III. Deletion Procedures

In the NPL rulemaking published on October 15, 1984 (49 FR 40320), the Agency solicited and received comments on whether the notice of comment procedures followed for adding sites to the NPL should also be used before sites are deleted. Comments were also received in response to the amendments to the NCP proposed on February 12, 1985 (50 FR 5862). Deletion of sites from the NPL does not itself create, alter, or revoke any individuals rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

EPA Region III will accept and evaluate public comments before making a final decision to delete. The Agency believes that deletion procedures should focus on notice and comment at the local level. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this site:

(1) EPA Region III has recommended deletion and has prepared the relevant documents.

(2) PADEP has concurred with the deletion decision.

(3) Local notice will be published in local newspapers and distributed to appropriate federal, state and local officials and other interested parties. This local notice presents information on the site and announces the thirty (30) day public comment period on the deletion package.

(4) The Region has made information supporting the proposed deletion available in the Regional Office and local site information repository.

The comments received during the notice and comment period will be evaluated before the final decision to delete. The Region will prepare a Responsiveness Summary, which will address significant comments received during the public comment period. A deletion will occur after the EPA Regional Administrator places a document in the **Federal Register**. The NPL will reflect any deletions in the final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region III.

IV. Basis for Intended Site Deletion

The Hebelka Auto Salvage Yard Superfund Site occupies approximately 20 acres within the headwaters of the Iron Run subdrainage basin in Lehigh County, Pennsylvania. The Site is the location of a former automobile junkyard and salvage operation involving junk cars, used storage tanks and miscellaneous scrap metals and debris with periods of activity between 1958 and 1979. The Pennsylvania Department of Environmental Resources reported that operations ceased in 1979.

The Site was purchased in 1958 by Mr. and Mrs. Joseph Hebelka, now deceased. The property is currently a part of the estate of Lovie Hebelka. In December 1985, the EPA Region III Field Investigation Team (FIT III) visited the Site for the purpose of conducting a Site Inspection (SI). The SI revealed the presence of two battery piles at the Site, termed the eastern pile and the western pile. The major contaminant identified at this site was lead in soils downgradient from the battery piles. The Site was proposed for inclusion on the Superfund National Priorities List on June 1, 1986 and finalized on that list on August 21, 1987.

Operable Unit 1 (OU1) addressed the areas of the Site with lead in soil concentrations above 560 mg/kg and the piles of scrap battery casings lying on top of these soil areas. Operable Unit 2 (OU2) addressed the soils outside of this high concentration area, the air in the vicinity of the Site, the groundwater in the vicinity (including nearby home well water), the nearby stream water and the stream sediments.

A Remedial Investigation and Feasibility Study (RI/FS) was conducted between March 1987 and July 1991 to define the nature and extent of contamination and to identify alternatives for remediating the Site conditions. Remedies for the Operable Units were selected and described in separate Records of Decision (ROD). ROD 1 was issued March 31, 1989 for OU1 and ROD 2 was issued September 30, 1991 for OU2. The remedy selected in ROD 1 was designed to prevent ingestion of lead-contaminated particles and soil in excess of health-based levels by removing them from the Site and treating and-or disposing of them. This was done by removing battery casings and recycling them. Recycling was proven to be impractical so they were disposed of in a RCRA landfill. Soil above health-based risk levels was excavated, stabilized offsite and deposited in a RCRA Subtitle D municipal landfill. Clean soil was then backfilled and revegetated. EPA determined that no further action was necessary at the Site for OU2 because contamination pathways via the site media posed no current or potential threat to human health and the environment. Therefore, the remedy chosen in ROD 1, eliminated the need for further action.

Because the remedies chosen for OU1 and OU2 did not result in hazardous substances remaining onsite above health-based levels, the five-year review process will not apply to this site.

The remedies selected for this site have been implemented in accordance with the Records of Decision. As a result of these remedies, human health threats and potential environmental impacts at this site have been eliminated. EPA and PADEP find that the remedies implemented continue to provide adequate protection of human health and the environment.

EPA, in concurrence with PADEP believes that the criteria stated in section II(i) for deletion of this site has been met. Therefore, EPA is proposing the deletion of this site from the NPL.

