FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 26–133, 13–184, 21–93, 21–455; FCC No. 26–41; FR ID 356047]

FCC To Review E-Rate Program To Ensure Congress's Vision

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on measures the Commission can take to better protect children when using E-Rate-funded networks, the Commission's progress in ensuring affordable access to high-speed broadband to and within schools and libraries, and whether the Commission's current interpretation of the Children's Internet Protection Act (CIPA) is the best reading of the statute. The Commission also proposes actions to strengthen E-Rate program integrity and streamline program administration.

DATES: Comments are due on or before October 13, 2026 and reply comments are due on or before November 12, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed in the following as soon as possible.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. You may submit comments identified by WC Docket Nos. 26–133, 13–184, 21–93, and 21–455, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent, by commercial courier, or by first class or overnight U.S. Postal Servicemail. All filings must be addressed to the Commission's Secretary, Federal Communication Commission.
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice).

FOR FURTHER INFORMATION CONTACT: Contact Kristin Berkland, *Kristin.Berkland@fcc.gov.* Wireline Competition Bureau (WCB), 202–418–7400 or TTY: 202–418–0484. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (*NPRM*) and Further Notice of Proposed Rulemaking (*FNPRM*) in WC Docket Nos. 26–133, 13–184, 21–93, and 21–455; FCC No. 26–41; adopted June 25, 2026 and released June 26, 2026. The full text of this document is available for public inspection during regular business hours at Commission's headquarters 45 L Street NE, Washington, DC 20554 or at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-26-41A1.pdf.*

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document will be available on *https://www.fcc.gov/proposed-rulemakings.*

Synopsis

Recognizing the increased use of the internet and connected devices by children, including in educational settings, and rising concerns about the impact of screen time for children, the Federal Communications Commission (FCC or Commission) remains committed to ensuring E-Rate-funded networks and services are being used responsibly and for an educational purpose, as statutorily required. Nearly three decades after Congress established the E-Rate program to expand access to advanced telecommunications and information services for schools and libraries, broadband connectivity rates have expanded in these institutions. Accordingly, in this Notice of Proposed Rulemaking (*NPRM*), we seek comment not only on how to ensure E-Rate-funded services are advancing educational outcomes and protecting children online, but also on whether the program should be narrowed or otherwise reoriented to reflect the extent to which its connectivity objectives have been achieved. We consider and seek comment on measures the Commission can take to empower parents, guardians, and teachers to ensure the E-Rate program advances student learning outcomes and remains consistent with the universal service principles established by Congress, and to better protect children when using E-Rate-funded networks, including to limit screen time. We further seek comment on whether our current interpretation of certain key language in the Children's Internet Protection Act (CIPA) is the best reading of that statutory language. In addition, the Further Notice of Proposed Rulemaking (*FNPRM*) proposes actions to further strengthen E-Rate program integrity, including increasing oversight over consultants, streamlining program administration, and sunsetting rules for the Emergency Connectivity Fund (ECF) program.

Discussion

Mindful of the increased use of the internet and connected devices by children in educational settings, and the concerns about the impact of screen time on children, the Commission seeks comment on ways it can affirm its commitment to ensuring E-Rate-funded networks are being used responsibly and consistently with the universal service principles set forth by Congress in section 254 of the Communications Act. Towards that end, and as discussed further in the following, we first seek comment on the Commission's progress in ensuring affordable access to high-speed broadband to and within schools and libraries.

Recognizing the concerns of parents and guardians who have limited insight into their children's screen time during school hours and teachers who may be concerned about the use of screens during school hours, we initiate this rulemaking to consider how we can empower parents, guardians, and teachers, and better protect children when using E-Rate-funded networks at a school or library. Specifically, we seek comment on whether the Commission's current interpretation of certain key provisions of CIPA is the best reading of the statutory language and whether the existing implementation of CIPA requirements sufficiently protects children from inappropriate and harmful content when using school and library computers to access E-Rate-funded networks. We also seek comment on potential legal and policy considerations for assessing children's screen time and protecting children and empowering parents, guardians, and teachers in decision-making involving children's access to E-Rate-funded networks. Finally, we seek comment on additional actions we can take to further strengthen E-Rate program integrity, including increasing oversight over consultants, streamlining program administration, and sunsetting certain rules from the ECF program.

Evaluating the Commission's Progress in Ensuring Affordable Access to High Speed Broadband to and Within Schools and Libraries

As a threshold matter, section 254(h) of the Communications Act requires that ''telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3) of the Communications Act, provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties'' and separately directs the Commission to ''establish competitively neutral rules to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for . . . school classrooms . . . and libraries.'' We are interested in understanding the E-Rate program's progress in achieving this purpose and to what extent the E-Rate program should be reexamined in light of the current state of school and library connectivity and current demand for program funds. When the E-Rate program was established pursuant to section 254(h) of the Communications Act, many schools and libraries lacked basic access to the internet; today, however, some data sources state that virtually all schools report having broadband connectivity and Wi-Fi. In establishing the program in 1996, Congress was addressing a specific problem: limited access to advanced telecommunications and internet services in schools and libraries. Given the substantial expansion of broadband access in schools and libraries over the last three decades, we seek comment on whether and to what extent the E-Rate program has fulfilled that mission and whether continued funding is consistent with Congress's original objective. Has Congress's directive in section 254(h) of the Communications Act been satisfied? Should the E-Rate program be limited or sunset to reflect today's extensive connectivity rates? Does the Commission have the authority to limit or sunset the E-Rate program? At what point should policymakers conclude that the program's core objective has been achieved? We seek comment on whether Congress intended E-Rate to operate indefinitely, regardless of the extent to which schools and libraries have achieved universal connectivity.

The E-Rate Advocates argue in an *ex parte* filing that, because section 254 of the Communications Act is a Congressional mandate, nothing in the statute empowers the Commission to terminate the E-Rate program—including after a certain period of time or upon certain benchmarks being met—and that the Commission should accordingly decline to seek comment on this question. We seek comment on this premise rather than assume it. Moreover, even assuming *arguendo* that the Commission lacks the authority to terminate the E-Rate program entirely, that does not by itself resolve whether the Commission's current implementation of section 254(h) of the Communications Act goes beyond the discount mechanism Congress described. We seek comment on whether an agency's authority to reconsider and revise its own prior statutory interpretations—particularly interpretations that may not reflect the best reading of an ambiguous provision—extends to narrowing the scope of support previously extended under section 254(h) of the Communications Act, independent of whether the statute authorizes outright termination of the E-Rate program.

An *ex parte* filing by former FCC Commissioner Harold Furchtgott-Roth argues that the E-Rate program, as currently administered, departs from what section 254(h)(1)(B) of the Communications Act authorizes. Specifically, the filing notes that universal service support is limited to entities designated as ''eligible telecommunications carriers'' under section 214(e) of the Communications Act, and argues that nothing in section 254(h) of the Communications Act exempts support for schools and libraries from that limitation. Consistent with that limitation, Furchtgott-Roth reads subsection (h)(1)(B) of the Communications Act to contemplate that a telecommunications carrier extend a discount to an eligible school or library and then recoup it as an offset to its universal service contribution or as reimbursement from the support mechanism—not that the fund make payments directly to schools, libraries, and consortia, which is one of two invoicing methods currently allowed under program rules. In addition, Furchtgott-Roth questions whether the statute supplies a basis for the Commission's practice of varying discount levels according to criteria—such as National School Lunch Program eligibility and urban/rural status—that are not expressly identified in section 254 of the Communications Act. We seek comment on each of these points, and on the extent to which the expansion of eligible services and equipment over time to include items beyond discounted telecommunications services is supported by the text, structure, and history of section 254 of the Communications Act. We also seek comment on whether the Commission's prior interpretations of section 254(h) of the Communications Act warrant reconsideration in light of the statute's specific limitations on who may receive support, in what form, and for what services.

The Furchtgott-Roth *ex parte* filing raises related questions about section 254(h)(2)(A) of the Communications Act, arguing first that nothing in section 254(h)(2)(A) of the Communications Act displaces the limitation in section 254(e) of the Communications Act restricting universal service support to entities designated as eligible telecommunications carriers under section 214(e) of the Communications Act, and that this limitation accordingly applies to support extended under section 254(h)(2)(A) of the Communications Act just as it does elsewhere in the universal service framework. Second, the filing argues that a directive to establish ''competitively neutral rules to enhance'' access is not itself authorization to create a separate funding mechanism for schools and libraries. Third, the filing argues that section 254(h)(2)(A) of the Communications Act does not authorize direct support payments to schools, libraries, or other entities that are not eligible telecommunications carriers. We seek comment on each of these points. To the extent the existing program may already exceed the narrower grant of authority in section 254(h)(2)(A) of the Communications Act, the Commission cannot resolve whether Congress has mandated the program's preservation in its current form without first developing a record on that question. We therefore decline to remove this inquiry from the *NPRM.*

We note that even the Commission's foundational expansion of E-Rate eligible services beyond discounted telecommunications services—to include internet access and the installation and maintenance of internal connections—was sustained on judicial review under the deference framework set out in *Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council, Inc. (603 U.S. 369 (2024))* In *Texas Office of Public Utility Counsel* v. *FCC (530 U.S. 1220 (2000)),* the Fifth Circuit stated that the ''best reading'' of section 254 of the Communications Act did not support the Commission's interpretation, but deferred to the Commission's interpretation after finding the statutory language ambiguous enough to satisfy *Chevron* step two. Given that *Loper Bright Enterprises* v. *Raimondo* has since eliminated the *Chevron* framework in favor of requiring courts to identify the single best reading of a statute, we seek comment on whether interpretations of section 254(h) of the Communications Act that were sustained under *Chevron* deference are nevertheless consistent with the statute's text and structure, and whether the Commission should revisit them.

In addition, we seek comment on whether section 254(c)(1) of the Communications Act's direction to the Commission to define universal service ''periodically'' as ''an evolving level of telecommunications services . . . taking into account advances in telecommunications and information technologies and services'' is properly read to operate in only one direction. It is not obvious that a definition the Commission must update as technology advances must only mean an expansion of eligible services and may not also include a narrowing of services eligible for support as connectivity increases and educational needs change. We seek comment on whether the substantial increase in school and library broadband connectivity discussed in the proceeding bears on how the ''evolving level'' standard should be interpreted and applied.

We next seek comment on the extent to which schools and libraries use E-Rate funds on a recurring basis to support broadband connectivity and Wi-Fi. What services are supported by E-Rate funding, and would there be an impact on schools' and libraries' ability to afford these services if the E-Rate program was terminated or limited? Would terminating or limiting the E-Rate program impact schools and libraries that currently receive support in other ways? For example, would it impact the Commission's ability to ensure children's online safety? How might the connectivity needs of schools and libraries change over the next five to ten years and should that be a factor for the Commission's consideration here? We seek comment on whether the E-Rate program should be updated to address these needs and, if so, how.

