

Dated: January 31, 2013.

**H. Curtis Spalding,**

*Regional Administrator, EPA New England.*

[FR Doc. 2013-02812 Filed 2-6-13; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 10-90; DA 13-69]

### Wireline Competition Bureau Seeks Further Comment on Specific Issues Related to the Implementation of the Remote Areas Fund

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Wireline Competition Bureau seeks further comment on specific issues relating to the implementation of the Remote Areas Fund.

**DATES:** Comments are due on or before February 19, 2013 and reply comments are due on or before March 18, 2013.

**ADDRESSES:** Interested parties may file comments on or before February 19, 2013 and reply comments on or before March 18, 2013. All pleadings are to reference WC Docket No. 10-90. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

- *People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Ted Burmeister, Wireline Competition Bureau at (202) 418-7389 or TTY (202) 418-0484, or Heidi Lankau, Wireline Competition Bureau at (202) 418-2876 or TTY (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Public Notice (Notice) in WC Docket No. 10-

90; DA 13-69, released January 17, 2013. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via Internet at <http://www.bcpweb.com>.

## I. Introduction

1. On November 18, 2011, the Federal Communications Commission (Commission) released the *USF/ICC Transformation Order and FNPRM*, 76 FR 73830, November 29, 2011 and 76 FR 78384, December 16, 2011, which comprehensively reformed and modernized the universal service high-cost and intercarrier compensation systems. The Commission established the Connect America Fund to ensure that voice and broadband service is available throughout the nation. Within Connect America, the Commission created a Remote Areas Fund with a budget of "at least \$100 million annually" to ensure that even Americans living in the most remote areas of the nation, where the cost of providing terrestrial broadband service is extremely high, can obtain service. In the accompanying *FNPRM*, 76 FR 78384, December 16, 2011, the Commission sought comment on various issues relating to the Remote Areas Fund, including how to define the remote areas eligible for support from the Remote Areas Fund, qualifications for participating providers, the public interest obligations of these providers, as well as administrative issues.

2. Based on the record generated in response to the *FNPRM*, the Bureau now seeks further detailed comment on issues relating to the implementation of the Remote Areas Fund as a portable consumer subsidy program, as proposed by the Commission in the *FNPRM* and supported by a diverse group of commenters. In particular, we seek to further develop the record on a number of specific issues, including defining the areas where Remote Areas funding will be available, how to set the consumer subsidy, consumer eligibility, measures to keep the program within a defined annual budget, service provider participation, performance requirements, and accountability and oversight.

## II. Discussion

### A. Areas Eligible for Remote Areas Fund Support

3. *Discussion.* We seek to further develop the record on administratively feasible ways to identify areas (both those served by price cap carriers and by rate-of-return carriers) where consumers would be eligible for the Remote Areas Fund.

4. In lieu of using the cost model to define eligible areas, should the Commission use the National Broadband Map to identify unserved census blocks and provide Remote Areas Fund support to those census areas until they become served with broadband that meets the Commission's performance requirements (*i.e.*, speed, capacity, latency) for non-Remote Areas Fund eligible areas?

5. If the Commission chooses to utilize the most current version of the National Broadband Map available at the time it adopts rules for the Remote Areas Fund for the purpose of determining areas eligible for the Remote Areas Fund, should there be a process to contest the classification of areas as unserved or served on the map before Remote Areas funding is provided, and how could that process be implemented in a way to expedite the launch of the Remote Areas Fund? For instance, should the Commission consider any updates to the National Broadband Map gathered in conjunction with Connect America Phase I when finalizing areas eligible for the Remote Areas Fund? Should the Commission implement a process to allow households to self-report if data indicate that certain areas are served, if they contend those areas are unserved?

6. We ask for further comment on other possible data sources that the Commission could use to identify unserved areas. Should the Commission take into consideration the unique characteristics of locations like Alaska or Hawaii in determining areas eligible for Remote Areas funding, and if so, how? To the extent parties advocate use of information other than a cost model or the National Broadband Map to identify remote areas, they should provide specific objective metrics that could be used under such an approach.