Dated: April 19, 1999.

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 99–15833 Filed 6–23–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45 and 97–21; FCC 99–49]

Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: In this document, the Commission proposes a method for allocating funds in the event that the Administrator's initial denial of a request for support is reversed by the Administrator or the Commission. The Commission proposes a method for allocating support when there is sufficient funding to support all telecommunications service and Internet access (priority one services) appeals, but not sufficient funding to support all internal connection appeals. The Commission also proposes a method for allocating support in the unlikely event that sufficient funds are not available for all priority one service appeals.

DATES: Comments are due on or before June 30, 1999.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission,

445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sharon Webber, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on May 28, 1999. 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.

I. Introduction

1. In the this Further Notice of Proposed Rulemaking (Further Notice), we propose a method for allocating funds in the event that the Administrator's initial denial of a request for support is reversed by the Administrator or the Commission. Specifically, we propose a method for allocating support when there is sufficient funding to support all telecommunications service and Internet access (priority one services) appeals, but not sufficient funding to support all internal connection appeals. We also propose a method for allocating support in the unlikely event that sufficient funds are not available for all priority one service appeals.

2. The Commission's rules provide that an applicant may file a request for review with the Administrator or the Commission in connection with the Administrator's denial of an application. Although the Administrator has taken all reasonable and appropriate steps to ensure that it will be able to fund fully all appeals that may be granted, we conclude that it is necessary to adopt additional funding priority rules setting forth how funds will be allocated in the unlikely event that sufficient funds are not available at the appeal phase. Consistent with the Commission's funding priority rules, we propose that, when a filing window is in effect, the Administrator shall first fund all priority one service appeals that have been granted and, if sufficient funds remain, shall allocate funds to internal connection appeals at each descending single discount percentage, e.g., ninety percent, eighty-nine percent, and so on. In no case, however, would an applicant be able to receive support for internal connections below the discount level for which an applicant received support in the original application process. That is, if the Administrator were only able to provide support during the original application process to applicants at a discount level of seventy percent or above, an applicant would not be able to receive support on appeal for an internal connection request at a sixty-nine percent discount level. To the extent funds do not exist to fund all appeals granted within a single discount percentage, we propose that the Administrator allocate the remaining support on a pro rata basis within that single discount percentage. We seek comment on this proposal.

3. If the Administrator determines that sufficient funds are not available to fund all priority one service appeals, we propose that the Administrator allocate the available funds to all appeals for priority one services, i.e., telecommunications services and Internet access on a pro rata basis, irrespective of the discount level associated with the request. We believe that this is the best approach in light of both the funding priority rules, which grant first priority to requests for telecommunications services and Internet access, and the Commission's goal of ensuring that every eligible school and library receive some assistance. We seek comment on this proposal. In particular, we seek comment on how this proposed allocation method should be implemented in light of our appeal procedures, which permit applicants to seek review of decisions issued by the Administrator from either the Administrator or the Commission. We tentatively conclude that, to ensure an equitable distribution of funds to all priority one service appeals, the Administrator should wait until a final decision has been issued on all priority one service appeals before it allocates funds on a pro rata basis. We seek comment on this tentative conclusion. We also seek comment on whether it would be more appropriate for the Commission to permit the Administrator to use funds collected in the next funding year to fund priority one service appeals for the prior year. While we recognize that using funds collected for the next funding year may deplete the available funds for that year, we nevertheless seek comment on whether there are any advantage to such an approach. We also invite parties to submit alternative proposals that would enable the Administrator to distribute fairly funds for appeals in the event that sufficient funds are not available to fund all priority one service appeals.

4. We recognize that applicants must complete the installation of internal connections by a date certain for each funding year. We tentatively conclude that an applicant would be required to complete the installation of internal connections that received support pursuant to an appeal within six months from the date that the final decision on appeal is issued. We seek comment on this tentative conclusion.