We also seek comment on how past E-Rate support or other broadband deployment funding could inform the future of E-Rate. As the E-Rate program has worked to expand connectivity rates across schools and libraries, we note that demand for program funds has consistently fallen under the cap in recent years, while the program's annual funding cap has steadily increased to account for inflation each year consistent with the Commission's rules. We seek comment on the reason for program demand consistently falling below the program cap. Do schools and libraries have other connectivity needs outside of the current scope of the program? The E-Rate program supports both internet connectivity *to* and *within* schools and libraries, with applicants requesting $1.806 billion in funding year 2025 for category one services (*i.e.,* connections to schools) and $1.418 billion in funding year 2025 for category two services (*e.g.,* internal connections, Wi-Fi, basic maintenance, managed internal broadband services). Since funding year 2016, special construction has been eligible for E-Rate funding in limited circumstances—namely, when it is the most cost-effective solution for providing the requested broadband services. The E-Rate program has disbursed approximately $136.6 million to support self-provisioned network construction since the Commission added it as an eligible service to the E-Rate program in funding year 2016.

In recent years, the federal government has provided billions of dollars of investment in other programs for expanding broadband access, including for schools and libraries. Against this backdrop, we seek comment on whether the E-Rate program's current structure is consistent with section 254 of the Communications Act or, as discussed in the following, whether the program should be limited or otherwise restructured to reflect today's connectivity rates, reduce federal spending, and ensure that E-Rate funds are not used to subsidize potentially duplicative services or services beyond those authorized or envisioned by Congress in the 1996 Telecommunications Act. To the extent commenters believe the program should be updated in ways different than those specifically identified for comment in the following, they should explain in detail the practical effects of their recommendations, the specific rule changes needed to implement their proposals, and the Commission's legal authority under section 254 of the Communications Act to modify the program in the manner they contemplate consistent with and mindful of the principles of fiscal responsibility and statutory limitations.

We note that the scope of the services and equipment eligible for support within the E-Rate program has expanded significantly since its inception and evolved over time, and the program has been subject to recent criticism for such expansion. For example, in 2023 and 2024, respectively, the Commission expanded E-Rate support to include Wi-Fi on school buses and hotspots for schoolchildren—uses that are inconsistent with the statute and were reversed in 2025. We seek comment on whether similar expansions within the E-Rate program warrant reconsideration. Are there services that are currently eligible for support that are no longer necessary or are inconsistent with the statute? Specifically, are there any services or equipment that the program currently funds that do not ultimately transport information to school classrooms or libraries and, therefore, should be ineligible for E-Rate funding?

In addition, we seek comment on whether the expansion of E-Rate support adopted in the *2014 Second E-Rate Order,* 80 FR 167, January 5, 2015, remains justified in light of today's school connectivity rates and the availability of other federal funding sources. We note those changes, which included cost-effectiveness requirements for special construction, were subject to significant legal and policy criticism at the time and have raised ongoing concerns about facilitating subsidized overbuilding and distorting competitive markets. Does continued support for self-provisioned network construction and dark fiber risk displacing private investment or wasting federal resources on duplicative infrastructure, particularly as programs such as the Broadband Equity, Access, and Deployment (BEAD) program administered by the National Telecommunications and Information Administration (NTIA) and established in 2021 are aimed at ensuring high-speed broadband availability in any remaining unserved and underserved areas, including for community anchor institutions? Should we require applicants and service providers to specifically disclose other funding sources to avoid duplication? Should funding for special construction be limited to those areas that are served by only one service provider? Should funding for special construction be eliminated entirely? Are there situations where special construction is necessary to ensure affordable school or library access to supported services with the necessary performance characteristics? Would any increase in E-Rate disbursements from funding services when special construction would be more cost-effective be outweighed by policy or legal benefits sufficient to justify the change? If we were to limit or eliminate funding for special construction, would additional Commission guidance or obligations related to the lowest corresponding price requirement be warranted, particularly in any situations where only a single provider could provide the relevant service to a school or library receiving E-Rate support? We seek comment on these questions and whether BEAD and other similar sources of funding make it no longer necessary for the E-Rate program to continue to provide support for self-provisioned network construction, even in limited circumstances.

The Commission also previously established a legal presumption that activities that occur on library or school property serve an educational purpose and, therefore, are eligible for E-Rate funding. We seek comment on whether this presumption should be reversed or otherwise altered and if so, why.

We also seek comment on the role and incentives of communications and educational technology vendors in the evolution and operation of the E-Rate program. We recognize that E-Rate-funded services are used within broader school and library technology ecosystems that may include non-E-Rate-funded equipment, devices, and services, including end-user devices, educational applications, and content that are offered by educational technology vendors, not typically provided by E-Rate service providers. We seek comment on whether, and to what extent, the expansions and changes in the scope of the eligible services funded by the program and discussed in the proceeding have been driven or influenced by vendor interests rather than the educational purpose requirement of the Communications Act. We also seek comment on the role of E-Rate funding within these technology ecosystems, and the degree of influence consultants and vendors may have on the services and equipment (both E-Rate eligible and non-E-Rate eligible) selected by schools and libraries. Specifically, do current program rules create incentives for vendors to promote particular technologies or deployment models that may increase reliance on subsidized services without corresponding improvements in educational outcomes? As discussed in the following, we propose specific actions to strengthen oversight over consultants. Are there additional safeguards we should consider to limit undue vendor influence in procurement, and to better align the program with the interests of students and library patrons, rather than the commercial incentives of vendors and/or consultants? Does the E-Rate program advance any other objectives not otherwise discussed herein? For example, an executive order addressing Artificial Intelligence (AI) identifies as a goal to ''invest in our educators and equip them with the tools and knowledge to not only train students about AI, but also to utilize AI in their classrooms to improve educational outcomes.'' Does the E-Rate program advance or otherwise impact that policy goal, and are there changes to the program that could make it more effective in that regard? What level of connectivity do schools and libraries need to utilize AI-enabled educational tools or other emerging technologies effectively? Do AI-enabled tools and services offer additional benefits beyond instructional applications to E-Rate-funded networks?

Since its inception, the E-Rate program has provided eligible schools and libraries discounts on the cost of eligible services ranging from 20% to 90%, with higher discounts provided to the most disadvantaged schools and libraries. We seek comment on whether the use of the National School Lunch Program (NSLP) eligibility and urban/rural status in determining an applicant's discount rate remains an effective method for calculating support and ensuring that we are satisfying the universal service principles established by Congress in section 254 of the Communications Act. Does this general approach allocate funds fairly, efficiently, and achieve the objective of helping low-income and rural schools, or does a disproportionate share of funding flow to large, well-resourced school districts with substantial local tax bases? Additionally, we seek comment on whether adjustments to the current discount rate system could better allocate the limited E-Rate funding. If so, what adjustments would be appropriate? Should the discount rate for rural schools and libraries be higher than the discount rate for urban schools and libraries? When the Commission created the E-Rate program, it recognized that schools and libraries in rural areas would likely face higher costs for E-Rate supported services. The Commission has accounted for these additional costs by providing rural schools and libraries with higher discounts than their urban counterparts in the same discount tier. However, we now seek comment on whether to modify the discount rates in order to ensure applicants are incentivized to select the most cost-effective offerings to meet their needs. In making any such changes, we seek to ensure fiscal responsibility and maximize the efficiency of the program. We further seek comment on whether to phase out E-Rate funding for schools and libraries in areas with the lowest NSLP participation rates, given the likelihood of greater resources and tax bases. We seek comment on the Commission's authority to make such changes.

Relatedly, we note that although broadband prices have generally been decreasing, they are demonstrably higher in less competitive areas and those that lack competition entirely. Given increases in competition that may result from increased deployment by providers and federal funding programs, to what extent is private deployment increasing the potential for competitive rates for schools and libraries? Have areas with increased competition due to increased deployment benefitted from lower costs? Are these costs low enough that E-Rate recipients no longer need support from the program? Because affordable access to, and use of, E-Rate supported services is a function of both service cost and ability to pay, are there ways to account for competitively-priced services under the E-Rate program? For example, could the Commission alter the discount levels within the existing discount matrix where rates are competitively priced, or would the matrix need to be modified in other ways, as well? How could the Commission identify when there is competition for the supported services to schools or libraries? We seek comment on whether E-Rate support should be limited to areas where applicants face the highest costs for E-Rate supported services. For example, should E-Rate support be limited to rural areas or to areas served by a single provider? E-Rate program rules currently increase the discount rate of rural applicants with discount rates below 80% by five to ten percentage points. For example, a rural applicant with 45% of students eligible for NSLP would receive a discount rate of 70%, whereas an urban applicant with the same percentage of students eligible for NSLP would receive a discount rate of 60%. What would be the benefits and costs of such an approach? We seek comment on the Commission's authority to limit the program to rural areas or areas served by a single provider.

We further seek comment on whether section 254(b)(3) of the Communications Act comparability principle—that consumers in all regions of the Nation should have access to services reasonably comparable to those available in urban areas—requires that the E-Rate discount mechanism operate identically in areas with robust broadband competition as in areas with little or none, or whether a more targeted approach would better serve the statute's stated purpose. We are mindful that these are precisely the kind of statutory questions an *NPRM* record should be built to address, rather than questions resolved by assumption before comments are filed, and we accordingly decline to remove this inquiry as well.

In addition, we seek comment on the extent to which the E-Rate program has influenced educational practices and outcomes. Although neither Congress nor the Commission have established principles or specific goals for educational outcomes, we are interested in information regarding the impact of the E-Rate program on school technology choices. In particular, is there evidence that schools or districts receiving higher levels of E-Rate funding—especially those qualifying for the highest discount rates—have greater reliance on 1:1 device initiatives, digital curricula, or other forms of screen-based instruction? Are higher levels of E-Rate support associated with improved educational outcomes, no measurable effect, or, conversely, poorer impacts on student achievement, literacy, and numeracy? We seek comment on whether Congress intended for the Commission's decisions about the E-Rate program to be based, in whole or in part, on educational outcomes. If so, how should the Commission measure educational outcomes? Commenters are encouraged to provide empirical data, studies, or other evidence analyzing correlations or causation between E-Rate funding levels, instructional practices, and student outcomes, and to address how any such findings should inform the Commission's evaluation of the program's effectiveness and alignment with its statutory objectives.

Ensuring Children's Safe Use of E-Rate-Funded Services

E-Rate applicants are required to certify that the services requested through the E-Rate program will be used primarily for educational purposes. Like all of the applicants' other certification requirements, this certification is intended to encourage accountability on the part of schools and libraries. As schools and libraries integrate digital media into their curricula and catalogs, we seek comment on how to ensure that E-Rate-funded networks and services are being used for ''educational purposes.'' As noted herein, children's screen time often exceeds the recommendations of experts and can include access to content that is not ''integral, immediate, and proximate'' to the education of students or the provision of library services. For example, some suggest that screen time may be used in the classroom to calm or reward students. Should these uses be considered ''educational purposes'' as contemplated by the Communications Act? If not, are E-Rate funded services still being used ''*primarily* for educational purposes'' and does that matter? How can E-Rate applicants ensure that use of E-Rate-funded networks is for an ''educational purpose,'' as contemplated by the statute? We also seek input about the measures schools and libraries are taking to limit screen time. What have been the costs of implementing existing measures to limit screen time and how are these costs likely to change with wider implementation? How should the Commission quantify the benefits of limiting screen time for children? In addition, we seek comment on whether there are differences between what qualifies as an educational purpose for a school versus a library.