7. *Implementing the Remote Areas Fund in Rate-of-Return Areas.* We seek to further develop the record on the suggestion of the National Exchange Carrier Association, Inc. et al. that the Commission take into account the \$250 per-line per month cap when identifying areas that are eligible for the Remote Areas Fund. In lieu of relying on a forward looking cost model, should

the Commission identify areas for the Remote Areas Fund based on reported loop cost, such as a rule that all unserved locations in rate-of-return study areas for which the reported loop cost equals or exceeds the 95th percentile for average cost be eligible for Remote Areas Fund support?

8. Alternatively, should the Commission rely on the National Broadband Map to identify rate-of-return census blocks that would be eligible for the Remote Areas Fund, as well as price cap census blocks?

9. We anticipate that rate-of-return carriers would be eligible, as existing eligible telecommunications carriers (ETCs), to seek funding from the Remote Areas Fund and potentially could use alternative technologies, either directly or through resale, to provide broadband to their highest cost customers. To the extent an existing ETC receives funding from the Remote Areas Fund, should any adjustment be made to its receipt of support under other high-cost support mechanisms? Should there be any adjustment to an existing rate-of-return ETC's support if another ETC were to serve some portion of the study area through the Remote Area Fund?

10. Would the ability to serve customers through the Remote Areas Fund address concerns raised by rate-of-return carriers regarding their ability to meet the current rule requiring the deployment of broadband upon reasonable request?

11. To the extent parties argue that a different method for identifying remote areas should be used in areas served by rate-of-return carriers than areas served by price cap carriers, they should present specific alternative proposals of how to identify those areas that would be eligible for such funding.

12. *Transition Issues.* If the Commission were to adopt an approach that relied on the National Broadband Map in lieu of a cost threshold in the forward-looking cost model to designate census blocks eligible for Remote Areas funding, the potential eligibility of specific areas would change over time with the ongoing deployment of broadband-capable infrastructure by existing ETCs receiving support under other universal service mechanisms as well as with expansion by unsubsidized competitors.

13. How should the rules address the transition where an area that is initially classified as unserved, and therefore eligible for Remote Areas Fund support, subsequently becomes served by a terrestrial broadband provider, and how does the answer differ if the Commission chooses to structure the Remote Areas Fund as a one-time

payment, as opposed to a monthly subsidy?

14. Would it be a cost-effective use of universal service funds to provide a Remote Areas Fund voucher to a consumer that resides in a location that is expected to receive terrestrial broadband at some point in the future through Connect America Phase I or Phase II? How would a rule identifying all unserved areas as eligible for the Remote Areas Fund, at least until they become served, affect the incentives of existing ETCs to deploy terrestrial broadband? How would it impact carriers' incentives to participate in other universal service programs, such as Connect America Phase II or the Mobility Fund Phase II?

#### *B. Consumer Subsidy*

15. *Discussion.* We seek to further develop the record on implementation details regarding how a portable consumer subsidy should be structured, how the amount of the portable consumer subsidy would be set, what restrictions, if any, should be placed on the service contracts that are supported by this subsidy, and how such a program could be designed to stay within a \$100 million annual budget. We also seek to further develop the record on the relative advantages and disadvantages of structuring the Remote Areas Fund as a one-time subsidy or a monthly retail subsidy.

##### *1. One-Time Subsidy*

16. We seek to further develop the record on setting the subsidy amount for a one-time payment. Satellite and fixed wireless broadband services typically include a combination of upfront and monthly set-up and equipment fees. We note that in its satellite program, RUS awarded Hughes Network Systems (Hughes) a grant of \$58,777,306 and Wildblue Communications (Wildblue) a grant of \$19,533,444. Based on RUS' estimates of the number of subscribers that would benefit from these grants, Hughes received an award of approximately \$227 per subscriber and Wildblue received an award of approximately \$177 per subscriber. Would \$200 in one-time support per location be an appropriate amount for the Remote Areas Fund one-time subsidy, or should it be higher or lower? How should the Commission account for the fact that in some locations, installation and other upfront costs may be significantly higher (e.g., due to the extreme remoteness of a location or obstacles that may make it difficult for a signal to reach the location)? We encourage commenters to suggest specific dollar amounts and provide

specific factual information in support of their assertions.

