(4) Residues resulting from fumigation of animal feeds:

Commodity	Parts per million
Animal feeds	0.01

(5) To assure safe use of this pesticide, it must be used in compliance with the labeling conforming to that registered by the U.S. Environmental Protection Agency (EPA) under FIFRA. Labeling shall bear a restriction to aerate the finished food for 48 hours before it is offered to the consumer, unless EPA specifically determines that a different time period is appropriate. Where appropriate, a warning shall state that under no condition should any formulation containing aluminum or magnesium phosphide be used so that it will come in contact with any processed food, except processed brewer's rice, malt, and corn grits stored in breweries for use in the manufacture of beer.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.375 [Removed]

b. Section 180.375 is removed.

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

§ 185.200 [Removed]

b. Section 185.200 is removed.

§ 185.3800 [Removed]

c. Section 185.3800 is removed.

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 342, 348, and 371.

§ 186.200 [Removed]

b. Section 186.200 is removed.

§ 186.3800 [Removed]

c. Section 186.3800 is removed.

[FR Doc. 99–14069 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket Nos. 96–45 and 96–262; FCC 99–119]

Federal-State Joint Board on Universal Service; Access Charge Reform

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has adopted the principles of a federal support mechanism that conforms to the *Second Recommended Decision*, however, the Commission does not believe that an adequate record yet exists to make determinations regarding some of the specific elements of the support methodology. Accordingly, the Commission has issued this document seeking comment on several specific implementation issues. In conjunction with our actions to implement an explicit high-cost support mechanism based on forward-looking costs, we also take action and seek comment on additional issues to permit us to identify implicit support remaining in interstate access charges by January 1, 2000.

DATES: Comments are due on or before July 2, 1999 and reply comments are due on or before July 16, 1999. Written comments by the public on the proposed information collections are due on or before July 2, 1999 and reply comments are due on or before July 16, 1999. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before August 9, 1999.

ADDRESSES: Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW–A325, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 Twelfth Street, S.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400. For additional information concerning the information collections contained in this Further Notice of Proposed Rulemaking contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on May 28, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

Initial Paperwork Reduction Act Analysis

1. This Further Notice of Proposed Rulemaking contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Further Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Further Notice of Proposed Rulemaking; OMB notification of action is due August 9, 1999. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other form of information technology.

OMB Approval Number: None.

Title: Notification to High Cost Subscriber Lines and Certification Letter Accounting for Receipt of Federal Support (Proposals).

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or Other for Profit and State, Local or Tribal Government.

	Number of respondents	Estimate time per response	Total annual burden
Notification to High Cost subscriber Lines	30	3 hours (Quarterly)	1080 hours.
Certification Letter Accounting for Receipt of Federal Support	51	3 hours	153 hours.

Total Annual Burden: 1233 hours.

Estimated costs per respondent: $0.

Needs and Uses: The Commission proposes that carriers should be required to notify high-cost subscribers that their lines have been identified as high-cost lines. This information will be used to show that federal high-cost support is being provided to the carrier to assist in keeping rates affordable in those subscribers' area. Further, the proposed collection of information will be used to verify that the carriers have accounted for its receipt of federal support in its rates or otherwise used the support for the ''provision, maintenance, and upgrading of facilities and services for which the support is intended'' in accordance with section 254(e).

I. Introduction

2. Although we are adopting the principles of a federal support mechanism that conform to the *Second Recommended Decision,* 63 FR 67837 (December 9, 1998), we do not believe that an adequate record yet exists to make determinations regarding some of the specific elements of the support methodology. Accordingly, we adopt this Further Notice of Proposed Rulemaking (*FNPRM*) seeking comment on several specific implementation issues. While we are resolving these implementation issues, we also are continuing to verify the operation of the cost model, including the input data elements. To complete this process, we issue separately an additional FNPRM on the model input and operational issues. We encourage commenters to consider both of these FNPRMs together, and frame their comments to recognize the close relationship between the issues discussed in each.

3. We intend to resolve the remaining methodological issues identified in this FNPRM and verify the operation of the cost model, including the input data elements, on which comment is being sought in the companion *Inputs FNPRM.* We anticipate adoption this fall of an order resolving these remaining issues, so that support may be based on forward-looking costs of providing supported services beginning January 1, 2000. In conjunction with our actions to implement an explicit high-cost support mechanism based on forward-looking costs, we also take action today and seek comment on additional issues to permit us to identify implicit support remaining in interstate access charges by January 1, 2000.

