(including references). Electronic comments must be submitted as a Word Perfect 5.1 or 6.1 file, or as an ASCII file avoiding the use of special characters. Comments will also be accepted on disks in WordPerfect 5.1 or 6.1, or ASCII file format. Electronic comments on this Notice may be filed online at many Federal Depository Libraries. Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline (800–426–4791) for general information about the proposed rule. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time. For technical inquiries, contact Françoise M. Brasier (202–260–5668) or Rob Allison (202–260–9836).

SUPPLEMENTARY INFORMATION: The Consumer Confidence Report rule would require community water systems to mail to each of their customers an annual report on local drinking water quality. The report would include such information as the source of local drinking water, the levels of any contaminants detected in water delivered to consumers, violations of drinking water regulations, and other information about local water quality. The proposed rule sets few requirements for the format of the reports, thereby allowing water suppliers to tailor their reports around the information that they must present.

EPA proposed several brief definitions of regulatory terms (e.g., ''maximum contaminant level'') that systems would have to include in their reports. EPA also proposed brief health effects language for each regulated contaminant. Water systems would have to include this language in their reports whenever they detected a regulated contaminant in excess of its legal limit. In the proposal's preamble, EPA discussed options for both sets of language and requested comment on which language would be most useful to consumers.

Availability of Data

The data to which this Notice refers is available for inspection from 9 to 4 p.m. (Eastern Time), Monday through Friday, excluding legal holidays, at the Water Docket, U.S. EPA Headquarters, 401 M. St., SW, East Tower Basement, Washington, DC 20460. Please call 202–260–3027 to schedule an appointment and refer to W–97–18. The Focus Group Report is also available on the Internet at www.epa.gov/safewater/ccr/focus.html.

Regulated persons. Potentially regulated persons are community water systems.

Category	Example of regulated entities
Publicly-owned CWSs.	Municipalities; County Governments; Water districts; Water and Sewer Authorities.
Privately-owned CWSs.	Private water utilities; homeowners associations.
Ancillary CWSs.	Persons who deliver drinking water as an adjunct to their primary business (e.g. trailer parks, retirement homes).

Dated: May 8, 1998.

Robert Perciasepe,

Assistant Administrator.

[FR Doc. 98–13025 Filed 5–14–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 98–56, RM–9101, FCC 98–72]

Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing this Notice of Proposed Rulemaking seeking comment on various proposed performance measurements and reporting requirements relating to incumbent carriers' operations support systems (OSS). The performance measurements and reporting requirements proposed in the NPRM will complement existing state proceedings and efforts by carriers, independent of regulatory requirements, to incorporate performance measurements into their interconnection agreements.

DATES: Comments are due on or before June 1, 1998 and Reply Comments are due on or before June 22, 1998. Written comments by the public on the proposed information collections are due June 1, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before July 14, 1998.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th St., N.W., Washington, D.C. 20036. 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 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Radhika Karmarkar, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. For additional information concerning the information collections contained in this NPRM 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 Notice of Proposed Rulemaking adopted April 16, 1998 and released April 17, 1998 (FCC 98–72). This NPRM contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the OMB for review under the PRA. The OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding. The full text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Room 239, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9872.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Paperwork Reduction Act

This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens,

invites the general public and OMB to comment on the information collections contained in this NPRM, 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 NPRM; OMB notification of action is due July 14, 1998. 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 forms of information technology.

OMB Approval Number: None.

Title: Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance.

Form No.: N/A.

Type of Review: New collection.

Information collection	Number of respondents (Approximately)	Estimated time per pesponse (annual) (hours)	Total annual burden (hours)
Pre-Ordering: Average Response Time	11	240	2,640
Ordering/Provisioning: Order Completion Measurements	11	480	5,280
Ordering/Provisioning: Coordinated Customer Conversions	11	240	2,640
Ordering/Provisioning: Order Status Measurements	11	1,200	13,200
Ordering/Provisioning: Held Order Measurement	11	240	2,640
Ordering/Provisioning: Installation Troubles Measurement	11	240	2,640
Ordering/Provisioning: Order Quality Measurements	11	480	5,280
Ordering/Provisioning: 911 Database Update and Accuracy	11	480	5,280
Repair and Maintenance Measurements	11	960	10,560
Billing Measurements	11	480	5,280
General Measurements: Systems Availability	11	240	2,640
General Measurements: Center Responsiveness	11	240	2,640
General Measurements: OS/DA	11	240	2,640
Interconnection: Trunk Blockage Measurements	11	480	5,280
Interconnection: Collocation Measurements	11	720	7,920

Frequency of Response: Monthly; On occasion.

Total Annual Burden: 76,560 hours.

Respondents: Business or other for profit.

Estimated costs per respondent: $800,000.

Needs and Uses: The NPRM seeks comment on certain performance measurements and reporting requirements to implement the interconnection requirements of the 1996 Act. The proposed measurements are intended to permit a direct assessment of whether an incumbent local exchange carrier is complying with its obligations under section 251 of the Communications Act of 1934, as amended.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. In this proceeding, we explore ways to advance a fundamental goal of the Telecommunications Act of 1996—to increase consumer choice by fostering competition in the provision of local telephone service. The 1996 Act requires incumbent local telephone service providers to open their markets to competition.

2. Congress required incumbents to make available to new entrants in a nondiscriminatory, and just and reasonable manner the services and facilities the incumbents use to provide retail services to their own customers. In order to take advantage of the service and facility offerings that Congress requires incumbents to provide, new entrants need access to the support functions that incumbents use to process orders from their own customers.

3. In this proceeding, we propose a methodology by which to analyze whether new providers of local telephone service are able to access, among other things, the support functions (that is, the functions provided by computer systems, databases, and personnel) of incumbent local telephone companies in a manner consistent with the 1996 Act's nondiscrimination requirement. We seek comment, as explained below, on certain proposed measurements and reports designed to illuminate the performance of incumbent local telephone companies in providing access to these vital support functions. Such performance measurements will assist incumbents, new entrants, and regulators in evaluating an incumbent's performance in meeting its statutory obligations. We do not, however, propose specific performance standards or technical standards. We also seek comment on ways to achieve the statutory goals, while also minimizing the burden on all incumbent carriers, especially small, rural, and midsized incumbent local telephone companies.

4. We recognize that some state commissions have undertaken efforts to develop performance measurements and reporting requirements for these support functions. Other states have yet to begin such efforts, but plan to do so. States have sought this Commission's help in developing these measurements. The primary goal of this NPRM, therefore, is to provide guidance, in the most efficient and expeditious manner possible, to the states and the industry on a set of performance measurements and reporting requirements that will help spur the development of local competition. Accordingly, we propose, in the first instance, to adopt model performance measures and reporting requirements, as described in detail herein, that are not legally binding. This approach will allow those states that have commenced proceedings to incorporate the model performance measurements and reporting requirements as they deem beneficial and aid those states that have not begun work in this area. We expect to develop such model performance measurements and reporting requirements as expeditiously as possible once the record closes in this proceeding. The experience we gain from the

development of these model performance measurements and reporting requirements and their application by the states will, we believe, provide a more informed and comprehensive record upon which to decide whether to adopt national, legally binding rules. The adoption of national rules may, however, prove to be unnecessary in light of the states' and carriers' application of the model performance measurements and reporting requirements that we intend to adopt in the first instance. We emphasize our belief that the adoption of model performance measurements and reporting requirements to serve as guidelines for state commissions constitutes the most efficient and effective role for the Commission in this area at this time.

II. Background

A. Procedural History

5. On May 30, 1997, LCI International Telecom Corp. (LCI) and the Competitive Telecommunications Association (CompTel) jointly filed a petition asking the Commission to initiate a rulemaking proceeding (''LCI/CompTel Petition'') concerning the requirements governing OSS, interconnection, and other related activities established by the Commission in its *Local Competition First Report and Order,* 61 FR 45476, August 29, 1996. On June 10, 1997, the Commission issued a Public Notice seeking comment on the LCI/CompTel petition. A number of parties, including both incumbent LECs and competing carriers, filed comments and reply comments in response to this Public Notice.

6. Among other things, petitioners ask the Commission to establish: (1) performance measurements and reporting requirements for the provision of operations support systems (OSS) functions; (2) default performance standards or benchmarks that would apply when an incumbent LEC fails, or refuses, to report on its performance; (3) technical standards for OSS interfaces; and (4) remedial provisions that would apply to non-compliant incumbent LECs. In their petition, LCI/CompTel propose that the Commission rely on the Service Quality Measurements adopted by the Local Competition Users Group (LCUG) as the basis for establishing performance measurements, reporting requirements, and default performance standards. On October 8, 1997, LCUG filed a revised proposal that described in detail its proposed performance measurements and default standards. A number of parties filed additional *ex parte* comments, offering their own proposed measurements and addressing the specific recommendations made by LCUG in its revised proposal.