17. How would adoption of a consumer voucher structured as a one-time payment impact providers' existing practices regarding the amortization of installation costs through monthly rates? Would this approach avoid distorting providers' business decisions regarding the relative amounts of upfront and monthly fees charged to the retail consumer? Would this approach present any unique administrative challenges?

18. Should the Commission set forth pricing and performance requirements that would apply over a minimum period of time to ensure ongoing and acceptable service to the consumer, as a condition of receiving a one-time payment? We note that RUS' BIP program for satellite took such an approach, setting pricing restrictions on basic service packages, prohibiting carriers from requiring customers to enter into extended contracts (subject to certain exceptions), and requiring carriers to offer customer premise equipment at no cost for all their service packages. Would a similar approach be appropriate for the Remote Areas Fund? Should a condition of receiving the one-time payment be that the Remote Areas Fund-supported providers offer voice service at a rate not to exceed the Commission's prior reasonable comparability benchmark for voice service for non-rural carriers, i.e., \$36.52? What would be an appropriate amount of time for such pricing and performance requirements?

19. How would structuring the consumer subsidy as a one-time payment affect the nature of competition among potential providers to serve the consumer? Should the Commission adopt any restrictions on the ability of consumers to obtain a new one-time subsidy if they switch providers after some amount of time? Would it be wasteful for the Remote Areas Fund to subsidize the cost of installing a satellite dish or fixed wireless receiver on a home if the consumer previously has used a Remote Areas Fund voucher to install equipment from another provider? What types of reporting or other requirements might the Commission impose to protect against waste, fraud and abuse? For example, in the Lifeline program, consumers must certify that they will notify their service providers within 30 days if they move to a new address. What kinds of burdens might this requirement impose on service providers, and particularly on small businesses?

## 2. Monthly Retail Subsidy

20. In the *USF/ICC Transformation Order and FNPRM*, the Commission also sought comment on various issues relating to structuring the portable consumer subsidy as “a monthly amount equal to the difference between the retail price of a ‘basic’ satellite voice-broadband service and an appropriate reference price for reasonably comparable service in urban areas.” We seek to further develop the record on what specific figure should be used as the urban reference price, pending implementation of the urban rate survey, if the Commission were to implement a monthly subsidy?

21. We note that the Commission’s prior reasonable comparability benchmark for voice service for non-rural carriers was \$36.52. On an interim basis, would it be reasonable to set the urban reference price for voice at \$37 for purposes of the Remote Areas Fund? We also note that several large fixed terrestrial providers offer broadband at speeds close to the Commission’s 4 Mbps downstream/1 Mbps upstream benchmark at prices ranging from \$45 to \$49.95 per month. Would setting an urban reference price for broadband at a somewhat higher level, such as \$60, be a reasonable interim approach for the Remote Areas Fund? Should that figure be lower or higher?

22. We also seek further comment on what should be considered “basic” satellite voice-broadband service for the purposes of setting the monthly consumer subsidy amount. Satellite broadband providers offer a variety of service tiers with different usage limits at different prices, with the lowest price offerings currently in the \$50 range. Should the Commission deem the lowest price offering to be a “basic” broadband offering, and therefore focus on the \$50 plan in setting the satellite reference rate? Should consumers be able to use their monthly voucher to purchase services above the basic offering?

23. How, if at all, should the Commission take into account the costs of installation and other upfront costs as part of a monthly retail subsidy? For instance, should the representative retail rate be determined by adding together the monthly service amount plus any upfront fees, amortized over a two-year period?

