

(A) A list of specific source categories and parameters for which the owner or operator is seeking use of best available monitoring methods.

(B) A description of the unique or unusual circumstances, such as data collection methods that do not meet safety regulations, technical infeasibility, or specific laws or regulations that conflict with each specific source for which an owner or operator is requesting use of best available monitoring methodologies.

(C) A detailed explanation and supporting documentation of how and when the owner or operator will receive the services or equipment to comply with all of this subpart W reporting requirements.

(iii) *Approval criteria.* To obtain approval to use BMM after June 30, 2012, the owner or operator must demonstrate to the Administrator's satisfaction that the owner or operator faces unique or unusual circumstances such as data collection methods that do not meet safety regulations, technical infeasibility, or legal issues rendering them unable to meet the requirements of this subpart.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 02-60; FCC 11-101]

Rural Health Care Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on whether to make the "grandfathered" providers permanently eligible for discounted services under the rural health care program. Grandfathered providers do not currently qualify as "rural," but play a key role in delivering health care services to surrounding regions that do qualify as "rural" today. Thus, we take these actions to ensure that health care providers located in rural areas can continue to benefit from connecting with grandfathered providers, and thereby provide health care to patients in rural areas.

DATES: Comments are due on or before July 27, 2011 and reply comments on or before August 11, 2011.

ADDRESSES: You may submit comments, identified by WC Docket No. 02-60, by any of the following methods:

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *Mail:* In addition, one copy of each paper filing must be sent to each of the following: (i) the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 488-5300 or via e-mail to fcc@bcpiweb.com; (ii) Chin Yoo, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-A441, Washington, DC 20554, e-mail: Chin.Yoo@fcc.gov; and (iii) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-A452, Washington, DC 20554, e-mail: Charles.Tyler@fcc.gov.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

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

FOR FURTHER INFORMATION CONTACT:

Chin Yoo, Attorney, Wireline Competition Bureau, (202) 418-0295 or TTY: (202) 418-0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 02-60, FCC 11-101, adopted June 20, 2011, and released June 21, 2011. This Notice of Proposed Rulemaking was also released with a companion Order (Order). The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via the Internet at <http://www.bcpiweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings

related to the NPRM should refer to WC Docket No. 02-60. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

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

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

- In addition, one copy of each paper filing must be sent to each of the following: (i) The Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 488-5300 or via e-mail to fcc@bcpiweb.com; (ii) Chin Yoo, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-A441, Washington, DC 20554, e-mail: Chin.Yoo@fcc.gov; and (iii) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-A452, Washington, DC 20554, e-mail: Charles.Tyler@fcc.gov.

- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs

Bureau at 202-418-0530 (voice), 202-418-0432 (tty). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by *e-mail*: FCC504@fcc.gov; *phone*: 202-418-0530 or TTY: 202-418-0432.

I. Introduction

1. In the accompanying Order, we adopt an interim rule permitting health care providers that are located in a "rural area" under the definition used by the Commission prior to July 1, 2005, and that have received a funding commitment from the rural health care program prior to July 1, 2005, to continue to be treated as if they are located in "rural" areas for purposes of determining eligibility for all universal service rural health care programs. In this Notice of Proposed Rulemaking (NPRM), we seek comment on whether to make the "grandfathered" providers permanently eligible for discounted services under the rural health care program. Grandfathered providers do not currently qualify as "rural," but play a key role in delivering health care services to surrounding regions that do qualify as "rural" today. Thus, we take these actions to ensure that health care providers located in rural areas can continue to benefit from connecting with grandfathered providers, and thereby provide health care to patients in rural areas.

II. Notice of Proposed Rulemaking

2. In July 2010, the Nebraska Public Service Commission (Nebraska PSC) filed a petition requesting that the FCC permanently grandfather health care providers that were temporarily grandfathered until 2011. In response to the Nebraska PSC petition, the Wireline Competition Bureau issued a public notice requesting comment on whether the Commission should grant the relief sought by the Nebraska PSC, either through permanent grandfather, permanent waiver, or other action, and interested parties had an opportunity to respond to the public notice. All but one of the commenting parties support permanent grandfathering to allow the petitioners and other similarly situated health care providers to continue to participate in rural health care programs. These parties argue that funding for grandfathered providers promotes telemedicine and other uses of broadband for rural health care purposes, and describe how rural communities would lose access to key health care services if such support were to cease. The parties also assert that the Commission should provide

certainty and stability by granting permanent grandfathering relief rather than setting a pattern of piecemeal extensions. The Virginia Telehealth Network states that uncertainty about future eligibility limits providers' ability to respond to the needs of their patients, take advantage of new innovations, and utilize the cost savings of long-term contracts. Furthermore, commenters state that permanent grandfathering would preserve eligibility for facilities located in areas that remain unchanged in their essentially rural character, but whose urban/rural designations could shift back and forth based on minor population shifts.

3. We propose to permanently grandfather the approximately 235 health care providers that are located in a "rural area" as defined by the Commission prior to July 1, 2005, and received a funding commitment from the rural health care program prior to July 1, 2005. Under our proposed rule, these health care providers would continue to be treated as if they are located in "rural" areas for the purposes of determining eligibility for all universal service rural health care programs.