As previously discussed, the E-Rate program provides funding for eligible equipment and services that support internet connectivity both *to* and *within* schools and libraries. We seek comment on whether E-Rate funding should be conditioned on the imposition of screen time limits in schools and libraries and how such conditions would impact the underlying purpose of the E-Rate program. If E-Rate funding is conditioned on screen time limits, who is best situated to determine those conditions? Would it be the Commission or the school board, local educational agency, library, or other applicable authority, similar to the locality-based decisions made pursuant to CIPA? If it is not best situated to determine screen time limits, what would be the role of the Commission and what authority does it have to impose conditions around screen time?

In recent years, a growing number of parents across diverse school districts have sought the ability to opt their children out of routine or sustained screen-based instruction, reflecting concerns about excessive screen use, impacts on learning outcomes, and student well-being. In light of these developments, we seek comment on whether, and to what extent, we should require, as a condition of receiving E-Rate support, that participating schools provide parents with a meaningful opportunity to opt their children out of screen-based instruction or screen use during the school day. Would there be an impact on educational outcomes if schools allowed students and their parents or guardians to opt-out of screen-based learning in the classroom? What impact, if any, would an opt-out requirement have on classroom instruction? Would an opt-out requirement result in any additional administrative requirements or costs for schools and what would those costs be? The Commission also seeks comment on whether it has the legal authority under section 254 of the Communications Act or any other provision of law to adopt such a requirement, including any relevant limitations on conditioning E-Rate funding, and how such a requirement could be structured.

Recent guidance suggests that limiting screen time alone may be insufficient to prevent potential harm to children online. Are there other actions the Commission can take instead of, or in addition to, limiting screen time to better protect the online safety of children when using E-Rate-funded networks and services to ensure they are being used for an educational purpose? For example, should adult supervision be required, and how would schools implement such a policy given the ''always on'' nature of modern Wi-Fi networks? Should schools and libraries be required to implement methods for school- or library-staff, parents, guardians, and children to report inappropriate content to the school or library when using E-Rate-funded networks and services? Should these supervision and reporting requirements differ for schools versus libraries; if so, what is the Commission's authority to implement and enforce separate requirements for schools and libraries? Should these supervision and reporting requirements apply whenever E-Rate-funded networks and services are being used, and apply as a condition of schools and libraries receiving E-Rate funding for which they must submit certifications? What is the Commission's authority to implement and enforce these types of supervision and reporting requirements?

We seek comment on whether Head Start and pre-kindergarten students should continue to receive E-Rate program support and whether schools should be required to cost-allocate and remove Head Start and pre-kindergarten students from their funding requests. At present, eligibility of Head Start and pre-kindergarten facilities and students varies based on state law. Currently, 29 states and territories include Head Start facilities and students and 34 states and territories include pre-kindergarten facilities and students in their definition of elementary education and elementary schools. In E-Rate funding year (FY) 2025, approximately $15.5 million was committed to Head Start facilities and students, $7.4 million of which has been disbursed to date. Also in FY 2025, $43.9 million was committed to pre-kindergarten facilities and students, $21.6 million of which has been disbursed to date. We seek comment on whether reducing support would be reasonable if the benefits to such students of limited access are low and the possibilities of harm are high. Since experts recommend that children under the age of five should limit internet access to one hour per day or less, and are harmed if exposed to longer periods of use, should schools that include Head Start and pre-kindergarten students and classrooms be required to cost-allocate and remove these students and classrooms from their E-Rate funding requests? Would limiting the eligibility of Head Start and pre-kindergarten facilities and students within the E-Rate program further protect young children? Should the cost-allocation for Head Start and pre-kindergarten facilities and students be limited to internet access services or include all E-Rate eligible services? Alternatively, we seek comment on limiting the eligibility of Head Start and pre-kindergarten facilities and students to those that are part of a public school or public school district. First, we understand that many non-public entities that serve Head Start and pre-kindergarten students are not subject to state or local procurement requirements, which are required for public schools that serve these students. Second, we also believe that, based on past experience, such a limitation would help prevent waste, fraud, and abuse in the program. For example, one daycare center in New York serving children ages two to four years old received $500,000 between FY 2009 and FY 2015 for services, including video conferencing and distance learning, that may not have served an educational purpose consistent with the Communications Act given the age of the children. If eligibility were limited to public school district entities, the New York daycare center would have been ineligible to receive E-Rate program funding. We note that several states and territories, including American Samoa, Illinois, Kansas, Louisiana, Missouri, Montana, Pennsylvania, South Dakota, Texas, and the U.S. Virgin Islands, already limit the eligibility of pre-kindergarten and Head Start students and facilities to those that are part of a public school or public school district. Would limiting the eligibility of pre-kindergarten and Head Start students to those that are part of a public school or public school district help address waste, fraud, and abuse in the program? Are there other ways to ensure E-Rate-funded networks and services accessed by pre-kindergarten and Head Start students are being appropriately used for educational purposes?

Re-Examining the Children's Internet Protection Act

Congress enacted CIPA to protect children from exposure to harmful material while they are at a school or library and accessing E-Rate-funded internet. CIPA requires schools and libraries ''having computers with internet access'' to certify that they are enforcing an internet safety policy that includes the operation of a ''technology protection measure'' (*e.g.,* a filter) with respect to any of ''its computers'' with internet access and addresses certain internet safety and education requirements for minors. To ensure there is input from the local communities, including interested parents, guardians, and teachers, schools and libraries are also required to provide reasonable public notice and hold a public hearing or meeting to address the proposed internet safety policy. In view of the wider range of internet-enabled devices made available to children today and the importance of ensuring that E-Rate-funded networks and services remain safe for use by children, we seek comment on whether our current interpretation of CIPA is the best reading of the statute. We also seek comment on what other steps the Commission can take in these device-accessible environments to help prevent exposure to obscene material, child pornography, or other material deemed inappropriate or harmful for minors while accessing E-Rate-funded networks and services from a school or library receiving support for internet access, internet service, or internal connections, consistent with the language and purpose of CIPA.

The Commission currently interprets CIPA restrictions to apply only to the use of devices that are owned by schools or libraries (*i.e.,* ''its computers'') receiving E-Rate support for internet access, internet service, or internal connections. The Commission has previously sought comment on applying CIPA requirements at the network-level and/or to third-party-owned devices that connect to E-Rate supported service in certain contexts. We seek comment on whether the phrases ''having computers with internet access'' and ''with respect to any of its computers with internet access'' and other similar language in the statute means that schools and libraries are required to comply with CIPA only with regard to those computers that they own or control. Does this interpretation fulfill the intended purpose of CIPA and is it consistent with the plain meaning of the statute? When CIPA was enacted in 2000, it was not common for third-party, internet-capable devices to be brought into schools or libraries, and school- and library-owned devices were the default. Today, while many schools employ a 1:1 program to provide a device to each student, some schools permit third-party owned devices to connect to their networks and internet. We seek comment on whether the text of the statute should be interpreted to mean that the level of protection provided to minors pursuant to CIPA differs depending on who owns the connecting device. Did Congress intend an arrangement under which a school- or library-provided device must protect minors but a third-party device connected to the same E-Rate supported network need not protect minors? Are the parents or guardians of children responsible for ensuring their third-party owned devices are protected when accessing the school's or library's network and services? Should schools or libraries prevent third-party owned devices from connecting to E-Rate-funded networks and services altogether? Should schools and libraries be evaluated differently on these questions based on the different populations they serve, or based on other criteria? Do schools and libraries have the technical capability to distinguish whether it is a school- or library-owned computer or a third-party owned device that is trying to connect to their networks? Do they have the technical capability to distinguish whether the user of a third-party device is an adult or a minor? What are those technical capabilities and how costly are they? Are those technical capabilities already eligible for funding through the E-Rate program or would they impose an additional cost on schools and libraries? What share of schools and libraries already impose restrictions on third-party devices? We seek to understand how schools and libraries would identify and prevent third-party owned devices from connecting to their networks and internet access services and what the associated costs would be.

In the alternative, we seek comment on whether CIPA's references to schools and libraries ''with computers having internet access'' or ''any of its computers with internet access'' should be interpreted more broadly to be focused on protecting children from harmful online content on any computer accessing the internet through a school or library if the school or library receives E-Rate support for internet access, internet services, or internal connections. If interpreted more broadly, should the Commission require compliance with respect to any device that is accessing the internet through the school or library if the school or library receives E-Rate support for internet access, internet services, or internal connections, regardless of the ownership, or control of the device used to access the internet? If so, how could schools and libraries comply with such an obligation with respect to devices that are not controlled by the institution? We also seek comment on whether we should amend the Commission's CIPA-related rules to reflect this reading of the statute, and if so, how we should amend them.

Relatedly, we seek comment on whether technology protection measures should be required to include filtering at the network level (*i.e.,* applying the filter to any device that connects to the network) to ensure all devices that are used by minors and connect to E-Rate-funded networks are protected from content that is obscene, child pornography, or harmful to minors. Should such filtering include limits on screen time? As some recent studies suggest that excessive screen time can have a negative impact on children, we seek input on whether the filtering mechanisms employed by schools or libraries currently include features for limiting screen time, who determines the screen time limits, and the extent to which such features are currently used. What burden does this place on schools and libraries? Does the impact differ based on the size and resources of the school or library? What are the costs associated with requiring filtering at the network level?

In response to Congress enacting CIPA, the Commission amended the E-Rate program rules in 2001 to adopt CIPA requirements, as set forth in § 54.520 of the Commission's rules. In 2011, the Commission updated § 54.520(a) of its rules to codify numerous statutory definitions adopted from the 2008 Protecting Children in the 21st Century Act, including the terms ''minor,'' ''obscene,'' ''child pornography,'' ''harmful to minors,'' ''sexual act,'' ''sexual contact,'' and ''technology protection measure.'' Since then, stakeholders have requested further guidance on the meaning of certain terms within CIPA. For example, in 2022, the Center for Democracy & Technology requested that the Commission clarify a school's requirement to enforce an internet safety policy that includes ''monitoring the online activities of minors.'' We seek comment on the meaning of ''monitoring the online activities of minors'' and how such monitoring should be used to advance the educational purposes of the E-Rate program. In their response, commenters should address any potential privacy concerns associated with monitoring the online activities of minors. Additionally, under section 254(*l*)(1)(iii) of the Communications Act, internet safety policies must address ''unauthorized access, including so-called 'hacking', and other unlawful activities by minors online.'' We seek comment on the meaning of ''unauthorized access'' and whether it encompasses any material devoid of ''educational purposes'' (*e.g.,* students scrolling through social media instead of doing online research) for E-Rate per section 254(h)(1)(B) of the Communications Act. For example, could ''unauthorized access'' mean that the student accessed a computer in excess of an internet safety policy's prescribed number of hours? Should the term ''computer'' be defined? Are there other provisions of CIPA that should be defined?

CIPA defines ''harmful to minors'' to mean: any picture, image, graphic image file, or other visual depiction that—(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors. The Commission previously determined in 2011 that social networking websites are not *per se* ''harmful to minors'' under CIPA. Recognizing the statute's emphasis on leaving the determination of what online content is inappropriate for minors to local school and library authorities, and acknowledging that declaring such networking sites to be categorically harmful to minors would be inconsistent with the Protecting Children in the 21st Century Act's focus on ''educating minors about appropriate online behavior,'' the Commission concluded that CIPA does not require schools and libraries to block such sites in order to receive E-Rate funding. In light of changes to the social media landscape since 2011 and more recent research on the impact of social media on children, should the Commission revisit that conclusion?

