SUMMARY: The General Services Administration (GSA) is extending the expiration date of an interim rule on Federal Property Management Regulations provisions regarding records management.

DATES: *Effective date:* The interim rule published at 61 FR 41000 was effective August 8, 1996.

Expiration Date: The expiration date of the interim rule published at 61 FR 41000 is extended through December 31, 2000.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, Jr. Office of Governmentwide Policy, telephone 202–501–4469.

SUPPLEMENTARY INFORMATION: FPMR interim rule B–1 was published in the **Federal Register** on August 7, 1996, 61 FR 41000. The expiration of the interim rule was December 31, 1997. A supplement published in the **Federal Register** on October 31, 1997, 62 FR 58922, extended the expiration date through December 31, 1998. Another supplement was published in the **Federal Register** on January 19, 1999, 64 FR 2857, that extended the expiration date through December 31, 1999. This supplement further extends the expiration date through December 31, 2000.

List of Subjects in 41 CFR part 101–11

Archives and records, Computer technology, Telecommunications, Government procurement, Property management, Records management, and Federal information processing resources activities.

Therefore the expiration date for interim rule B–1 adding 41 CFR part 101–11 published at 61 FR 41000, August 7, 1996, and extended until December 31, 1999 at 64 FR 2857, January 19, 1999, is further extended until December 31, 2000.

Dated: October 26, 1999.

David J. Barram,

Administrator of General Services.

[FR Doc. 99–28962 Filed 11–4–99; 8:45 am]

BILLING CODE 6820–34–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 69

[CC Docket Nos. 96–45 and 96–262; FCC 99–290]

Federal-State Joint Board on Universal Service Access Charge Reform

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerning the Federal-State Joint Board on Universal Service: Access Charge Reform adopts modifications to the Commission's rules consistent with the portions of the United States Court of Appeals for the Fifth Circuit decision concerning the assessment and recovery of universal service contributions, and the Lifeline program.

DATES: Effective November 1, 1999.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Sixteenth Order on Reconsideration in CC Docket No. 96–45, Eighth Report and Order in CC Docket No. 96–45, and Sixth Report and Order in CC Docket No. 96–262 released on October 8, 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. On July 30, 1999, a three-judge panel of the United States Court of Appeals for the Fifth Circuit issued a decision affirming in part, remanding in part, and reversing in part the Commission's May 8, 1997 *Universal Service Order*, 62 FR 32862 (June 17, 1997). Several of the court's rulings in that decision affect the assessment and recovery of universal service contributions, as well as the Commission's Lifeline program for low-income consumers. The court's mandate from the decision is scheduled to take effect on November 1, 1999. Accordingly, in this Order, we adopt modifications to our rules consistent with those portions of the court's decision concerning the assessment and recovery of universal service contributions, and the Lifeline program. These rule changes shall become effective on November 1, 1999.

2. This Order reflects our effort to respond promptly to the court's forthcoming mandate. The actions we take are transitional in view of the limited time and data available to us in implementing the court's mandate that we change our rules and past practices by a specific date. In view of these constraints, our actions represent our best effort to take short-term action, subject to later refinement if necessary, in order to assure compliance with the court's mandate.

II. Opinion by the Fifth Circuit Court of Appeals

3. Numerous parties filed petitions for review of the Commission's Universal Service Order. Those petitions were consolidated before the Fifth Circuit, which issued an opinion on July 30, 1999. In response to the arguments of Petitioner COMSAT Corporation (COMSAT), the court reversed and remanded to the Commission for further consideration the Commission's decision to assess contributions based on contributors' combined interstate and international revenues. COMSAT did not challenge the Commission's jurisdiction to include international revenues in calculating carriers' contributions. COMSAT argued, however, that including the international revenues of interstate carriers in the revenue base was unreasonable for carriers such as COMSAT whose interstate revenues account for a small percentage of their total annual revenues and whose annual contribution to universal service would exceed their annual interstate revenues. COMSAT argued, and the court agreed, that this result is contrary to the statutory requirement in section 254(d) of the Act, that contributions be made on an ''equitable and nondiscriminatory basis.'' Specifically, the court found that the Commission failed to demonstrate how requiring COMSAT to pay more in universal service contributions than it derives in interstate revenues satisfies the ''equitable'' language of section 254(d). Additionally, the court criticized the contribution requirement at issue as ''discriminatory'' under section 254(d), on the basis that the application of that requirement ''damages some international carriers like COMSAT more than it harms others.'' Accordingly, the court reversed and remanded for further consideration the Commission's decision to assess the international revenues of interstate carriers.

4. With respect to the Commission's methodology for assessing contributions for the universal service support mechanisms for schools and libraries, and rural health care providers, the court found that the Commission had exceeded its jurisdictional authority by assessing contributions for those programs based, in part, on the intrastate revenues of universal service contributors. Accordingly, the court reversed the Commission's decision to include intrastate revenues in the contribution base for the schools and libraries, and rural health care support mechanisms.

5. The court also reversed the Commission's ''decision to require [incumbent LECs] to recover universal service contributions from their interstate access charges.'' Finding that the Commission had ''required'' incumbent LECs to recover their contributions from interstate access charges, the court held that this requirement maintained an implicit subsidy in violation of section 254(e) of the Act.

6. Finally, the court reversed the Commission's decision to prohibit carriers eligible for universal service support from disconnecting Lifeline service to consumers who fail to pay toll charges. The court held that the Commission lacked jurisdiction under the Act to impose this ''no disconnect'' requirement on carriers.

III. Response to the Fifth Circuit's Opinion

A. Procedural Response

7. On September 9, 1999, the Commission filed a motion to stay the court's mandate, which had been scheduled to take effect on September 20, 1999. On September 13, 1999, the Commission, GTE, and AT&T each filed petitions for rehearing with the court. On September 28, 1999, the court denied all of the petitions for rehearing, and granted, in part, the Commission's motion for stay. In its order granting, in part, the Commission's motion for stay, the court ordered its July 30, 1999 mandate to issue on November 1, 1999. In light of the court's September 28, 1999 rulings, the rule changes shall become effective on November 1, 1999.

B. Changes to the Commission's Rules

1. Single Contribution Base for Universal Service Support Mechanisms

8. Overview. In light of the court's ruling, we amend §§ 54.706 and 54.709 of our rules to provide for a single contribution base for purposes of funding all of the universal service support mechanisms. Specifically, in response to the court's determination that the Commission lacks jurisdiction to assess providers' intrastate revenues, we have eliminated intrastate revenues from the contribution base. Consistent with the court's ruling, we also reconsider the basis for assessing the international revenues of interstate providers. No party has challenged the Commission's decision to include international revenues generally. The court, however, agreed with COMSAT's argument that our rules, as applied, are in some instances inequitable and discriminatory. We modify §§ 54.706 and 54.709 of our rules to exclude from the contribution base the international end-user telecommunications revenues of each interstate telecommunications provider whose interstate end-user telecommunications revenues constitute less than 8 percent of its combined interstate and international end-user telecommunications revenues. Except for revenues excluded pursuant to revised § 54.706(c), the new contribution base will consist of interstate providers' interstate and international end-user telecommunications revenues.

9. Our rules provide that the Commission will determine contribution factors on a quarterly basis. Because the court's mandate will issue on November 1, 1999, however, the Commission must establish contribution factors in the middle of the quarter, to comply with the court's decision. The Commission's rules permit us, on our own motion, to waive our rules for good cause shown. Because it is necessary to issue new contribution factors before the start of the next quarter in order to comply with the judicial mandate, we find that good cause exists to waive § 54.709(a) on this occasion to the extent that it provides that contribution factors will be adopted on a quarterly basis. In addition, because of the need to revise our rules so that they will be in compliance with the mandate as of November 1, 1999, we find good cause to dispense with notice and comment requirements that might otherwise apply, pursuant to the Administrative Procedure Act, because those requirements are impracticable and contrary to the public interest.

10. *Revised Fourth Quarter Contribution Factor.* On September 10, 1999, the Commission released proposed fourth quarter 1999 contribution factors, which USAC is using to bill contributors for their October 1999 contributions. Consistent with the Commission's rules in effect on that date, one of those contribution factors was calculated based on contributors' intrastate, interstate, and international end-user telecommunications revenues for the July 1998 through December 1998 period, as reported by contributors on the March 1999 Universal Service Worksheet (FCC Form 457). In order to comply with the Fifth Circuit's decision, we must eliminate intrastate revenues from the contribution base. Eliminating intrastate revenues from the new contribution base will eliminate the need for two contribution factors. Specifically, our revised rules provide for a single contribution factor that will be calculated based on contributors' interstate and international end-user telecommunications revenues. That factor will be applied to individual contributors' combined interstate and international end-user telecommunications revenues to calculate contributions for all of the universal service support mechanisms. The elimination of intrastate revenues from the contribution base will reduce the contributions of incumbent LECs. To the extent an incumbent LEC is recovering its universal service contributions in interstate access charges, it must file tariffs reducing its access charges correspondingly.

11. In order to implement this change by November 1, 1999, the effective date of the court's mandate, the Common Carrier Bureau (Bureau) is releasing today a revised proposed fourth quarter contribution factor that will be applicable to carrier contributions for November and December 1999. We direct USAC to calculate all contributor bills for November and December 1999 based on this revised fourth quarter 1999 contribution factor. For the month of October 1999, USAC shall continue to bill contributors, and contributors shall continue making contributions to universal service, in accordance with the Commission's current contribution rules. Providers that fail to contribute to the universal service support mechanisms in accordance with the Commission's rules will be subject to enforcement action by the Commission.

12. *Limited International Revenues Exception*. Consistent with the court's ruling, we modify §§ 54.706 and 54.709 of our rules. A provider of interstate and international telecommunications shall not be required to contribute based on its international end-user telecommunications revenues if its interstate end-user telecommunications revenues constitute less than 8 percent of its combined interstate and international end-user telecommunications revenues. This modification is consistent with the court's ruling because it will exclude from the contribution base the international end-user telecommunications revenues of any telecommunications provider whose annual contribution to the federal universal service support mechanisms, based on the provider's interstate and international end-user telecommunications revenues, would exceed the amount of the provider's interstate end-user telecommunications revenues. We do not anticipate that the universal service contribution factor will exceed 8 percent in the near future. Thus, this 8 percent rule ensures that a provider's universal service contribution will not exceed the amount

of its interstate end-user telecommunications revenues.