A. Methodology Issues

National Benchmark

4. In its *Second Recommended Decision,* the Joint Board supported using a cost-based benchmark, as opposed to one based on revenues, in evaluating rate comparability because state jurisdictions vary in how they set local rates. The Joint Board explained that forward-looking cost estimates for a given area could be compared against the single national cost benchmark in order to determine whether the area has costs that are significantly above the national average. We adopted the Joint Board's recommendation to employ a cost-based benchmark.

5. In setting the level of the national benchmark, the Joint Board recommended that the Commission consider using a range between 115 and 150 percent of the national weighted average cost per line. Although several commenters support the use of a national benchmark, many were reluctant to comment on the range proposed by the Joint Board in the absence of a finalized cost model. For that reason, we seek further comment on the specific cost benchmark that we should adopt, and we seek comment on whether the national benchmark should fall within the Joint Board's recommended range.

6. The current high-cost mechanism for large carriers provides increasing amounts of support based on the amount by which a carrier's loop costs exceed the national average, beginning with loop costs between 115 percent and 160 percent of the national average. In particular, the current federal support mechanism provides 10 percent support (in addition to the 25 percent allocation of all loop costs to the interstate jurisdiction) for large incumbent LECs with more than 200,000 working loops for book loop costs above 115 percent of the national average, and provides gradually more support for the portion of these carriers' book loop costs exceeding 160 percent of the national average. The following chart summarizes the levels of support provided by the current high-cost mechanism for large carriers:

Loop cost as a percent of the national average	Amount of intrastate loop cost supported (percent)
Greater than 115%, but not greater than 160%	10
Greater than 160%, but not greater than 200%	30
Greater than 200%, but not greater than 250%	60
Greater than 250%	75

While the existing mechanism provides support for loop costs beginning at 115 percent of the national average, it considers only loop costs, while the forward-looking cost model estimates the forward-looking cost of all components of the network necessary to provide the supported services.

7. Although we have not yet completed our work verifying the results of the forward-looking cost model, the cost model is now operational and, in a Report and Order, we have adopted the framework of our methodology for its use. The model currently suggests that, using this methodology, a cost benchmark level near the center of the range recommended by the Joint Board would provide support levels that are sufficient to enable reasonably comparable rates, in light of current levels of competition to preserve and advance the Commission's universal service goals. In addition to general comments on the Joint Board's recommended range for the cost benchmark, we also seek specific comment on the level at which we should set the national benchmark, including comment on what additional factors and considerations we should take into account before selecting a final national benchmark level. We encourage commenters to use updated model outputs in formulating their comments.

8. To ensure that there are no sudden withdrawals or reallocations of federal support to cover costs between the cost benchmark range that we ultimately adopt, we also seek comment today on the Joint Board's recommendation that the new forward-looking mechanism incorporate a hold-harmless provision. We seek comment on the specific operation of such a provision. We encourage commenters to consider and discuss the interaction between specific cost benchmark levels and the precise operation of the hold-harmless provision.

Area Over Which Costs Should Be Averaged

9. After further consultation with the Joint Board, we seek further comment on whether the federal support mechanism should calculate support levels by comparing the forward-looking costs of providing supported services to the benchmark at either (1) the wire center level; (2) the unbundled network element (UNE) cost zone level; or (3) the study area level.

10. A number of commenters have expressed support for calculating costs at the wire center level. As we strive to bring competition to local telephone markets while keeping rates for local service affordable and reasonably comparable in all regions of the country, we recognize two major benefits of such explicit deaveraged high-cost support. As competition places downward pressure on rates charged to urban, business, and other low-cost subscribers, we believe that support deaveraged to the wire center level or below may ensure that adequate support is provided specifically to the subscribers most in need of support, because the support reflects the costs of specific areas. In addition, deaveraged explicit support that is portable among all eligible telecommunications carriers and targeted in a granular manner to support high-cost subscribers could encourage efficient competitive entry in all areas, not just in urban or other low-cost areas. By permitting the incumbent's rates to reflect actual costs in all areas, subject to explicit support assessments or portable support payments, explicit deaveraged support may provide incentives to competitors to expand service beyond urban areas and business centers into all areas of the country and to all Americans, as envisioned by the 1996 Act. We seek comment on this analysis.

11. As an alternative to computing costs at the wire center level, we seek comment on whether we should compare costs to the benchmark at the level of UNE cost zones instead. Under this proposal, each wire center within a UNE cost zone would receive the same amount of support. Thus, support would still be targeted to the general areas that need it most, but upward pressure on the size of the federal fund would be lessened compared to the wire center approach. This approach would also coincide with the rules on the pricing of UNEs. Under our deaveraging rules, state commissions must establish different rates for elements in at least three defined geographical areas within the state to reflect geographic cost differences, and may use existing density-related zone pricing plans, or other cost-related zone plans established pursuant to state law. Using UNE zones may avoid opportunities for arbitrage, and because states are responsible for developing UNE zones, states will be able to develop zone boundaries based upon local conditions, including cost characteristics and the status of competition. We generally do not foresee any difficulty using the cost model to mirror state UNE zones, provided that state UNE zones correspond to wire center boundaries. We seek comment, however, on how state UNE zones that potentially do not correspond to wire center boundaries can be effectively used in the cost model. We encourage commenters to use updated model outputs in formulating their comments on this proposal. Finally, we ask commenters to propose any other cost zones, other than UNE zones, that may be an appropriate basis for computing costs.