The Protecting Children in the 21st Century Act also revised CIPA to require each elementary and secondary school to certify that, ''as part of its internet safety policy, [it] is educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.'' We seek comment on whether the Commission should define what is required of schools in implementing this requirement to educate minors about ''appropriate online behavior.'' Should such education include learning about how and why to limit one's own screen time? Studies suggest that expanding children's digital literacy requirements helps students navigate the internet responsibly. However, digital literacy training need not be screen-based and may be more effective when taught in an analog environment. Would requiring minors to complete mandated digital and online media literacy courses potentially help reduce screen time and increase online safety for minors when using E-Rate-funded networks and services? If so, should minors be required to complete those courses prior to or simultaneously with the use of E-Rate-funded networks and services? How often should the courses be required? Who should be in charge of establishing the requirements for and content of such courses? Should the Commission, or the school board, local educational agency, library, or other agency be responsible for determining ''appropriate online behavior'' for the purposes of this education requirement? Should the content of the courses be structured to be age-specific? Should schools be required to produce documentation to the FCC demonstrating that children and minor students attended and completed the courses? If schools are required to produce such documentation, should the documentation be anonymized or reported based on the percentage of students who attended or completed the courses to protect any personally identifiable or sensitive information pertaining to minors?

Alternatively, should we consider refining any of the existing definitions in § 54.520(a) of the Commission's rules? For example, we currently define ''minor'' as any individual under the age of 17. We seek comment on whether we should also adopt a definition for ''child'' or use the ''Children's Online Privacy Protection Act'' of 1998 (COPPA) definition of any individual under the age of 13 so that potential CIPA protections and requirements could be implemented based on the age of the child or minor impacted. Should the level of CIPA protection provided differ depending on the age or age ranges of a child or minor? Should there be heightened online safety requirements for younger children? If the Commission were to adopt rules for how children of different ages should or could be treated for the purposes of CIPA, are there any implementation challenges in defining differing age requirements? Should there be different requirements for schools versus libraries?

Given that under section 254(*l*) of the Communications Act, the school board, local educational agency, library, or other authority is responsible for determining what content is ''inappropriate for minors,'' we seek comment on whether additional protections are permitted under CIPA, such as limiting screen time. Are schools and libraries currently assessing student screen time on devices? If so, how are schools and libraries assessing screen time? Have schools and libraries that currently are assessing screen time found any benefits or harms that would inform the Commission's policy? What filtering options are available to restrict screen time to only approved educational activities? What are the costs associated with applying any filtering options that limit screen time? Is it more important to limit the amount of screen time or limit the content available to ensure that E-Rate-funded services are used for educational purposes? Should screen time limits be different for schools and libraries? Would schools and libraries need to purchase additional software or have additional network support to implement screen time restrictions? What obligations could be imposed on schools and libraries under CIPA with respect to assessing screen time that uses E-Rate-funded networks and services? We also seek comment on whether excessive screen time or other aspects of internet use not tied to specific content access limitations could be considered ''inappropriate for minors'' under CIPA, consistent with the statute and the First Amendment. Are local authorities making informed, affirmative decisions regarding what is inappropriate for minors? We seek comment on whether parents and guardians have any input in determining what is inappropriate for minors. Without establishing any criteria for or reviewing the determination of what is inappropriate for minors, is there a role for the Commission in providing guidance to schools and libraries, given its role in setting policy for the E-Rate program?

CIPA requires schools and libraries receiving E-Rate funding for internet access, internet service, or internal connections to adopt and implement an internet safety policy that addresses certain requirements laid out in section 254(h) and (*l*) of the Communications Act and make such policies available to the Commission, upon request. We seek comment on what information and components an internet safety policy should contain in order to comply with CIPA. Is there any minimum or mandatory information that an internet safety policy should include? Under CIPA, does the Commission have the authority to invalidate or require the replacement of an internet safety policy or is that authority reserved for the school board, local educational agency, library, or other authority under section 254(*l*) of the Communications Act? We also seek comment on whether the Commission should collect and retain each school's and library's internet safety policy. If we collect them, should these policies be made publicly available? Do the requirements set out in sections 254(h)(5)(A)(iii) and (6)(A)(iii) of the Communications Act to provide public notice and hold a public hearing or meeting require that these internet safety policies be made public in some form? Will making the policies publicly available better inform the local communities, and the parents and guardians impacted by them? Will making the policies publicly available incentivize more or better participation in their construction by local communities, and the parents and guardians impacted by them? Should the final policies be able to be reviewed after adoption? If the policies are reviewed, how and by whom should they be reviewed?

Many schools and libraries model their internet safety policies after or rely entirely on template policies created by other stakeholders. We seek comment on the adequacy of these frequently used template policies, and whether they meet the minimum bar for the statutory requirements of CIPA. Do they meaningfully address the requirements laid out in section 254(*l*)(1) of the Communications Act or actually engage local communities in the adoption and implementation of such policies? We also understand that schools and libraries may have separate policies concerning internet access and the acceptable use of the internet. How do these policies differ from the required internet safety policies? Have schools and libraries that have expanded internet safety policies found any benefits? Have expanded internet safety policies imposed additional costs on schools and libraries? Should the Commission expand the requirements for internet safety policies to include additional content from these internet access and/or acceptable use policies? Do the schools' and libraries' internet safety policies and acceptable use policies contain any confidential, sensitive, or personally identifiable information? Are schools and libraries already making their internet safety and acceptable use policies publicly available? For those schools and libraries that make them publicly available, where are the policies being made publicly available (*e.g.,* school or library website)? If there is confidential, sensitive, or personally identifiable information in the schools' or libraries' internet safety policies, how are the schools and libraries protecting or withholding that information before making the policies public?

In establishing an internet safety policy, schools and libraries are required to provide reasonable public notice and hold at least one public hearing or meeting to address the proposed internet safety policy. These steps are critical for ensuring that local communities, including parents and guardians of the children within those communities, have an opportunity to weigh in on the internet safety decisions being made for their children. We seek input on whether school boards, local educational agencies, libraries, or other local authorities are holding public hearings or meetings or providing reasonable public notice prior to adopting their internet safety policies. We also seek comment on what constitutes ''reasonable'' public notice. Should we adopt a timing requirement to ensure that school boards, local educational agencies, libraries, or other local authorities provide the required public notice and hold the required public hearing or meeting sufficiently in advance of adopting their internet safety policies to allow for participation in the process by parents and guardians? How would we implement and enforce such a requirement? How are schools and libraries providing public notice? How are parents and guardians provided notice? How far in advance of adopting an internet safety policy should a school or library be required to provide public notice and hold a public hearing or meeting? Recognizing the importance of the public notice and public hearing or meeting requirements, we seek comment on whether there are additional steps the Commission can take to emphasize or enforce these requirements to ensure parents and guardians are being consulted on what their children are accessing through the school's or library's E-Rate-funded network and services. Should the Commission provide guidance on acceptable ways of posting the policies to the public?

In certain circumstances, such as failing to provide public notice or hold a public hearing or meeting, E-Rate applicants are given the opportunity to correct minor errors that could result in violations of the CIPA rules before a reduction or recovery of funding is instituted. Should the Commission direct the Universal Service Administrative Company (USAC) to reduce funding commitments or recover disbursed funding if it determines that the applicant failed to provide the required public notice and/or hold a public hearing or meeting? Should the applicant be at risk of having their funding denied and having to repay funding for the entire period of time that they were out-of-compliance with the CIPA requirements? Are there any circumstances under which a school or library should be allowed to cure a CIPA-related violation?

While CIPA requires schools and libraries to hold ''at least one'' public hearing or meeting, should the Commission require additional public meetings or hearings? For example, should schools or libraries be required to provide public notice and hold a public hearing or meeting each time the internet safety policy is amended? What would be the costs and benefits of these additional meetings? Should there be an exception for *de minimis* changes to the internet safety policy? We seek input on whether school boards, local educational agencies, libraries, or other authorities review and approve the internet safety policy each time changes are made. Alternatively, does the statute permit requiring public notice and public hearings or meetings on an annual basis (*e.g.,* before each school year) or some other time period? If additional public notice and public hearings or meetings are permitted or required, should the rules differ with respect to schools versus libraries? At a minimum, CIPA requires schools and libraries to keep at least some record of the public notice that was disclosed when the public hearing or meeting took place (*e.g.,* a copy of the meeting agenda, or a newspaper article announcing the hearing or meeting). Should the Commission prescribe how the public notice should be released to ensure it is reaching the local community, including parents and guardians?

We also seek comment on how sunsetting or narrowing the E-Rate program might impact policies surrounding children's online safety when accessing the internet from a school or library. In an *ex parte* filing, INCOMPAS argues that a lack of E-Rate funding would not prevent students from using school networks, but it would eliminate obligations to enforce children's online safety standards required by CIPA, such as implementing an internet safety policy and operating a technology protection measure. We seek comment on how, or if, schools and libraries will change their internet safety protections in the absence of CIPA obligations. Will schools and libraries continue to put in place internet safety measures like internet safety policies and content filters if it is not required as a condition of receiving E-Rate funding? Are there other protections that schools and libraries use to ensure internet-based content accessed while at a school or library is safe for students? What authority, if any, does the Commission have to require or enforce children's online safety protections on services accessed at a school or library outside of the CIPA framework?

Legal and Policy Considerations for Assessing Children's Screen Time and Protecting Children and Empowering Parents on E-Rate-Funded Networks

As recent studies suggest that excessive screen time may negatively affect children and minors, does the Commission have any statutory obligation beyond CIPA or responsibility as a good steward of the limited E-Rate funds to assess how E-Rate-funded networks and services may be contributing to these potentially detrimental effects on children and minors? What statutory authority does the Commission have beyond CIPA to limit screen time or otherwise protect children and minors and empower greater parental control over their children's screen use when accessing E-Rate-funded networks and services? Is that statutory authority limited to E-Rate-funded networks and services, which are limited to the physical classroom or library building? Is that statutory authority different for schools than for libraries? Is that statutory authority limited to school- and library-owned computers and devices using E-Rate-funded networks or internet access services?

As previously discussed, experts have recommended limits on screen time for children and minors based on age. Should screen time limits be based on the age of the children or minors? What should those limits be? Does the Commission have any statutory authority outside of CIPA to require such limits? What is the specific statutory basis for that authority? How would such limits be enforced at a school or library?

Some experts have differentiated between screen time associated with educational use (*i.e.,* screen time used to enhance teaching and learning) and recreational screen time (*e.g.,* non-educational screen time used to watch TV, play video games, engage with social media apps, browse the internet for leisure, or text or scroll through photos on a smart phone). Are there distinctions between educational screen time and recreational screen time when it comes to children and minors using E-Rate-funded networks? Do the distinctions differ depending on whether an E-Rate-funded network is being accessed using a school- or library-owned computer or a third-party owned device? In practice, are children and minors able to access both educational and recreational platforms using E-Rate-funded networks and services? If they are able to access both, could the recreational use be decreased or prevented by implementing modified or stricter blocking and filtering requirements? Is there statutory authority outside of CIPA that we could use to decrease or prevent recreational use on E-Rate-funded networks and services? We ask commenters to provide specific citations to any applicable statutory authority.