B. Summary of Proposals

7. In this NPRM, we tentatively conclude that we should propose model performance measurements and reporting requirements for OSS functions, interconnection, and access to operator services and directory assistance. In Part III, we discuss the respective roles of the Commission and the states with regard to the development and implementation of model rules, as well as with respect to the establishment of legally binding rules. In Part IV, we set forth proposed performance measurements. In Part V, we discuss reporting procedures, and in Part VI we propose methods to evaluate performance measurements. As explained in Part VII, we conclude that we will not address at this time several points raised in the LCI/CompTel petition, such as the establishment of national performance standards, technical standards, and enforcement mechanisms. In addition, we recognize that the proposals set forth in this NPRM may disproportionately impact small, rural, and midsized incumbent LECs. Consequently, in Part VIII we also seek comment on the potential burdens that our proposed model rules could impose on these incumbent LECs and we seek comment on possible remedies.

III. Role of Commission and States

8. LCI and CompTel petitioned the Commission to initiate a rulemaking to promulgate performance measurements and reporting requirements. States as well have urged us to assist them in developing these measurements. Indeed, NARUC passed a resolution seeking such assistance. It states in pertinent part:

> *Resolved:* That the FCC be urged to move promptly to advance the establishment of performance guidelines that can be used to evaluate the provision of access to the components of OSS functions * * *.

Individual states have also begun work in this area. For example, California and New York have initiated proceedings to develop OSS requirements, including performance measurements and reporting requirements.

9. The primary goal of this NPRM is to provide the requested guidance to the states in the most efficient and expeditious manner possible. Accordingly, we intend, in the first instance, to adopt a set of model performance measurements and reporting requirements, based on the detailed descriptions provided herein and subject to whatever modifications we deem appropriate in light of comments received. These model performance measurements and reporting requirements would not be legally binding.

10. We recognize that parties in this proceeding have offered differing opinions concerning our jurisdiction to issue OSS rules. Some have argued that the Eighth Circuit's decision in Iowa *Utilities* v. *FCC* would preclude our authority to establish rules relating to OSS, while others have argued, to the contrary, that portions of that decision would validate our authority to issue such rules. We invite parties to comment on this issue. Given that our primary goal is to provide guidance to states through the adoption of model rules in the first instance, however, we strongly encourage parties to focus on the substance of the proposed performance measurements and reporting requirements, rather than focusing exclusively on issues of jurisdiction.

IV. Proposed Performance Measurements and Reporting Requirements

A. General Issues

11. In this section, we propose performance measurements for each of the five OSS functions, as well as for interconnection and OS/DA. These measurements are intended to permit a direct assessment of whether an incumbent LEC is complying with its obligations under section 251.

12. In the *Local Competition First Report and Order,* the Commission determined that, because OSS includes the information necessary to obtain other network elements or resold services, providing access to OSS functions falls squarely within an incumbent LEC's duty under section 251(c)(3) to provide unbundled network elements under terms and conditions that are nondiscriminatory, just and reasonable, and its duty under section 251(c)(4) to offer resale services without imposing any limitations or conditions that are discriminatory or unreasonable. Additionally, the Commission identified OSS itself as a network element and stated that it consisted of five functions: (1) pre-ordering; (2) ordering; (3) provisioning; (4) maintenance and repair; and (5) billing. The Commission concluded that, as with all unbundled network elements, an incumbent LEC must provide access to these five OSS functions that is equivalent to what it provides itself, its own end-user customers, or other carriers.

13. As a practical matter, for those OSS functions provided to competing carriers that are analogous to OSS functions that an incumbent LEC provides itself in connection with retail service offerings, the incumbent LEC must provide access to competing carriers that is equivalent to the level of access that the incumbent LEC provides itself in terms of quality, accuracy, and timeliness. Thus, for example, for those functions that an incumbent LEC itself accesses electronically, the incumbent LEC must provide electronic access for competing carriers. In addition, competing carriers must have access to OSS functions that allows them to make use of such functions in ''substantially the same time and manner'' as the incumbent LEC. For those OSS functions that have no direct retail analog, such as the ordering and provisioning of unbundled network elements, an incumbent LEC must provide access sufficient to allow an efficient competitor a meaningful opportunity to compete.

14. With respect to interconnection, the Commission concluded that ''section 251(c)(2)(C) requires an incumbent LEC to provide interconnection between its network and that of a requesting carrier at a level of quality that is at least indistinguishable from that which the incumbent provides itself, a subsidiary, an affiliate, or any other party.'' Finally, incumbent LECs are obligated under section 251(c)(3) to provide nondiscriminatory access to operator services and directory assistance because they are network elements.

15. The measurements we propose in this NPRM are designed to assist in assessing an incumbent LEC's performance in providing OSS, interconnection, and OS/DA to competing carriers. Various parties presented proposals for performance measurements in this proceeding. We conclude, however, that no single proposal optimally balances our goals of detecting possible instances of discrimination while minimizing, to the extent possible, burdens imposed on incumbent LECs. We therefore propose a set of measurements that we believe provides an appropriate balance of these goals.

16. We recognize that reporting averages of performance measurements alone, without further analysis, may not reveal whether there are underlying differences in the way incumbent LECs treat their own retail operations in relation to the way they treat competing carriers. Consequently, we propose, as part of the model rules proposed herein, the use of statistical tests to determine whether measured differences in the average performance of incumbent LECs toward their retail customers and toward competing carriers represent true differences in behavior rather than random chance. Further, we recognize that reporting on averages alone may mask potential forms of discrimination. For example, an incumbent LEC may have the same average completion interval in providing service to competing carriers as it has in providing service to its retail customers, but the variation in completion intervals in providing the service may differ greatly. It may be the case, for instance, that the average completion interval is four days for both competing carriers and retail customers, but half of competing carriers' orders are completed in one day and half in seven days, while all of retail customers' orders are completed in exactly four days. For this reason, we seek comment below on the possible use of statistical tests that capture differences in variances between two samples as well as tests of differences in averages. We also seek comment below on whether, as part of the model rules proposed herein, the data underlying the performance measurement results should be made available to competing carriers so that they can evaluate the incumbent LECs' performance in other ways if they choose to do so.

17. Before describing the individual performance measurements, however, we seek comment on a number of general issues that pertain to all performance measurements. These general issues concern: 1) the appropriate balance between the burdens and benefits associated with performance measurements and reporting requirements; 2) the appropriate geographic level for reporting; 3) the scope of activities that incumbent LECs should report; and 4) the relevant electronic interfaces for purposes of reporting the measurements described below.

1. Balance Between Burdens and Benefits

18. Our goal in developing performance measurements, and the associated level of detail, is to isolate the activities in which an incumbent could discriminate when providing services and facilities to competing carriers. We believe that persistent discrimination by an incumbent LEC in any of the activities for which we have proposed performance measurements potentially would undermine a competing carrier's prospects for success in the local market. At the same time, as we have noted previously, although we believe that performance measurements and reporting requirements will help foster competition in the local exchange market, compliance with performance measurements and reporting requirements imposes certain burdens on incumbent LECs. In developing our proposed performance measurements and reporting requirements, we have sought to balance our goal of detecting possible instances of discrimination with our goal of minimizing, to the extent possible, burdens imposed on incumbent LECs. As a general matter, we seek comment on whether our proposed measurements appropriately balance these twin goals.

19. Additionally, we ask parties to comment generally on the level of detail contained in the proposed performance measurements. Specifically, we seek comment on whether the performance measurements we propose in this NPRM are sufficiently detailed to ensure the collection of meaningful data, or whether greater detail or disaggregation is necessary or whether lesser detail or disaggregation would be sufficient.

2. Geographic Level for Reporting

20. We seek comment on the appropriate geographic level of reporting. In particular, we seek comment on whether carriers should report data for each performance measurement based on state boundaries, LATAs, metropolitan statistical areas (MSAs), or some other relevant geographic area. We also seek comment on whether a uniform geographic level of reporting should apply to all performance measurements, or whether it would be appropriate to require different levels of reporting for separate measurements.

3. Scope of Reporting

21. We believe that, when an incumbent LEC reports the results of the performance measurements, it must do so in a manner that permits a competing carrier to compare the access the incumbent LEC provides to the carrier and other competing carriers with the access the incumbent LEC provides to itself or its affiliates. Accordingly, we tentatively conclude that an incumbent LEC should report separately on its performance as provided to: (1) its own retail customers; (2) any of its affiliates that provide local exchange service; (3) competing carriers in the aggregate; and (4) individual competing carriers. We seek comment on these proposed levels of disaggregation and whether they will permit competing carriers to detect discrimination.

