consumer pursuant to paragraphs (a) or (b) of this section must obtain that consumer's signature on a document certifying under penalty of perjury that:

(1) The consumer's residence receives benefits from one of the programs listed in § 54.409 (a) or (b) of this section, and that the consumer presented documentation of program participation, as described in 54.410(b), which accurately represents the program participation of the consumer's residence; or the consumer's residence meets the income requirement of § 54.409 (a) of this section, and that the consumer presented documentation of income, as described in §§ 54.400(f), 54.410(a), which accurately represents the consumer's income; and

(2) If an eligible resident of Tribal lands, that the consumer lives on a reservation or Tribal lands, as defined in §54.400(c) and § 54.402; and

(3) The consumer will notify the carrier within 30 days if that consumer ceases to participate in the program or programs, if the consumer's income exceeds 135% of the Federal Poverty Guidelines, or if the consumer otherwise ceases to meet the criteria for receiving program support.

11. Amend § 54.410 by revising subsections (a) and (c), adding new subsections (b), (d), and (e), eliminating subsections (a)(1), (a)(2), (c)(1), and (c)(2), and re-designating subsections (b), (c), (c)(1) and (c)(2), to read as follows:

§ 54.410 Certification and Verification of Consumer Qualification for Lifeline.

(a) *Certification of income qualification.* Prior to enrollment in Lifeline, consumers qualifying for Lifeline under an income-based criterion must present documentation of their income and certify that they will be receiving support for only one Lifeline discount per residence. By six months from the effective date of these rules, eligible telecommunications carriers in all states must implement certification procedures to document consumer-income-based eligibility for Lifeline prior to a consumer's enrollment if the consumer is qualifying under the income-based criterion specified in §54.409(a). Acceptable documentation of income eligibility includes the prior year's state or federal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an

Unemployment/Workers' Compensation statement of benefits, federal notice letter of participation in General Assistance, a divorce decree, child support, or other official document. If the consumer presents documentation of income that does not cover a full year, such as current pay stubs, the consumer must present the same type of documentation covering three consecutive months within that calendar year. States that mandate state Lifeline support may impose additional standards on eligible telecommunications carriers operating in their states to ensure compliance with the state Lifeline program.

(b) *Certification of program qualification.* Consumers qualifying for Lifeline under a program-based criterion must present documentation of their household participation in a qualifying program and certify that they will be receiving support for only one Lifeline discount per residence prior to enrollment in Lifeline. By six months from the effective date of these rules, eligible telecommunications carriers in all states must implement certification procedures to document consumer-program-based eligibility for Lifeline prior to a consumer's enrollment if the consumer is qualifying under the program-based criterion specified in §54.409(a) and (b). Acceptable documentation of program eligibility includes the prior year's statement of benefits from the program, program participation documents, federal notice letter of participation in the program, or other official document. If the consumer presents documentation of program participation that does not cover a full year, such as current program benefits, the consumer must present the same type of documentation covering three consecutive months within that calendar year. States that mandate state Lifeline support may impose additional standards on eligible telecommunications carriers operating in their states to ensure compliance with the state Lifeline program.

(c) *Self-certifications.* After income and program based certification procedures are implemented, eligible telecommunications carriers are required to make and obtain certain self-certifications, under penalty of perjury, related to the Lifeline program. Eligible telecommunications carriers must retain records of all self-certifications.

(1) An officer of the eligible telecommunications carrier must certify that the eligible telecommunications carrier has procedures in place to review income and program documentation and that, to the best of his or her knowledge, the carrier was presented with documentation of the consumer's income qualification

or program participation.

(2) Lifeline and Link Up subscribers must initially certify at enrollment and during continued verification that they are receiving support for only one line per residence, consistent with the one-per-residence limitation as specified in § 54.408.

(3) Consumers qualifying for Lifeline under an income-based criterion must certify the number of individuals in their residence on the document required in § 54.409(c).

(d) *Verification of Continued Eligibility*. Consumers qualifying for Lifeline shall be required to verify continued eligibility on an annual basis. By six months from the effective date of these rules, eligible telecommunications carriers in all states shall implement procedures to verify annually the continued eligibility of a statistically valid sample [TBD] of their Lifeline subscribers for continued eligibility.

(1) Eligible telecommunications carriers shall require each customer to certify that they are receiving support for only one line per residence. Eligible telecommunications carriers may verify directly with a state that particular customers continue to be eligible by virtue of participation in a qualifying program or income level. To the extent eligible telecommunications carriers cannot obtain the necessary information from the state, they may verify directly with the customers.

(2) All eligible telecommunications carriers will be required to provide the results of their verification efforts to the Commission and the Administrator on the Annual Lifeline Certification and Verification Form (currently OMB 3060-0819) by August 31 each year. Eligible telecommunications carriers shall submit data to the Commission and Administrator regarding consumer qualifications for eligibility, including program-based and income-based eligibility, the number of customers that qualify based on income and program participation, the number of subscribers that qualify for each eligible program, the number of non-responders, and the number of customers de-enrolled and in the process of being terminated or de-enrolled. Eligible telecommunications carriers shall submit each customer name, address, and number of individuals in the customer's residence for those customers qualifying based on income criterion.

(e) *Preventing and Resolving Duplicate Support*. ETCs shall provide the Administrator with their Lifeline and Link Up customer names, addresses, social security numbers, and/or other unique residence-identifying information as specified in the form and format requested on the Form 497 for the purpose of preventing and resolving situations involving duplicate support.