Certain research seems to suggest that analog learning may increase academic performance and reduce bullying. To what extent has student-owned device use, in-school and out-of-school, contributed to the decline in achievement (as opposed to in-school use of school-owned devices)? How do different types of cell phone bans (bell-to-bell, instructional time, etc.) affect student use of smartphones in-school and out-of-school? To reduce the harms that may accompany excessive screen time, and increase the likelihood that screen time is utilized for an educational purpose, should the Commission impose per-day limits on the number of hours children or minors can use E-Rate-funded networks and services? Do we have the statutory authority outside of CIPA to impose such limits? If we do have statutory authority outside of CIPA, what is the specific statutory authority for imposing such limits? How would such limits be enforced? Would the per-day hour limitation be set by the Commission, or would it better be determined by local authorities, similar to how the local school board, local educational agency, library, or other agency is responsible for determining what content is inappropriate for minors under CIPA? Would the per-day limit apply solely to E-Rate-funded networks and services accessed in a physical classroom or library building? Would it apply solely to E-Rate-funded networks and services being used by school- or library-owned computers? Would it apply to third-party owned devices that connect with E-Rate-funded networks and services? How would per-day limits impact the demand for E-Rate funding, since such limits may reduce the demand for E-Rate-funded services?

There are differing views on whether children's and minors' online safety in school is best handled by parents, by teachers, through regulation, or some combination thereof. Who is better situated to protect the online safety of children and minors that use E-Rate-funded networks—the Commission, parents and guardians, teachers, or a combination of all these parties? How can the Commission work collaboratively with parents, guardians, and teachers outside of CIPA to empower them to protect the safety of children and minors when using E-Rate-funded networks? How can parents, guardians, and teachers proactively involve themselves in the Commission- and local-level rules, processes, and procedures that govern access and use of E-Rate-funded networks by children and minors? Are there other screen time or E-Rate-funded network concerns that the Commission has the authority to address outside of CIPA? What are those concerns and how should they be addressed?

Further Notice of Proposed Rulemaking

In this *FNPRM,* we propose and seek comment on a number of new measures aimed at enhancing program integrity by reducing opportunities for fraudulent conduct by consultants. Building on the Commission's recent successes in addressing waste, fraud, and abuse risks associated with the E-Rate program, and recognizing the role consultants play in assisting program participants, these measures are designed to facilitate and improve the Commission's and USAC's oversight of consultants and consulting firms and provide the Commission and USAC with additional tools to address instances of consultant misconduct. We also seek comment on further efforts to streamline and strengthen our oversight of the E-Rate program. Finally, consistent with the Commission's recent efforts to eliminate unnecessary and burdensome rules and regulations, we seek comment on a proposal to eliminate certain ECF program rules from the Code of Federal Regulations.

Strengthening Oversight of Consultants and Consulting Firms

Consultants and consulting firms play a supporting role in the E-Rate program, assisting applicants and service providers across all phases of the program, including, for example, helping applicants with the submission of FCC Form 471 applications and responses to program integrity assurance (PIA) review and audit inquiries. There are, however, opportunities for unscrupulous individuals, acting as consultants, to engage in fraudulent activity and frustrate the program's purpose. For example, in its 2020 Government Accountability Office (GAO) E-Rate Report, GAO explained that consultants' potential to ''exert great influence'' on the competitive bidding process, combined with a lack of direct oversight by USAC or the Commission, creates opportunities for consultants to collude with applicants or service providers to obtain funding for ineligible products and services. GAO also found that the lack of oversight increases the likelihood of consultants submitting false or fictitious information on program forms and certifications, potentially without an applicant's or service provider's knowledge. Improper conflicts of interest can also exist between consultants and service providers, which further undermine the program's competitive bidding rules.

To address these potential sources of misconduct and bolster our oversight of consultants and consulting firms participating in the program, we first propose to define a ''consultant'' for purposes of the E-Rate program along with other key program improvements. As explained further in the following, establishing a definition of a ''consultant'' will provide program participants with a clear understanding of which individuals are subject to the Commission's consultant-related requirements, including those proposed herein, and promote consistent application of those requirements across the program. Next, we propose requiring applicants and service providers to collect and submit to USAC an annual consultant certification and disclosure form, similar to the current Service Provider Annual Certification (SPAC) Form (FCC Form 473), on which each consultant participating in the program would be required to certify to their knowledge of and compliance with E-Rate program rules and disclose any conflicts of interest. Third, we propose to create a database that would serve as a registration system for consultants seeking to participate or already participating in the E-Rate program to better enable the Commission and USAC to monitor any improper conduct by a consultant or consulting firm. Fourth, we propose to bar applicants and service providers from entering into consultant fee arrangements based on a percentage of the E-Rate contract or funding application amount and to amend § 54.516 of the Commission's rules to clarify the type of consultant-related documents applicants and service providers must keep to show compliance with our rules. Lastly, we seek comment on additional measures to streamline and strengthen oversight of the E-Rate program and eliminate certain ECF program rules from the Code of Federal Regulations.

Establishing a Definition of a ''Consultant''

First, given the role that consultants play in the E-Rate program and the breadth of work performed by them, we propose to define a ''consultant'' as ''any non-employee working on behalf of a school, library, consortium that includes an eligible school or library, or service provider that participates in or is seeking to participate in the E-Rate program and who assists the school, library, consortium that includes an eligible school or library, or service provider, whether or not for a fee, with any aspect of participating in the E-Rate program, including, but not limited to, the application, competitive bidding, or disbursement processes.'' Examples of work performed by a consultant for purposes of this definition may include but are not limited to the planning, preparation, and submission of E-Rate applications or other E-Rate program forms; the planning and preparation of and/or assistance with bids or bid evaluations; and responding to pre-commitment and/or post-commitment inquiries and audits, among other things. A non-employee of the applicant or service provider includes contractors or others who are employed by the applicant or service provider on a contract- or short-term basis and who do not receive a W–2 form from the applicant or service provider. A ''non-employee'' includes an employee, officer, representative, agent, or independent contractor of the consultant working on behalf of a school, library, consortium that includes an eligible school or library, or a service provider that participates in or is seeking to participate in the E-Rate program, including individuals who prepare, approve, sign, or submit E-Rate applications, or other forms related to the E-Rate program, or who prepare bid evaluations, bids, communicate or work with E-Rate service providers, other E-Rate consultants, or with USAC, as well as staff of such consultants responsible for monitoring compliance with E-Rate program rules.

We seek comment on our proposed definition for purposes of the program. Should our definition include other individuals performing other important or routine tasks on behalf of applicants and/or service providers in the E-Rate program? Should our definition exclude certain individuals? If so, who and why? For example, should certain non-employees working on behalf of service providers like channel partners, resellers, agents, and/or authorized dealers who assist service providers in the ordinary course of their commercial relationship with the service provider be excluded from our proposed definition? If so, why? Is there anything unique about the service provider-channel partner relationship and/or how channel partners are compensated that warrants excluding them from our definition? By establishing a clear definition of a consultant, we seek to provide greater clarity to program participants regarding the individuals subject to the Commission's consultant-related rules and requirements and the scope of work typically performed by them. Are there any other potential benefits to defining the term? Are there any downsides to doing so?

Requiring an Annual Consultant Certification and Disclosure Form (FCC Form 5654)

Next, we propose to require applicants and service providers to collect and submit to USAC an annual consultant certification and disclosure form to be completed by each of their consultants. The consultant certification form would be modeled after the current SPAC Form (FCC Form 473), on which service providers are required to certify to compliance with E-Rate program rules. Specifically, we propose that the consultant certification form require consultants to certify to their compliance with and knowledge of all applicable E-Rate program rules, including those related to competitive bidding, requesting services, and invoicing for eligible services, as well as those rules restricting gifts and prohibiting false statements or misrepresentations on an annual basis. We also propose that consultants be required to certify that they are in compliance with the requirement that they not enter into any arrangement that results in an actual conflict of interest (*e.g.,* an association or partnership with an E-Rate service provider or vendor) or the appearance of a conflict of interest and seek comment on whether the same or a similar certification should be added to other E-Rate program forms, such as the FCC Forms 470, 471, and 473. Finally, as part of this new consultant certification form, consultants would be required to certify that they have knowledge of and are in compliance with any program requirements adopted pursuant to this proceeding, including, for example, the requirement that they register in the proposed consultant registration database, complete mandatory training, and obtain a consultant registration number. Applicants and service providers that do not use a consultant would also be required to submit this form and certify to not having used a consultant for any E-Rate-related activities.

To strengthen our ability to deter and detect potential misconduct and improve transparency in the program, we further propose requiring certain disclosures on the form by consultants, including: (1) the consulting firm(s) and/or company(ies) for whom the consultant is currently working and (2) any association and/or relationship the consultant may have that could potentially pose an actual conflict or an appearance of a conflict of interest. Coupled with the certification statements, we believe these disclosures will better assist the Commission and USAC to prevent and identify misconduct by consultants, consulting firms, and/or the applicants and service providers that hire and potentially collude with them to defraud the program. While we acknowledge that the majority of consultants and program participants comply with the Commission's rules, there are documented instances of misconduct by consultants; and, as careful stewards of these funds, we believe requiring such certifications and disclosures is appropriate and necessary to close oversight gaps and limit opportunities for misconduct. We expect the information collected on the form to be used by the Commission and USAC to gain insight and better track potential bad actors across multiple consulting firms and/or multiple E-Rate applications. We seek comment on these assumptions and our proposal to require this form. Could the information collected on these forms be of potential use to other interested parties, such as the Commission's Office of Inspector General (OIG), U.S. Department of Justice (DOJ), or other enforcement agencies, that conduct investigations related to and participate in litigation around E-Rate program rule violations? Are there other certification statements and/or disclosures the Commission should consider including on the form that would help us better prevent and detect misconduct and ensure transparency and compliance with program rules? Should consultants be required to make these submissions directly to USAC?

We also seek comment on when the certification and disclosure form should be submitted. Should the consultant certification and disclosure form be submitted at the time that the applicant submits the FCC Form 470 to initiate competitive bidding? If the applicant is not filing an FCC Form 470, should we require applicants and service providers to submit the form with their FCC Forms 471 and 473, respectively? Or should the form be collected by the start of the funding year, *i.e.,* July 1, or by the end of the application filing window? Relatedly, should applicants and service providers be required to submit updates to the form when a new conflict of interest arises, a new consultant is hired, and/or when a consultant moves to another consulting firm? Should updates only be required with the next annual submission or should they be submitted within a set period of time (*i.e.,* 15 days or 30 days) from the date of the change?

Finally, what should the consequences be for failing to submit the consultant certification and disclosure form? For example, to encourage applicants and service providers to timely submit these forms, we propose that USAC hold any E-Rate-related FCC form(s) under review until the certification and disclosure form is completed and submitted. If the annual form is not timely submitted, we propose that USAC reject any pending E-Rate-related forms submitted by the applicant or service provider for that year. We seek comment on this proposal. Should the Commission consider other potential consequences for failing to timely submit this form, such as referral to the Enforcement Bureau, holding future disbursements, rescinding committed funds, and/or recovering disbursed funds? Should the consultant be referred to the Suspending and Debarring Official (SDO) for potential suspension and debarment proceedings under the Commission's rules?