24. Satellite broadband service rates provide a useful framework for setting the portable consumer subsidy amount because they are generally uniform nationwide. However, we acknowledge that terrestrial wireless or wireline service providers may be viable

providers for certain remote areas and may choose to participate in the Remote Areas Fund. Given that these service providers can charge rates that vary by geography, we seek comment on whether, and if so, how to account for these varying rates when setting the rate that will be compared to reasonably comparable services in urban areas.

25. How, if at all, should the usage amounts associated with wireless broadband services in urban areas be factored into such an adjustment?

## 3. Applying the Subsidy to Consumer Bill

26. Regardless of whether the Commission structures the Remote Areas Fund as a one-time or monthly subsidy, we seek further comment on measures to ensure the consumer receives the full benefit of the subsidy.

27. To discourage service providers from raising their rates in response to the availability of a consumer subsidy, the Commission sought comment in the *USF/ICC Transformation Order and FNPRM* on requiring “each ETC to establish an ‘anchor price’ for its basic service offering—including installation and equipment charges—as a condition of eligibility to receive Remote Areas Fund support.” Should the Remote Areas Fund-supported provider be required to apply the discount to the provider’s best available rates, including any discounts or promotions, at the time the consumer subscribes to the service? How could the Commission structure this requirement to prevent service providers from capturing the subsidy and not passing it on to the consumer? How could it be structured so that it could be audited to verify that providers are in fact providing consumers their best available rates?

## 4. Restrictions on Extended Contracts

28. As the Commission noted in the *FNPRM*, certain satellite providers require that consumers enter into 24-month contracts when they subscribe to their services. We seek to further develop the record on issues relating to the use of extended contracts by Remote Areas Fund-supported providers.

29. If Remote Areas Fund-supported providers are permitted to enter into extended contracts with consumers receiving Remote Areas Fund subsidies, should the maximum permitted contract term be 24 months? We note that in implementing its satellite broadband program, RUS only permitted awardees to enter into one-year contracts in certain circumstances. Does the answer depend on whether the Commission structures the Remote Areas Fund as a one-time payment or a monthly

subsidy? If the Commission provides portable consumer subsidies for extended contracts, how should it handle early termination fees?

## C. Consumer Eligibility for the Remote Areas Fund

30. *Discussion.* Should the Commission adopt the same definition for household for purposes of the Remote Areas Fund as it did for Lifeline and associated implementing regulations?

31. Should the Commission require consumer self-certifications that they do not have terrestrial broadband available at their home meeting defined requirements (*i.e.*, for capacity, latency, usage, and price) as a precondition to receiving the Remote Areas Fund consumer subsidy? Are there any other specific mechanisms the Commission should adopt to ensure that Remote Areas funding does not go to consumers that already have terrestrial broadband that meets the Commission’s requirements?

32. Should consumers be required to self-certify that they are using Remote Areas Fund support at their primary address? If consumers are found to be making false self-certifications, should the Commission impose penalties for such false statements and misrepresentations?

33. If the Commission did require primary address self-certifications, would it be reasonable to employ Lifeline requirements (*e.g.*, 30-day moving notifications, a prohibition on P.O. box addresses, and a requirement that applicants provide both a primary address and billing address) to impose the primary address restriction? How should the Commission account for certain groups like seasonal workers that may make frequent moves between residences?

34. If the Commission requires consumers to submit a certification pursuant to a one Remote Areas Fund subsidy per household or primary address restriction, should the service provider be responsible for collecting and verifying the certification? We note that USAC is in the process of developing a database to verify that households do not receive more than one Lifeline subsidy. Should USAC also develop a database of Remote Areas Fund-eligible households with associated addresses, and could the Lifeline database be expanded for this purpose in a cost-effective way? What steps, if any, should USAC or ETCs take to verify self-certifications in the interim while the database would be developed? We also seek comment on whether the costs to ETCs or the Administrator of

verifying certifications against such a database or other data source would outweigh any potential savings associated with restricting Remote Areas Fund support to one-per-household and/or primary addresses.