12. Amend Section 54.413 by revising subsection (b), to read as follows:

§ 54.413 Reimbursement for revenue forgone in offering a Link Up program.

(a) *****

(b) In order to receive universal service support reimbursement for providing Link Up, eligible telecommunications carriers must keep accurate records of the revenues they forgo in reducing their customary charge for commencing telecommunications service, as defined in § 54.400(e), and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does not pay interest, in conformity with § 54.411. *****

13. Amend Section 54.415 by revising subsections (a) and (c), eliminating subsection (b), and re-designating subsections (a) and (b), to read as follows:

§ 54.415 Consumer qualification for Link Up.

(a) The consumer qualification criteria for Link Up shall be the criteria set forth in § 54.409(a).

(b) Notwithstanding paragraph (a) of this section, the consumer qualification criteria for an eligible resident of Tribal lands, as defined in § 54.400(c) and § 54.402, shall qualify to receive Link Up support.

14. Amend Section 54.416 to read as follows:

§ 54.416 Certification of consumer qualification for Link Up.

Consumers qualifying under income-based or program-based criteria must present documentation of their qualification prior to enrollment in Link Up consistent with the requirements set forth in §§ 54.410(a) and (b).

15. Amend Section 54.417 by revising subsections (a) and (b), to read as follows:

§ 54.417 Recordkeeping requirements.

(a) ***** eligible telecommunications carriers must maintain the documentation required in §§ 54.409(c) and 54.410(c) for as long as the consumer receives Lifeline service *****

(b) ***** To the extent such a reseller provides discounted services to low-income consumers, it is obligated to comply with the eligible telecommunications carrier requirements listed in this Subpart.

16. Amend Section 54.418 by eliminating this subsection as moot.

§ 54.418 [Reserved]

APPENDIX B

Current Verification Methodology

Statistically Valid Sample

Eligible Telecommunications Carriers (ETCs) subject to the federal default criterion will be required to verify the continued eligibility of a statistically valid sample of their Lifeline customers. The size of a statistically valid sample, however, varies based upon many factors, including the number of Lifeline subscribers (N) and the previously estimated proportion of Lifeline subscribers inappropriately taking Lifeline service (P).

For the first year that ETCs verify subscribers' continued eligibility, all ETCs should assume that the proportion P of subscribers inappropriately taking Lifeline service is .01, if there is no evidence to assume a different proportion. In subsequent years, ETCs should use the results of samples from previous years to determine this estimated proportion. In all instances, the estimated proportion P should never be less than .01 or more than .06.

For ETCs with large numbers of Lifeline subscribers (more than 400,000), a statistically valid sample size must be calculated pursuant to the following formula:[1]

$$\text{Sample Size} = 2.706 * P*(1 - P) / .000625.$$

For ETCs with 400,000 Lifeline subscribers or less, the above formula could yield a sample size that is larger than needed to be statistically valid.[2] To simplify the calculation of a statistically valid sample, a table of sample sizes based on two variables N (number of Lifeline subscribers) and P (previously estimated proportion of Lifeline subscribers inappropriately taking Lifeline service) is provided below. Various numbers of Lifeline subscribers N are listed in the left-most column. Various previously estimated proportions P are listed on the first row. To determine the sample size, find the box that matches your number of Lifeline subscribers N and proportion P.

If the number of Lifeline subscribers is not listed and/or the proportion is not listed, ETCs should use the next higher number for N and/or P that is in the table, i.e. always round up to the next higher value for N and/or P. For example, if 3.8 percent of 9,500 Lifeline subscribers inappropriately took Lifeline service, the ETC would use a sample size of 164 (value using 10,000 customers and proportion .04). Because the adjustment for the number of Lifeline subscribers is *de minimus* above 400,000 Lifeline subscribers, ETCs with more than 400,000 Lifeline subscribers must use the above formula to calculate the sample size.

All ETCs must provide the estimated proportion for their samples to the Administrator, i.e., the proportion of sampled subscribers inappropriately taking Lifeline service.

[1] The values 2.706 and .000625 in this formula are mandated by OMB. *See* Office of Management and Budget, Memorandum M-03-13 (May 21, 2003).

[2] Sample sizes for ETCs with 400,000 Lifeline subscribers or less are calculated pursuant to the following formula: sample size = N/(1+{[N-1]/n}). N is the number of Lifeline subscribers and n = 2.706 * P*(1 – P) / .000625, where P is the previously estimated proportion of Lifeline subscribers inappropriately taking Lifeline service. ETCs may choose to calculate their sample sizes using these formulas.