What consequence(s) should there be for submitting false statements on the form? Should we, for instance, subject consultants who submit false statements to fine or forfeiture under the Communications Act, 47 U.S.C. 502, 503(b), fine and imprisonment under Title 18 of the U.S. Code, 18 U.S.C. 1001, 18 U.S.C. 1343, and/or liability under the federal False Claims Act consistent with those penalties we impose on applicants and service providers who submit false statements on other E-Rate program forms? Should the consultant be referred to the SDO for potential suspension and debarment proceedings under the Commission's rules? We seek comment on our authority to subject consultants to such penalties and whether applicants and service providers responsible for submitting these forms should be subject to the same or similar penalties if they willingly and knowingly submit consultant certification and disclosure forms that include false statements.

Creating a Consultant Registration Database

Third, to further strengthen program integrity and transparency, we propose to create a database that would serve as a registration system for consultants participating in the E-Rate program that would assign every individual consultant a Consultant Registration Number (CRN). Currently, only consulting firms are required to register with USAC and obtain a CRN, a unique eight-digit identification number assigned by USAC to obtain access to USAC's systems; individual consultants are not required to do so. Applicants list the CRN on the FCC Forms 470 and 471 to indicate which consulting firm, if any, assisted the applicant with the preparation of their form(s). However, neither the Commission nor USAC has visibility into whether any individual consultant may have helped in the preparation of the form(s), unless the applicant voluntarily adds an individual consultant as an authorized user, using the consulting firm's CRN. This lack of visibility into the individuals participating in the program impedes the Commission's ability to effectively monitor the program and identify waste, fraud, and abuse. As a result, the current CRN process is only of limited use.

To increase insight and transparency into the consultants participating in the program, we propose to create a database similar to the Lifeline program's Representative Accountability Database (RAD) that would assign every individual consultant a CRN. The RAD is a registration system used by USAC to validate the identities of service provider representatives performing transactions in the National Lifeline Accountability Database (NLAD) and National Verifier and detect potential fraud. Under this system, if USAC suspects that a service provider representative is engaged in potential fraud, USAC is able to lock the representative's account in the NLAD and National Verifier. To obtain a registration number through the RAD (also known as a Representative ID), each required registrant must provide USAC with important identifying information, including his or her full name, email address, physical address, date of birth (DOB), and the last four digits of his or her social security number.

We propose to create a similar database of E-Rate consultants to allow USAC to validate the identity of each consultant seeking to participate or currently participating in the E-Rate program, monitor for suspicious activity, and potentially preclude them from accessing E-Rate systems (including the E-Rate Productivity Center (EPC) when rule violations or other misconduct are detected). In so doing, we hope to eliminate the possibility of fictitious individuals being able to pose as E-Rate consultants and to prevent bad actors from circumventing detection. Accordingly, we propose that, as a prerequisite to being able to access any E-Rate system, including EPC, and perform any task on behalf of an applicant and/or service provider, any consultant who seeks to participate in or is already participating in the E-Rate program be required to register in the system and obtain a CRN assigned to that individual that is unique to that individual and will remain assigned to that individual even if that individual moves from one consulting firm to another, for example. The database would be managed by USAC, and registration would be required at the time a consultant first seeks to access and/or complete a task in any one of the E-Rate program's systems. Under this proposed system, a consultant would not be able to obtain or register for more than one CRN and would be limited to one EPC login username that is linked to their CRN. To further avoid the risk of fraud, we propose that consultants be prohibited from using another individual's CRN or login username to access USAC's systems or to complete and/or submit any FCC forms on behalf of schools, libraries, consortia, or service providers. As part of the consultant registration process, we propose that consultants complete a mandatory E-Rate and anti-fraud training that will be offered by USAC and certify to having reviewed and understood the training content covered upon completion. Consultants would be required to complete the training on an annual basis and would be prohibited from accessing USAC's systems and from completing and/or submitting any FCC forms until the training has been completed. We seek comment on these proposals. Are there any other potential benefits to creating such a database and requiring registration with it? Besides requiring an individual consultant to now obtain a CRN specific to that individual as opposed to a CRN assigned at the firm level, what additional burdens might the creation of such a database impose on program participants, if any?

Next, we seek comment on the information to be collected as part of this database, how often that information should be updated, and how best to protect the privacy and security of the data collected. We propose that each consultant be required to provide USAC with certain identifying information, including his or her full name, personal email address, home address, personal phone number, business name, business address, business phone number, business email address, DOB, and the last four digits of his or her social security number; and, should the consultant fail to obtain a CRN, applicants and service providers would be precluded from conducting any E-Rate-related business with that consultant. Keeping in mind the purpose of the database to validate the identity of consultants and help monitor for suspicious activity, is there any other information that would be useful to collect as part of this registration process? For example, to better track consultants, we propose to also collect the consulting firm(s) and/or company(ies) (*i.e.,* consulting firms, service providers, vendors, etc.) with whom the consultant is currently employed, affiliated, or otherwise associated. Is there any information we should not collect? If so, why? How often should the information we collect as part of this database be updated? Should it be updated on an annual basis based on the submission of an annual certification and disclosure form, if adopted? What should the penalties be for failing to update information within the consultant registration database? Additionally, while we note that partial Social Security Numbers are currently collected from individuals to obtain Representative IDs in the Lifeline program, we are mindful of our obligation to explore alternatives to Social Security Numbers as personal identifiers. We therefore invite commenters to identify other data elements or identifiers that could be collected to verify the identities of individual consultants.

To protect the privacy and security of the data collected, we propose to require USAC, in consultation with the Wireline Competition Bureau (Bureau or WCB), the Senior Agency Official for Privacy, and Office of the Managing Director, to take appropriate steps to protect the confidentiality, integrity, and availability of the data, as required by the Federal Information Security Management Act, as amended, the Privacy Act of 1974, as amended, and applicable guidance from the Office of Management and Budget and the National Institute of Standards and Technology. We invite comment on whether other, additional requirements are appropriate to ensure the confidentiality, integrity, and availability of the database. For example, should the database's use be restricted to the Commission and USAC only and not be made publicly available? Are there any benefits to making some of the data in the consultant database public (*e.g.,* consultant name and firm(s) the consultant is associated with)? Is there any specific consultant information that we do not already propose collecting that would be beneficial to collect and share publicly? If so, what information and why? For instance, we can envision the database potentially being used by applicants and service providers to help them make informed decisions about the consultants they hire. If we were to make the database publicly available, what additional information would be helpful to collect and share for this purpose?

Lastly, to ensure we have visibility into individual consultants participating in the program before the database is implemented, we propose to direct USAC, in the interim, to establish a process for consultants to receive an individual CRN using the existing CRN process, and to incorporate any CRN assigned to an individual consultant as part of this interim process into the database prior to it going live. Once the database is live, we expect there will no longer be a need for USAC to assign these numbers to individual consultants, as the database will automatically do so. We seek comment on this proposal and these assumptions.

Prohibiting Percentage-Based Fee Arrangements With Consultants and Clarifying the Type of Consultant-Related Documentation Applicants and Service Providers Should Retain

To further strengthen our ability to safeguard the program from waste, fraud, and abuse, we seek comment on additional ways we can protect the program from consultants and consulting firms whose actions subvert program goals. For instance, we are aware of consultants and consulting firms whose fee for their consulting work is based on a percentage of their E-Rate contracts or disbursements. In general, these types of contracts are contrary to the efficient use of limited funding as they can both wrongly incentivize a consultant or consulting firm to encourage applicants to request more E-Rate funding than needed and raise questions about whether E-Rate dollars are being used to pay for ineligible services—*i.e.,* consultant fees. We therefore seek comment on a strict prohibition on applicants and service providers from entering into any fee arrangement with their consultant that is based on a percentage of the consultant's E-Rate contracts with and/or disbursements to the applicant and/or service provider they represent. How would prohibiting these types of fee arrangements help better ensure compliance with our rules and prevent improper incentives for receipt of E-Rate funding? Are there any other types of consultant agreements that thwart compliance with program rules that should be prohibited? Conversely, are there any types of consultant agreements that should be exempt from this prohibition either because the nature of the consultant relationship is such that incentives to inflate E-Rate program costs do not exist or for some other reason?

To ensure compliance with this proposed requirement, we further propose to amend § 54.516 of the Commission's rules to clarify the types of consultant-related documentation applicants and service providers must retain. We first propose that applicants and service providers be required to enter into a letter of agency (LOA), or similar agreement with their consultant(s), to describe the terms of the relationship and be submitted to USAC with the submission of the proposed annual consultant certification and disclosure form (FCC Form 5654). We also propose that applicants and service providers be required to retain the following types of consultant-related documentation: letters of agency, consulting and fee agreements, and banking records showing payments to consultants and/or consulting firms. Are there other consultant-related documents that applicants and service providers should be required to obtain and retain under the E-Rate rules? Should we require these types of documents to be submitted to USAC on annual basis? We seek comment on these proposals and related questions.

Further Streamlining E-Rate Administration

Next, we seek comment on a few additional measures intended to improve the administration and oversight of the E-Rate program. Together, these proposals reflect our nearly 30 years of experience overseeing and administering the program and are designed to clarify existing requirements, close gaps in the Commission's rules, and streamline administrative processes for program participants.

Use of Existing Contracts. Recognizing the evolving nature of the E-Rate program and the importance of competitive bidding to the integrity of the program, we first propose to require all applicants to enter into a signed contract or legally binding agreement with their chosen service provider following the completion of a competitive bidding process as set forth in the Commission's rules using an FCC Form 470 and signed or agreed to after the allowable contract date (ADC) that is included on the FCC Form 470. That is, with the exception of those applicants eligible for a competitive bidding exception pursuant to § 54.503(e) of the Commission's rules, all applicants would be required to enter into a new, signed contract or legally binding agreement with their selected provider after posting an FCC Form 470, waiting at least 28 days, and selecting the most cost-effective service offering(s) using price of the eligible equipment and/or services as the primary factor. Under this proposed rule, E-Rate applicants no longer would be able to rely on the narrow, uncodified exception to competitive bidding that was adopted early in the program's history. Specifically, E-Rate applicants would no longer be able to request support for equipment and/or services under an existing contract that was not competitively bid (*e.g.,* a multi-year contract signed in June prior to the FCC Form 470 becoming available for the next funding year) pursuant to the Bureau's decision in the 2002 *Kalamazoo Order on Reconsideration (DA 02–2975 rel. 11–4–2002).* Under the direction provided in that decision, E-Rate applicants could conduct the Commission's required competitive bidding process by filing an FCC Form 470, carefully considering all bids (including using the existing contract as a ''bid''), and memorializing the selection of the existing contract as the winning ''bid.'' Under the proposed rule, all contracts and legally binding agreements would have to be signed or agreed to after the Allowable Contract Date (ACD) that is included on the FCC Form 470 and is calculated 28 days after the posting of the form on USAC's website. The *Kalamazoo Order on Reconsideration* could no longer be used to permit the use of contracts and legally binding agreements that are signed or agreed to before the ACD.