4. We seek comment on petitioners' and commenters' assertions that permanent grandfathering these providers will promote our goal of advancing access to broadband connectivity for health care purposes. We believe that discontinuance of discounted services would jeopardize the ability of grandfathered providers to continue offering essential health care services to rural areas. As noted above, grandfathered health care providers are not located in large urbanized areas, and the record indicates that grandfathered providers provide valuable services to areas identified as experiencing health care shortages. In some states, grandfathered health care providers are hub hospitals that play a central role in connecting rural providers and patients to a statewide or regional telehealth network. We believe that a permanent grandfather is consistent with our broad discretion to define the term "rural."

5. We seek comment on whether this is the appropriate time to permanently extend eligibility for grandfathered providers. In the *Second Report and Order*, 70 FR 6365, February 7, 2005, the Commission grandfathered these providers in order to ease the transition to the new definition of "rural," allow providers to plan for the elimination of discounted services, and give the Commission time to review the effect of the new definition. In 2008, the Commission extended the grandfathering period for three years

based on uncontested evidence of specific harms that would result if discounted services were to be discontinued. At that time, the Commission also noted the need for additional time to evaluate the effect of new "rural" definition on health care providers and its planned review of the Pilot Program.

6. While our consideration of broader reforms to the rural health care program remains pending, grandfathered providers have demonstrated over the past six years that they provide important services to areas and patients that do qualify as "rural." Issuing another temporary extension would merely create ongoing and unnecessary uncertainty for program participants. Furthermore, the federal and Commission health IT policy priorities discussed above strongly weigh in favor of providing these grandfathered providers with the stability and certainty of a permanent rule modification. Commenters state that such certainty will assist grandfathered providers in moving forward with important initiatives (*e.g.*, Virginia's demonstration tele-stroke network), better respond to the needs of patients, and to continue to provide innovative telehealth care to needy populations in the most cost-effective manner. Thus, we disagree with the California PUC's position that we should only grant a defined time extension until we have had time to evaluate the Pilot Program and the progress under the current definition of "rural." Finally, as noted above, annual support for discounted services to grandfathered providers currently constitutes less than one-half percent of the \$400 million program cap, and there is no evidence that any currently eligible rural health care provider has been disadvantaged by the temporary grandfathering extensions. Therefore, we do not anticipate that health care providers eligible under our current rural definition will be disadvantaged by our permitting this limited universe of additional entities to remain eligible to receive discounted services. We seek comment on this analysis.

III. Procedural Matters

A. Filing Requirements

7. *Ex Parte Rules*. This NPRM will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under section 1.1206(b) of the Commission's rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries

of the substance of the presentations and not merely a listing of the subjects discussed. It is generally required to have more than a one or two sentence description of the presented views and arguments. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

B. Final Regulatory Flexibility Certification

8. *Proposed Permanent Rule.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (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).

9. An initial regulatory flexibility analysis (IRFA) was incorporated in the *Second Report and Order*. The Commission sought written public comment on the proposals in the *Second Report and Order*, including comment on the IRFA. No comments were received to the *Second Report and Order* or IRFA that specifically raised the issue of the impact of the proposed rules on small entities.

10. In this NPRM, we propose to adopt permanently the Commission's prior determination to grandfather those health care providers who were eligible under the Commission's definition of "rural" prior to the *Second Report and Order*. This has no effect on any parties that do not currently participate in the rural health care support program. It does not create any additional burden on small entities. We believe that this action imposes a minimal burden on the vast majority of entities, small and large, that are affected by this action.

11. Therefore, we certify that the requirements of the order will not have a significant economic impact on a substantial number of small entities.

12. In addition, the Notice of Proposed Rulemaking and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and

will be published in the **Federal Register**.

C. Other Matters

13. *Paperwork Reduction Act of 1995.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 to read as follows:

PART 54—UNIVERSAL SERVICE

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

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Amend § 54.601 by revising paragraph (a)(3)(i) to read as follows:

§ 54.601 Eligibility.

(a) * * *

(3) * * *

(i) Notwithstanding the definition of "rural area" in § 54.5, any health care provider that is located in a "rural area" under the definition used by the Commission prior to July 1, 2005, and received a funding commitment from the rural health care program prior to July 1, 2005, is eligible for support under this subpart.

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[FR Doc. 2011-16060 Filed 6-24-11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA-2010-0283]

Parts and Accessories Necessary for Safe Operation; Application for Exemption From the Natural Gas Vehicles for America

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Application for exemption; request for comment.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption submitted by National Gas Vehicles for America (NGVAmerica) regarding the provision in the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting the location of any part of a fuel system on a bus manufactured on or after January 1, 1973, "within or above the passenger compartment." NGVAmerica states that the National Highway Traffic Safety Administration (NHTSA) has adopted safety standards specific to natural gas vehicles that do not restrict the location of such fuel systems. NGVAmerica plans to file a petition in the near future to request a modification to the FMCSRs and requests the exemption to allow buses equipped with roof-mounted natural gas tanks operating in interstate commerce—and therefore subject to the FMCSRs—to operate without penalty while the differences between the NHTSA and FMCSA regulations are resolved.

DATES: Comments must be received on or before July 27, 2011.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA-2010-0283 by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

- *Hand Delivery:* Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket