

established an official public docket for this action under Docket ID No. OA-2002-0001. The proposed rule and supporting materials are available for public viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Office of Environmental Information is (202) 566-1752. An electronic version of public docket is available through EPA's electronic public docket and comment systems, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," and then key in docket identification number OA-2002-0001. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>.

Dated: December 18, 2003.

**Thomas J. Gibson,**  
Chief of Staff.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 02-60; FCC 03-288]

### Rural Health Care Support Mechanism

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission seeks comment on modifications to the definition of "rural area" for the rural health care support mechanism, whether additional modifications to our rules are

appropriate to facilitate the provision of support to mobile rural health clinics for satellite services, and additional outreach efforts and measures to streamline further the application process.

**DATES:** Comments are due on or before February 23, 2004. Reply comments are due on or before April 7, 2004. Written comments on the proposed information collection(s) must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before February 23, 2004.

**ADDRESSES:** All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov), and to Kim A. Johnson, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to [Kim.A.Johnson@omb.eop.gov](mailto:Kim.A.Johnson@omb.eop.gov) or by fax to 202-395-5167. Parties should also send three paper copies of their filings to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 Twelfth Street, SW., Room 5-B540, Washington, DC 20554. See Supplemental Information for further filing instructions.

**FOR FURTHER INFORMATION CONTACT:** Shannon Lipp, Attorney, (202) 418-7400 or Regina Brown, Attorney, (202) 418-7400, Wireline Competition Bureau, Telecommunications Access Policy Division. For additional information concerning the information collection(s) contained in this document, contact Judith B. Herman at 202-418-0214, or via the Internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking in WC Docket No. 02-60 released on November

17, 2003. A companion Report and Order and Order on Reconsideration was also released in WC Docket No. 02-60 on November 17, 2003. 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, SW., Washington, DC 20554.

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

### Paperwork Reduction Act

The FNPRM contained proposed information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this FNPRM, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13. Public and agency comments on the proposed information collections discussed in this FNPRM are due on or before February 23, 2004. PRA comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**OMB Control Number:** 3060-0804.

**Title:** Universal Service—Health Care Providers Universal Service Program.

**Form No.:** FCC Forms 465, 466, 466-A, and 467.

**Type of Review:** Proposed revised collection.

**Respondents:** Business or other for-profit; not for profit institutions.

Title	Number of respondents	Frequency of response	Total annual burden
1. FCC Form 465—Description of Service Requested and Certification .....	1,600	1.5	96,000
2. FCC Form 466—Funding Request And Certification .....	1,600	2	192,000
3. FCC Form 466-A—Internet Toll Charge Discount Request .....	5	1	200
4. FCC Form 467—Connection Certification .....	1,600	1	81,000

Title	Number of respondents	Frequency of response	Total annual burden
Total Annual Burden: Total Annual Costs: \$0	.....	.....	369,200

*Needs and Uses:* In the FNPRM, we seek comment on ways to streamline further the application process and expand outreach efforts. In the companion *Report and Order*, we note that USAC has implemented many steps to streamline the application process and has increased its outreach efforts, since the *NPRM*, 67 FR 34653, May 15, 2002, was released in 2002. Among other things, USAC has implemented on-line application filing and has arranged for electronic forms to be filled automatically with the previous year's information for repeat on-line filers. Nevertheless, we seek comment on what additional steps the Universal Service Administrative Commission (USAC) could take to ease further the burdens associated with the application process. For example, what would be the advantages and disadvantages of implementing multi-year applications, so that beneficiaries would not need to apply every funding year? We also seek comment on whether there are additional outreach efforts that USAC could take to inform eligible applicants of the benefits of the program. For instance, should USAC conduct focus groups among rural health care providers to develop ideas on how to identify providers that operate only on a part-time basis? Should USAC contact service providers in rural areas to solicit suggestions for potential eligible users in the area? All rural health care providers applying for discounts on eligible telecommunications and information services must currently file FCC Forms 465, 466, 466-A, and 467. The purpose of these forms is for rural health care providers to certify their eligibility, describe program needs so that service providers are able to bid on the services, indicate that they have selected the most cost-effective methods, apply for discounts, and inform the program's administrator that they have begun to receive or stopped receiving services for which support was allocated.