4. Relevant Electronic Interfaces

22. As the Commission has previously noted, an incumbent LEC must provide competing carriers the same electronic access to its OSS functions as it provides itself in accessing its own internal systems and databases. Because incumbent LECs access their systems electronically for retail purposes, we tentatively conclude that incumbent LECs need measure only the access they provide electronically to competing carriers. Therefore, our proposals would only require incumbent LECs to measure the performance of the electronic interfaces that incumbent LECs offer to competing carriers for access to OSS.

23. We recognize that most incumbent LECs provide several types of electronic interfaces, such as a GUI-based interface and an EDI-based interface. We seek comment on whether these incumbent LECs must provide performance measurements for each type of electronic interface. We seek comment on whether an incumbent LEC should measure performance for each of its electronic interfaces or only some subset of the interfaces it offers. To the extent that incumbent LECs report on performance for all electronic interfaces, we tentatively conclude that they should disaggregate the data by interface type when reporting each performance measurement.

24. As noted above, we have sought to balance our goal of detecting possible instances of discrimination with our goal of minimizing, to the extent possible, burdens imposed on incumbent LECs. Because we intend to limit our proposed measurements to the performance of an incumbent LEC's electronic interfaces, we expect that most of the measurements proposed in this NPRM can be collected through electronic coding or some other automatic logging procedure. We seek comment on which, if any, of our proposed measurements may require more labor-intensive collection methods and whether, as a result, they would be unduly burdensome.

B. Proposed Measurements

1. Pre-Ordering Measurements

25. The pre-ordering function allows a competing carrier to gather and confirm information necessary to place an accurate order for its end user. We tentatively conclude that an incumbent LEC must measure the average interval for providing access to pre-ordering information to competing carriers, as well as to itself. The Average Response Time measurement could, however, be based on all queries sent to the pre-ordering interface or some subset of these queries. We seek comment on whether a sampling approach, such as the one adopted in the *Bell Atlantic/NYNEX Merger Order*, would be a sufficient method for assessing an incumbent LEC's nondiscriminatory provision of pre-ordering information. In addition, we propose that an incumbent LEC disaggregate the results for this measurement according to the pre-ordering sub-functions.

26. We recognize that there may be instances where an incumbent LEC does not provide access to certain pre-ordering sub-functions on a real time basis, but rather via batch files (*e.g.*, street address verification). We seek comment on whether incumbent LECs should exclude those pre-ordering sub-functions that are not provided on a real time basis from this measurement, or whether there are alternative methods to detect possible discriminatory access in such instances.

27. In certain instances a competing carrier may be unable to retrieve pre-ordering information for each query attempt. Instead, it may receive a rejected query notice (also known as a failed attempt notice). We seek comment on whether an incumbent LEC should measure the speed by which it provides rejected query notices to competing carriers as well as to itself. In addition, we seek comment on whether a rejected query notice measurement must be provided as a separate category for the pre-ordering function in general or, alternatively, disaggregated separately for each pre-ordering sub-function. Finally, we seek comment on whether incumbent LECs should measure the number of rejected query notices as a percentage of the total number of pre-ordering queries.

2. Ordering and Provisioning Measurements

a. Disaggregation of data. 28. Before describing the proposed ordering and provisioning measurements, this section discusses the levels of disaggregation that we believe should apply to these measurements, as well as to the repair and maintenance measurements discussed in Part IV.B.3. We believe that some level of disaggregation is necessary to ensure the collection of meaningful results. We note that a number of parties have proposed various levels of disaggregation. Although we make no tentative conclusions regarding the appropriate levels of disaggregation for ordering and provisioning measurements and repair and maintenance measurements, we seek comment on the thirteen measurement categories. In order for competing carriers to track more easily the treatment accorded to certain types of orders throughout the ordering and provisioning process, we propose to use these thirteen measurement categories for the order completion measurements, the order status measurements, the held orders measurement, and the installation troubles measurement. Similarly, in order for competing carriers to observe more easily correlations between the types of services or elements ordered and any subsequent need for repair and maintenance, we propose to use the same thirteen measurement categories for the various repair and maintenance measurements, the Average Time to Restore measurement, the Frequency of Troubles in a Thirty Day Period measurement, the Frequency of Repeat Troubles in a Thirty Day Period measurement and the Percentage of Customer Troubles Resolved within Estimated Time measurement.

29. We seek comment on whether the thirteen proposed measurement categories are appropriate. In particular, we seek comment on whether these categories would disaggregate the data sufficiently to allow the detection of discrimination. We also seek comment on whether fewer levels of disaggregation would sufficiently detect instances of discrimination, but would impose less reporting burden on incumbent LECs.

30. We propose that incumbent LECs first break down the orders by separating resold services, unbundled network elements, and interconnection trunks.

For resold services, we propose to disaggregate the measurements further according to the three broad categories of resold telecommunications services: (1) Residential POTS; (2) business POTS; and (3) special services. We believe that each particular service that is available for resale can be categorized under one of these broader service umbrellas. We propose, however, that each group should be broken down by orders that require the dispatch of a service technician and those that do not. We believe that this breakdown is important because the need for field work has a significant impact on the amount of time necessary to provision a resale order placed by a competing carrier. We seek comment on the proposed levels of disaggregation for resold services.

31. For unbundled network elements, we propose that incumbent LECs report separately the measurement results associated with ordering and provisioning different types of network elements (*i.e.*, unbundled loops,

unbundled switching, and unbundled local transport). We believe that disaggregation by type of network element is necessary because there are varying degrees of order complexity and inter-carrier coordination involved with different types of network elements, including combinations of network elements, and that these variations will affect the time required to provision a network element order. In addition, we propose that orders for unbundled loops should be broken down by whether the loops are provisioned with interim number portability. We believe that the provisioning time for loops with interim number portability may differ from those without. We seek comment on our proposed levels of disaggregation for network element orders. We also seek comment on whether the unbundled loop category should be further disaggregated, as suggested by LCUG, between 2-wire unbundled loops, which are generally used for POTS-type services, and all other loop types, such as 4-wire unbundled loops and unbundled DS1 loops, which may be more complex to provision.

32. Finally, we propose to include interconnection trunks as a separate measurement category. Although interconnection trunks are physically indistinguishable from transport links, interconnection trunks are unique because they are used for the transmission of traffic between two networks, whereas transport links are used for the transmission of traffic within the incumbent's network. As a result, the process for ordering interconnection trunks, as well as the mechanisms for provisioning those trunks, is likely to involve a higher degree of order complexity, as well as greater inter-carrier coordination, and, therefore, may require a separate reporting category. We seek comment on the inclusion of interconnection trunks as a separate measurement category.

b. *Order Completion Measurements.*

33. We tentatively conclude that incumbent LECs must measure the Average Completion Interval and the Percentage of Due Dates Missed for orders placed by their own retail customers and for orders placed by competing carriers.

34. The measurement for the Average Completion Interval seeks to compare the average length of time it takes an incumbent LEC to complete orders for competing carriers with the average length of time it takes to complete comparable incumbent LEC retail orders. For competing carriers' orders, we tentatively conclude that an incumbent LEC must measure the interval from its receipt of a valid order (''Order Submission Date and Time'') at its OSS interface until the time it returns a completion notification to the competing carrier (''Date and Time of Notice of Completion''). For its own orders, we propose that an incumbent LEC measure the interval from when its service representative enters an end user customer's order into its order processing system (''Order Submission Date and Time'') to the time it completes the order (''Completion Date and Time''). We seek comment on whether our proposed measurement for the Average Completion Interval is sufficient or whether greater or lesser detail is necessary.

35. The Percentage of Due Dates Missed measurement seeks to determine whether the agreed-upon due dates for order completion are equally reliable for orders placed by competing carriers and orders placed by an incumbent LEC's end user customers. We tentatively conclude that an incumbent LEC must calculate this percentage by comparing the total number of orders not completed by the committed due date and time during the specified reporting period to the total number of orders scheduled to be completed during that reporting period. This same measurement would apply to orders for an incumbent LEC's customers and for orders submitted by competing carriers. We seek comment on whether our proposed measurement for Percentage of Due Dates Missed is appropriate or whether additional detail is necessary.

36. With respect to both the Average Completion Interval and Percentage of Due Dates Missed measurements, we tentatively conclude that certain exclusions should apply. We tentatively conclude that incumbent LECs should exclude orders canceled or supplemented by competing carriers from these measurements. We seek comment on whether additional exclusions are needed.

c. Average time for coordinated customer conversions. 37. We tentatively conclude that the incumbent LECs should measure the Average Time for Coordinated Customer Conversions. Specifically, incumbent LECs must measure the average time it takes to disconnect an unbundled loop from the incumbent LEC's switch and cross connect it to a competing carrier's equipment with and without number portability. This performance measurement will assist in determining how long a customer switching to a competing carrier is without local exchange service when the competing carrier utilizes the incumbent LEC's unbundled loop, in conjunction with its own switching equipment, to provide such service. We believe that this measurement will assist in evaluating the incumbent LEC's provisioning of unbundled loops and the impact on competing carriers' customers.

d. Order status measurements. 38. We have previously stated that a competing carrier must receive information on the status of its orders on the same basis as an incumbent LEC provides such notices to itself.