Sample Size Table
Previously Estimated Proportion of Subscribers Inappropriately Taking Lifeline Service (P)[3]

(N) Number of Lifeline Subscribers	0.01	0.015	0.02	0.025	0.03	0.035	0.04	0.045	0.05	0.055	0.06
400,000	43	64	85	106	126	146	166	186	206	225	244
100,000[4]	43	64	85	105	126	146	166	186	206	225	244
90,000	43	64	85	105	126	146	166	186	205	224	244
70,000	43	64	85	105	126	146	166	186	205	224	243
60,000	43	64	85	105	126	146	166	185	205	224	243
30,000	43	64	85	105	125	146	165	185	204	223	242
20,000	43	64	85	105	125	145	165	184	204	223	241
15,000	43	64	84	105	125	145	164	184	203	222	240
10,000	43	64	84	104	124	144	164	183	202	220	238
9,000	43	64	84	104	124	144	163	182	201	220	238
8,000	43	63	84	104	124	144	163	182	201	219	237
7,000	43	63	84	104	124	143	162	181	200	218	236
6,000	43	63	84	104	123	143	162	180	199	217	235
5,000	43	63	83	103	123	142	161	179	198	215	233
4,000	42	63	83	103	122	141	160	178	196	213	230
3,000	42	63	83	102	121	139	158	175	193	209	226
2,000	42	62	81	100	119	136	154	170	187	202	218
1,500	42	61	80	99	116	133	150	166	181	196	210
1,000	41	60	78	96	112	128	142	157	171	184	196
900	41	60	78	95	111	126	140	154	168	180	192
800	41	59	77	94	109	124	138	151	164	176	187
700	41	59	76	92	107	121	134	147	159	170	181
600	40	58	74	90	104	118	130	142	154	164	174
500	40	57	73	88	101	113	125	136	146	155	164
400	39	55	70	84	96	107	118	127	136	144	152

[3] For the first year of verification, ETCs should assume that this percentage is .01, if there is no evidence to assume a different percentage. In subsequent years, ETCs should use the results of samples from previous years to determine this estimated percentage.

[4] Sample sizes for ETCs with less than 400,000 Lifeline subscribers are calculated pursuant to the following formula: sample size = N/(1+{[N-1]/n}). N is the number of Lifeline subscribers; n is (2.706 * P*(1 – P)) / .000625, where P is the estimated percentage of Lifeline subscribers inappropriately taking Lifeline service. ETCs may choose to calculate their sample sizes using these formulas.

(N) Number of Lifeline Subscribers (cont'd)	0.01	0.015	0.02	0.025	0.03	0.035	0.04	0.045	0.05	0.055	0.06
300	38	53	66	79	89	98	107	115	122	129	135
200	36	49	60	70	78	85	91	97	102	106	110
150	34	45	54	62	69	74	79	83	87	90	93
120	32	42	50	57	62	66	70	73	76	78	81
100	30	39	46	52	56	60	63	65	68	69	71
90	29	38	44	49	53	56	59	61	63	64	66
80	28	36	41	46	49	52	54	56	58	59	60
70	27	34	39	42	45	48	49	51	52	54	55
60	25	31	35	39	41	43	44	46	47	48	48
50	23	28	32	34	36	37	39	40	40	41	42
40	21	25	27	29	31	32	32	33	34	34	34
35	20	23	25	27	28	28	29	30	30	30	31
30	18	21	22	24	24	25	26	26	26	27	27
25	16	18	19	20	21	21	22	22	22	23	23
20	14	15	16	17	17	18	18	18	18	18	19
17	12	14	14	15	15	15	16	16	16	16	16
15	11	12	13	13	13	14	14	14	14	14	14
13	10	11	11	12	12	12	12	12	12	12	12
11	9	10	10	10	10	10	10	10	10	11	11
10	8	9	9	9	9	9	9	10	10	10	10
9	8	8	8	8	8	9	9	9	9	9	9
8	7	7	7	8	8	8	8	8	8	8	8
7	6	6	7	7	7	7	7	7	7	7	7
6	5	6	6	6	6	6	6	6	6	6	6
5	5	5	5	5	5	5	5	5	5	5	5
4	4	4	4	4	4	4	4	4	4	4	4
3	3	3	3	3	3	3	3	3	3	3	3
2	2	2	2	2	2	2	2	2	2	2	2
1	1	1	1	1	1	1	1	1	1	1	1

APPENDIX C

Proposed Verification Methodology

The following charts identify the number of responders and margins of error based on an estimated ineligibility percentage (e.g. of the previous year). The charts have been calculated using a 95% confidence interval. The white portions of the table identify our proposed threshold rule and the shaded portions of the tables provide the information for alternative thresholds, on which we seek comment.

SAMPLE SIZE[1]

Minimum Number of Responders for Verification Given the Margin of Error and Estimated Ineligibility Percentage[2]											
		Ineligibility Percentage									
		5%	10%	15%	20%	25%	30%	35%	40%	45%	50%
Margin of Error	1%	1825	3458	4899	6147	7203	8068	8740	9220	9508	9604
	2%	457	865	1225	1537	1801	2017	2185	2305	2377	2401
	3%	203	385	545	683	801	897	972	1025	1057	1068
	4%	115	217	307	385	451	505	547	577	595	601
	5%	73	139	196	246	289	323	350	369	381	385

MARGIN OF ERROR[3]

Margin of Error for Verification Given the Minimum Number of Responders and Estimated Ineligibility Percentage											
		Ineligibility Percentage									
		5%	10%	15%	20%	25%	30%	35%	40%	45%	50%
Minimum Number Of Responders	100	4.3%	5.9%	7.0%	7.8%	8.5%	9.0%	9.3%	9.6%	9.8%	9.8%
	200	3.0%	4.2%	4.9%	5.5%	6.0%	6.4%	6.6%	6.8%	6.9%	6.9%
	300	2.5%	3.4%	4.0%	4.5%	4.9%	5.2%	5.4%	5.5%	5.6%	5.7%
	400	2.1%	2.9%	3.5%	3.9%	4.2%	4.5%	4.7%	4.8%	4.9%	4.9%
	500	1.9%	2.6%	3.1%	3.5%	3.8%	4.0%	4.2%	4.3%	4.4%	4.4%

[1] This chart provides the number of responders required based on a designated ineligibility percentage and margin of error. For example, if the Commission wanted to ensure that the ineligibility rate does not exceed 5%, with the margin of error no more than 1%, the ETC would need to obtain 1,825 eligible responders.