12. We also seek comment on whether we should calculate costs at the study area level. In recommending that the federal support mechanism calculate costs at the study area level, the Joint Board suggested that the level of competition today has not eroded implicit support flows to such an extent as to threaten universal service. In addition, compared to calculating costs at the level of wire centers or UNE zones, calculating costs at the larger study area level may be more likely to prevent substantial increases in the size of the high-cost support mechanism because high-cost areas within the study area are averaged with lower-cost areas within the study area. In addition, we seek comment on whether comparing costs to the benchmark at the study area level is more consistent with a vision of a federal mechanism for reasonable rate comparability that focuses on support flows among states rather than within states, and whether such a vision is more consistent with the Joint Board's *Second Recommended Decision*. We seek specific comment, however, on the extent to which competition is likely to place steadily increasing pressure on implicit support flows from low-cost areas and the extent to which this pressure suggests that we should deaverage support in the implementation of our new mechanism. We urge commenters to use updated model outputs when responding to this analysis.

13. We seek specific comment on the impact of using study-area averaged costs in a study area where UNEs are available. In the *Local Competition Order*, the Commission determined that UNEs would be priced in a minimum of three rate zones within a state. If high-cost support is provided using study-area averaged costs, then all lines within the study area would be eligible for the same amount of support even though the UNE rates for those same lines would vary among rate zones within the state. We seek comment on whether this disparity between support amounts and UNE rates among different rate zones may create incentives for carriers to engage in arbitrage or other uneconomic activities unrelated to the purpose of high-cost support.

14. In recommending that costs be calculated at the study area level, the Joint Board was driven by concerns that the amount of federal high-cost universal service support be ''properly measured'' in light of the current state of local competition. Comparing costs to a benchmark when averaged over a smaller area is bound to produce higher support calculations, however, because high costs in one area are less likely to be diluted by low costs in another area when the area under consideration is smaller. As discussed, we agree with the Joint Board that federal support to enable reasonably comparable local rates for non-rural carriers should not increase significantly from current levels. We seek comment, however, on ways to resolve the tension between the goal of preventing the fund from increasing significantly above current levels, and the goal of ensuring that support is, to the extent possible, directly targeted to high-cost areas within study areas. In addition, we seek specific comment on four proposals to resolve this tension.

15. First, we propose, if we were to determine total support amounts in each study area by running the model to estimate costs at the study area level, to distribute support by running the model again at the wire center level in order to target support to high-cost wire centers within the study area. This approach would not significantly increase the size of the fund, but would ensure that support is distributed to areas that need it most. As a second alternative, we could determine support based on costs averaged at a level more granular than the study area, such as UNE zones or wire centers, but provide only a uniform percentage of the support so indicated. Such an approach would be consistent with the Joint Board's findings that rates are presently affordable and that competition has not yet eroded support to high-cost customers.

16. As a third alternative, we could determine support based on costs averaged at a level more granular than the study area, such as UNE zones or wire centers, but cap the amount of

support available to any particular state to a fixed percentage of the overall fund. As a fourth alternative, if we were to determine support based on costs averaged at the UNE zone or wire center level, we could limit the size of the fund either by raising the cost benchmark appropriately or adopting incremental funding levels for costs above the selected benchmark similar to the existing high-cost loop support mechanism. As an example of incremental funding levels, were we to adopt a cost benchmark of 135 percent of the national weighted average cost per line, we could fund 10 percent of the costs that are between 135 percent and 160 percent of the national average, 30 percent of the costs that are between 160 percent and 200 percent of the national average, and so forth. We seek comment on each of these proposals, including comment on how each meets the statutory requirement that support should be ''sufficient.'' We also ask commenters to suggest additional methods for preventing the size of the fund from growing significantly.

Determining a State's Ability To Support High-Cost Areas

17. As discussed, we agree with the Joint Board that federal support to enable reasonably comparable local rates for non-rural carriers should be determined based, in part, on a state's ability to support its universal service needs internally and that such federal support should be available to the extent the state is unable to achieve reasonably comparable rates using its own resources. We concluded that a fixed dollar amount per line is a reasonably certain and specific means of assessing a state's ability to enable reasonable comparability of rates using its own resources.