While the Bureau's decision to allow this narrow exception may have been reasonable in the early years of the program at a time when some applicants, such as Kalamazoo Public Schools, had existing multi-year contracts that pre-dated the start of the E-Rate program and where program rules and compliance expectations were still developing, we tentatively conclude that it is no longer necessary or appropriate to allow applicants to request services under an existing contract that was not competitively bid under the Commission's rules as those same conditions no longer exist. In particular, in the nearly 30 years since the inception of the E-Rate program and adoption of the *Kalamazoo Order on Reconsideration* decision, the Commission and Bureau have issued extensive guidance regarding the program's competitive bidding requirements. We believe this guidance provides applicants with greater clarity and support around complying with these obligations, so that such an exception is no longer warranted. Moreover, we are concerned with applicants that attempt to use this exception as a ''cure'' process whereby an applicant tries to correct underlying competitive bidding issues related to the contract by posting an FCC Form 470, waiting at least 28 days, and then ultimately selecting and memorializing the existing contract as the winning bid.

We seek comment on these views and, more generally, on our proposal to require all applicants to comply with the Commission's competitive bidding rules by entering into a *new* contract or legally binding agreement with the selected provider and no longer permit applicants to rely on existing contracts that were not competitively bid under the Commission's rules pursuant to the *Kalamazoo Order on Reconsideration.* We have proposed modifications to § 54.503(c)(4) of the Commission's rules to require new contracts to be entered into after an FCC Form 470 has been posted on USAC's website for at least 28 days and to make clear that applicants are no longer permitted to rely on an existing contract or legally binding agreement that was signed or agreed to prior to the ACD established by the FCC Form 470. We seek comment on our proposal. To the extent these proposed rule modifications may adversely affect applicants that rely on state master contracts, for example, we invite comment and seek alternative language that results in the same outcome. Would we need an exception for applicants that file an FCC Form 470 and select a state master contract as the service offering?

Service Substitutions. Second, we propose to amend § 54.504(d) of the Commission's E-Rate program rules to make clear that service substitutions must be in writing and certified under penalty of perjury by an authorized person and that the Administrator must approve the service substitution prior to reimbursement being made. In practice, this should not result in a large difference for applicants filing service substitutions, but it is consistent with rules adopted in other programs offering service substitution options and helps codify these requirements. We seek to improve our ability to monitor services and costs and discourage undisclosed substitutions. We seek comment on this proposed change.

June 30th Deadline for SPAC Form. Next, we propose setting a deadline for the submission of the SPAC Form (FCC Form 473). Currently, the Commission's rules require service providers to file the FCC Form 473 on an annual basis, but do not specify a deadline for its submission. Because USAC must have an FCC Form 473 on file in order to disburse funds, USAC's practice has been to require that the form be submitted by no later than June 30 of the applicable funding year to provide program participants with sufficient time to file their requests for reimbursement (*i.e.,* FCC Form 472 or Billed Entity Applicant Reimbursement (BEAR) Form and FCC Form 474 or Service Provider Invoice (SPI) Form). Without a definitive deadline, however, service providers for applicants that choose the BEAR invoicing method have little to no incentive to submit their certification form. As a result, some applicants that use the BEAR invoicing method are unable to receive reimbursement where their service providers fail to timely submit the form even when they have complied with program requirements.

To address this issue and codify this requirement, we propose to require service providers to file the FCC Form 473 with USAC by June 30 of the applicable funding year. We seek comment on this proposal and whether establishing a deadline for the FCC Form 473 would provide greater certainty to applicants and ensure the timely processing of BEAR invoices. To the extent commenters agree with our proposal, does setting the deadline to June 30 of the applicable funding year provide service providers sufficient time to file the form? Should service providers be given more or less time to file the form? Why or why not? We also invite comment on whether we should modify our rules to allow applicants to select a different service provider when the original one refuses to file the form by the applicable deadline. What consequences should there be for failing to submit the FCC Form 473 by the June 30 deadline? Should, for example, service providers be barred from participating in the program until they come into compliance, similar to the non-compliance rules for CIPA certifications?

FCC Form 479 Revisions. We propose adding the certification statements found on the FCC Form 471 applications to the FCC Form 479, which is currently used by consortium members to certify their compliance with CIPA. Specifically, we propose adding those certification statements around the program's rules and requirements that are not currently on the FCC Form 479, such as those related to entity eligibility and compliance with other program rules. In addition, we propose requiring consortium members to submit the FCC Form 479 within EPC prior to the consortium lead certifying the FCC Form 471. Currently, consortium leads are required to collect FCC Forms 479 from their consortium members to confirm compliance with limited program requirements; however, the consortium members do not certify to all of the certifications that the consortium lead certifies on the FCC Form 471 application, and the forms are routinely not submitted to USAC and are provided only upon request. As a result, USAC may not have timely access to information necessary to verify compliance by consortium members at the time the consortium FCC Form 471 is filed. Moreover, when a consortium member fails to comply with a program rule, the consortium lead that made the certification may not be the appropriate party from whom to recover the funding, and it is challenging to ensure enforcement of program rules falls on the appropriate E-Rate program entity.

To ensure all entities benefitting from E-Rate support are subject to comparable certification requirements and to reduce administrative inefficiencies, we now propose to require consortium members to certify to their own compliance with E-Rate program rules on the FCC Form 479 prior to the consortium filing the FCC Form 471 application. Would requiring consortium members to submit an electronic version of the form in EPC be simpler than the consortium lead collecting and submitting the forms? We seek comment on adopting these requirements and our tentative conclusion that adopting them would promote greater parity between consortium and non-consortium applicants by requiring consortium members to certify to compliance with the same requirements as those non-consortium applicants do. Would adopting these requirements impose additional administrative burdens on consortium leads or consortium members? If so, are the burdens outweighed by the benefits of increased oversight and accountability? Should we adopt a 14-day grace period consistent with the grace period applied to the FCC Form 471, Description of Services Ordered and Certification Form?

Other Form Revisions. Consistent with our proposal related to the FCC Form 479, and to ensure greater transparency and clarity, we propose to incorporate into the Commission's rules all certification statements currently required as part of the submission of our E-Rate program forms, including those on the FCC Forms 470, 471, 472, 473, and 474. While certifying to compliance with program rules is already required of program participants, not all these certification statements are codified in the rules. We therefore propose to incorporate these statements into our rules as a ministerial update to provide program participants with clarity around their obligations and ensure that our rules fully reflect those requirements with which applicants and service providers must comply. We also propose to make the certification language used across all forms consistent, where applicable, to avoid confusion. In so doing, we seek to align the Commission's rules with existing requirements and ensure consistent language is used across all E-Rate program forms without imposing any new or substantive obligations on program participants. We seek comment on these proposals.

Finally, consistent with the proposed consultant certification and disclosure form certifications discussed in the proceeding, we propose requiring E-Rate applicants and service providers to certify that they have knowledge of the E-Rate program rules when they are certifying to compliance with the rules by modifying all applicable FCC form certification statements accordingly. For the FCC Form 474, we also propose to add a certification that the eligible school, library, or consortium has received the services and equipment that are being invoiced to USAC and a certification acknowledging that false statements on the FCC Form 473 may lead to violations under the Communications Act, violations of 18 U.S.C. 1001, 1343, violations of the False Claims Act, and suspension and debarment by the Commission. We seek comment on these proposals.

Cost-Effectiveness Requirements. Finally, we seek comment on additional measures to help ensure applicants select cost-effective services in situations where one or no bids are received in response to an FCC Form 470. Although the Commission's rules require applicants to select the most cost-effective offering, limited competition in these instances may reduce the effectiveness of existing safeguards and increase the risk that E-Rate support does not reflect market-based pricing. To address these concerns, we seek comment on whether the Commission should adopt additional measures in circumstances where competitive bidding yields one or no bids. We expect the recently adopted competitive bidding portal will assist the Commission and USAC in providing transparency into whether there are patterns or characteristics of entities that receive one or no bids. In addition to this transparency, should the Commission, for example, consider limiting the profit margins of resellers by capping the reimbursement amount at or near the underlying carrier or manufacturer cost? Should the applicant be required to justify the higher cost of the reseller or be responsible for the difference in pricing between the underlying carrier/manufacturer and the reseller? Alternatively, to what extent should the Commission and USAC leverage available pricing information available in USAC's Open Data to create reimbursement caps for certain eligible services and equipment in specific geographic locations? We seek comment on the feasibility of these approaches and their potential effects on competition and participation in the program. In particular, we invite comment on whether these measures would promote cost-effective purchasing without discouraging service providers from serving high-cost or rural areas. We also seek comment on whether other rule changes or safeguards could better ensure cost-effective outcomes when one or no bids are received, or when the services are more challenging to compare, including whether we should require additional documentation such as pricing justifications in such circumstances.

For instance, we are concerned about the ability to review the cost effectiveness of contracts for managed internal broadband services (MIBS) and whether it should continue to be a supported service within the E-Rate program. We seek comment, and specific proposals, on how the Commission should define and ensure cost-effective purchasing for these services. For example, should reimbursement for MIBS services be limited to the number of hours worked with the requirement that tickets for work requested/performed and hours worked be included with requests for reimbursement? What information should applicants include in an FCC Form 470 or request for proposal document when requesting MIBS to ensure bidders have sufficient information to submit a responsive bid and applicants can effectively compare bids to select the most cost-effective service offering? Would requiring applicants to compare bids on internal connections directly with those of a MIBS bid help safeguard applicants and the E-Rate program from MIBS providers offering contracts at rates that exceed the value of the network itself? We expect that smaller schools and libraries may need to weigh the cost of managing a network, and we would expect larger districts with their own information technology staff to have a simple comparison. Alternatively, should we limit eligibility of MIBS to schools and libraries of a certain size instead of eliminating it as a supported service? We seek comment on these questions.

Lowest Corresponding Price (LCP). The Commission's LCP rule requires service providers to offer equipment and services to E-Rate eligible schools and libraries at prices less than or no higher than the lowest price the service provider charges similarly situated non-residential customers for the same or similar equipment or services. Service providers must make the equipment and services available to all schools and libraries in any geographic service area in which they serve. A service provider's geographic service area is defined as the area in which the service provider is seeking to serve customers with any of its E-Rate eligible equipment or services. Similar services include equipment and services provided under contract, as well as equipment and services provided under tariff. Service providers may not avoid the obligation to offer the LCP by arguing that none of their non-residential customers are identically situated to a school or library or that none of their service contracts cover equipment or services identical to those sought by a school or library. The LCP rule ensures that a lack of experience in negotiating in a competitive telecommunications service market does not prevent a school or library from receiving competitive, cost-based prices or pricing in bids. Moreover, the LCP rule protects schools, libraries, and the USF from paying artificially inflated prices.

We first seek comment on the clarity and scope of the LCP rule. Acknowledging that the E-Rate program has evolved significantly since it was implemented, we invite commenters to refresh the record on how we should clarify the scope and meaning of the LCP rule. Are there ways to streamline and make the application of the rule more transparent? For example, should we make the rates that service providers charge E-Rate eligible schools and libraries for E-Rate eligible services and equipment more easily available to the public (*e.g.,* in an annual or other report, or in an LCP-specific public database) so that schools and libraries can review the rates and ensure they are being charged the LCP? Should we require that the LCP be the median of all available rates for functionally similar services? Are there other benchmarks we can use to determine the LCP? Should we continue to rely on service providers to determine the LCP or should we reassign that task to the Universal Service Administrative Company (USAC)? Should the LCP continue to set the ceiling for a service provider's pre-discount price when it submits a bid in response to an FCC Form 470 E-Rate competitive bidding form posted by a school or library? In areas where there is only one service provider that submits a bid response, should the service provider's LCP continue to constitute the pre-discount price?