[2] We note that these charts are based on the number of actual responders during verification and not the number surveyed. If the number surveyed does not result in the number of actual responders shown in the chart, more customers would need to be surveyed until the correct number of responders was reached.

[3] This chart provides the margin of error that would exist based on a designated ineligibility percentage and the number of responders. For example, if an ETC had an estimated ineligibility percentage of 5%, and received 300 responders from a survey, this would represent a 2.5% margin of error in its verification survey.

APPENDIX D

List of Commenters

Comments and Reply Comments in Response to the
TracFone Petition for Declaratory Ruling on Universal Service Issues
WC Docket Nos. 09-197, 03-109
(TracFone Link Up Petition)

Commenter	**Abbreviation**
AT&T, Inc.	AT&T
Budget Prepay, Inc.	Budget PrePay
and GreatCall, Inc.	GreatCall
Competitive Eligible Telecommunications Carriers	CETCs
Nexus Communications, Inc.	Nexus
Ohio Public Utilities Commission of Ohio	Ohio

Reply Commenter	**Abbreviation**
National Association of State Utility Consumer Advocates	NASUCA
Nexus Communications Inc.	Nexus Communications
TracFone Wireless, Inc.	TracFone

Comments and Reply Comments in Response to the
Federal-State Joint Board on Universal Service, Lifeline and Link Up Referral Order
CC Docket No. 96-45; WC Docket No. 03-109
(Joint Board)

Commenter	**Abbreviation**
Advocates for Basic Legal Equality, Inc., Community Voice Mail National Crossroads Urban Center, Disability Rights Advocates, The Low Income Utility Advocacy Project, Minnesota Legal Services Advocacy Project, The National Consumer Law Center, On Behalf of Our Low-Income Clients, New Jersey Shares, Ohio Poverty Law Center, Pro Seniors, Salt Lake Community Action Program, Texas Legal Services Center, The Utility Reform Network, Twin Cities Community Voicemail	Consumer Groups
AT&T Services, Inc.	AT&T
Benton Foundation, et al.	Benton
California Public Utilities Commission	CPUC
Community Voice Mail National Office	CVMN
Public Service Commission of the District of Columbia	DCPSC
Florida Public Service Commission	FPSC
Leap Wireless International, Inc. and Cricket Communications, Inc.	Cricket
Media Action Grassroots Network	MAG-Net
Missouri Public Service Commission	MoPSC

National Association of State Utility Consumer Advocates	NASUCA
National Hispanic Media Coalition	NHMC
Nebraska Public Service Commission	NPSC
Nexus Communications, Inc.	Nexus
Public Utilities Commission of Ohio	Ohio PUC
PR Wireless, Inc.	PR Wireless
Smith Bagley, Inc.	Smith Bagley
TracFone Wireless, Inc.	TracFone
United States Telecom Association	USTelecom
Verizon and Verizon Wireless	Verizon
YourTel America, Inc.	YourTel

Reply Commenter	**Abbreviation**
Advocates for Basic Legal Equality, Inc., Community Voice Mail National Crossroads Urban Center Disability Rights Advocates The Low Income Utility Advocacy Project Minnesota Legal Services Advocacy Project The National Consumer Law Center, On Behalf of Our Low-Income Clients New Jersey Shares Ohio Poverty Law Center Pro Seniors Salt Lake Community Action Program Texas Legal Services Center The Utility Reform Network Twin Cities Community Voicemail	Consumer Groups
AT&T, Inc.	AT&T
CTIA–The Wireless Association	CTIA
Consumer Advisory Committee	
GCI Communication, Inc.	GCI
Leadership Conference on Civil and Human Rights	
Massachusetts Department of Telecommunications and Cable	MDTC
National Association of State Utility Consumer Advocates	NASUCA
National Hispanic Media Coalition Media Action Grassroots Network Office of Communication of the United Church of Christ, Inc., Benton Foundation, and Access Humboldt	Public Interest Commenters
Nexus Communications, Inc.	Nexus
Norma J. Torres	
Pennsylvania Public Utility Commission	PaPUC
PR Wireless, Inc.	PR Wireless
Qwest Communications International Inc.	Qwest
Smith Bagley, Inc.	Smith Bagley
Sprint Nextel Corporation	Sprint
TracFone Wireless, Inc.	TracFone
Verizon and Verizon Wireless	Verizon Companies
YourTel America, Inc.	YourTel

Comments and Reply Comments in Response to the
***TracFone Wireless, Inc.'s Petition for Waiver of* 47 C.F.R. § 54.403(a)(i)**
CC Docket No. 96-45
(TracFone Tier 1 Petition)

Commenter	**Abbreviation**
Independent Telephone & Telecommunications Alliance	ITTA
National Assn. of State Utility Consumer Advocates	NASUCA
Oregon Public Utility Commission	Oregon PUC
Sprint Nextel Corporation	Sprint
YourTel America, Inc.	Yourtel

Reply Commenter	**Abbreviation**
National Association of State Utility Consumer Advocates	NASUCA
Pennsylvania Public Utility Commission	PaPUC
TracFone Wireless, Inc.	TracFone