5. Finally, pending the outcome of this Further Notice, we find that, if the Administrator is able to determine that sufficient funds are available to provide support for all priority one service appeals that may be granted for the first funding year, the Administrator may allocate support immediately to such appeals. To the extent funds remain, and the Administrator is able to determine that sufficient funds are available to allocate funds to all internal connection appeals down to the seventy percent discount level, i.e., the lowest discount level for which applicants received support during the original funding period, the Administrator may allocate support immediately to such internal connection appeals that may be granted.

VI. Filing Procedures

6. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments by June 30, 1999. Pursuant to section 1.3 of the Commission's rules, 47 CFR 1.3, we find good cause to waive section 1.415(c) of the Commission's rules, which provides for the submission of replies to original comments. Dispensing with reply comments is crucial in light of the urgent need to provide definitive guidance to the Administrator regarding the priorities for allocating funds to applications whose initial denials are reversed by the Administrator or the Commission.

7. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). 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.

8. 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. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Sheryl Todd, Federal Communications Commission, Common Carrier Bureau, Accounting Policy Division, 445 12th Street, S.W., room 5–A523, Washington, D.C. 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows 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 lead docket number in this case (97–21)), 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., room CY–B400, 445 Twelfth Street, S.W., Washington, D.C. 20554. For further information, please contact: Sharon Webber, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

9. Pursuant to section 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

VII. Regulatory Flexibility Analysis

A. Initial Regulatory Flexibility Analysis

10. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Further 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 Further Notice of Proposed Rulemaking provided above. The Commission will send a copy of the Further Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the Further Notice of Proposed Rulemaking and IRFA (or summaries thereof) will be published in the **Federal Register**. *See* id.

11. *Need for an Objectives of the Proposed Rules.* The Commission's rules provide that an applicant may file a request for review with the Administrator or the Commission in connection with the Administrator's denial of an application. Although the Administrator has taken all reasonable and appropriate steps to ensure that it will be able to fund fully all appeals that may be granted, we conclude that it is necessary to adopt additional funding priority rules setting forth how funds will be allocated in the unlikely event that sufficient funds are not available at the appeal phase. Accordingly, the Further Notice proposes that, when a filing window is in effect, the Administrator shall first fund all priority one service appeals that have been granted and, if sufficient funds remain, shall allocate funds to internal connection appeals at each descending single discount percentage, e.g., ninety percent, eighty-nine percent, and so on. To the extent funds do not exist to fund all appeals granted within a single discount percentage, we propose that the Administrator allocate the remaining support on a pro rata basis within that single discount percentage. If the Administrator determines that sufficient funds are not available to fund all priority one service appeals, the Further Notice proposes that the Administrator allocate the available funds to all appeals for priority one services, i.e., telecommunications services and Internet access on a pro rata basis, irrespective of the discount level associated with the request.

12. *Legal Basis.* The proposed action is supported by sections 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 254, and 403.

13. *Description and Estimate of the Number of Small Entities to which the proposed rules will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may 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). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

14. *Schools and Libraries.* The Commission specifically noted in the *Universal Service Order* that the SBA defined small elementary and secondary schools and small libraries as those with under $5 million in annual revenues. The Commission further estimated that there are fewer than 86,221 public and 26,093 private schools and fewer than 15,904 libraries that may be affected by the decisions and rules adopted in the Universal Service Order. We believe that these same small entities may be affected potentially by the rules proposed in this Further Notice.

15. *Rural Health Care Providers.* The Commission noted in the *Universal Service Order* that neither the Commission nor the SBA has developed a definition of small, rural health care providers. Section 254(h)(5)(B) defines the term ''health care provider'' and sets forth the seven categories of health care providers eligible to receive universal service support. We estimated that there are fewer than 12,296 health care providers potentially affected by the rules in the *Universal Service Order.* We note that these small entities may

potentially be affected by the rules proposed in this Further Notice.

16. *Description of Projected Reporting, Record keeping, and Other Compliance Requirements.* We tentatively conclude that there will not be any additional burdens or costs associated with the proposed rules on any entities, including on small entities. We seek comment on this tentative conclusion.

17. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* In the FRFA to the *Universal Service Order*, the Commission described the steps taken to minimize the significant economic impact on a substantial number of small entities consistent with stated objectives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order.* Our current action to amend our rules will benefit schools, libraries, and rural health care providers, by ensuring that funds are allocated first to the neediest schools and libraries and that schools, libraries, and rural health care providers will be able to receive any support approved by the Administrator that is not the subject of an appeal. We believe that the amended rules fulfill the statutory mandate to enhance access to telecommunications services for schools, libraries, and rural health care providers, and fulfill the statutory principle of providing quality services at ''just, reasonable, and affordable rates,'' without imposing unnecessary burdens on schools, libraries, rural health care providers, or service providers, including small entities.

18. *Federal Rules That May Overlap, Duplicate, or Conflict with the Proposed Rule.* None.

VIII. Ordering Clauses

19. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403 and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403 and 405, section 553 of the Administrative Procedure Act, 5 U.S.C. 553, and section 1.108 of the Commission's rules, 47 CFR 1.108, the Further Notice of Proposed Rulemaking is adopted.

20. It is further ordered that, because the Commission has found good cause, this Further Notice of Proposed Rulemaking is effective upon publication in the **Federal Register**.

21. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, 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.

List of Subjects in 47 CFR Part 54

Healthcare providers, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–16182 Filed 6–23–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF67

Endangered and Threatened Wildlife and Plants; Proposed Rule to Remove the Northern Populations of the Tidewater Goby From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service, pursuant to the Endangered Species Act of 1973, as amended (Act), proposes to remove the northern populations of the tidewater goby (*Eucyclogobius newberryi*) from the list of endangered and threatened wildlife. The species is now classified as endangered throughout its entire range. We have determined that north of Orange County there are more populations than were known at the time of the listing, that the threats to those populations are less severe than previously believed, and that the tidewater goby has a greater ability than was known in 1994 to recolonize habitats from which it is temporarily absent. This proposal would remove the northern populations of the tidewater goby from protection under the Act.

The Orange and San Diego counties population of tidewater goby, which constitutes a distinct population segment, is genetically distinct, is comprised of gobies from only six localities, and continues to be threatened by habitat loss and degradation, predation by non-native species, and extreme weather and streamflow conditions. Therefore, this distinct population segment will be retained as an endangered species on the List of Endangered and Threatened Wildlife.

DATES: We must receive comments from all interested parties by August 23, 1999. We must receive public hearing requests by August 9, 1999.

ADDRESSES: Send written comments and other materials concerning this proposal to Ms. Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003. You may inspect comments and materials received, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Carl Benz at the above address; telephone 805/644–1766, facsimile 805/644–3958.

SUPPLEMENTARY INFORMATION:

Background

The tidewater goby was first described in 1857 by Girard as *Gobius newberryi.* Gill (1862) erected the genus *Eucyclogobius* for this distinctive species. The majority of scientists has accepted this classification (e.g., Bailey *et al.* 1970, Miller and Lea 1972, Hubbs *et al.* 1979, Robins *et al.* 1991, Eschmeyer *et al.* 1983). No other species has been described in this genus. A few older works and Ginsburg (1945) placed the tidewater goby and the eight related eastern Pacific species into the genus *Lepidogobius.* This classification includes the currently recognized genera *Lepidogobius, Clevelandia, Ilypnus, Quietula,* and *Eucyclogobius.* Birdsong *et al.* (1988) coined the informal *Chasmichthys* species group, recognizing the phyletic relationship of the eastern Pacific group with species in the northwestern Pacific.

Crabtree's (1985) allozyme work on tidewater gobies from 12 localities throughout the range shows fixed allelic differences at the extreme northern (Lake Earl, Humboldt Bay) and southern (Cañada de Agua Caliente, Winchester Canyon, and San Onofre Lagoon) ends of the range. The northern and southern populations are genetically distinct from each other and from the central populations sampled. The more centrally distributed populations are relatively similar to each other (Brush Creek, Estero Americano, Corcoran Lagoon, Arroyo de Corral, Morro Bay, Santa Ynez River, and Jalama Creek). Crabtree's results indicate that there is a low level of gene flow (movement of individuals) between the populations sampled in the northern, central, and southern parts of the range. However, Lafferty *et al.* (in prep.) point out that Crabtree's sites were widely distributed geographically, and may not be