18. In this *FNPRM*, we now seek comment on the fixed per-line dollar amount that should be set to estimate a state's ability to internally support its high-cost areas, and how the amount should be determined. As one option, we observe that in the *First Report and Order*, 62 FR 32862 (June 17, 1997), the Commission suggested a revenue benchmark of approximately $31. In the *Second Recommended Decision*, the Joint Board considered establishing a state's responsibility based on a percentage of revenues, specifically, a range between three and six percent of intrastate telecommunications revenues. We seek comment on whether the per-line amount should be set so that it amounts to between three and six percent of this original $31 revenue benchmark, in order to roughly equal, in absolute dollar terms, the amount that a state could reasonably have anticipated if measured on a revenue percentage basis. For example, a $2.00 per line figure would reflect roughly six percent of $31. Under this fixed dollar amount per line approach, the perceived need for support in the state is first calculated by comparing costs to the benchmark. The state's ability to enable reasonably comparable rates in the face of this perceived need would then be estimated by multiplying the per-line figure by the total number of non-rural carrier lines in the state. If the perceived support need exceeds this estimate of the state's own resources, federal support would support the difference in accordance with the benchmark methodology described. We seek comment on this proposal.

19. We also seek comment on whether wireless lines should be included in the calculation of a state's ability to support universal service. If commenters believe that wireless lines should be included, we seek comment on whether there should be a distinction between wireless lines of an ETC and wireless lines of a non-ETC. Finally, we emphasize that the use of a fixed per-line dollar value assessment to estimate states' abilities to support their universal service needs internally does not mandate the creation of state universal service funds for this purpose.

B. Distribution and Application of Support

20. As discussed, we have concluded that, consistent with section 254, carriers should be required to use support ''only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.'' We seek comment on what specific restrictions, if any, are necessary to achieve this statutory requirement. Specifically, in the event that the Commission ultimately decides to average costs over an area larger than the wire center in determining support levels, we seek comment on how this application of support should be accomplished given our tentative conclusion to require carriers to apply federal high-cost support to the wire centers that triggered the need for support.

21. Although the Commission has the responsibility to ensure that support is sufficient to enable reasonable comparability of rates, the states establish specific rate levels. Therefore, we seek comment on whether making federal support available as carrier revenue, to be accounted for by the state in the rate setting process, will sufficiently fulfill the section 254(e)'s requirement that federal support shall be used ''only for the provision, maintenance, or upgrading of facilities and services for which the support was intended.'' We tentatively conclude that making support available as part of the state rate-setting process would empower state regulators to achieve reasonable comparability of rates within their states. For example, we expect that states that have adopted price cap regulation could require exogenous price cap adjustments to reflect the increased support for high-cost areas and that states that retain rate of return regulation would count the new support towards carriers' revenue requirements. In either case, the state would be able to use federal support targeted to high-cost wire centers to enable reasonable comparability of local rates, if it so chose. We seek comment on this proposal. Specifically, we seek comment on whether all state commissions possess the jurisdiction and resources to take the actions this approach would require. We also seek comment on whether, under this proposal, carriers should be required to notify high-cost subscribers that their lines have been identified as high-cost lines and that federal high-cost support is being provided to the carrier to assist in keeping rates affordable in those subscribers' area.

22. In addition, we seek comment on what further restrictions, if any, we should impose on the use of federal support to ensure that recipient carriers use the support in a manner consistent with section 254. The Joint Board recommended that the Commission require carriers to certify that they will apply federal high-cost support in accordance with the statute. The Joint Board also recommended that the Commission should not require states to provide any certification as a ''condition'' for carriers in the state to receive high cost support, but the Commission should instead permit states to certify that, in order to receive federal universal service support, a carrier must use such funds in a manner consistent with section 254. We seek comment on whether state authority over local rates in a manner cognizant of federal support levels will adequately enforce the requirements of section 254(e), making additional federal regulation unnecessary. Because some states may lack either the authority or the desire to impose conditions on the use of high-cost support, we tentatively conclude that such state oversight, while valuable and potentially sufficient, may not in every case ensure that section 254(e)'s goals are met. Therefore, we seek comment on whether

it would be appropriate to condition the receipt of federal universal service high-cost support on any state action, including adjustments to local rate schedules reflecting federal support. We believe that denying support to states that lack the regulatory authority to ensure that federal funds are used appropriately would penalize those states and would not be consistent with section 254's mandates. We tentatively conclude, however, that even states that lack this authority would be able to certify to the Commission that a carrier within the state had accounted for its receipt of federal support in its rates or otherwise used the support for the ''provision, maintenance, and upgrading of facilities and services for which the support is intended'' in accordance with section 254(e). Conversely, if the state were unable or unwilling to take action to achieve the goals of section 254(e), we could allow such states to refuse federal high-cost support. We seek comment on these approaches, including comment on whether implementation of multiple options might best achieve the goals of section 254(e), and comment on whether any carrier-initiated action would be necessary in states with limited authority. Finally, we seek comment on what carrier or state commission action, if any, may be necessary to prevent double-recovery of universal service support at both the federal and state level.