13. The operation of this rule is demonstrated in the following example. Assume a hypothetical provider with $100 of interstate and international end-user telecommunications revenues, consisting of $5 of interstate revenues and $95 of international revenues. Also assume a contribution factor of 0.06, or 6 percent. In the absence of the 8 percent rule, the provider's contribution ($6) would exceed its interstate revenues ($5)—a result contrary to the court's ruling. Under our 8 percent rule, however, the provider's interstate revenues ($5) are less than 8 percent of its combined interstate and international revenues and, therefore, the provider is not required to contribute on the basis of its international revenues—a result consistent with the court's ruling. The provider must still contribute, however, on the basis of its $5 of interstate revenues. This hypothetical is only for purposes of illustration. Under existing rules, if such a provider's annual contribution to universal service would be less than $10,000 in a given year, the provider would not be required to submit a contribution for that year, *see* § 54.708.

14. *Equitable Requirement of Section 254(d).* We believe that the international revenues exception adopted here is responsive to the court's concerns regarding the fairness of our assessment methodology in that it will permit a contributor that derives the substantial majority of its revenues from the provision of international services to calculate its contribution to universal service based solely on its domestic interstate revenues. We conclude that this exception further addresses the court's concerns by ensuring that a provider is not assessed a contribution in an amount exceeding that provider's annual interstate end-user telecommunications revenues. Because providers will receive a financial benefit, overall, from providing interstate service, we conclude that our revised rule is equitable.

15. We decline to adopt a more expansive exception than the rule adopted here or to exclude international revenues from the contribution requirement altogether in light of section 254(d)'s mandate requiring all interstate telecommunications providers to contribute without regard to whether those providers' revenues are interstate or international. Moreover, nothing in the court's decision suggests that the Commission's decision to assess international revenues is inconsistent with the Act, outside of the impact it had on Comsat and similarly situated carriers. In addition, we conclude that providers whose interstate revenues account for a greater amount of their combined interstate and international revenues than the threshold adopted here clearly receive a direct benefit from universal service insofar as their domestic interstate business benefits from the expanded network that is fostered by universal service. For these providers, their interstate telecommunications services are not merely ancillary to their provision of international telecommunications services. Accordingly, as direct beneficiaries of an expanded domestic network, such carriers reasonably should be required to contribute to universal service based on their combined interstate and international revenues.

16. *Nondiscriminatory Requirement of Section 254(d).* The international revenues exception that we adopt here also addresses the court's concerns regarding the potentially discriminatory impact of our previous assessment methodology. As stated by the court, the FCC's interpretation is ''discriminatory,'' because the agency concedes that its rule damages some international carriers like COMSAT more than it harms others. Any competitive disparity claimed by COMSAT or by similarly situated carriers should be minimized as a result of the exception that we adopt today. Specifically, such a provider of interstate and international telecommunications shall not be required to contribute based on its international revenues if its interstate end-user telecommunications revenues constitute less than 8 percent of its combined interstate and international end-user telecommunications revenues. Therefore, providers whose interstate telecommunications services are merely ancillary to their international operations will not be in a worse position than providers that, by virtue of their status as exclusively international providers, are not subject to the universal service contribution requirements.

17. *Specific, Predictable, and Sufficient Requirement of Section 254(d).* The limited international revenues exception that we adopt today also meets the requirement in section 254(d) of the Act that universal service support mechanisms be specific, predictable, and sufficient. By setting the international exception at the predetermined level of 8 percent, we establish a bright-line rule for providers. As soon as providers prepare their worksheets, they will know with certainty whether their interstate end-user telecommunications revenues comprise 8 percent or more of their total interstate and international end-user telecommunications revenues and, thus, whether they must contribute on the basis of their international end-user telecommunications revenues during the upcoming quarters in which their reported revenues will be assessed. In sum, the 8 percent rule allows the provider to make decisions based on the specific and predictable operation of the support mechanism.

18. As an alternative, we considered creating an exception based not on a fixed percentage of a provider's interstate revenues, but instead on the relationship between a provider's actual contribution and the amount of its interstate revenues. Under this alternative, a carrier would not contribute in a given quarter if its contribution for the quarter exceeded its interstate end-user telecommunications revenues applicable to that quarter. While this approach would address the equitable and nondiscriminatory requirements of section 254(d), we conclude that it does not meet the specific and predictable requirements as well as the 8 percent rule. If we were to base the international revenues exception on the amount of a provider's contribution in relation to its interstate end-user telecommunications revenues, then the provider's eligibility for the exception would depend on the level of the quarterly contribution factor, which varies from quarter to quarter. Providers with a percentage of interstate end-user telecommunications revenues close to the contribution factor would not know with certainty whether they qualify for the exception until the contribution factor is announced shortly before the beginning of each quarter. Thus, this approach is not as specific and predictable as the 8 percent rule, and we decline to adopt it.

19. We also conclude that the 8 percent rule meets section 254(d)'s requirement that universal service support mechanisms be sufficient. In order to address the court's concerns, any approach that we adopt must necessarily exclude a certain amount of international revenue from the contribution base. The 8 percent rule excludes only slightly more international revenue from the contribution base than would an approach that is tied directly to the level of the quarterly contribution factor. Moreover, the relatively small amount of international revenue excluded from the contribution base by the 8 percent rule should not dramatically affect the level of the quarterly contribution factor

or the ability of providers to meet their contribution obligations. Thus, we conclude that the 8 percent rule will allow us to maintain universal service support mechanisms that are sufficient.