Comments and Reply Comments in Response to the
TracFone Request for Clarification of Universal Service Lifeline Program "One-Per-Household" Rule as Applied to Group Living Facilities
WC Docket No. 03-109
(TracFone One-Per-Household Clarification)

Commenter	**Abbreviation**
American Public Communications Council	APCC
AT&T Inc.	AT&T
City of Cambridge, MA & Cambridge Continuum of Care	City of Cambridge - CoC
East Side SRO Legal Services Project	
Florida Public Service Commission and Florida Office of Public Counsel	Florida PSC & OPC
General Communication, Inc.	GCI
Homeless Advocacy Project	HAP
Manhattan Legal Services NYC	
Miriam's Kitchen	
MFY Legal Services	
National Assn. of State Utility consumer Advocates	NASUCA
National Consumer Law Center	NCLC
Part of the Solution, Inc.	POTS
Public Utilities Commission of Ohio	Ohio Commission
Smith Bagley, Inc.	SBI
Washington Legal Clinic for the Homeless, Inc.	

Reply Commenter	**Abbreviation**
GCI Communication, Inc. d/b/a GCI Communication Corp and GCI	GCI
Massachusetts Department of Telecommunications and Cable	MDTC
National Consumer Law Center and Greater Boston Legal Services	NCLC/GBLS
National Network to End Domestic Violence	NNEDV

Public Utility Commission of Oregon	OPUC
TracFone Wireless, Inc.	TracFone

APPENDIX E

Initial Regulatory Flexibility Analysis

1. Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking.[1] Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed on or before the dates indicated on the first page of this NPRM. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[2] In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.[3]

A. Need for, and Objectives of, the Notice of Proposed Rulemaking:

2. The Commission is required by section 254 of the Act to promulgate rules to implement the universal service provisions of section 254.[4] 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.[5] Among other programs, the Commission adopted a program to provide discounts that make basic, local telephone service affordable for low-income consumers.[6]

3. This *Notice of Proposed Rulemaking* (NPRM) is one in a series of rulemaking proceedings designed to implement the National Broadband Plan's (NBP) vision of improving and modernizing the universal service programs.[7] In this NPRM, we propose and seek comment on comprehensive reforms to the universal service low-income support mechanism. We propose and seek comment on a package of reforms that address each of the major recommendations by the Universal Service Joint Board regarding the low-income program.[8] We also propose a series of recommendations in accordance with a report on the program by the Government Accountability Office (GAO).[9]

4. Specifically, we propose and seek comment on the following reforms and modernizations that may be implemented in funding year 2011 (January 1, 2011 to December 31, 2011): (1) strengthening the Commission's rules to ensure that the low-income program subsidizes no more than one service per eligible residential address; (2) reducing waste, fraud, and abuse by addressing duplicate claims, subscriber reporting, and de-enrollment procedures; (3) streamlining and improving program

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[1] 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612 has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

[2] 5 U.S.C. § 603(a).

[3] *Id.*

[4] 47 U.S.C. § 254.

[5] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, paras. 326-328 (1997).

[6] *See id.*

[7] *See* NATIONAL BROADBAND PLAN.

[8] *2010 Recommended Decision.*

[9] *See* U.S. GOVERNMENT ACCOUNTABILITY OFFICE, REPORT TO CONGRESSIONAL REQUESTERS, GAO 11-11, TELECOMMUNICATIONS: IMPROVED MANAGEMENT CAN ENHANCE FCC DECISION MAKING FOR THE UNIVERSAL SERVICE FUND LOW-INCOME PROGRAM (2010).

administration through the establishment of uniform eligibility, verification, and certification requirements; and (4) establishing a centralized database for reporting.

B. Legal Basis:

5. This *Notice of Proposed Rulemaking*, including publication of proposed rules, is authorized under sections 1, 2, 4(i)–(j), 201(b), 254, 257, 303(r), and 503 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. §§ 151, 152, 154(i)–(j), 201(b), 254, 257, 303(r), 503, 1302.[10]

C. Description and Estimate of the Number of Small Entities to which the Proposed Rules Will Apply:

6. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[11] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[12] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[13] 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).[14] Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.[15] A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[16] Nationwide, as of 2002, there were approximately 1.6 million small organizations.[17] The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[18] Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[19] We estimate that, of this total, 84,377 entities were "small governmental jurisdictions."[20] Thus, we estimate that most governmental jurisdictions are small.

[10] 47 U.S.C. §§ 151, 152, 154(i)–(j), 201(b), 254, 257, 303(r), 503, 1302.

[11] 5 U.S.C. § 603(b)(3).

[12] 5 U.S.C. § 601(6).

[13] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

[14] Small Business Act, 15 U.S.C. § 632.

[15] *See* Small Business Administration, Office of Advocacy, Frequently Asked Questions, http://www.sba.gov/advocacy/7495 (last visited March 2, 2011).

[16] 5 U.S.C. § 601(4).

[17] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[18] 5 U.S.C. § 601(5).

[19] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

[20] We assume that the villages, school districts, and special districts are small, and total 48,558. *See* U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, page 273, Table 417. For 2002, Census Bureau (continued….)

1. Wireline Providers

7. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[21] Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.[22] Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.[23] Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Notice. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small providers.[24]

8. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[25] Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities.[26] According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.[27] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer

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data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

[21] 13 C.F.R. § 121.201, NAICS code 517110.