39. We tentatively conclude that incumbent LECs must provide the following order status measurements: (1) the Average Reject Notice Interval; (2) the Average Firm Order Confirmation (FOC) Notice Interval; (3) the Average Jeopardy Notice Interval; (4) the Percentage of Orders in Jeopardy; and (5) the Average Completion Notice Interval. We tentatively conclude that all incumbent LECs must also measure these intervals for themselves, whether or not they have done so previously, in order to provide a basis for comparison with the average intervals for competing carriers. A comparison of these times can provide information on whether the incumbent is providing nondiscriminatory access to competing carriers. We seek comment on these tentative conclusions. If an incumbent LEC does not currently provide itself with a certain form of notice (*e.g.*, a FOC), we seek comment on the appropriate retail analog that should be measured. We also seek comment on whether all of these order status measurements are necessary to ensure that an incumbent LEC is providing nondiscriminatory access.

40. The Average Reject Notice Interval seeks to measure the amount of time it takes an incumbent LEC to notify the competing carrier that an order has been rejected. An incumbent LEC typically sends an order rejection notice for invalid orders, such as those that have syntax or formatting errors in the order form. The Commission has previously explained that ''[t]imely delivery of order rejection notices has a direct impact on a new entrant's ability to service its customers, because new entrants cannot correct errors and resubmit orders until they are notified of their rejection * * *.'' We tentatively conclude that an incumbent LEC must measure the time it takes to deliver such notices by using the measurement. We propose that an incumbent LEC measure this interval from the time it receives an order at its OSS interface to the time the rejection notice leaves its gateway. We seek comment on these tentative conclusions.

41. The Average FOC Notice Interval seeks to measure the amount of time it takes an incumbent LEC to send a

competing carrier a notice confirming the order. Competing carriers rely on FOC notices to apprise their customers of due dates. We tentatively conclude that an incumbent LEC must measure the time it takes to deliver a FOC notice by using the measurement. We also tentatively conclude that the incumbent LEC must measure this interval from the time it received a valid order at its OSS interface from the competing carrier to the time the FOC leaves its OSS interface and is transmitted to the competing carrier. Because this interval measures only valid orders, we tentatively conclude that incumbent LECs must exclude rejected orders from this measurement. We seek comment on these tentative conclusions.

42. The Average Jeopardy Notice Interval attempts to determine how far in advance a competing carrier receives notice that its customer's order is in jeopardy of not being completed as scheduled, compared to how far in advance an incumbent LEC's service representative receives such notice. The Commission has previously explained that competing carriers need timely order jeopardy notices to inform their customers of the potential need to reschedule the time for service installation. We tentatively conclude that incumbent LECs must measure the amount of time between the originally scheduled order completion date and time (as stated on the FOC) and the date and time a notice leaves the incumbent LEC's interface informing the carrier that the order is in jeopardy of missing the originally scheduled date. We seek comment on this tentative conclusion.

43. We also tentatively conclude that incumbent LECs must measure the Percentage of Orders in Jeopardy. This measurement determines the percentage of orders that the incumbent LEC identifies as being in jeopardy of not being completed on time for any reason. This information will enable a competing carrier to determine whether a significantly higher percentage of its orders are placed in jeopardy than an incumbent LEC's retail orders. Additionally, a competing carrier should receive a jeopardy notification for each of its orders that the incumbent LEC fails to complete on time. A competing carrier can determine whether it is receiving this requisite advance notice by comparing the Percentage of Orders in Jeopardy to the Percentage Due Dates Missed measurement.

44. Finally, the Average Completion Notice Interval measures the amount of time it takes an incumbent LEC to send a competing carrier notice that work on an order has been completed. We tentatively conclude that an incumbent LEC must use the measurement and must measure the interval by subtracting the date and time that it completed the work from the date and time a valid completion notice leaves its OSS interface. We seek comment on these tentative conclusions.

e. Average interval for held orders. 45. We tentatively conclude that incumbent LECs must measure the Average Interval for Held Orders. This measurement seeks to capture the time required to complete held orders, *i.e.*, those orders pending at the end of the reporting period whose committed due dates have passed. For example, if incumbent LECs report on a monthly basis, a held order would be any order that is overdue at the end of the month. By measuring those orders whose due dates have passed, the Average Held Order measurement will capture those orders not covered by the Average Completion Interval measurement, which measures orders that are completed by the committed due date. We believe that the Average Interval for Held Orders measurement will enable a requesting carrier to determine whether the average period that its orders are pending after the committed due date is no longer than the average period for similar incumbent LEC pending orders. We seek comment on the utility of measuring the average interval for held orders and whether the measurement described below accurately captures the necessary information.

46. To arrive at the Average Interval for Held Orders, we tentatively conclude that the incumbent LEC should first identify all orders with a FOC listing a due date prior to the end of the reporting period in question for which a valid completion notice has not yet been issued. The held order interval for a particular order is the number of calendar days between the completion date listed on that order's FOC and the close of the reporting period. The Average Interval for Held Orders is then calculated by dividing the total number of days since the due date up to the reporting period close date by the number of held orders. Incumbent LECs should measure the Average Interval for Held Orders for both competing carrier orders and their own retail customer orders. We propose that incumbent LECs exclude from this measurement those orders cancelled by a competing carrier. We seek comment on whether these exclusions will assist in producing meaningful results and on whether additional exclusions are needed.

f. Installation troubles. 47. We tentatively conclude that an incumbent LEC must measure Percentage Troubles in Thirty Days for New Orders. We believe that incumbent LECs must calculate the percentage of new orders for which a competing carrier, or incumbent LEC customer service representative, receives complaints that there is a problem with the service within the first thirty days after completion of the order. Trouble reports often indicate that a customer has not received the exact service ordered, either because the carrier provided the wrong type of service or a lower quality of service than expected. We believe, therefore, that this measurement will provide information about whether the incumbent LEC processed the order accurately. Accordingly, we propose that incumbents LECs measure Percentage Troubles in Thirty Days for New Orders as a substitute for LCUG's proposed measurement of Percentage Orders Processed Accurately. We believe that Percentage Troubles in Thirty Days for New Orders will provide the information sought by LCUG, but will be a less burdensome measurement than measuring order accuracy, which requires an incumbent LEC to compare the original account profile and order sent by the competing carrier to the account profile following completion of the order. Nevertheless, we seek comment on using this measurement as a substitute for order accuracy. We also seek comment on whether thirty days is an appropriate cut-off for measuring trouble reports for new orders.

48. Although we make no tentative conclusions regarding the specific measurement needed to measure Percentage Troubles in Thirty Days for New Orders, we seek comment on the measurement. Specifically, we seek comment on whether this measurement should be disaggregated in the same way as the other ordering and provisioning measurements. It may not be appropriate, for example, to include interconnection trunks because any problems relating to such trunks will likely affect many customers on the competing carrier's network, rather than one specific customer. We seek comment on whether interconnection trunks, or any other categories of disaggregation, should be eliminated for this measurement.

49. Finally, we seek comment on whether it is appropriate to measure percentage troubles on a ''per order'' basis. We seek comment on whether tracking troubles on a per order basis might mask a higher number of troubles for larger orders. For example, an order of forty new lines may have several problems and yet would be reported as having only one trouble report. We therefore seek comment on whether a

''per circuit'' basis for resale orders and ''per element'' basis for unbundled network element orders might be more useful than a ''per order'' basis.

g. Ordering quality measurements.

1. Order Flow Through

50. An incumbent LEC's internal ordering system permits its retail service representatives to submit retail customer orders electronically, directly into the ordering system. This is known as ''flow through.'' Similarly, a competing carrier's orders ''flow through'' if they are transmitted electronically (*i.e.*, with no manual intervention) through the gateway into the incumbent LEC's ordering systems. Order Flow Through applies solely to the OSS ordering function, not the OSS provisioning function. In other words, Order Flow Through measures only how the competing carrier's order is transmitted to the incumbent's back office ordering system, not how the incumbent ultimately completes that order. Electronically processed service orders are more likely to be completed and less prone to human error than orders that require some degree of human intervention.

51. We tentatively conclude that incumbent LECs should measure the percentage of competing carriers' orders that flow through electronically to the incumbent LEC's ordering systems. The Percentage Order Flow Through measurement seeks to calculate the percentage of orders that an incumbent LEC processes electronically through its gateway and accepts into its back office systems without manual intervention (*i.e.*, without additional human intervention once the order is submitted into the system). This measurement only applies to valid orders, that is, orders that have not been rejected for some reason. A separate measurement for rejected orders is in paragraph 53.

