

entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

38. *Future 24 GHz Licensees.* With respect to new applicants in the 24 GHz band, we have defined "small business" as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not exceeding \$15 million. "Very small business" in the 24 GHz band is defined as an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding \$3 million for the preceding three years. The SBA has approved these definitions. The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held.

39. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers. This category comprises establishments "primarily engaged in providing direct access through telecommunications networks to computer-held information compiled or published by others." Under the SBA size standard, such a business is small if it has average annual receipts of \$21 million or less. According to Census Bureau data for 1997, there were 2,751 firms in this category that operated for the entire year. Of these, 2,659 firms had annual receipts of under \$10 million, and an additional 67 firms had receipts of between \$10 million and \$24,999,999. Thus, under this size standard, the great majority of firms can be considered small entities.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

40. In this NPRM, we seek comment on proposed rules that would establish unbundling requirements for incumbent LECs, pursuant to sections 251(c) and 251(d)(2) of the Act. The Commission last reviewed its unbundling rules comprehensively in 2003 in the Triennial Review Order. Portions of the Triennial Review Order were vacated and/or remanded by the DC Circuit in its *USTA II* decision. The NPRM seeks comment on how the Commission should respond to the DC Circuit's opinion, in terms of both how to create a legally sustainable impairment standard, as well as applying that standard to individual network elements.

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

41. The RFA requires an agency to describe any significant alternatives that

it has considered in developing 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 and reporting requirements under the rule for such 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 such small entities."

42. In this NPRM, we seek comment on how to develop legally sustainable rules for access to unbundled network elements. We seek comment, for instance, on how best to define markets, including product markets and customer classes. We also wish to solicit comment on the economic effect that various UNE approaches might have on small entity telecommunications providers.

#### *F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule*

43. None.

#### **Ordering Clause**

Accordingly, it is ordered that the Notice of Proposed Rulemaking is adopted.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary*

[FR Doc. 04-20467 Filed 9-10-04; 8:45 am]

**BILLING CODE 6712-01-P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 224**

[I.D. 040704A]

#### **Endangered Fish and Wildlife; Advance Notice of Proposed Rulemaking (ANPR) for Right Whale Ship Strike Reduction; Extension of Public Comment Period**

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

**ACTION:** Notice to extend public comment period.

**SUMMARY:** NMFS is extending the public comment period on the Advance Notice of Proposed Rulemaking (ANPR) published June 1, 2004. The ANPR

announces a strategy to reduce mortalities to North Atlantic right whales as a result of vessel collisions. NMFS is extending the public comment period through November 15, 2004, to allow for adequate time to conduct stakeholder meetings along the Atlantic coast in association with the ANPR comment period.

**DATES:** Written and electronic comments on the ANPR must be received (see **ADDRESSES**) no later than 5 p.m. eastern standard time on November 15, 2004.

**ADDRESSES:** Comments should be sent to:

- Mail: Chief, Marine Mammal Conservation Division, Attn: Right Whale Ship Strike Strategy, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

- Fax: (301)427-2522, Attn: Right Whale Ship Strike Strategy.

- E-mail:

[shipstrike.comments@noaa.gov](mailto:shipstrike.comments@noaa.gov).

- Federal Rulemaking portal: <http://www.regulations.gov> (follow instructions for submitting comments).

The June 1, 2004, ANPR may be obtained at [www.nmfs.noaa.gov/pr/](http://www.nmfs.noaa.gov/pr/) under the "Recent News and Hot Topics" link. Using the drop-down menu, the link "Ship Strike Strategy" provides access to the ANPR, as well as links to background and supporting documentation related to the proposed strategy.

#### **FOR FURTHER INFORMATION CONTACT:**

Michael Payne, Division Chief, Office of Protected Resources, NMFS, at (301) 713-2322; Pat Gerrior, Fishery Biologist, Northeast Regional Office, NMFS, at (508) 495-2264; or Barb Zoodsma, Fishery Biologist, Southeast Regional Office, NMFS, at (904) 321-2806.

**SUPPLEMENTARY INFORMATION:** This notice provides additional opportunity for public involvement in the development and implementation of a strategy to reduce the likelihood and threat of ship strike mortalities to North Atlantic right whales. The strategy is described in greater detail in the ANPR published June 1, 2004 (69 FR 30857). In summary, it is a multi-faceted plan that includes potential routing changes, speed reductions, and the use of dynamic management areas as proposed operational measures.

NMFS has already held five public meetings (Boston, MA; Jersey City, NJ; Wilmington, NC; Jacksonville, FL; and Silver Spring, MD) in July and August 2004 to present the strategy and solicit information on the development and implementation of the proposed new operational measures. The agency is extending the comment period through

November 15, 2004, to convene a series of smaller stakeholder meetings through its regional Right Whale Recovery Implementation Teams. Comments received during the extended ANPR

comment period, and in the associated stakeholder meetings, will assist the agency in determining what actions are necessary to reduce the threat of ship collisions to right whales.

Dated: September 7, 2004.

**Laurie K. Allen**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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**BILLING CODE 3510-22-S**