35. If a database is employed, should ETCs be required to collect the data for the database from their customers? How can the Commission ensure that data that are submitted to the database by ETCs are uniform? As an alternative to creating a database or utilizing an expanded version of USAC's Lifeline database, are there other types of tools or data sources that USAC or ETCs could rely on to verify consumers' addresses?

#### *D. Designing the Remote Areas Fund Within a Set Budget*

36. *Discussion.* Recognizing that the answer depends on the level of subsidy provided, what would be the financial impact of making all census blocks shown as unserved areas on the National Broadband Map eligible for Remote Areas Fund support, until deployment occurs in those areas, whether through support from universal service or through market forces? How likely is it that the Commission would need to limit the number of locations in remote areas that will be eligible for support to stay within a defined budget? If so, what criteria should the Commission use to determine which remote areas will receive support and which will not? If the demand for the Remote Areas Fund were to exceed a defined \$100 million annual budget, should the Commission reevaluate and set a higher budget for the following year, or should the Commission adopt a \$100 million hard cap in interest of promoting fiscal responsibility and controlling the overall size of the universal service budget?

#### *E. Service Providers Eligible To Receive Support From the Remote Areas Fund*

37. *Discussion.* Should the Commission impose requirements to standardize the required showings to be designated an ETC to participate in the Remote Areas Fund, the procedural aspects of the ETC application process, the time states take to review ETC applications, the criteria states use to evaluate ETC applications, and the obligations that states place on ETCs? If so, what specific requirements should be adopted? The National Cable & Telecommunications Association proposes that ETC applications be deemed granted within 30 days of filing; would a more reasonable time frame for such a requirement be 60 or 90 days?

38. ETCs that receive Remote Areas Fund support will be required to provide voice service. We seek to update the record on the quality of the voice service that satellite providers and wireless Internet Service Providers (WISPs) are able to offer today, and over the next twelve months. We note that nothing in the Commission's existing regulations would preclude incumbent voice providers that have already received an ETC designation and who wish to resell satellite broadband services or other wireless broadband services from receiving Remote Areas funding, assuming such services meet specified performance requirements. What is the likelihood that satellite providers and WISPs would enter partnerships with traditional voice providers, *i.e.*, incumbent telephone companies, to fulfill voice obligations in areas eligible for Remote Areas funding?

#### *F. Performance Requirements for Remote Areas Fund-Supported Service Providers*

39. *Discussion.* The International Telecommunication Union has noted that while latency delays above 400 milliseconds are unacceptable for network planning, latency up to 300 milliseconds provides acceptable voice quality for most users with an increasing number of users becoming dissatisfied if latency exceeds 300 milliseconds. Based on this information, we seek comment on an appropriate latency standard for the Remote Areas Fund. How should the Commission address the increased latency experienced during double hop calls?

40. We also seek to further develop the record on setting required usage allowances for providers participating in the Remote Areas Fund. We have not yet established minimum usage requirements that will apply to price cap carriers that elect to make a statewide commitment to serve areas in Phase II. Given the Commission's recognition that it may be appropriate to "modestly relax" performance requirements in areas supported by the Remote Areas Fund, what downward adjustments would represent an appropriate balancing of the "economic and technical characteristics of networks" likely to serve the most remote areas?

41. We note that according to one source, during the second half of 2012, the median monthly data consumption for fixed services in North America was 16.8 GB per-subscriber. And according to recent Commission speed testing data, 75 percent of surveyed DSL subscribers in April 2012 used less than 20 GB per month. Given this historical

data and industry forecasts for future usage, what usage allowance should be a required minimum for providers participating in the Remote Areas Fund? Would 20 GB be an appropriate usage allowance requirement for the Remote Areas Fund, at least in its initial implementation? Should the Commission periodically adjust the Remote Areas Fund usage allowance requirement to reflect consumer behavior, and if so, how often?