20. *Implementation of Limited International Revenues Exception.* Because providers currently report their interstate and international end-user telecommunications revenues as a combined amount on the Telecommunications Reporting Worksheet (FCC Form 499), the Commission does not have revenue data for contributors that distinguish their interstate and international revenues. Although the worksheet that carriers will submit in April 2000 will be revised to provide for separate reporting of contributors' interstate and international revenues, two potential implementation problems arise in the interim with respect to our adoption of the international revenues exception pending the issuance of a revised Worksheet. First, without revenue data reflecting the amount of international revenues that will be excluded from the contribution base pursuant to the international revenues exception, the Commission cannot accurately calculate the revised contribution factor for the fourth quarter of 1999. Second, without revenue data separately identifying each contributor's interstate and international revenues, USAC cannot determine which contributors qualify for the international revenues exception and, therefore, cannot accurately bill individual contributors. To remedy these problems, this Order: (1) estimates the amount of international revenues that we anticipate will be excluded from the contribution base by operation of the international revenues exception described; and (2) requires each contributor that qualifies for the international revenues exception adopted in this Order to file an amendment to its March 1999 and September 1999 worksheets within 30 days of the effective date of this Order, identifying the amount and percentages of the contributor's interstate and international revenues.

21. The Common Carrier Bureau's Industry Analysis Division has estimated that, as a result of our adoption of the limited international revenues exception, approximately $0.617 billion of international end-user telecommunications revenues will be excluded from the $38.204 billion of interstate and international end-user telecommunications revenues previously reported for the second half of 1998. Thus, we direct that the amount of interstate and international end-user telecommunications revenues reported for July to December 1998 ($38.204 billion), as filed with the Commission by USAC, should be reduced to $37.587 billion when calculating a contribution base using revenue data from that period. In the event that our estimate of the amount of international revenues excluded by operation of the limited international revenues exception proves inaccurate once actual revenue data become available, we direct USAC to adjust future revenue estimates and future contributor bills to correct for any inaccuracy in our estimate.

22. To enable USAC to bill individual carriers, each contributor that qualifies for the international revenues exception adopted in this Order must file with USAC an amendment to its March 1999 Form 457 and September 1999 Form 499–S worksheets within 30 days of the effective date of this Order, identifying the amount and percentages of the contributor's interstate and international revenues. Only a contributor whose interstate end-user telecommunications revenues constituted less than 8 percent of the contributor's combined interstate and international end-user telecommunications revenues in 1998 should submit these forms. Until the Telecommunications Reporting Worksheet (FCC Form 499–A, FCC Form 499–S) can be revised and approved by the Office of Management and Budget (OMB), we conclude that the interim procedure just described will provide a reasonable estimate of the contribution base and allow individual contributors to obtain the benefit of the limited international revenues exception with minimal disruption to USAC's billing, collection, and disbursement operations. A revised worksheet that separately lists contributors' interstate and international revenues will be made available in time for filing of the April 2000 Worksheet (FCC Form 499–A). A contributor that qualifies for the international revenues exception shall continue making its contributions to universal service in accordance with the Commission's current contribution rules regarding the assessment of international revenues until such time as: (1) the contributor files the Form 457 and Form 499–S amendments with USAC, and (2) the contributor has received a bill or reimbursement from USAC in which USAC has adjusted the contributor's payment obligation, effective November 1, 1999, to take into account changes resulting from our adoption of the 8 percent rule.

2. Recovery of Universal Service Contributions by Incumbent Local Exchange Carriers

23. In Texas Office of Public Utility Counsel v. FCC, the court reversed the Commission's decision that incumbent LECs could only recover their universal service contributions through access charges, stating that:

> forcing GTE to recover its universal service contributions from its access charges * * * maintains an implicit subsidy. * * * [R]equiring carriers to recover their contributions from access charges on interstate calls shifts the costs of intrastate universal service to the interstate jurisdiction.
> * * * Because the agency continues to require implicit subsidies for ILECs in violation of a plain, direct statutory command, we reverse its decision to require ILECs to recover universal service contributions from their interstate access charges.

24. The U.S. Court of Appeals for the Eighth Circuit held in *Southwestern Bell Telephone Co.* v. *FCC* that section 254(e) does not preclude the Commission from permitting incumbent LECs to recover universal service contributions through access charges. That court noted that contribution costs are ''real costs of doing business'' that carriers may pass through to customers that use their services. Rather than requiring explicit universal service support, section 254(e) states that such support ''should'' be explicit. Moreover, section 254(e) does not address contributions to the universal service fund, but support flowing from the fund. As the Eighth Circuit observed, ''[t]he flow-through of LEC universal service costs to its IXC customers is akin to the flow-through of IXC universal service costs to its long-distance customers—neither can be categorized as an implicit subsidy in violation of section 254(e).''