52. We tentatively conclude that the Order Flow Through measurement must be disaggregated by the following categories: (1) resale POTS; (2) resale specials; (3) network elements; and (4) combinations of network elements. We note that the proposed categories for the Order Flow Through measurement are less detailed than the categories proposed for the other measurements relating to the ordering process (*e.g.*, order completion and order status measurements). We believe this distinction is justified because the Order Flow Through measurement focuses solely on the OSS ordering function, whereas the other proposed measurements (*i.e.*, those regarding order completion and order status) also focus on the OSS provisioning function. In the provisioning context, there may be substantial differences in the time required to provide various types of unbundled network elements and services. For example, the time required to complete certain orders may vary based on whether an order requires a dispatch, or merely a billing change. In the order flow through context, such issues are irrelevant. The method of ordering resold services and network elements is not likely to vary between residential and business customers. We seek comment on the proposed levels of disaggregation for the Order Flow Through measurement and whether further disaggregation is necessary.

2. Order Rejections

53. We tentatively conclude that incumbent LECs must report on the Percentage of Rejected Orders. We also tentatively conclude that this measurement must be reported to the same level of disaggregation as the Order Flow Through measurement. The Percentage of Rejected Orders measurement, would determine the percentage of total orders received electronically that are rejected.

54. In addition to the above measurement, we seek comment on whether incumbent LECs should report on the average number of times an order must be resubmitted before it is finally accepted as a valid order. The Average Submissions per Order measurement would require incumbent LECs to measure the number of orders accepted for provisioning and the number of orders rejected during the reporting period in order to calculate the total number of order submissions in the reporting period. The total number of order submissions would then be divided by the total number of orders accepted for provisioning in the reporting period.

h. 911 Database update and accuracy.

55. One of the OSS databases used in ordering and provisioning services and facilities to competing carriers is the 911/E911 database. We seek comment on whether incumbent LECs should measure the provision of 911 and E911 emergency services to competing carriers. The accuracy of 911 and E911 database updates was identified as an important issue in the *Ameritech Michigan 271 Order*, 62 FR 44969, August 25, 1997. We seek comment on whether federal reporting requirements are necessary to monitor possible discrimination, or whether the states' existing oversight functions of 911 and E911 database services adequately monitor carrier-to-carrier discrimination.

56. We also seek comment on what particular measurements would be useful if we were to adopt reporting requirements in this area. In particular, we seek comment on the utility of measuring the percentage of accurate updates for incumbent LEC and competing carrier customers. Such a measurement might assist a competing carrier in determining whether there is discriminatory treatment in updating these databases.

57. We also seek comment on the utility of measuring the timeliness of updates to the 911 and E911 databases. We seek comment on whether incumbent LECs should measure the percentage of missed due dates by establishing due dates, or specific time frames, for updating databases. Alternatively, we seek comment on whether incumbent LECs should measure the mean time to update the 911 and E911 databases.

3. Repair and Maintenance Measurements

58. We tentatively conclude that incumbent LECs must provide the following repair and maintenance measurements: (1) Average Time to Restore; (2) Frequency of Repeat Troubles in Thirty Days; (3) Frequency of Troubles in a Thirty Day Period; and (4) Percentage of Customer Troubles Resolved within the Estimated Time. Incumbent LECs must calculate these measurements for themselves and for competing carriers. We seek comment on whether these four measurements are sufficient to assess whether incumbent LECs provide repair and maintenance in a nondiscriminatory manner, or whether this assessment could be done with fewer measurements. In addition, we seek comment on whether incumbent LECs should disaggregate the repair and maintenance measurements in the manner described with respect to the ordering and provisioning measurements.

59. The Average Time to Restore measurement allows a competing carrier to gauge whether its customers' services are repaired in the same time frame as that of the incumbent LEC's customers. The Average Time to Restore measures the time from when a service problem is reported to the incumbent LEC (*i.e.*, when a ''trouble ticket'' is logged) to the time when the incumbent LEC returns a trouble ticket resolution notification to the competing carrier.

60. The Frequency of Troubles in a Thirty Day Period measurement reports the percentage of access lines that receive trouble tickets in a thirty day period. This measurement permits a competing carrier to determine on an

ongoing basis whether its customers experience more frequent incidents of trouble than the incumbent LEC's end users. Disparity in this measurement may indicate differences in the underlying quality of the network components supplied by the incumbent LEC. We seek comment on whether thirty days is an appropriate time frame.

61. The Frequency of Repeat Troubles in a Thirty Day Period measurement calculates the percentage of trouble tickets that are repeat trouble tickets. Any differences in this measurement may indicate that the incumbent LEC provides inferior maintenance support in the initial resolution of troubles or, in the alternative, that the incumbent LEC supplies network components of an inferior quality. The Frequency of Repeat Troubles in a Thirty Day Period measurement is calculated by dividing the number of repeat troubles generated in a thirty day period by the total number of trouble tickets received in the same thirty day period. Again, we seek comment on whether thirty days is an appropriate time frame.

62. The Percentage of Customer Troubles Resolved Within the Estimated Time measures whether the estimated times for repairs the incumbent LEC reports to competing carriers are as reliable as the estimated times the incumbent LEC provides to its end user customers. Recognizing that troubles on interconnection trunks may not be customer specific, we seek comment on the utility of requiring incumbent LECs to report on the Percentage of Customer Troubles Resolved Within the Estimated Time with respect to interconnection trunks.

63. We note that LCUG has proposed measurement categories for the Average Time to Restore measurement based on the disposition and cause of the trouble. We seek comment on whether most carriers use the disposition and cause categories proposed by LCUG, and whether such a breakdown would be useful for the repair and maintenance measurements. We also seek comment on whether such a breakdown would place undue burdens on incumbent LECs.

64. We tentatively conclude that incumbent LECs should exclude the following types of trouble reports from the measurements described above: (1) trouble tickets that are cancelled by the competing carrier; (2) incumbent LEC trouble reports associated with the internal or administrative use of local service; and (3) instances where the customer requests a ticket be ''held open'' for monitoring. With respect to the Frequency of Repeat Troubles measurement, we tentatively conclude that incumbent LECs should exclude subsequent trouble reports on maintenance tickets that have not been reported as resolved or closed. We seek comment on whether these exclusions will assist in producing meaningful results and whether additional exclusions are needed.

4. Billing Measurements

65. As noted above, an incumbent LEC must provide nondiscriminatory access to billing, as one of the five OSS functions identified by the Commission in the *Local Competition First Report and Order.* A competing carrier is dependent on an incumbent LEC to obtain billing information, regardless of whether it uses unbundled network elements or resold services. Two types of billing information a competing carrier must obtain from an incumbent LEC are: (1) customer usage records (*i.e.,* those records detailing each end user's use of the incumbent's services); and (2) billing invoices, which establish the amount the competing carrier owes the incumbent LEC for use of its services or facilities.

66. We tentatively conclude that a competing carrier can determine whether it is obtaining nondiscriminatory access to these two sets of billing records by obtaining performance measurements on the Average Time to Provide Usage Records and the Average Time to Deliver Invoices. The first measurement (Average Time to Provide Usage Records) seeks to capture the average time it takes an incumbent LEC to provide customer usage records. We tentatively conclude that incumbent LECs should use the measurements for the Average Time to Provide Usage Records in calculating the intervals for competing carriers and for their own retail use. For competing carriers, an incumbent LEC must compare the date and time it records usage data with the date and time it transmits the records from its OSS gateway to the competing carrier. For its own retail use, we propose that an incumbent LEC measure the elapsed time between the date and time of recording the usage record to the date and time it reformats the record on an Electronic Message Record (EMR), or an equivalent, format. We seek comment on these measurements. Additionally, we understand that files and billing for local usage, exchange access usage, and alternately billed usage are separated in the actual billing process, and we seek comment on whether incumbent LECs should disaggregate the Average Time to Provide Usage Records into these three groups.

67. The second measurement (Average Time to Deliver Invoices) seeks to measure the average time it takes an incumbent LEC to transmit a billing invoice to a competing carrier for charges related to resale and/or network elements. We tentatively conclude that incumbent LECs should calculate the Average Time to Deliver Invoices. For competing carriers, an incumbent LEC must compare the date and time it transmits the invoices to the competing carrier to the date and time the billing cycle closes. For an incumbent LEC's own retail use, LCUG has proposed that an incumbent LEC compare the date and time the customer's bills are produced in electronic format (whether or not they are distributed) to the date and time the billing cycle closes. We seek comment on this proposal for retail use and on our tentative conclusion regarding the appropriate measurement for competing carriers. We also seek comment on whether incumbent LECs should report separately for wholesale bill invoices and unbundled element bill invoices for competing carriers. Finally, we seek comment on whether any other measurements for billing are appropriate.

