission established a contribution factor of 5.6688 percent. The major

interexchange carriers, however, imposed line-item fees on residential and business customers ranging from approximately 5.9 percent to 8.6 percent. For the second quarter of 2001, after the Commission established a contribution factor of 6.8823%, one interexchange carrier raised its residential line item to 12%. This discrepancy between the contribution factor and the amount carriers charge consumers is inexplicable to the casual observer. Moreover, it appears that some carriers have chosen to recover universal service contributions through a line item on only certain classes of customers. Some carriers may be recovering universal service contributions from pre-subscribed customers through line items that are well in excess of the contribution factor, while recovering, through service rates, an unidentified amount of such costs from other customers of services such as pre-paid calling cards or dial-around service. The end result may be that certain customer classes are bearing a disproportionate share of the carrier's cost of universal service contributions, which could, in some circumstances, be inconsistent with the Commission's directive that contributors not shift more than an equitable share of their contributions to any customer or group of customers.

6. The Commission has an obligation to ensure that the universal service contribution system remains consistent with the statute, is reflective of current market trends, is simple for carriers to administer, and does not shift more than an equitable share of carrier contributions to any class of customers. We therefore conclude that we should revisit the issue of how contributions to the universal service fund are assessed on carriers and how carriers may recover such contribution costs from consumers. In this NPRM, we seek comment on how to streamline the assessment and recovery of universal service contributions, especially in light of recent developments in the telecommunications marketplace, while maintaining a universal service fund that is consistent with the requirements of the Act. We welcome input from all segments of the industry, consumer groups, state commissions, and the members of the Federal-State Joint Board on Universal Service (Joint Board).

II. Procedural Issues

A. *Ex Parte*

7. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted,

except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Initial Paperwork Reduction Act of 1995 Analysis

8. This NPRM contains either a 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 NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due July 23, 2001. 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.

C. Initial Regulatory Flexibility Act Analysis

9. 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 this Notice of Proposed Rulemaking. 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 NPRM provided. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for and Objectives of the Proposed Rules

10. The Commission seeks comment in this NPRM as a part of its implementation of the Act's mandate that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to

preserve and advance universal service." Specifically, we seek comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. We seek comment on whether and how to revise the universal service contribution methodology. We seek comment on specific proposals to require carriers to contribute based on a percentage of collected revenues, or to contribute on the basis of a flat-fee charge, such as a per-line charge. Additionally, we seek comment on limiting the manner in which carriers recover contribution costs from end users. If carriers choose to recover universal service contributions from their end users through line items, we propose to require carriers to do so through a uniform universal service line item that corresponds to the contribution assessment on the carrier.

2. Legal Basis

11. The legal basis as proposed for this NPRM is contained in sections 4(i), 4(j), 201-205, 254, and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 4(i), 4(j), 201-205, 254, 403.

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

12. The Commission's contributor reporting requirements apply to a wide range of entities, including all telecommunications carriers and other providers of interstate telecommunications services that offer telecommunications services for a fee. Thus, we expect that the rules adopted in this proceeding could have a significant economic impact on a substantial number of small entities. Of the estimated 5,000 filers of the Telecommunications Reporting Worksheet, FCC Form 499, we do not know how many are small entities, but we offer a detailed estimate of the number of small entities within each of several major carrier-type categories.

13. To estimate the number of small entities that could be affected by these proposed rules, we first consider the statutory definition of "small entity" under the RFA. 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 that: (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). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."

14. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

15. A "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

16. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. According to data in the most recent report, there are 4,822 interstate carriers. These carriers include, *inter alia*, incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

17. *Total Number of Telephone Companies Affected*. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in

providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

18. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

19. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers

(IXCs), competitive access providers (CAPs), operator service providers (OSPs), payphone providers or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually on the Form 499-A. According to our most recent data, there are 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 541 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in this Order.

20. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Trends Report*, 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small cellular service

carriers that may be affected by the proposed rules, if adopted.

21. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. If this general ratio continues in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

22. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, 62 FR 16004, April 3, 1997, we adopted criteria for defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Two auctions of Phase II licenses have been conducted. In the first auction, nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: One of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG

licenses. Fourteen companies claiming small business status won 158 licenses.

23. Private and Common Carrier Paging. In the Paging *Third Report and Order*, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. The SBA has approved these definitions. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends Report*, 427 carriers reported that they were engaged in the provision of paging and messaging services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 427 small paging carriers that may be affected by the decisions and rules adopted in this Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

24. Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These regulations defining "small entity" in the context of broadband PCS auctions

have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

25. Narrowband PCS. To date, two auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of \$40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order*, 65 FR 35875, June 6, 2000. A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small

businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

26. Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

27. Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

28. Specialized Mobile Radio (SMR). Pursuant to 47 CFR 90.814(b)(1), the Commission has defined "small business" for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of \$15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the \$15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and

was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the \$15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

29. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

30. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

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

31. Any decisions on rule changes adopted in this proceeding potentially could modify the reporting and recordkeeping requirements of telecommunications service providers regulated under the Communications Act. As discussed previously, we potentially could require telecommunications service providers to file additional and/or different monthly or quarterly reports. In addition, we seek comment on whether to modify or eliminate the interim safe harbor for wireless telecommunications carriers. We also seek comment on whether to eliminate the *de minimis* exemption from universal service contribution requirements. Any such reporting requirements potentially could require the use of professional skills, including legal and accounting expertise. Without more data, we cannot accurately estimate the cost of compliance with a carrier surcharge by small telecommunications service providers. In this NPRM, we therefore seek comment on the frequency with which carriers subject to a carrier surcharge should submit reports to USAC, the types of burdens carriers will face in periodically submitting reports to USAC, and whether the costs of such

reporting are outweighed by the potential benefits of a carrier surcharge. Entities, especially small businesses, are encouraged to quantify the costs and benefits of carrier surcharge reporting requirement proposals.