23. Under the approach discussed, we recognize that we may need to allocate federal support among high-cost wire centers within a carrier's study area. If the federal support amount based on forward-looking cost provides only a portion of the support for a given wire center, or if we choose to fund only a portion of the support otherwise indicated by the model, we seek comment on means by which to perform this allocation. If a carrier does not receive support equal to the full amount of the difference between the forward-looking cost estimate for the wire center and the threshold level for federal support, we tentatively conclude that it should allocate the support among all lines in these high-cost wire centers in a pro rata manner, based upon the difference between the federal benchmark, plus state supported levels, and the wire center's forward-looking cost of providing service. We believe this approach has the potential to foster competition because the amount of the support available to competing eligible telecommunications carriers would be clearly identified, and thus competing carriers would be able to assess more accurately whether competitive entry is viable in a particular high-cost area. In addition, high-cost support would be distributed in such a manner that support levels in each high-cost wire center would be proportionate to costs. We seek comment on these proposals and tentative conclusions.

C. Hold-Harmless and Portability of Support

24. As discussed, we agree with the Joint Board that the federal high-cost support mechanism should have a hold-harmless provision to prevent immediate and substantial reductions of federal support and potentially significant rate increases. Under such a hold-harmless provision, the amount of support provided would be the greater of the amount generated under the forward-looking mechanism or the explicit amount presently received. We seek comment on how we should implement such a hold-harmless provision to best accomplish this goal. Specifically, we seek comment on whether the hold-harmless provision should be implemented on a state-by-state basis or on a carrier-by-carrier basis.

25. Under a state-by-state approach, the total amount of federal support provided in each state would be the greater of the total amount indicated by the forward-looking mechanism or the total amount presently received by carriers in the particular state. For example, assume a state has two carriers, Carrier A and Carrier B, each presently receiving $100 in federal high-cost intrastate support. Assume further that under the forward-looking mechanism, Carrier A is entitled to $100 and Carrier B is entitled to $95. The total amount of support indicated by the forward-looking mechanism ($195) is less than the total amount of support under the present mechanism ($200). Therefore, the hold-harmless provision would supply an additional $5 of support. Assume, however, that under the forward-looking mechanism, Carrier A is entitled to $120 and Carrier B is entitled to $90. The total amount of support indicated by the forward-looking mechanism ($210) is greater than the total amount of support under the present mechanism ($200). Although Carrier B would receive less support under the forward-looking mechanism, the state, as a whole, would receive more support under the forward-looking mechanism. Therefore, the hold-harmless provision does not supply any additional support. We believe that such a state-by-state hold-harmless is likely to prevent substantial increases in the size of the high-cost support mechanism because an increase in support for one carrier can be offset by a decrease in support for another carrier when determining the total amount of hold-harmless support provided in a particular state. On the other hand, the state-by-state approach may not prevent a decrease in support for certain carriers within a particular state. Redistribution of federal support within the state, however, may be accomplished by state commission action.

26. In contrast, under a carrier-by-carrier hold-harmless approach, the amount of federal support provided to each carrier in a state would be the greater of the amount indicated by the forward-looking mechanism or the explicit amount presently received by the carrier. For example, assume a state has two carriers, Carrier A and Carrier B, each presently receiving $100 in support. Assume further that, under the forward-looking mechanism, Carrier A is entitled to $125 and Carrier B is entitled to $75. Under a carrier-by-carrier hold-harmless provision, Carrier A would receive $125 pursuant to the forward-looking model, and Carrier B would receive $100 pursuant to the hold-harmless provision. Thus, the total amount of federal support provided in that state would increase to $225. A carrier-by-carrier approach ensures that no carrier receives less support under the forward-looking mechanism than it receives under the present mechanism. We believe, however, that the carrier-by-carrier approach, as opposed to the state-by-state approach, is more likely to inflate the size of the high-cost support mechanism because the amount of support provided to each carrier can only increase under this approach. Using updated model outputs, we ask commenters to comment on whether a state-by-state or a carrier-by-carrier hold-harmless approach is more consistent with universal service principles set forth in the Act and the role of the federal mechanism in providing high-cost support.