5. General Measurements

a. Systems Availability. 68. We tentatively conclude that an incumbent LEC must measure the percentage of time its electronic interfaces for each OSS function are actually operational as compared to the scheduled availability. We propose that an incumbent LEC calculate this measurement by comparing the total time it provides access to a particular interface during the reporting period to the total time the interface was scheduled to be available during the reporting period. We also propose that an incumbent LEC compare the total time its own systems are available to its service representatives to the amount of time that those systems should have been available during the reporting period. We believe that this measurement will assist in determining whether the incumbent LEC provides nondiscriminatory access to its electronic interfaces. We believe that both prolonged outages and frequent unavailability of electronic access to an incumbent LEC's OSS interfaces may significantly and adversely affect a competing carrier's ability to provide service to end users. We tentatively conclude that this measurement must be disaggregated by interface type, such as EDI and GUI, as well as by each separate OSS function provided by the incumbent LEC to competing carriers (*e.g.,* pre-ordering, ordering,

provisioning, repair and maintenance, and billing). We seek comment on our tentative conclusions regarding systems availability measurements.

b. Center Responsiveness. 69. We tentatively conclude that an incumbent LEC must measure the average time to answer calls from competing carriers to an incumbent LEC's wholesale service center. We propose that an incumbent LEC calculate this measurement by tracking the time elapsed from when the service center's call management system is prompted by an incoming call from a competing carrier until the call is answered by an incumbent LEC's service representative. We seek comment on our tentative conclusion to require a measurement for center responsiveness.

c. Operator services and directory assistance. 70. We tentatively conclude that an incumbent LEC must measure the average time it takes its own end user customers and those of competing carriers to access the incumbent LEC's operator services and directory assistance databases or operators. We seek comment on this specific measurement.

71. Incumbent LECs appear to be able to provide separate measurement results for competing carriers that use dedicated trunks to access the incumbent LEC's OS/DA database or operators. Therefore, we tentatively conclude that incumbent LECs must provide separate measurement results in such instances. We seek comment, however, on whether, for purposes of disaggregation, an incumbent LEC is able to differentiate between OS/DA calls from its own end user customers and customers of competing carriers if all such calls are carried over the same OS/DA trunk groups.

6. Interconnection Measurements

72. As previously noted, section 251(c)(2) of the Act requires incumbent LECs to provide interconnection to competing carriers at the same level of quality as used in their own networks. We tentatively conclude that incumbent LECs must measure the quality of interconnection through three different means. As discussed above, we tentatively conclude that incumbent LECs must report separately for interconnection trunks when disaggregating the ordering and provisioning measurements, as well as the repair and maintenance measurements. We also tentatively conclude, as discussed below, that incumbent LECs must report on two sets of interconnection measurements, one for trunk blockage and one for collocation. These two sets of measurements are intended to reveal the quality of interconnection provided to competing carriers.

a. Trunk Blockage. 73. We tentatively conclude that incumbent LECs must measure trunk blockage, *i.e.*, blockage on final trunk groups within their networks. Blockage on these final trunk groups prevents end user calls from reaching their final destination. The inability of a competing carrier's end users to complete or receive calls has a direct impact on the customer's perception of the competing carrier's quality of service.

74. We believe that competing carriers' traffic can be blocked at two critical points: (1) interconnection trunk groups (*e.g.*, those trunk groups connecting the incumbent LEC's end offices, access tandems, or local tandems with a competing carrier's network); or (2) common trunk groups located within the incumbent LEC's network behind the point of interconnection (*e.g.*, trunks connecting the incumbent's tandem switch with other points in the incumbent LEC's network). We therefore tentatively conclude that an incumbent LEC measure on blockage on both sets of trunk groups. We seek comment on these tentative conclusions.

75. We seek comment on certain general issues associated with measuring trunk blockage. We recognize that inferior service is generally indicated by repeated blockage on the same final trunk groups. We therefore seek comment on whether incumbent LECs should measure whether there is repeated blockage over the same trunk groups for an ongoing period, such as three consecutive months. We also seek comment on whether incumbent LECs should report on blockage exceeding a certain blocking standard for both interconnection and common trunk group measurements. In the *Bell Atlantic/NYNEX Merger Order*, for example, the Commission required Bell Atlantic to report on blockage exceeding a blocking standard of B.01 for interconnection trunks and B.005 for common trunks. We seek comment on whether incumbent LECs should measure blockage exceeding these standards.

76. We also seek comment on methods by which parties may evaluate whether incumbent LECs are providing interconnection in compliance with their statutory obligations under section 251(c)(2). With respect to interconnection trunks, we seek comment on the utility of comparing blockage on interconnection trunks and blockage on the incumbent LEC's interoffice trunk groups carrying its retail customers' traffic. In the *Ameritech Michigan 271* proceeding, Ameritech provided data on trunk blockage rates for both groups. The Commission determined that a higher percentage of interconnection trunking groups experienced blockage than did Ameritech's interoffice trunking groups serving its retail customers, suggesting that Ameritech's interconnection facilities did not meet the same service standards as those used within its own network. We seek comment on the value of using a comparison similar to that used in the *Ameritech Michigan 271 Order* for gauging whether interconnection trunks are provided in a nondiscriminatory manner. We also seek comment on which set of interoffice trunk groups incumbent LECs should monitor.

77. A competing carrier's ability to provide service to its customers may also be affected by blockage on common trunks located within the incumbent LEC's network behind the point of interconnection. We tentatively conclude that it is necessary to measure common trunk blockage and seek comment on appropriate methods to make such measurements. Specifically, we seek comment on whether incumbent LECs should use the common trunk data report established in BellCore Special Report SR STS–000317, ''Common Trunk Transport Group Performance Data,'' Issue 2, September 1990. While we recognize that this report was intended to provide information about common trunk blockage to interexchange carriers (IXCs), we seek comment on whether this report can provide useful information for competing carriers as well. We also seek comment on whether incumbent LECs generally use this common trunk data report and whether all the measurements in the report are applicable to competing carriers. Additionally, we seek comment on the utility of requiring incumbent LECs to report on blockage on common trunks within their networks that connect to a point of interconnection, as well as on interoffice common trunks that are not connected to a point of interconnection. We seek comment on an incumbent LEC's ability to separately measure and report on blockage over these two types of common trunks (*i.e.*, those trunk groups that connect to a point of interconnection and those that do not) and whether information about these two types of trunk groups will assist a competing carrier in determining whether it is receiving nondiscriminatory interconnection.

78. Finally, we seek comment on whether an incumbent LEC must

measure call completion rates to demonstrate that it is satisfying the statutory requirements of section 251(c)(2). In measuring call completion rates, an incumbent LEC would compare the percentage of calls completed by incumbent LEC customers to competing carrier customers, relative to the percentage of calls completed by incumbent LEC customers to other incumbent LEC customers. In the *Ameritech Michigan 271 Order*, the Commission noted that data regarding the rate of call completion would be useful in assessing the quality of interconnection. We seek comment on the utility of using this measurement to gauge the quality of interconnection provided by an incumbent LEC and on the benefits of using the call completion measurement in addition to, or instead of, the trunk blockage measurement. We also seek comment on the additional costs or burdens that such a measurement would impose on incumbent LECs.

b. Collocation. 79. We tentatively conclude that incumbent LECs must measure certain aspects of providing collocation arrangements. Section 251(c)(6) and our rules require incumbent LECs to provide physical and virtual collocation as a means of interconnection or access to unbundled network elements. Consequently, we tentatively conclude that incumbent LECs must provide measurements concerning their provision of collocation facilities to competing carriers, including the response time for initial requests for collocation. We also tentatively conclude that this measurement must be disaggregated between virtual and physical collocation arrangements. The provision of collocation arrangements involves several steps: (1) the initial query by a competing carrier regarding space for collocation, and the incumbent LEC's response to that query; (2) the actual ordering of the collocation arrangement by the competing carrier; and (3) the completion of that arrangement by the incumbent LEC. We tentatively conclude that incumbent LECs must provide the following measurements: (1) Average Time to Respond to a Collocation Request; (2) Average Time to Provide a Collocation Arrangement; and (3) Percentage of Due Dates Missed with respect to the provision of collocation arrangements. We seek comment on the utility of these proposed measurements.

80. We tentatively conclude that the Average Time to Respond to a Collocation Request must be determined by computing the elapsed time from the incumbent LEC's receipt of a request for collocation by a competing carrier to the time the incumbent LEC responds to such a request. The Average Time to Provide a Collocation Arrangement must be calculated from the time that the competing carrier submits an order for a collocation arrangement to the time that the arrangement is made available to the competing carrier. Finally, an incumbent LEC must calculate the Percentage of Due Dates Missed by comparing the number of times it missed a committed date for providing collocation facilities to the total number of confirmed due dates for collocation arrangements during the reporting period. We also tentatively conclude that incumbent LECs must disaggregate these measurements by virtual and physical collocation arrangements. We seek comment on these tentative conclusions.