[22] *See Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

[23] *See id.*

[24] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

[25] 13 C.F.R. § 121.201, NAICS code 517110.

[26] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

[27] *See Trends in Telephone Service* at Table 5.3.

employees and 186 have more than 1,500 employees.[28] In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.[29] In addition, 72 carriers have reported that they are Other Local Service Providers.[30] Seventy of which have 1,500 or fewer employees and two have more than 1,500 employees.[31] Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

9. *Interexchange Carriers*. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[32] Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities.[33] According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[34] Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.[35] Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the Notice.

10. *Operator Service Providers (OSPs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[36] Under that size standard, such a business is small if it has 1,500 or fewer employees.[37] Census Bureau data for 2007, which now supersede 2002 Census data, show that there were 3,188 firms in this category that operated for the entire year. Of the total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more.[38] Thus

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[28] *See id.*

[29] *Id.*

[30] *See id.*

[31] *See id.*

[32] 13 C.F.R. § 121.201, NAICS code 517110.

[33] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

[34] *See Trends in Telephone Service* at Table 5.3.

[35] *See id.*

[36] 13 C.F.R. § 121.201, NAICS code 517110.

[37] *Id.*

[38] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." (continued....)

under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities.[39] According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and 2 have more than 1,500 employees.[40] Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

11. *Local Resellers*. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[41] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[42] Thus under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.[43] Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.[44] Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Notice.

12. *Toll Resellers*. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[45] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[46] Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data,[47] 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

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Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

[39] *Id.*

[40] *Trends in Telephone Service* at Table 5.3.

[41] 13 C.F.R. § 121.201, NAICS code 517911.

[42] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

[43] *See Trends in Telephone Service* at Table 5.3.

[44] *Id.*

[45] 13 C.F.R. § 121.201, NAICS code 517911.

[46] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

[47] *See Trends in Telephone Service* at Table 5.3.

13. *Pre-paid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for pre-paid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[48] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[49] Thus under this category and the associated small business size standard, the majority of these pre-paid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of pre-paid calling cards.[50] Of these, an estimated all 193 have 1,500 or fewer employees and none have more than 1,500 employees.[51] Consequently, the Commission estimates that the majority of pre-paid calling card providers are small entities that may be affected by rules adopted pursuant to the Notice.

14. *800 and 800-Like Service Subscribers.*[52] Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service ("toll free") subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[53] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[54] Thus under this category and the associated small business size standard, the majority of resellers in this classification can be considered small entities. To focus specifically on the number of subscribers than on those firms which make subscription service available, the most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, 877, and 866 numbers in use.[55] According to our data, at of September 2009, the number of 800 numbers assigned was 7,860,000; the number of 888 numbers assigned was 5,888,687; the number of 877 numbers assigned was 4,721,866; and the number of 866 numbers assigned was 7,867,736. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, the Commission estimates that there are 7,860,000 or fewer small entity 800 subscribers; 5,888,687 or fewer small entity 888 subscribers; 4,721,866 or fewer small entity 877 subscribers; and 7,867,736 or

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[48] 13 C.F.R. § 121.201, NAICS code 517911.

[49] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

[50] *See Trends in Telephone Service* at Table 5.3.

[51] *See id.*

[52] We include all toll-free number subscribers in this category, including those for 888 numbers.

[53] 13 C.F.R. § 121.201, NAICS code 517911.

[54] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

[55] *Trends in Telephone Service* at Tables 18.4, 18.5, 18.6, 18.7.

fewer small entity 866 subscribers. We do not believe 800 and 800-Like Service Subscribers will be effected by our proposed rules, however we choose to include this category and seek comment on whether there will be an effect on small entities within this category.

2. Wireless Carriers and Service Providers

15. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

16. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category.[56] Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications.[57] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[58] For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.[59] Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services.[60] Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.[61] Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

17. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, 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.[62] The SBA has approved these

[56] U.S. Census Bureau, 2007 NAICS Definitions: Wireless Telecommunications Categories (except Satellite), http://www.census.gov/naics/2007/def/ND517210.HTM (last visited March 2, 2011).

[57] U.S. Census Bureau, 2002 NAICS Definitions: Paging, http://www.census.gov/epcd/naics02/def/NDEF517.HTM (last visited March 2, 2011); U.S. Census Bureau, 2002 NAICS Definitions: Other Wireless Telecommunications, http://www.census.gov/epcd/naics02/def/NDEF517.HTM (last visited March 2, 2011).

[58] 13 C.F.R. § 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 C.F.R. citations were 13 C.F.R. § 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[59] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector…," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517210 in the left column for "Wireless Telecommunications Carriers (except Satellite)") (last visited March 2, 2011).

[60] *See Trends in Telephone Service* at Table 5.3.

[61] *See id.*

[62] *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service*, GN Docket No. 96-228, Report and Order, 12 FCC Rcd 10785, 10879, para. 194 (1997).

definitions.[63] The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

18. *Satellite Telecommunications Providers*. Two economic census categories address the satellite industry. The first category has a small business size standard of $15 million or less in average annual receipts, under SBA rules.[64] The second has a size standard of $25 million or less in annual receipts.[65]

19. The category of Satellite Telecommunications "comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."[66] Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year.[67] Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999.[68] Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

20. The second category, i.e., All Other Telecommunications, comprises "establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry."[69] For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year.[70] Of this total, 2,347 firms had annual receipts of under $25

[63] *See* Letter from Aida Alvarez, Administrator, SBA, to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC (filed Dec. 2, 1998) (*Alvarez Letter 1998*).