27. In addition, in the event that the Commission adopts a state-by-state hold-harmless provision, we seek comment on how such a provision should allocate support among carriers in the event that the total amount of hold-harmless support provided in a particular state is insufficient to fully hold each carrier harmless. Specifically, in the event the Commission adopts a state-by-state hold-harmless approach, we propose allocating the total amount of support *pro rata* among such carriers based on their relative reductions in support. For example, assume that a state has three carriers, Carrier A,

Carrier B, and Carrier C. Assume further that, under the present mechanism, Carrier A receives $150, Carrier B receives $125, and Carrier C receives $100. Also assume that, under the forward looking mechanism, Carrier A is entitled to $175, Carrier B is entitled to $100, and Carrier C is entitled to $75. The total amount of support indicated by the forward-looking mechanism ($350) is less than the total amount of support under the present mechanism ($375). Therefore, a state-by-state hold-harmless provision would provide an additional $25 of support. Because Carrier B and Carrier C have experienced a combined reduction in support of $50 and Carrier A has experienced no reduction in support, the $25 of hold-harmless support must be allocated between Carrier B and Carrier C. Under our proposal, the hold-harmless support would first be allocated to the carrier experiencing the greater relative reduction in support. Here, Carrier B received 80 percent ($100/$125) of its previous support amount, and Carrier C received 75 percent ($75/$100) of its previous support amount. In order to place Carrier B and Carrier C on equal footing, therefore, the first $5 of the total hold-harmless amount would be allocated to Carrier C, resulting in both Carrier B and Carrier C receiving 80 percent of their previous amount of support. The remaining $20 of support would be allocated *pro rata* between Carrier B and Carrier C so that both carriers receive the same total percentage of the support provided under the present mechanism. Carrier B would receive an additional $11.11 ($125/$225 × $20), for a total of 89 percent ($111.11/$125) of its support under the present mechanism, and Carrier C would receive an additional $8.88 ($100/$225 × $20), for a total of 89 percent ($88.88/$100) of its support under the present mechanism. We believe that this method of allocation allows for an equitable distribution of support in the event that the total state-by-state amount is insufficient to fully hold each carrier harmless. We seek comment on this proposal.

28. In the alternative, we seek specific comment on whether, if we eventually adopt a state-by-state rather than a carrier-by-carrier hold-harmless approach, we should distribute universal service high-cost support directly to the state commissions, rather than to carriers. The Joint Board considered and rejected distributing federal support to the states, rather than directly to carriers, because of the long-standing practice of distributing federal support directly to carriers and the absence of any affirmative evidence in the Act or its legislative history that Congress intended to alter this method of distribution. In addition, commenters that addressed this issue oppose a mechanism that would distribute support to the states. We seek additional comment, however, on whether support should be distributed to the state commissions for allocation among carriers in each state instead of through a federal allocation mechanism, in the event one or more carriers in the state experienced a reduction in support as a result of a state-by-state hold-harmless mechanism.

29. We also seek comment on the relationship between the hold-harmless approaches suggested, and the portability of federal high-cost support. As discussed, we concluded that, consistent with the Joint Board's recommendations and the policy we established in the First *Report and Order*, federal high-cost support should be portable, and available to all eligible telecommunications carriers, regardless of the technology used to provide the supported services. To implement portability, however, we must first determine the amount of support to be ported. Specifically, in the event a competitor wins a customer from an incumbent receiving hold-harmless support, we seek comment on whether the competitor should receive the incumbent's hold-harmless support, or whether the competitor should receive the amount of support determined on a forward-looking basis. Making the hold-harmless amount available to the competitor appears to be more competitively neutral, because both carriers would receive the same amount. However, given that the purpose of the hold-harmless provision is to prevent sudden rate increases by carriers that have grown dependent on current support in designing their rate structures, the hold-harmless amount could represent a windfall to an efficient competitor. While making the forward-looking amount available to the competitor and providing the hold-harmless amount to the incumbent may not be as competitively neutral, it would appear to approximate more closely the amount necessary to support high-cost service in the area. We seek comment on this issue. We encourage commenters to use updated model outputs in framing their comments on the issue of portability.

D. Adjusting Interstate Access Charges To Account for Explicit Support

30. As discussed, we agree with the Joint Board that we have the jurisdiction and statutory obligation to identify any universal service support that is implicit in interstate access charges and, as far as possible, make that support explicit. In this section we seek comment on how we should adjust interstate access charges to offset universal service support that we subsequently identify in interstate access charges and allow carriers to recover through increased support from the new federal mechanism. Because of the role access charges have played in supporting universal service, it is critical to implement changes in the interstate access charge system together with the complementary changes in the federal universal service support mechanism we adopt today. We seek comment on how we should adjust interstate access charges to reflect any increases in federal explicit support provided to non-rural carriers under the new federal mechanism and methodology.