25. The Fifth Circuit's analysis of section 254(e) can be harmonized with the Eighth Circuit's decision in Southwestern Bell. We believe that the Fifth Circuit intended to hold only that section 254(e) barred the FCC from requiring incumbent LECs to recover universal service contributions through access charges. The Eighth Circuit, on the other hand, simply held that section 254(e) does not preclude the FCC from permitting incumbent LECs to recover universal service contributions through access charges. Thus, we read the Fifth Circuit decision, consistent with the Eighth Circuit's decision, as permitting incumbent LECs to adopt this method of cost recovery.

26. To comply with the Fifth Circuit's order, we will expand incumbent LECs'

options for recovering their universal service contributions to include an end-user charge. Because incumbent LECs are dominant in the provision of local exchange and exchange access services, we conclude that some regulation of the way in which these carriers may recover their universal service contributions from end-users remains necessary. Competition is not sufficient to constrain their rates and ensure that they remain just and reasonable. We require any such recovery to be equitable and nondiscriminatory. Incumbent LECs will thus be able to recover their contributions through access charges or through end-user charges. To the extent they choose to implement an interstate end-user charge, however, incumbent LECs that are currently recovering their universal service contributions in interstate access charges must make corresponding reductions in their interstate access charges to avoid any double recovery.

3. Elimination of the ''No Disconnect'' Rule

27. Section 54.401(b) of the Commission's rules prohibits carriers eligible for universal service support from disconnecting Lifeline service to consumers that fail to pay toll charges. In light of the court's ruling that the Commission does not have jurisdiction under the Act impose this ''no disconnect'' rule, we amend part 54 of our rules to eliminate that provision.

C. Authority Delegated to the Bureau

28. Pursuant to § 54.711(c) of the Commission's rules, the Bureau has authority to waive, reduce, eliminate, or add to the Commission's universal service reporting requirements. To the extent that the reporting requirements described in this Order require subsequent modification, the Bureau has authority to make such modifications without further Commission action.

IV. Procedural Matters

A. Supplemental Final Regulatory Flexibility Analysis

29. The Regulatory Flexibility Act (RFA) requires that a Regulatory Flexibility Analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant 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.'' A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' This Supplemental Final Regulatory Flexibility Analysis supplements the Final Regulatory Flexibility Analysis (FRFA) included in the Universal Service Order, only to the extent that changes to that order adopted here require changes in the conclusions reached in the FRFA. As required by section 603 of the Regulatory Flexibility Act, the FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Notice of Proposed Rulemaking and Order Establishing the Joint Board (NPRM), 61 FR 63778 (December 2, 1996), and an IRFA, prepared in connection with the Recommended Decision, which sought written public comment on the proposals in the NPRM and the Recommended Decision. The Commission has prepared this Supplemental Final Regulatory Flexibility Analysis of the possible significant economic impact this Order might have on small entities, in conformance with the RFA.

1. Need for and Objectives of Rules

30. The decisions and rules adopted in this Order are designed to implement as quickly and effectively as possible the court's July 30, 1999 decision. In formulating these rules, we have been mindful of the impact of our rules on small business entities, particularly regarding their impact on (1) small international providers whose interstate operations represent a modest amount of their combined interstate and international revenues, and (2) small incumbent local exchange carriers that wish to recover their universal service contributions from their end-user customers through an explicit interstate end-user charge.

2. Summary of Significant Issues Raised by the Public Comments to the IRFA

31. The Commission performed an IRFA in connection with both the NPRM and Recommended Decision in this proceeding, which sought written public comment on the proposals in the NPRM and Recommended Decision. In the IRFAs, the Commission sought comment on possible exemptions from the proposed rules for small telecommunications companies and measures to avoid significant economic impact on small entities, as defined by the RFA. No comments in response to the IRFAs, other than those summarized in the *Universal Service Order,* were filed. In response to the FRFA contained in the *Universal Service Order,* RTC argued that the Commission did not satisfy the requirements of the RFA by considering alternatives to the cap on recovery of corporate operations expenses. Those comments were fully addressed in the *Fourth Order on Reconsideration.*

32. No comments or petitions for reconsideration in response to the IRFAs or FRFA, other than those described, were filed and none of the comments filed pertain to the issues raised in the present Order. We have nonetheless addressed small business concerns by giving incumbent LECs greater flexibility in structuring their recovery of universal service contributions and by creating an exception from the contribution requirements for certain providers of international telecommunications services, as described in ''Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.''

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

33. 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 new rules. 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.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. And finally, ''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. In this Order, the

Commission stated that the new rules will affect all providers of interstate telecommunications and interstate telecommunications services. We further describe and estimate the number of small business concerns that may be affected by the rules adopted in this Order.

34. As noted, 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) meets any additional criteria established by the Small Business Administration (SBA). 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.

35. 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 *Carrier Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,604 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

36. We have included small incumbent LECs in this present RFA analysis. As noted, 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.

37. *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 in this Order.

38. *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 in this Order.

39. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, and Resellers.* Neither the Commission nor SBA has developed a definition of small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), 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 in connection with the Telecommunications Relay Service (TRS). According to our most recent data, there are 1,410 LECs, 151 IXCs, 129 CAPs, 32 OSPs, and 351 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 1,410 small entity LECs or small incumbent LECs, 151 IXCs, 129 CAPs, 32 OSPs, and 351 resellers that may be affected by the decisions and rules in the order and order on reconsideration.

40. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. 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 radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules in this Order.