[64] 13 C.F.R. § 121.201, NAICS code 517410.

[65] 13 C.F.R. § 121.201, NAICS code 517919.

[66] U.S. Census Bureau, 2007 NAICS Definitions, Satellite Telecommunications, http://www.census.gov/naics/2007/def/ND517410.HTM (last visited March 2, 2011).

[67] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ4: Receipts Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517210 in the left column for "Satellite Telecommunications") (last visited March 2, 2011).

[68] *Id.*

[69] U.S. Census Bureau, 2007 NAICS Definitions, All Other Telecommunications, http://www.census.gov/naics/2007/def/ND517919.HTM (last visited March 2, 2011).

[70] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ4: Receipts Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517919 in the left column for "All Other Telecommunications") (last visited March 2, 2011).

million and 12 firms had annual receipts of $25 million to $49, 999,999.[71] Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

21. *Common Carrier Paging.* The SBA considers paging to be a wireless telecommunications service and classifies it under the industry classification Wireless Telecommunications Carriers (except satellite). Under that classification, the applicable size standard is that a business is small if it has 1,500 or fewer employees. For the general category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.[72] Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small.[73] The 2007 census also contains data for the specific category of Paging "that is classified under the seven-number North American Industry Classification System (NAICS) code 5172101.[74] According to Commission data, 291 carriers have reported that they are engaged in paging or messaging service. Of these, an estimated 289 have 1,500 or fewer employees, and 2 have more than 1,500 employees.[75] Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by our action. In addition, in the Paging Third Report and Order, the Commission developed a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[76] A "small business" is 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 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.[77] The SBA has approved these small business size

[71] *Id.*

[72] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517210 in the left column for "Wireless Telecommunications Carriers (except Satellite)") (last visited March 2, 2011).

[73] 13 C.F.R. § 121.201, NAICS code 517210.

[74] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 5172101 in the left column for "Paging") (last visited March 2, 2011). In this specific category, there were 248 firms that operated for the entire year in 2007. Of that number 247 operated with fewer than 100 employees and one operated with more than 1000 employees. Based on this classification and the associated size standard, the majority of paging firms must be considered small.

[75] *See Trends in Telephone Service* at Table 5.3.

[76] *Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service*, PR Docket No. 89-552, GN Docket No. 93-252, PP Docket No. 93-253, Third Report and Order and Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 10943, 11068-70, paras. 291-295 (1997).

[77] *See* Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from A. Alvarez, Administrator, Small Business Administration (Dec. 2, 1998).

standards.[78] An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000.[79] Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

22. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite).[80] Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees.[81] According to the *2008 Trends Report*, 434 carriers reported that they were engaged in wireless telephony.[82] Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees.[83] We have estimated that 222 of these are small under the SBA small business size standard.

3. Internet Service Providers

23. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (*e.g.*, cable and DSL ISPs), or over client-supplied telecommunications connections (*e.g.*, dial-up ISPs). The former are within the category of Wired Telecommunications Carriers,[84] which has an SBA small business size standard of 1,500 or fewer employees.[85] The latter are within the category of All Other Telecommunications,[86] which has a size standard of annual receipts of $25 million or less.[87] The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers.[88] That category had a small business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year.[89] Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999.[90] Consequently, we estimate that the

[78] *Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems*, WT Docket No. 96-18, PR Docket No. 93-253, Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, paras. 98-107 (1999).

[79] *Id.* at 10085, para. 98.

[80] 13 C.F.R. § 121.201, NAICS code 517210.

[81] *Id.*

[82] *See* Trends *in Telephone Service* at Table 5.3.

[83] *Id.*

[84] U.S. Census Bureau, 2007 NAICS Definitions: Wired Telecommunications Carriers, http://www.census.gov/naics/2007/def/ND517110.HTM (last visited March 2, 2011).

[85] 13 C.F.R. § 121.201, NAICS code 517110 (updated for inflation in 2008).

[86] U.S. Census Bureau, 2007 NAICS Definitions: All Other Telecommunications, http://www.census.gov/naics/2007/def/ND517919.HTM (last visited March 2, 2011).

[87] 13 C.F.R. § 121.201, NAICS code 517919 (updated for inflation in 2008).

[88] U.S. Census Bureau, 2002 NAICS Definitions: Internet Service Providers, Web Search Portals, and Data Processing Services, http://www.census.gov/epcd/naics02/def/NDEF518.HTM (last visited March 2, 2011).

[89] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," at Table 4, NAICS code 518111 (issued Nov. 2005).

[90] An additional 45 firms had receipts of $25 million or more.

majority of ISP firms are small entities.

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

24. The reporting and recordkeeping requirements in this NPRM could have an impact on both small and large entities. Though the impact may be more financially burdensome for smaller entities, we believe the impact of such requirements is outweighed by their corresponding benefits to entities and consumers. Further, these requirements are necessary to ensure that the statutory goals of section 254 of the Telecommunications Act of 1996 are met without waste, fraud, or abuse.

25. The Commission proposes several reporting, recordkeeping, and compliance requirements for the low-income program. We propose that Eligible Telecommunications Carriers (ETCs) seeking support would extend their reporting to the Universal Service Administrative Company (USAC) to include reporting of subscribers' partial participation. Further, we propose de-enrollment procedures to reduce waste in the program. We also propose to retain the existing verification requirements for federal default states and extend these requirements to the remainder of states.