31. The Commission determined in the First Report and Order that non-rural carriers would begin to receive high-cost support on July 1, 1999, based on forward-looking costs, and delayed the implementation of support based on forward-looking costs for rural carriers until at least January 1, 2001. As discussed, more time is needed to verify the models that will determine the forward-looking costs on which the intrastate high-cost support for non-rural carriers will be based. Thus, we are postponing the July 1, 1999, implementation of intrastate high-cost support for non-rural carriers until January 1, 2000. Because these models may also be used to determine levels of implicit support in interstate access charges and the amount of federal support a carrier should receive, this will also delay determination of the interstate high-cost support for non-rural carriers. This section addresses only the question of how to reduce interstate access charges to reflect increased explicit federal support for non-rural carriers that currently flows within the interstate jurisdiction. We will address any necessary interstate access charge reductions for rural carriers at a later date.

32. We tentatively conclude that we should require price cap LECs to reduce their interstate access rates to reflect any increased explicit federal high-cost support they receive. To do otherwise would give these carriers a windfall by allowing them to maintain rates that include implicit high-cost support even after the support has been made explicit. We tentatively conclude that the carriers should make an exogenous downward adjustment to the common line basket. In the short run, this will reduce the CCLC and multi-line PICCs.

In the longer run, this adjustment will keep down scheduled increases for the primary residential and single-line business PICC. The PICC is often passed on to the end user by the IXC that pays it. This approach will serve the dual purpose of eliminating implicit support and holding down per-line rates associated with primary residential and single-line business lines. This will, therefore, help keep basic telephone service affordable and comparable.

33. We seek comment on whether we should require price cap LECs to reflect explicit high-cost support by making the downward exogenous adjustment to their common line basket's price cap indexes (PCIs). Alternatively, we seek comment on whether we should instead permit incumbent LECs to reduce their access rates to offset the explicit support by lowering their common line charges on a geographically deaveraged basis. For example, we could reduce implicit support resulting from geographic averaging by permitting carriers to lower their SLCs on a deaveraged basis, reducing SLCs in low-cost areas, while maintaining the SLC caps in our rules for high-cost areas. We seek comment on whether we should allow carriers to determine where they lower their rates under such an approach. Alternatively, we seek comment on whether we or the state commissions should delineate the permissible areas for deaveraged reductions, and how those areas should be determined. We could, for example, require the deaveraging to occur based on the same rate zones that some states have already identified pursuant to our deaveraging requirement for the pricing of unbundled network elements and interconnection. We also seek comment on which common line rate elements should be deaveraged.

34. We also seek comment on whether price cap carriers should also reduce their base factor portion (BFP). For carriers that calculate their SLC based on the BFP, this would result in reductions to the SLC for multi-line business and non-primary residential lines, which would be offset by smaller reductions in CCL and multi-line PICC rates. We also seek comment on whether a downward adjustment to the incumbent LECs' PCIs should be across-the-board instead of targeted to the common line basket.

35. We also seek comment on whether we should reduce the SLC on primary residential and single-line business lines. Although such a reduction is an option, it would not further the goal of reducing implicit interstate support, unless it was targeted to low-cost wire centers within a study area. The current SLC cap of $3.50 per month on primary residential and single-line business lines already creates interstate implicit support for most of those lines. A general reduction in the SLC would increase the need for such support and would not reduce support implicit in the CCLC and the multi-line PICC. Although, at the end of the transition initiated by our *Access Charge Reform Order,* 62 FR 31040 (June 6, 1997), the combination of the SLC and PICC assessed to each line will permit carriers to recover the full interstate-allocated portion of their common line costs from the line that caused those costs to be incurred, any reduction in the SLC would delay this transitional process and result in a higher PICC on primary residential and single-line business lines. We do not expect any reductions to the common line basket to reduce common-line recovery below $3.50 per month, per line, but we seek comment on whether we should limit any reductions to the common line basket to the amount needed to reduce common line revenues per line to $3.50. We seek comment on how the remainder of the adjustment should be applied if that were to occur.

36. We tentatively conclude that non-rural rate-of-return LECs should apply additional interstate explicit high-cost support revenues to the CCL element, thus reducing CCL charges. We seek comment on this tentative conclusion. We also seek comment on whether these revenues should instead be deducted from the BFP, which would reduce the SLC for multi-line business lines and diminish the reduction to the CCLC. Furthermore, as noted, the Joint Board set forth certain guidelines that the Commission should follow when taking action to remove implicit support from interstate access rates, including: (1) there should be a corresponding dollar-for-dollar reduction in interstate access charges as implicit support in interstate access rates is replaced with explicit support; (2) any reductions in interstate access rates should benefit consumers; (3) universal service should bear no more than a reasonable share of joint and common costs; and (4) reasonable comparability should not be jeopardized, and neither consumers in general nor particular classes of consumers should be harmed. We seek comment on whether our proposals in this section conform to the Joint Board's guidelines.