## I. Further Notice of Proposed Rulemaking

### A. Definition of "rural area"

1. In this FNPRM, we seek comment on modifications to the definition of "rural area" for the rural health care universal service support mechanism. Currently, an area qualifies as rural if it

is located in a non-metropolitan county as defined by the Office of Management and Budget or is specifically identified in the Goldsmith Modification to 1990 Census data published by the Office of Rural Health Care Policy (ORHP). In response to the NPRM, several commenters state that ORHP no longer utilizes the definition adopted by the Commission in 1997 and that there will be no Goldsmith Modification to the most recent 2000 Census data. Several commenters suggest that the Commission adopt the rural designation system currently utilized by ORHP, the Rural Urban Commuting Area (RUCA) system. Others propose to define rural as non-urbanized areas, as specified by the Census Bureau. Finally, some commenters assert that if the Commission adopts a new definition of rural, it should grandfather existing areas that currently qualify as rural, if they would no longer qualify under the new definition.

2. We seek comment on whether we should adopt a new definition of rural area for the rural health care program, and, if so, what that new definition should be. We seek comment on whether there are any definitions for rural areas used by other government agencies or medical organizations that would be appropriate for the rural health care program. In addition to describing any proposed new definitions, we ask commenters to address the specific proposals that have already been raised in the record. Commenters are encouraged to describe the effects of any new definition to the program, e.g. how many existing rural areas would become non-rural and vice versa. We also seek comment on whether there are reasons we should or should not use the same definition of "rural" for both the rural health care and schools and libraries support mechanisms.

### B. Support for Satellite Services for Mobile Rural Health Clinics

3. We also seek comment on whether additional modifications to our rules are appropriate to facilitate the provision of support to mobile rural health clinics for satellite services. Satellite services may be used by mobile rural health clinics that operate in vans or boats to deliver telemedical services via satellite to residents in rural areas. For example, one non-profit entity is launching the

first mobile telemammography van to diagnose breast cancer in women in four rural tribal lands in North and South Dakota early next year. This van will conduct mammograms and deliver results to rural American Indian women while they wait. The van's clinician will send the mammogram via satellite, which is contained in sixty-four megabytes of data, to doctors at the University of Colorado, who will diagnose any abnormalities and email the van with the patient's results. The van will serve approximately 12,000 women among the four tribes, at a rate of ten to twelve women a day. The van will be stationed at each reservation for approximately two weeks at a time and will travel approximately 200–300 days a year, depending on travel time and maintenance and repairs to the van. Satellite service for the van will cost approximately \$10,000 a month.

4. In the companion *Report and Order*, we conclude that support for satellite services should be capped at the amount a provider would receive if it received functionally-similar terrestrial-based services. We seek comment on whether it is appropriate to apply this rule to mobile rural health care providers, which by their very nature, are unlikely to be able to utilize terrestrially-based services effectively. In particular, due to the mobile nature of a telemedical unit and the large volume of data it will likely send, would a satellite connection be the most cost-effective method of providing service, even if a terrestrial alternative is available? Should a terrestrial alternative be deemed available and "functionally similar," if by its nature it is tied to a fixed location? We seek comment on how mobile health care providers should make a cost-effective determination for satellite services and whether they should consider the installation and disconnection charges that would be incurred if the mobile rural health clinic were to order a wireline connection at each docking location. Commenters should also discuss whether mobile rural health clinics should be required to service a specific number of locations before satellite services are deemed cost-effective.

5. In the event we conclude that the cap on the provision of support for satellite services where terrestrial service is available should not apply in

these circumstances, how should support be provided (*i.e.*, how should discounts be calculated) for satellite services? Commenters are encouraged to discuss whether rural satellite services for mobile rural health clinics should be compared to urban terrestrial services and under what circumstances. We note that two other commenters in this proceeding proposed to provide support for satellite services for mobile health care providers. Commenters should discuss these commenters' proposals.

We also ask commenters to estimate the amount of support a mobile rural health clinic would likely receive and the number of mobile units that would likely be eligible. The non-profit entity associated with the telemammography van states that distance-based charges will not apply to satellite services in the continental United States. We seek comment on whether other similarly situated mobile rural health clinics would be subject to distance-based charges using satellite services and, if so, how the revised Maximum Allowable Distance (MAD) would impact support levels.