26. *Duplicate Claims and One-Per-Residential Address.* The Commission proposes several reporting and recordkeeping requirements to reduce the likelihood that a residential address will receive more than one subsidized service through the low-income program. Specifically, we propose an information solicitation and submission process to enable USAC to identify duplicate claims of support and violations of the proposed rules, which, if adopted, will help USAC determine whether two or more ETCs are providing Lifeline-supported service to the same residential address.[91] ETCs would be required to solicit identifying residential address information and certification from Lifeline subscribers. ETCs would then submit this data to USAC. Under the proposal, USAC would then notify ETCs of any duplicate claims of support. ETCs would also be required to notify customers with duplicate Lifeline service by phone and in writing when possible that the subscriber must select one Lifeline provider or face termination from the program. The selected ETC would then notify USAC as well as any other ETC providing Lifeline service to the customer.

27. *Line 9 Reporting.* To help ensure that ETCs seek reimbursement only for active Lifeline subscribers, the Commission proposes to require ETCs to report partial or pro rata dollars when claiming reimbursement on Form 497. Compliance with the proposed rule would require ETCs to report the number of subscribers beginning or terminating Lifeline service mid-month as well as the length of service provided during that month to each partial-month subscriber, which is similar to ETCs' billing of partial-month service to non-Lifeline consumers.

28. *De-Enrollment Procedures and Customer Usage Requirements.* As part of the effort to reduce waste in the program, and in accordance with the proposed one-per-residential address codification, the Commission proposes to require ETCs to de-enroll their Lifeline subscribers who: (1) select another ETC after being notified of a duplicate claim; and (2) subscribers who do not use their phone for 60 days. Compliance with the proposed de-enrollment procedures would require ETCs to monitor whether a Lifeline phone was used during any 60-day period. After de-enrollment, the ETC would need to notify USAC of the de-enrollment. USAC could then pursue recovery actions against the ETC for past inappropriate support.

29. *Verification.* The Commission's rules currently require ETCs in federal default states to implement procedures to verify annually the continued eligibility of a statistically-valid random sample of Lifeline subscribers and to provide the results to USAC. We propose to extend these standards to all

[91] *See* Appendix A for Proposed Rules.

states. Furthermore, in accordance with the proposed one-per-residential address requirement, we propose to require ETCs to verify consumer certifications upon enrollment and annually thereafter.

30. *Service Deposit or Minimum Service Fee.* Though we do not propose any rules on a service deposit for commencing Lifeline service or a minimum service fee for maintaining service, we seek comment on whether such rules would balance the competing needs of program efficacy with program efficiency. Specifically, we seek comment as to whether requiring ETCs to bill consumers would pose a disproportionate burden upon small entities, especially those, like pre-paid wireless resellers, that do not currently bill their consumers on a monthly basis.

31. *Database.* We propose a comprehensive reform to the low-income program: we recommend the creation of a centralized database for online certification and verification of low-income subscribers. In the NPRM, we seek comment on which entity or entities would be best suited to create and maintain such a database. Compliance with requirements associated with a centralized database would include reporting of information solicited from Lifeline subscribers for the purposes of certifying and verifying their eligibility.

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

32. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[92]

33. In this NPRM, we make a number of proposals that may have an economic impact on small entities that participate in the universal service low-income support mechanism. Specifically, as addressed above, we seek comment on: (1) mitigating duplicate claims of service through increased reporting to USAC, in accordance with the proposed one-per-residential address rule; (2) requiring the reporting of consumers' partial-month Lifeline participation; (3) establishing clear de-enrollment procedures; and (4) establishing a uniform verification regime. If adopted, these proposals will help USAC and ETCs reduce waste, fraud, and abuse in the low-income support mechanism.

34. In seeking to minimize the burdens imposed on small entities where doing so does not compromise the goals of the universal service mechanism, we have invited comment on how these proposals might be made less burdensome for small entities.[93] We again invite commenters to discuss the benefits of such changes on small entities and whether these benefits are outweighed by resulting costs to ETCs that might also be small entities. We anticipate that the record will reflect whether the overall benefits of such programmatic changes would outweigh the burdens on small entities, and if so, commenters will suggest alternative ways in which the Commission could lessen the overall burdens on small entities. We encourage small entities to comment.

35. We have taken the following steps to minimize the impact on small entities. First, to ease the administrative burden on applicants, we propose an approach that minimizes reporting requirements by appropriating Form 497 for further information collection rather than creating an additional form. In accordance with the E-Sign Act,[94] we propose to allow consumers to sign their certifications

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[92] 5 U.S.C. § 603.

[93] *See supra* para. 315.

[94] 15 U.S.C. §§ 7001-7004 (2006).

electronically, eliminating significant reporting and mailing burdens currently placed on all entities. In order to minimize the impact on ETCs, including small entities, we have placed the burden of checking addresses for duplicate claims upon USAC, rather than ETCs. Furthermore, in an effort to make verification simpler for all ETCs, we have proposed uniform rules of eligibility and verification. Most significantly, however, we contemplate a phased structure for reporting to a centralized database: large entities would begin populating the proposed database initially, with small entities following suit after a period of time during which the process will be made less burdensome when possible.

F. Federal Rules that May Duplicate, or Conflict with Proposed Rules:

36. None.