41. *Cellular, PCS, SMR and Other Mobile Service Providers.* In an effort to further refine our calculation of the number of radiotelephone companies that may be affected by the rules

adopted herein, we consider the data that we collect annually in connection with the TRS for the subcategories Wireless Telephony (which includes Cellular, PCS, and SMR) and Other Mobile Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to these broad subcategories, so we will utilize the closest applicable definition under SBA rules—which, for both categories, is for telephone companies other than radiotelephone (wireless) companies. To the extent that the Commission has adopted definitions for small entities providing PCS and SMR services. According to our most recent TRS data, 732 companies reported that they are engaged in the provision of Wireless Telephony services and 23 companies reported that they are engaged in the provision of Other Mobile Services. 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 Wireless Telephony Providers and Other Mobile Service Providers, except as described, that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 732 small entity Wireless Telephony Providers and fewer than 23 small entity Other Mobile Service Providers that might be affected by the decisions and rules in this Order.

42. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks 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 its 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 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. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we estimate that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by SBA and the Commissioner's auction rules.

43. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. The definition of a ''small entity'' in the context of 800 MHz SMR has been approved by the SBA, and approval for the 900 MHz SMR definition has been sought. The rules may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. 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 less than $15 million. Consequently, we estimate, for purposes of this IRFA, that all of the extended implementation authorizations may be held by small entities, some of which may be affected by the decisions and rules in this Order.

44. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we estimate that the number of geographic area SMR licensees that may be affected by the decisions and rules in the order and order on reconsideration includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we estimate, for purposes of this IRFA, that all of the licenses may be awarded to small entities, some of which may be affected by the decisions and rules in this Order.

45. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. 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. 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. Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

46. *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 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. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. 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. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction. A reauction of the remaining, unsold licenses was completed on June 30, 1999, with 16 bidders winning 222 of the Phase II licenses. As a result, we estimate that 16

or fewer of these final winning bidders are small or very small businesses.

47. *Paging.* On June 7, 1999, the Wireless Telecommunications Bureau announced the first in a series of auctions of paging licenses, the first to commence on December 7, 1999. The Bureau has proposed that the first auction be composed of 2,499 licenses. The Commission utilizes a two-tiered definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. A small business is defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. The SBA has approved this definition. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. In addition, according to the most recent *Carrier Locator* data, 137 carriers reported that they were engaged in the provision of either paging or messaging services, which are placed together in the data. Because the auction has yet to occur, we do not have data specifying the number of winning bidders that will meet the above small business definition. Also, we will assume that there currently are 137 or fewer small business paging carriers.

48. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

49. *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.

50. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, 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 entities under the SBA definition.

51. *Private Land Mobile Radio (PLMR).* PLMR systems, also known as Private Mobile Radio Service (PMRS) systems, serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of, if any, small businesses that could be impacted by the new rules. However, the Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the rules in this context could potentially impact any small U.S. business that chooses to become licensed in this service. On July 21, 1999, the Wireless Telecommunications Bureau requested public comment on whether the licensing of PMRS frequencies in the 800 MHz band for commercial SMR use would serve the public interest.

52. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

53. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

54. *Wireless Communications Services.* This service can be used for fixed, mobile, radio location and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the decisions and rules in this Order includes these eight entities.

55. *Multipoint Distribution Systems (MDS):* The Commission has defined ''small entity'' for the auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities.

56. MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services, which

includes all such companies generating $11 million or less in annual receipts. This definition includes multipoint distribution systems, and thus applies to MDS licensees and wireless cable operators which did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of $11 million annually. Therefore, for purposes of this IRFA, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, some which may be affected by the decisions and rules in this Order.

57. *International Service Providers.* The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with $11 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services, NEC in operation in 1992, and a total of 775 had annual receipts of less than $9.999 million. We note that those entities providing only international service will not be affected by our revised rules. We do not, however, have sufficient data to estimate with greater detail those providing both international and interstate services. Consequently, we estimate that there are fewer than 775 small international service entities potentially impacted by our rules.

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

58. In this Order, we adopt revisions to Part 54 that are responsive to the court's July 30, 1999 ruling. In response to the court's concern that our assessment rules were unduly burdensome as applied to small providers whose interstate operations represent a modest amount of their combined interstate and international revenues, we modify our rules to create an exception from the contribution requirements for certain providers of international telecommunications services. In doing so, we have asked providers claiming entitlement to this exception to prepare and submit to USAC two short forms amending their two most recently filed Worksheets. Those forms ask contributors claiming entitlement to the exception to separately list their interstate and international revenues. To the extent that this reporting obligation is not unduly burdensome and is adopted in order to establish certain providers' entitlement to an exception from the contribution requirements, we project that this Order will impose no significant new reporting requirements on small carriers.

59. In light of the court's determination that the Commission may not require incumbent LECs to recover the cost of their universal service contributions through interstate access charges, we give incumbent LECs flexibility in the manner in which they recover their universal service contributions. For those that elect to continue recovering their contributions through interstate access charges, no additional requirements are imposed by this Order. For those that elect to recover their contributions through an explicit end-user charge, this Order requires such carriers to take steps to make corresponding reductions in their interstate access charges to avoid double recovery.