6. We seek comment on how we should determine whether a mobile health clinic serves rural areas. In particular, should that determination depend on the principal place of business of the provider (such as its mailing address), or should it depend on where the mobile health clinic actually provides service? We also seek comment on whether support for a mobile rural health clinic should be prorated if it also serves non-rural locations.

### C. Administrative Matters

7. In addition, we seek comment on ways to streamline further the application process and expand outreach efforts. In the companion *Report and Order*, we note that USAC has implemented many steps to streamline the application process and has increased its outreach efforts, since the *NPRM* was released in 2002. Among other things, USAC has implemented on-line application filing and has arranged for electronic forms to be filled automatically with the previous year's information for repeat on-line filers. Nevertheless, we seek comment on what additional steps USAC could take to ease further the burdens associated with the application process. For example, what would be the advantages and disadvantages of implementing multi-year applications, so that beneficiaries would not need to apply every funding year? We also seek comment on whether there are additional outreach efforts that USAC could take to inform eligible applicants of the benefits of the

program. For instance, should USAC conduct focus groups among rural health care providers to develop ideas on how to identify providers that operate only on a part-time basis? Should USAC contact service providers in rural areas to solicit suggestions for potential eligible users in the area?

## II. Procedural Matters

### A. Initial Regulatory Flexibility Act Analysis

8. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *FNPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on the *FNPRM*. The Commission will send a copy of this *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

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

10. In this *FNPRM*, we seek comment on whether and how to modify the definition of rural area as utilized in the rural health care support mechanism. We also seek comment on whether additional modifications to our rules are appropriate to facilitate the provision of support to mobile rural health clinics for satellite services. Lastly, we seek comments on ways to streamline further the application process and expand outreach efforts.

#### 2. Legal Basis

11. This *FNPRM* is adopted pursuant to sections 1, 4(i), (4j), 201–205, 251, 252, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), 201–205, 251, 252, and 303.

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

12. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. 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, unless the Commission has developed one or more definitions that are appropriate to its activities. 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).

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

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

14. The *FNPRM* seeks comment on potential changes to the definition of “rural area” for the rural health care support mechanism. This potential change will not impact reporting or recordkeeping requirements, however, it could impact the overall pool of eligible applicants. The *FNPRM* also seeks comment on whether additional support should be provided to mobile rural health clinics that utilize satellite services. If changes are adopted, mobile rural health clinics, including small rural health clinics, could potentially be required to submit additional information regarding their mobile services, if they choose to seek discounts. Lastly, the *FNPRM* seeks comment on ways to streamline further the application process. If the application process is streamlined further, this would eliminate some of the paperwork associated with the application process.

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

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

16. In this *FNPRM*, we seek comment on a new definition of rural area. If a new definition is adopted, this could change the size of the overall pool of eligible applicants for universal service support for rural health care providers. We also seek comment on whether to provide additional support to mobile rural health clinics that utilize satellite services. In seeking to minimize the burdens imposed on small entities where doing so does not compromise the goals of the universal service mechanism, we invite comment on definitions and proposals for additional support for mobile rural health clinics that might be made less burdensome for small entities. In addition, we seek comment on ways to streamline further the application process and expand outreach efforts. If the application process is streamlined further, this could ease the burden on small entities associated with the application process. Additionally, outreach efforts would better inform such businesses about the benefits of the rural health care program and potentially increase small business participation in the program.

#### 6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

17. None.

#### B. Initial Paperwork Reduction Act of 1995 Analysis

18. This *FNPRM* contained proposed information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *FNPRM*, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13. Public and

agency comments are due February 23, 2004. It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. PRA comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

#### C. Comment Filing Procedures

19. We invite comment on the issues and questions set forth in the *FNPRM* and Initial Regulatory Flexibility Analysis contained herein. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before February 23, 2004, and reply comments on or before April 7, 2004. All filings should refer to WC Docket No. 02-60. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

20. 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, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

21. 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 appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by

first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

22. Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5-B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054.

#### III. Ordering Clauses

23. Pursuant to the authority contained in sections 1, 4(i), 4(j), 201-205, 214, 254, and 403 of the Communications Act of 1934, as amended, this *Further Notice of Proposed Rulemaking* is adopted.

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

#### List of Subjects in 47 CFR Part 54

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

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

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