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

32. 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 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.

33. As discussed previously, this NPRM seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. We seek comment on whether and how to revise the universal service contribution methodology. We seek comment on specific proposals to require carriers to contribute based on a percentage of collected revenues, or to contribute on the basis of a flat-fee charge, such as a per-line charge. Additionally, we seek comment on limiting the manner in which carriers recover contribution costs from end users. If carriers choose to recover universal service contributions from their end users through line items, we propose to require carriers to do so through a uniform universal service line item that corresponds to the contribution assessment on the carrier. The NPRM also seeks comment on any other mechanisms for the assessment and recovery of universal service contributions.

34. Wherever possible, the NPRM proposes general rules, or alternative rules to reduce the administrative burden and cost of compliance for small telecommunications service providers. As discussed, under the current universal service contribution rules interstate telecommunications service providers whose annual universal service contribution is expected to be less than \$10,000 are not required to contribute to the universal service mechanisms. In this NPRM, we seek

comment on the impact of the proposed contribution assessment methodologies on the current *de minimis* exemption to the universal service contribution requirement. We specifically seek comment on whether to retain, modify, or eliminate the *de minimis* exemption. We also more generally seek comment from small businesses on the costs and benefits of reporting requirements associated with the various proposed universal service assessment methodologies. Finally, the NPRM seeks comment on measures to avoid significant economic impact on small business entities, as defined by section 601(3) of the Regulatory Flexibility Act.

6. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

35. None.

D. Comment Filing Procedures

36. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments June 25, 2001, and reply comments July 9, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

37. Comments filed through the 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. 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, 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, 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.

38. 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 appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

39. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Sheryl Todd, Accounting Policy Division, 445 12th Street, S.W., Washington, D.C. 20554. 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 CC Docket No. 96-45, 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, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

40. Written comments by the public on the proposed and/or modified information collections are due on or before June 25, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before July 23, 2001.

III. Ordering Clauses

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

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

List of Subjects 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01-13114 Filed 5-23-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 051501D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 5 to the Fishery Management Plan for the Shrimp Fishery off the Southern Atlantic States

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

ACTION: Notice of intent to prepare a draft supplemental environmental impact statement (DSEIS); request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) intends to prepare a DSEIS to assess the impacts on the natural and human environment of management measures proposed in its draft Amendment 5 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP). The purpose of this document is to solicit public comments on the scope of the issues to be addressed in the DSEIS and to provide information on the Council's intended schedule for completing the DSEIS and submitting it to NMFS for filing and for further public comment.

DATES: Written comments on the scope of the issues to be addressed by the DSEIS for draft Amendment 5 must be received by the Council by June 25, 2001.

ADDRESSES: Written comments on the scope of the DSEIS and requests for additional information on the management measures proposed in draft Amendment 5 should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; phone: 843-571-4366; fax: 843-769-4520; e-mail: Kim.Iverson@noaa.gov Robert.Mahood@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, 843-571-4366, or Dr. Peter Eldridge, NMFS, 727-570-5305.

SUPPLEMENTARY INFORMATION: Management measures for rock shrimp under the FMP apply in the exclusive economic zone (EEZ) in the South Atlantic. For the purposes of the FMP and its implementing regulations, the South Atlantic consists of the Atlantic Ocean off the southern Atlantic states (i.e., from the Virginia/North Carolina

border through the Florida Keys). The FMP currently establishes the following management measures for rock shrimp: Federal fishing vessel permits necessary to fish for, sell, transfer, or possess rock shrimp in or from the South Atlantic EEZ; Federal dealer permits to receive rock shrimp harvested in the South Atlantic EEZ; requirement for selected dealers to report receipts and prices of rock shrimp harvested from the South Atlantic EEZ; and a prohibition on fishing for or possessing rock shrimp in or from the Oculina Bank habitat area of particular concern.

The Council is preparing draft Amendment 5 to the FMP. Amendment 5 will address the following issues: (1) The implementation of a limited entry program for the rock shrimp fishery to remove speculative interests from the fishery and ensure the economic viability of the rock shrimp industry; (2) the establishment of mesh size restrictions to reduce the harvest of small rock shrimp; (3) the requirement for vessel operator permits and vessel monitoring systems to ensure better compliance with the FMP's management measures and implementing regulations; and (4) the specification of geographic areas within which these aforementioned management measures would apply.

The Council is preparing a DSEIS as an integrated part of Amendment 5. The DSEIS will describe the amendment's proposed management measures and their reasonable alternatives and will assess the environmental impacts of these proposed and alternative measures. The Council is requesting written comments on the scope of the issues to be addressed in the DSEIS.

Based on input to be received during 7 public hearings that the Council is conducting from May 3, 2001, through June 19, 2001 (see notice of these hearings at 66 FR 22144) on a preliminary draft of Amendment 5 and associated DSEIS, the Council intends to revise draft Amendment 5, as appropriate, and to finalize the DSEIS. The Council intends that the current public hearings on its preliminary draft Amendment 5 and DSEIS supplement, for scoping purposes, the three scoping meetings it held in 1994 to invite initial public input on the scope of the issues to be addressed by Amendment 5 and the types of environmental impacts associated with alternative management measures, including those proposed measures listed here. With the exception of the requirement for operator permits, which was disapproved by NMFS as contained in a previous FMP amendment, these management measures have not been