37. Finally, we recognize that some proposals for access reform may have the added benefit of directing more federal support to high-cost areas, relative to low-cost areas. For example, some parties have suggested using the cost proxy model as the basis for converting the excess of access rates above the forward-looking cost of access from implicit support to geographically deaveraged support amounts. These support amounts would be both explicit and portable to competing LECs that serve the lines to which these support amounts would be assigned. It would appear that these proposals could potentially serve to direct more federal support to high-cost areas, relative to low-cost areas, much like we believe the use of the cost model in conjunction with an appropriate benchmark could direct such additional support to high-cost areas. We seek comment on whether and how adoption of an access reform proposal that would direct more federal support to high-cost areas, relative to low-cost areas, should affect our calculation of high-cost universal service support, if at all. To the extent possible, parties commenting on this issue should address specific access reform proposals that could be used in this manner to reform both high-cost universal service and access charges simultaneously.

II. Procedural Matters

A. Regulatory Flexibility Act

38. The Regulatory Flexibility Act (RFA) requires a Regulatory Flexibility Act analysis whenever an agency publishes a notice of proposed rulemaking, or promulgates a final rule, unless the agency certifies that the proposed or final rule will not have ''a significant economic impact on a substantial number of small entities,'' and includes the factual basis for such certification. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. The Small Business Administration (SBA) defines a ''small business concern'' as an enterprise that (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA.

39. We conclude that neither an Initial Regulatory Flexibility Analysis nor a Final Regulatory Flexibility Analysis are required here because the foregoing *FNPRM* seeks comment only on the mechanisms that the Commission should use to provide high-cost support to non-rural LECs. Non-rural LECs generally do not fall within the SBA's definition of a small business concern because they are usually large corporations, affiliates of such corporations, or dominant in their field of operations. Therefore, we certify, pursuant to the RFA, 5 U.S.C. 605(b),

that the proposals contained in the *FNPRM,* will not have a significant economic impact on a substantial number of small entities. The Office of Public Affairs, Reference Operation Division, will send a copy of this certification, along with this *FNPRM,* to the Chief Counsel for Advocacy of the SBA in accordance with the RFA, see 5 U.S.C. 605(b), and to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, this certification, as well as this FNPRM (or summaries thereof), will be published in the **Federal Register**.

B. Filing Comments

40. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before July 2, 1999, and reply comments on or before July 16, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24,121 (1998).

41. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

42. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W.; TW–A325; Washington, D.C. 20554.

43. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5–A523, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labelled with the commenter's name, proceeding, including the lead docket number in this case (CC Docket No. 96–45), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

III. Ordering Clauses

44. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 214, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 214, 254, 303(r), 403, and 410, the Further Notice of Proposed Rulemaking is adopted. The collections of information contained within are contingent upon approval by the Office of Management and Budget.

45. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 36

Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–14699 Filed 6–8–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[I.D. 052699A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Experimental Fishing Permits (EFPs)

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

ACTION: Notification of experimental fishery proposal; request for comments.

SUMMARY: NMFS announces that the Regional Administrator, Northeast Region, NMFS, is considering approval of an experimental fishing proposal. EFPs would allow vessels to conduct operations otherwise restricted by regulations governing the Northeast Multispecies Fishery, and would exempt vessels from days-at-sea (DAS), mesh sizes, and other gear restrictions. The experimental fishery proposal is for a comparative mesh selectivity study in waters south of Rhode Island Sound, South of Nantucket Island, North of Cape Cod Bay, and South of Long Island from Montauk to Shinnecock. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act provisions require publication of this document to provide interested parties the opportunity to comment on the proposed experimental fishery.

DATES: Comments on this notification must be received by June 24, 1999.

ADDRESSES: Comments should be sent to Jon Rittgers, Acting Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark on the outside of the envelope ''Comments on Proposed Experimental Fisheries.''

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Management Specialist, 978–281–9244.

SUPPLEMENTARY INFORMATION: The initial experimental fishery proposal was submitted by the Rhode Island Department of Environmental Management in conjunction with the University of Rhode Island (URI) on March 15, 1999. It was later revised to include additional areas, species, and codend mesh sizes on May 12, 1999. Their proposal is for a comparative mesh selectivity experiment that would investigate mesh selectivity functions of three square codend mesh sizes—5.5