V. Reporting Procedures

81. We also propose model procedures to assist states considering how performance measurements should be reported. These model reporting procedures are intended to facilitate access by competing carriers and states to the measurements produced by the incumbent LECs so that carriers and states can determine whether incumbent LECs are satisfying their statutory obligations pursuant to section 251. This section discusses proposals regarding: (1) who should receive the reports; (2) the frequency of reports; and (3) auditing procedures.

A. Receipt of Reports

82. We seek comment on who should receive these reports from the incumbent LECs on a regular basis. We believe that the main purpose of these performance reports is to permit competing carriers to determine whether they are obtaining access consistent with the requirements of section 251. We tentatively conclude, therefore, that only those carriers that already obtain services or facilities from the incumbent LEC through an interconnection agreement, or under a statement of generally available terms, should have the opportunity to receive reports. Commenters that believe that other groups of carriers, such as those considering whether to enter the market, should also receive reports should explain why the benefits of their receiving reports outweigh the costs to incumbent LECs.

83. In order to minimize unnecessary costs or burdens for incumbent LECs, we further conclude that an incumbent LEC should provide reports to an individual competing carrier only after receiving a request from the competing carrier for such reports.

84. States may also have an interest in reviewing performance reports. With respect to whether state officials should receive a copy of the reports that we propose in this NPRM, we tentatively conclude that individual states can best assess whether they wish to receive the reports. While this Commission may not need to review reports on a regular basis, we note that the Commission could obtain the reports upon request.

85. Finally, we seek comment on whether reports should be filed with a central clearinghouse so that state commissions, other competing carriers, or the general public can review an incumbent LEC's performance in different states. We seek comment on the benefits and costs involved in developing such a clearinghouse. We also seek comment on what entity should act as a clearinghouse, e.g., a coalition of regulators (such as NARUC) or another organization.

86. We recognize that parties may be concerned about disclosing confidential measurement results if results particular to an incumbent LEC or to an individual competing carrier are reported broadly. We seek comment on the need to keep individual competing carrier information confidential and on whether only aggregate measurement results be made available to other competing carriers or to the general public.

87. With respect to incumbent LEC measurement results, we believe that individual competing carriers must have access to incumbent LEC results so that they can make a meaningful comparison with their own data. We seek comment, however, on whether incumbent LEC measurement results should be protected from disclosure to non-requesting competing carriers or to the general public. If regulatory agencies request incumbent LEC and competing carrier measurement results, we ask parties to comment on whether protective measures are necessary and to propose appropriate mechanisms to keep those results confidential. Similarly, we ask parties to comment on whether competing carriers that receive incumbent LEC measurement results should be required to limit their use and disclosure of those results and to propose appropriate mechanisms for guarding against improper use.

B. Frequency of Reports

88. We also seek comment on how frequently incumbent LECs should file performance reports with competing carriers once requested by those carriers. Specifically, we seek comment

on the costs and benefits of requiring monthly reporting, as opposed to reporting on a less frequent basis, such as quarterly. We also seek comment on how quickly an incumbent LEC should provide a performance report after it is requested.

C. Auditing Requirements

89. As part of a performance monitoring mechanism, several competing carriers proposed that competing carriers be given a reasonable opportunity to conduct audits of performance reports. These commenters have stated that periodic auditing of the performance reports is necessary to ensure that incumbent LECs are using appropriate methodologies and are accurately reporting the required measurements. We believe, however, that some audits may be unnecessary or unduly burdensome for the incumbent LEC. We therefore seek comment on the need to conduct such audits as part of a model performance monitoring scheme. We also seek comment on the types of audits that might impose undue burdens. Finally, we seek comment on mechanisms that will permit competing carriers to conduct audits, when necessary, while protecting incumbent LECs from unduly burdensome or unnecessary audits. In addressing this issue, we ask parties to comment on who should pay for the costs of the audit.

90. In addition to audits, LCUG also proposed that an incumbent LEC should make available, at a competing carrier's request, the raw data underlying a report at the same time it provides the performance report to that competing carrier.

The raw data is that data captured by the incumbent LEC, such as the individual stop and start times, that are used to produce the measurement results. The competing carrier could use this data to validate the incumbent LEC's performance measurements or to perform additional statistical tests to determine whether there is a statistically significant difference in the way in which an incumbent LEC provisions itself compared with the way in which it provisions competing carriers. We seek comment on whether model reporting procedures should include providing access to raw data at this initial stage, rather than in the context of an audit. We recognize that there may be additional burdens or costs to the incumbent LEC in providing the raw data to a competing carrier and that incumbent LECs may wish to keep data regarding services and facilities they provide to themselves confidential. We seek comment on the types and magnitudes of these burdens or costs. To the extent that commenters support regular provision of the raw data, they should explain why the advantages of obtaining such data outweigh these costs.

91. Finally, we seek comment on how long the incumbent LEC should retain the underlying data. One party proposed that an incumbent LEC retain the data for two years. We seek comment on whether this is an appropriate period for retention, or whether such a requirement is excessive if a competing carrier is also permitted to obtain the raw data on a regular basis along with the report.

VI. Evaluation of Performance Measurements

92. We believe that performance measurements and reporting requirements are necessary to ensure that incumbent LECs provide interconnection and access to OSS functions and OS/DA in compliance with the statutory requirements of section 251 of the Communications Act. As a practical matter, we expect that various parties will use the information contained in performance measurements as bases for determining whether an incumbent LEC is in compliance with the applicable statutory standards. For example, competing carriers may review the measurements to determine whether the incumbent LEC is providing access in a nondiscriminatory manner. In making this determination, parties will inevitably evaluate the results of these measurements using some preestablished set of criteria in order to determine whether the statutory requirements have been satisfied.

93. Although few parties raised the issue in the initial round of comments, several carriers have recently raised questions about how regulators and competing carriers can use the data generated by performance measurements to evaluate whether an incumbent LEC has adhered to its statutory obligations. We seek comment on whether we should recommend use of a uniform evaluation process that relies on objective criteria. We seek comment on whether such an approach will inject more consistency and predictability into determining whether an incumbent is meeting its statutory obligations. We believe that bringing more consistency and predictability to the evaluation process is supported by the pro-competitive goals of the 1996 Act and would benefit both incumbent LECs and competing carriers.

94. Incumbent LECs must comply with various statutory requirements in their provision of interconnection and access to OSS functions and operator services and directory assistance. We believe that a number of methods for evaluating performance measurements could be used to make an objective determination as to whether an incumbent LEC is meeting these statutory requirements. In particular, the few parties that have addressed this issue have proposed using statistical analysis or performance benchmarks as evaluation methodologies.

95. Statistical analysis can help reveal the likelihood that reported differences in a LEC's performance toward its retail customers and competitive carriers are due to underlying differences in behavior rather than random chance. We seek comment on whether specifying a preferred statistical methodology would assist in evaluating an incumbent LEC's performance, and on whether a uniform statistical methodology would assist in comparing the performance of incumbent LECs across regions. We seek comment on which statistical tests, if any, the Commission should recommend. We believe that simple statistical tests that are widely understood and generally accepted would most likely be perceived as fair and would lead to the least disagreement concerning the interpretation of the statistical results. We seek comment on the use of conventional statistical tests of the equality of means to determine whether observed differences in various performance measurements between an incumbent LEC's own retail customers and competing carriers are likely to reflect actual differences in performance. We also seek comment on whether tests of the equality of variances or of the equality of the proportions of each sample that exceed a given value would be useful. We seek comment on whether any assumptions associated with the statistical methods described above might not be met by the performance measurement data, and on what the appropriate statistical methodology would be in such instances. We request comment on the desirability of using other, more complex forms of statistical analysis, and on whether additional data collection would be necessary to allow use of these techniques.

96. In an *ex parte* submission AT&T proposed using three criteria to determine incumbent LEC compliance with nondiscrimination obligations, including the maximum number of comparisons failing the statistical test for nondiscrimination, the maximum number of repeating measurements failing the test, and that no extreme

differences occur between the results for the incumbent LEC and those for the competing carrier. BellSouth in another proceeding has argued that the appropriate standard is that monthly results for the competing carrier should lie within three standard deviations of the average of the incumbent LEC's monthly performance, and that the results for one of the entities should not be higher than those for the other for three consecutive months. We request comment on AT&T's and BellSouth's proposed approaches to the use of statistical tests in evaluating performance data. We note that, even if statistically significant differences appear between results for the incumbent LEC and the competing carrier, these differences may be too small to have any practical competitive consequence and may not justify a legal conclusion that the incumbent LEC has discriminated against the competing carrier. Consequently we seek comment on whether threshold values of the absolute difference, or the percentage difference, in averages of performance measures should be used in addition to measures of statistical significance. We request comment on whether the form in which an incumbent LEC makes the data available to other parties and to regulators, for instance whether the data should be continuous or in intervals, should be specified, and on whether the data should be provided in a computer file rather than on paper.