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

60. In this Order, we have taken several steps to minimize the economic impact of our Part 54 rule changes on all carriers, including small carriers. For example, in response to the court's concern that our contribution requirement, as applied to certain small providers, was unduly burdensome, we have sought to reduce the contribution obligation of providers, many of which are small entities, whose interstate operations represent a modest amount of their combined interstate and international revenues. We take this action in response to the court's concerns and to help primarily international providers with a small portion of interstate business to compete on a more equal footing with international providers that, by virtue of their status as exclusively international carriers, are not subject to the universal service contribution requirements.

61. In light of the court's determination that the Commission may not require incumbent LECs to recover the cost of their universal service contributions through interstate access charges, we give incumbent LECs flexibility in the manner in which they recover their universal service contributions. For those that elect to continue recovering their contributions through interstate access charges, no additional requirements are imposed by this Order. For those that elect to recover their contributions through an explicit end-user charge, this Order requires such carries to take steps to make corresponding reductions in their interstate access charges to avoid double recovery. Given that the compliance obligations associated with transitioning to an end-user method of recovery for incumbent LECs are in large measure voluntary, and insofar as carriers, including small carriers, are given no deadlines for implementing such changes, we conclude the compliance requirements adopted in this Order will not be unduly burdensome on small carriers.

6. Report to Congress

62. The Commission will send a copy of this Order, including the Supplemental Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. A summary of the rules adopted in this Order and this Supplemental Final Regulatory Flexibility Analysis will also be published in the **Federal Register**, and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

B. Effective Date of Final Rules

63. In this Order, the Commission amends its rules to implement the court's July 30, 1999 mandate with respect to the assessment and recovery of universal service contributions. Consistent with the court's September 28, 1999 rulings, we make this Order and the rule changes adopted herein effective on November 1, 1999. The court's directive that its July 30, 1999 mandate will issue on November 1, 1999 provides good cause to depart in the manner described from the general requirement of 5 U.S.C. 553(d) that final rules take effect not less than thirty (30) days after their publication in the **Federal Register**. The information collections contained in this Order was approved by OMB under control number 3060–0907.

V. Ordering Clauses

64. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1–4, 201, 205, 218–220, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403, 410, the Sixteenth Order on Reconsideration in CC Docket No. 96–45 is adopted.

65. The Eighth Report and Order in CC Docket No. 96–45 is adopted.

65. The Sixth Report and Order in CC Docket No. 96–262 is adopted.

67. Parts 54 and 69 of the Commission's Rules, 47 CFR Parts 54

and 69, are amended, effective November 1, 1999.

68. The authority is delegated to the Chief of the Common Carrier Bureau pursuant to 47 CFR 0.291 and 54.711(c) to modify, or require the filing of, any forms that are necessary to implement the decisions and rules adopted in this Order and that are required to ensure the sound and efficient functioning of the universal service support mechanisms.

69. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Order, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 54

Universal service.

47 CFR Part 69

Communications common carrier.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Parts 54 and 69 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

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

§ 54.401 [Amended].

2. In § 54.401, remove and reserve paragraph (b).

3. Amend § 54.706 by revising paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 54.706 Contributions.

* * * * *

(b) Except as provided in paragraph (c) of this section, every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and every payphone provider that is an aggregator shall contribute to the federal universal service support mechanisms on the basis of its interstate and international end-user telecommunications revenues.

(c) Any entity required to contribute to the federal universal service support mechanisms whose interstate end-user telecommunications revenues comprise less than 8 percent of its combined interstate and international end-user telecommunications revenues shall contribute to the federal universal service support mechanisms for high cost areas, low-income consumers, schools and libraries, and rural health care providers based only on such entity's interstate end-user telecommunications revenues. For purposes of this paragraph, an ''entity'' shall refer to the entity that is subject to the universal service reporting requirements in 47 CFR 54.711 and shall include all of that entity's affiliated providers of telecommunications services.

(d) Entities providing open video systems (OVS), cable leased access, or direct broadcast satellite (DBS) services are not required to contribute on the basis of revenues derived from those services. The following entities will not be required to contribute to universal service: non-profit health care providers; broadcasters; systems integrators that derive less than five percent of their systems integration revenues from the resale of telecommunications.

4. Amend § 54.709 by revising paragraph (a) to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) Contributions to the universal service support mechanisms shall be based on contributors' end-user telecommunications revenues and a contribution factor determined quarterly by the Commission.

(1) For funding the federal universal service support mechanisms, the subject revenues will be contributors' interstate and international revenues derived from domestic end users for telecommunications or telecommunications services.

(2) The quarterly universal service contribution factor shall be determined by the Commission based on the ratio of total projected quarterly expenses of the universal service support mechanisms to total end-user interstate and international telecommunications revenues. The Commission shall approve the Administrator's quarterly projected costs of the universal service support mechanisms, taking into account demand for support and administrative expenses. The total subject revenues shall be compiled by the Administrator based on information contained in the Telecommunications Reporting Worksheets described in § 54.711(a).

(3) Total projected expenses for the federal universal service support mechanisms for each quarter must be approved by the Commission before they are used to calculate the quarterly contribution factor and individual contributions. For each quarter, the Administrator must submit its projections of demand for the federal universal service support mechanisms for high-cost areas, low-income consumers, schools and libraries, and rural health care providers, respectively, and the basis for those projections, to the Commission and the Common Carrier Bureau at least sixty (60) calendar days prior to the start of that quarter. For each quarter, the Administrator must submit its projections of administrative expenses for the high-cost mechanism, the low-income mechanism, the schools and libraries mechanism and the rural health care mechanism and the basis for those projections to the Commission and the Common Carrier Bureau at least sixty (60) calendar days prior to the start of that quarter. Based on data submitted to the Administrator on the Telecommunications Reporting Worksheets, the Administrator must submit the total contribution base to the Common Carrier Bureau at least sixty (60) days before the start of each quarter. The projections of demand and administrative expenses and the contribution factor shall be announced by the Commission in a public notice and shall be made available on the Commission's website. The Commission reserves the right to set projections of demand and administrative expenses at amounts that the Commission determines will serve the public interest at any time within the fourteen-day period following release of the Commission's public notice. If the Commission takes no action within fourteen (14) days of the date of release of the public notice announcing the projections of demand and administrative expenses, the projections of demand and administrative expenses, and the contribution factor shall be deemed approved by the Commission. Except as provided in § 54.706(c), the Administrator shall apply the quarterly contribution factor, once approved by the Commission, to contributors' interstate and international end-user telecommunications revenues to calculate the amount of individual contributions.

* * * * *

PART 69—ACCESS CHARGES

5. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403 unless otherwise noted.

6. Amend § 69.4 by adding paragraph (d) to read as follows:

§ 69.4 Charges to be filed.

* * * * *

(d) Recovery of Contributions to the Universal Service Support Mechanisms by Incumbent Local Exchange Carriers.

(1) Incumbent local exchange carriers may recover their contributions to the universal service support mechanisms through carriers' carrier charges.

(i) Price cap incumbent local exchange carriers may do so by exogenously adjusting the price cap indices of each basket on the basis of relative end-user revenues.

(ii) Non-price cap incumbent local exchange carriers may do so by applying a factor to their carrier common line charge revenue requirements.

(2)(i) In lieu of the carriers' carrier charges described in paragraph (d)(1), incumbent local exchange carriers may recover their contributions to the universal service support mechanisms through explicit, interstate, end-user charges that are equitable and nondiscriminatory.

(ii) To the extent that incumbent local exchange carriers choose to implement explicit, interstate, end-user charges to recover their contributions to the universal service support mechanisms, they must make corresponding reductions in their access charges to avoid any double recovery.

§ 69.5 [Amended]

7. In § 69.5, remove and reserve paragraph (d).

[FR Doc. 99–28964 Filed 11–4–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990527146–9146–01; I.D. 110199B]

Fisheries of the Northeastern United States; Atlantic Sea Scallop and Northeast Multispecies Fisheries; Georges Bank Sea Scallop Exemption Program

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

ACTION: Termination of the Georges Bank Sea Scallop Exemption Program.

SUMMARY: NMFS issues this announcement that the Regional Administrator, Northeast Regional Office, NMFS (Regional Administrator), has determined that the 387 metric tons (MT) of the total allowable catch (TAC) of yellowtail flounder allowed in the Georges Bank Sea Scallop Exemption Program (Exemption Program) has been projected to be caught as of 0001 hours (local time), November 2, 1999, and entry into the Exemption Program is terminated. Vessels may not declare and begin an Exemption Program trip after midnight (local time), November 2, 1999. Vessels enrolled in the Exemption Program will be required to complete their trip by November 12, 1999 or when the vessel harvests 10,000 lb (4,536.0 kg) of sea scallop meats, whichever comes first. The entire exemption area remains closed to vessels not enrolled in the Exemption Program until midnight (local time), November 12, 1999.

DATES: The Georges Bank Sea Scallop Exemption Program is terminated on November 2, 1999.

FOR FURTHER INFORMATION CONTACT: Walter J. Gardiner, Fishery Management Specialist, (978) 281–9326.

SUPPLEMENTARY INFORMATION: On June 10, 1999, NMFS published a final rule to implement measures contained in Framework Adjustment 11 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and Framework Adjustment 29 to the Northeast Multispecies FMP (64 FR 31144). This rule, which allows sea scallop dredge vessels access to the Exemption Program area contains a provision to ensure that the yellowtail flounder bycatch/incidental catch remains within the 387 MT total allowable catch (TAC) level established for this fishery. Section 648.58(f)(2) specifies that this mechanism is triggered when the Regional Administrator projects that 387 MT will be caught. Further, this section stipulates that NMFS will publish notification in the **Federal Register** informing the public of the date of the termination of the Exemption Program. Based on an analysis of information obtained through vessel observer reports, the Regional Administrator has determined that 387 MT was reached on November 2, 1999. Vessels may not declare and begin an Exemption Program trip after midnight (local time), November 2, 1999. Therefore, vessels will no longer be allowed to elect to fish in the Exemption Program through their Vessel Monitoring System units after midnight (local time), November 2, 1999. Vessels enrolled in the Exemption Program will be required to complete their trip by November 12, 1999, or when the vessel harvests 10,000 lb (4,536.0 kg) of sea scallop meats, whichever comes first. The entire exemption area remains closed to vessels not enrolled in the Exemption Program until midnight (local time), November 12, 1999.

Classification

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

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 2, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–29025 Filed 11–2–99; 4:42 pm]

BILLING CODE 3510–22–F