#### *G. Accountability and Oversight*

42. *Discussion.* Should any of the 47 CFR 54.313 reporting requirements not apply or be tailored for Remote Areas Fund recipients? For example, is the requirement that ETCs report detailed information about outages, and the number of complaints they receive per 1,000 connections, reasonable for Remote Areas Fund-supported participants? Is there a need to require a five-year build-out plan in a situation where the subsidy is structured as a consumer subsidy, rather than a supply-side subsidy for deployment? While recognizing there are fundamental differences between the Lifeline program and Connect America high-cost programs, are there lessons that the Commission could learn from Lifeline's administration of consumer subsidies? What measures would the Commission need to put in place to ensure that subsidies are not flowing to consumers that are already served by terrestrial broadband meeting the Commission's broadband speed benchmark? What specific kinds of documents should Remote Areas Fund participants be required to retain in order to facilitate USAC's audits and investigations of funding recipients? Should Remote Areas Fund participants be required to maintain date stamped screen shots of Web site advertisements and/or other documentary evidence of pricing, including both published and unpublished rates available upon request, to facilitate the ability of auditors to ensure that consumers have the benefit of best available rates?

### **III. Procedural Matters**

#### *A. Initial Regulatory Flexibility Act Analysis*

43. The *USF/ICC Transformation Order* and *FNPRM* included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact on small entities of the Commission's proposal. We invite parties to file comments on the IRFA in light of this additional notice.

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

44. This Public Notice contains information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 that were originally proposed in the *USF/ICC Transformation Order and FNPRM*. The *USF/ICC Transformation Order and FNPRM* was submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies were invited to comment on the new information collection requirements contained in that proceeding and referenced in this Public Notice.

### *C. Filing Requirements*

45. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments are to reference WC Docket Nos. 10–90 and DA 13–69 and may be filed using the Commission’s Electronic Comment Filing System (ECFS). *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

In addition, we request that one copy of each pleading be sent to each of the following:

(1) Ted Burmeister,  
Telecommunications Access Policy  
Division, Wireline Competition Bureau,  
445 12th Street SW., Room 5–A445,  
Washington, DC 20554; email:  
[Theodore.Burmeister@fcc.gov](mailto:Theodore.Burmeister@fcc.gov);

(2) Heidi Lankau,  
Telecommunications Access Policy  
Division, Wireline Competition Bureau,  
445 12th Street SW., Room 5–B511,  
Washington, DC 20554; email:  
[Heidi.Lankau@fcc.gov](mailto:Heidi.Lankau@fcc.gov);

(3) Charles Tyler,  
Telecommunications Access Policy  
Division, Wireline Competition Bureau,  
445 12th Street SW., Room 5–A452,  
Washington, DC 20554; email: mail to:  
[Charles.Tyler@fcc.gov](mailto:Charles.Tyler@fcc.gov).

46. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

47. This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule section 1.1206(b). In proceedings governed by rule section 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments

thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Federal Communications Commission.

**Trent B. Harkrader,**

*Division Chief, Telecommunications Access  
Policy Division, Wireline Competition Bureau.*

[FR Doc. 2013–02686 Filed 2–6–13; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 223

RIN 0648–BC10

#### Sea Turtle Conservation; Shrimp Trawling Requirements

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We (NMFS) have determined that a final rule to withdraw the alternative tow time restriction and require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) rigged for fishing to use turtle excluder devices (TEDs) in their nets is not warranted at this time. Thus, we are discontinuing our Environmental Review process under the National Environmental Policy Act (NEPA) and do not intend to prepare a Final Environmental Impact Statement for this Action. We therefore withdraw our proposed rule to require TEDs in these vessels published May 10, 2012, in the **Federal Register**.

**DATES:** The proposed rule published on May 10, 2012 (77 FR 27411), is withdrawn as of February 7, 2013.

**FOR FURTHER INFORMATION CONTACT:** Michael Barnette, 727–551–5794.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On May 10, 2012, we published a proposed rule (77 FR 27411) that would require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) to use TEDs in their nets. Subsequently, a notice of availability on a Draft Environmental Impact Statement (DEIS) to Reduce Incidental Bycatch and Mortality of Sea Turtles in the Southeastern U.S. Shrimp Fisheries was