VII. Other Issues Raised by Petitioners

97. In developing model rules, we tentatively conclude that it is not appropriate at this time to undertake certain additional actions requested by petitioners. These additional actions include establishing performance standards, technical standards for OSS interfaces, and remedial measures for non-compliant incumbent LECs.

VIII. Small and Midsized LECS

98. We seek comment on whether the proposed model performance measurements and reporting requirements will impose particular costs or burdens on small, rural, or midsized incumbent LECs. We also seek comment on how the proposed model rules should be modified to take into account any particular concerns of these LECs. For example, certain incumbent LECs may believe that the proposed guidelines should be tailored to meet circumstances relating to the areas in which small, rural or midsized LECs are located.

IX. Procedural Matters

A. Ex Parte Presentations

99. This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* 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. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.

B. Initial Paperwork Reduction Act Analysis

100. This Notice contains either a proposed information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, 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 Notice; OMB comments are due 60 days from date of publication of this Notice in the **Federal Register**. 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 forms of information technology.

C. Initial Regulatory Flexibility Certification

101. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM) on Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided below in Part IX. D. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM on Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance and IRFA (or summaries thereof) will be provided in the **Federal Register**.

102. *Need for and Objectives of the Proposed Rule.* We are issuing the NPRM specifically seeking comment on and presenting tentative conclusions on proposed performance measurements and reporting requirements intended to measure whether an incumbent LEC is providing nondiscriminatory access to operations support services (OSS), interconnection, and operator services and directory assistance (OS/DA). We also seek comment on the use of performance standards and other methods to evaluate whether an incumbent LEC is complying with its statutory obligations under section 251. Finally, although we do not set forth proposals in this area, we seek comment on issues related to OSS interface standards and remedial provisions. Based on the comments received in the NPRM, we may issue new rules.

103. *Legal Basis.* The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 2, 4, 201, 202, 222, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 222, 251, and 303(r).

104. *Description and Estimates of the Number of Small Entities Affected by the Notice of Proposed Rulemaking.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by our rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' For the purposes of this order, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one 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 Small Business Administration (SBA). The SBA has defined a small business

for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be an entity that has no more than 1,500 employees.

105. Although affected incumbent local exchange carriers (ILECs) may have no more than 1,500 employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they either are dominant in their field of operations or are not independently owned and operated, and are therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by SBA as ''small business concerns.''

106. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (the Census Bureau) reports that at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are either small entities or small incumbent LECs that may be affected by this order.

107. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition of small providers of local exchange services. The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,371 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, or are dominant we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 small providers of local exchange service are small entities or small ILECs that may be affected by this order.

108. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* We are seeking comment on requiring all incumbent LECs to report on all the measurements. These proposed measurements seek to measure access provided by an incumbent LEC to all five OSS functions, as well as to interconnection and OS/DA. We also seek comment on how often incumbent LECs should provide these measurements, whether and for how long they should retain the measurement data, and whether the incumbent LEC should perform any statistical analysis of the measurement data. Finally we seek comment on reporting procedures, including: (1) whether an incumbent LEC must report separately on performance to itself, any local exchange affiliate, competing carriers in aggregate, and individual competing carriers; (2) whether an incumbent LEC should only provide performance monitoring reports to an individual competing carrier after receiving a request from the competing carrier for such reports on a regular basis; (3) how frequently an incumbent LEC should provide performance monitoring reports; (4) whether to accord confidential treatment to individual competing carrier information and incumbent LEC retail information; (5) whether an incumbent LEC should make available upon the request of a competing carrier or regulator raw data underlying a report; and (6) whether competing carriers should be entitled to ask for and obtain audits of the data underlying performance reports.

109. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* In Part VIII of the NPRM, we seek comment on the expenses involved with the proposed reporting requirements and the particular burdens they would impose on small, rural, or midsized LECs, if any. In Part VIII, we also seek comment on possible alternatives to these proposed measurements and reporting requirements. We note that certain incumbent LECs might propose ways in which the Commission should tailor its proposals to meet circumstances relating to the areas in which small, rural or midsized LECs are located.

110. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule.* None.

D. Comment Filing Procedures

111. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. Please note, however, that comments and reply comments may be filed electronically. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies.

112. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

113. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C., 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labeled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

114. You may also file informal comments or an exact copy of your formal comments electronically via the Internet. To file electronic comments in this proceeding, you may use the electronic filing interface available on the FCC's World Wide Web site at <http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.hts>.

Only one copy of electronically-filed comments must be submitted. Further information on the process of submitting comments electronically is available at that location and at <http://www.fcc.gov/e-file/>.

X. Ordering Clauses

115. Accordingly, *it is ordered* that, pursuant to sections 1, 2, 4, 201, 202, 222, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 201, 202, 222, 251, and 303(r), a *notice of proposed rulemaking is adopted*

116. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this *Notice of proposed rulemaking,* including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act, *see* 5 U.S.C. 605(b).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–12971 Filed 5–14–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 98050115–8115–01; I.D. 032498A]

RIN 0648–AK86

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Compensation for Collecting Resource Information

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

ACTION: Proposed emergency rule; request for comments.

SUMMARY: This action, authorized by the Magnuson-Stevens Act, proposes provisions by which a vessel owner or operator who has collected resource information according to a NMFS-approved protocol may be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions. This action is intended to improve the types and amounts of scientific information available for use in stock assessments and management of the Pacific coast groundfish fishery. It is necessary to implement this action under the Magnuson-Stevens Act emergency rulemaking authority so that NMFS may contract with commercial fishing vessels to conduct resource surveys during the summer of 1998. The Pacific Fishery Management Council (Council) is considering an amendment to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) that would continue this compensation initiative beyond 1998.

DATES: Comments will be considered if received on or before June 5, 1998.

ADDRESSES: Send comments to William Stelle, Jr., Administrator, Northwest Region, (Regional Administrator) NMFS, 7600 Sand Point Way NE., Seattle, WA 98115; or William T. Hogarth, Administrator, Southwest Region, (Regional Administrator) NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Other information relevant to this proposed emergency rule is available for public review during business hours at the Office of the Administrator, Northwest Region, NMFS. Copies of the environmental assessment/regulatory impact review are also available from that address. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirements in this proposed emergency rule, including suggestions for reducing the burden, to one of the NMFS addresses and to the Office on Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140.

SUPPLEMENTARY INFORMATION: NMFS is proposing an emergency rule and requesting comments on the proposal to allow owners or operators of vessels that collect resource information to be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions [hereinafter ''compensated with fish'']. The Council recommended at its November 1997 meeting in Portland, OR, that NMFS proceed with this proposal immediately so that NMFS may so contract with commercial fishing vessels to conduct resource surveys during the summer of 1998.

The fishing industry, environmental groups, and NMFS have actively explored various ways to expand and improve information used in management of the groundfish fishery and to involve the fishing industry in gathering that information. Part of this effort involves finding more creative means of compensating a fishing vessel's owner or operator with fish for participating in collecting resource information. On October 11, 1996, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) was amended to authorize the Secretary of Commerce (Secretary) to use the private sector to provide vessels, equipment, and services necessary to survey fishery resources and to pay for these surveys through the sale of fish taken during the survey or, if the quality or amount of fish is not adequate, on a subsequent, commercial fishing trip (sec. 402(e)). Section 303(b)(11) of the Magnuson-Stevens Act enables the Secretary to ''reserve a portion of the allowable biological catch of the fishery for use in scientific research.'' A vessel that is chartered by NMFS to conduct resource surveys becomes a ''scientific research vessel'' as defined at 50 CFR 600.10, and it may not conduct commercial fishing on the same trip during which a resource survey is conducted.

Background

These provisions must be implemented as quickly as possible in order to include compensation with fish as a component of contracts NMFS will award to commercial fishing vessels to conduct resource surveys during the summer of 1998. Stock assessments for the Dover sole/thornyhead/trawl-caught sablefish (DTS) complex are controversial and have resulted in serious concern over the amount and accuracy of survey data. NMFS is committed to addressing these concerns. However, Federal fiscal constraints have precluded gathering the information needed. This is further compounded by the unavailability of the NOAA ship *Miller Freeman*, the principle vessel used for conducting resource surveys in this fishery, during much of 1998. Implementation of these provisions would enable NMFS to expand sampling in the annual slope survey which provides data for the stock assessments for these and other groundfish species. There is inadequate time to amend the PCGFMP to provide for using fish as compensation (and subtracting the compensation fish from acceptable biological catch (ABC)) before the slope survey is scheduled to begin on August 1, 1998. Therefore, NMFS is proposing this rule under the Secretary's emergency rulemaking authority of the Magnuson-Stevens Act so that these provisions may be implemented in time to support the 1998 slope survey. Concurrently, the Council is preparing an amendment to the PCGFMP for later implementation.