We next seek comment on whether the LCP rule is sufficiently clear or whether there are changes the Commission should make to clarify the rule. For example, the rule does not define the term ''similarly situated.'' How should we define the term to prevent service providers from circumventing the rule by claiming that they have no similarly situated customers? Should the Commission clarify how it determines what constitutes ''similar services'' under the LCP rule? In the Rural Health Care Telecommunications (Telecom) Program, the Commission places the burden of identifying what constitutes ''similar services'' on USAC and requires that whether a service is ''similar'' be determined from the perspective of the end user, rather than based on the technical similarity of the services. Should the Commission adopt the Telecom Program's approach for determining similar services? Is there another or different approach we should adopt for determining whether a service is ''similar'' to a service provider's existing services for purposes of the E-Rate program? We invite commenters to suggest approaches that would be feasible to use to determine whether a service provider is providing ''similar service'' for purposes of the E-Rate program.

We also seek comment on if or how we should modify the E-Rate rules and enforcement practices to deter violations of the LCP rule and hold service providers accountable when they are found to have violated the rule. Under the current LCP rule, detecting violations can be challenging, and non-compliance may not be immediately identified. How can we ensure the timely detection of LCP rule violations to avoid problems enforcing them within the applicable statute of limitations? Service providers that participate in the E-Rate program are required to annually file an FCC Form 473 (Service Provider Annual Certification (SPAC) Form) on which they certify their compliance with E-Rate program rules. In addition, service providers are required to certify their compliance with E-Rate program rules on their FCC Forms 474 (Service Provider Invoice (SPI) Form) when they seek reimbursement from the E-Rate program for equipment and services provided to E-Rate eligible schools and libraries. Currently, neither the FCC Form 471 nor the FCC Form 473 contain any LCP-specific certifications. Should LCP-specific certifications be added to one or both forms? Should service providers be required to explicitly certify, for example, that they complied with the LCP rule? Should service providers be required to attest that they have policies and procedures in place to ensure compliance with the LCP rule? Are there any other elements the LCP rule certification should contain? When non-compliance with the LCP rule is identified, is there additional information that the Commission or USAC should provide in their Notices of Apparent Liability (NAL) or Beneficiary and Contributor Audit Program (BCAP) and Payment Quality Assurance (PQA) program audit reports, respectively, to ensure that service providers understand the basis for recovery and are able to respond appropriately? Are there other changes that USAC should make to its BCAP and PQA audit practices to ensure that service providers are able to respond appropriately and to adjust practices to ensure future compliance? A failure to charge rates in compliance with the LCP rule has previously been found not to be continuing in nature because the apparent violations were perfected when each allegedly non-compliant invoice was issued. Should we codify the circumstances under which an LCP rule violation would be considered continuous? Is there a transparent approach for applying a continuing violation theory to failures to charge the lowest corresponding price?

Deleting Emergency Connectivity Fund Program Rules

Finally, we seek comment on deleting many of the ECF program rules from the Code of Federal Regulations (CFR). In 2021, the Commission adopted rules for the ECF to distribute $7.171 billion in funding to eligible schools and libraries. The Commission and USAC opened three application filing windows, during which applicants could request funding for eligible equipment and services received or delivered during the applicable funding periods. Applications for ECF support were required to be filed during one of the application filing windows. On May 11, 2023, the COVID–19 public health emergency expired, triggering the sunset date of June 30, 2024 for the ECF program. All ECF purchases of eligible equipment and services had to be completed by this date. Therefore, we propose to delete the portions of the ECF program rules that are no longer serving an ongoing function from the CFR. For the remaining ECF program rules, we propose to delegate to the Bureau the authority to delete those rule sections when they are no longer needed.

This proposal is consistent with the *Delete, Delete, Delete* proceeding's goal to ''review [the Commission's] rules to identify and eliminate those that are unnecessary in light of current circumstances.'' As the applicable funding periods have passed, there are no new applicants or service providers in the program. We therefore propose to delete § 54.1700 through § 54.1710, § 54.1712, and § 54.1716 of Subpart Q of the Commission's rules, which govern portions of the ECF program that have already occurred. Our proposal to delete these ECF program rules is not intended to impact the Commission's, USAC's, or other enforcement agencies' authority to review compliance with program rules during the times that they were relevant. We therefore intend that ECF participants continue to retain documentation and produce such documentation when requested in accordance with the ECF rules for the applicable ECF funding periods. We seek comment on whether it is necessary to retain codified rules requiring retention and production of documentation.

Second, we propose to delegate to the Bureau the authority to delete the remaining ECF program rules when they are no longer needed. For instance, § 54.1713 of the Commission's rules governs the treatment, resale, and transfer of equipment for three years after the purchase with ECF funding. Under this proposal, the Bureau could delete this rule in 2027, after all equipment is considered obsolete. We seek comment on these and any other ECF rules that are still relevant for some portion of ECF participants. We seek comment on these proposals and whether deletion of any of the other ECF rules will impact any enforcement, recovery actions, invoicing, or appeals.

Procedural Matters

Paperwork Reduction Act Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on any information collections contained in this document, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Ex Parte Rules

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must, when feasible, be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml., .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA), concerning potential rule and policy changes contained in the *NPRM and FNPRM.* The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments indicated in the **DATES** section of this document, and must also have a separate and distinct heading designating them as responses to the IRFA.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *NPRM* and *FNPRM* (collectively, the *NPRM & FNPRM*) assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the **DATES** section of this document. In addition, the *NPRM & FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254 of the Communications Act. Specifically, under the schools and libraries universal service support mechanism, also known as the E-Rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, internet access, and internal connections. The Commission's E-Rate program provides support to schools and libraries, allowing them to obtain affordable, high-speed broadband services and internal connections, which in turn enables them to connect students and library patrons.

Today, many schools and libraries have broadband connectivity and Wi-Fi, and there are billions of dollars of investment in other federal programs beyond E-Rate for expanding broadband access. The *NPRM* seeks comment on whether the E-Rate program is still necessary to ensure schools and libraries across the country have access to advanced telecommunications services, consistent with the universal service principles established by Congress. It also seeks comment on whether the E-Rate program should be limited or otherwise restructured to reflect today's connectivity rates, reduce federal spending, and ensure that E-Rate funds are not used to subsidize potentially duplicative services or services beyond those authorized or envisioned by Congress in the 1996 Telecommunications Act.

The number of children using the internet and connected devices, including in educational settings, continues to trend upwards. Adults around the country are increasingly faced with the question of how best to protect children when using the internet or connected devices, especially when that use takes place away from the home, such as at a school or library. Moreover, there are rising concerns about the long-term impact of too much screen time for children. The *NPRM* seeks comment on measures the Commission can take to empower parents, guardians, and teachers to better protect children when using an E-Rate-funded network, including limiting screen time. It also seeks comment on whether the current interpretation of CIPA is the best reading of the statute.

Additionally, the actions proposed in the *FNPRM* would further strengthen program integrity and take measures to deter individuals that may want to commit fraud, waste, and abuse in the E-Rate program. The *FNPRM* proposes a number of new measures aimed at strengthening program integrity by increasing oversight over consultants participating in the E-Rate program and seeks comment on efforts to further streamline and strengthen the Commission's oversight of the E-Rate program and a proposal to sunset certain ECF program rules from the Code of Federal Regulations.

The *FNPRM* proposes a definition of consultant to include any non-employee who assists the applicant or service provider, whether for a fee or not, with any aspect of participating in the E-Rate program. The proposed rules in the *FNPRM* would require applicants and service providers to collect and submit to USAC an annual consultant certification and disclosure form, similar to the Service Provider Annual Certification (SPAC) Form (FCC Form 473), on which consultants will be required to certify their compliance with E-Rate program rules and disclose any conflicts of interest, among other things. In addition, the *FNPRM* proposes the creation of a consultant database that would assign every individual consultant who is seeking to participate in, or is already participating in, the E-Rate program a CRN to verify a consultant's identity before being able to access any one of the program's systems, including the EPC. The *FNPRM* also seeks comments on whether a database similar to the RAD should be created for E-Rate consultants. As part of this new registration process, we propose that USAC collect the last four digits of the social security number and birth date to verify a consultant's identity prior to providing a CRN, consistent with how the RAD works.

Additionally, the *FNPRM* proposes to prohibit applicants and service providers from entering into consultant fee arrangements that are based on a percentage of the applicant's committed E-Rate funding/E-Rate contracts, and an amendment to § 54.516 of the Commission's rules to clarify the types of consultant-related documents applicants and service providers are required to retain to show compliance with program rules, including a copy of the consultant fee arrangement.

The *FNPRM* also proposes to amend § 54.504(d) of the Commission's rules to require that applicants submit a service substitution request in writing and certify it under penalty of perjury by an authorized person. Additionally, the *FNPRM* seeks comment on barring service providers who fail to file the annual FCC Form 473 by June 30th from participating in the program until the service provider complies with the rule. If the service provider is barred for failing to submit the annual FCC Form 473, they will not be allowed to submit bids through the portal or receive disbursements until they come into compliance with the rules. This would serve as a deterrent for service providers who fail to file the annual FCC Form 473. The *FNPRM* also proposes requiring consortium members to certify their compliance with the E-Rate program rules. Further, the proposed rules would require consortium leads to submit consortium members' certified FCC Forms 479 to USAC at the time the consortium lead files the consortium FCC Form 471. Currently, the consortium lead collects the FCC Form 479 from its members, but only provides it to USAC upon request. This action will ensure consortium members are subject to the same certification requirements as non-consortium applicants and will close another loophole in the rules.

In addition, the *FNPRM* seeks comment on several proposals to help ensure applicants are selecting cost-effective services when one or no bids are received. The *FNPRM* also seeks comment on ways to limit the profit margins for resellers or otherwise limit the reimbursement amount to the underlying carrier/manufacturer cost. The *FNPRM* requests comment on how to use USAC's Open Data and other available market data to create caps on what the E-Rate program will reimburse for services/equipment in specific locations. Further, the *FNPRM* seeks comment on whether commenters have additional proposals/rule changes to address this issue. Finally, the *FNPRM* proposes to sunset certain ECF rules from the Code of Federal Regulations.

These proposed rules will greatly strengthen the integrity of the E-Rate program by helping to improve the Commission's and USAC's oversight of consultants and providing them with additional tools to address consultant misconduct and better protect the program against bad actors. Expanding upon the E-Rate rules will also strengthen the integrity of the program and close loopholes that may allow for the circumvention of program rules.

Legal Basis

The proposed actions in the *Notices* are authorized pursuant to sections 1 through 4, 201 through 202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151 through 154, 201 through 202, 254, 303(r), and 403.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

Our actions in the *NPRM & FNPRM,* over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules proposed in the *NPRM & FNPRM* will apply to small entities in the industries identified in Table 1—2022 U.S. Census Bureau Data by NAICS Code, Table 2—Telecommunications Service Provider Data and Table 3—E-Rate Funding Data by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Where available, we also provide additional information regarding the number of potentially affected entities in the industries.

Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping, and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

The changes contemplated in the *NPRM,* if adopted, may impose new or modified reporting, recordkeeping, and other compliance obligations on certain small entities, particularly schools and libraries. For instance, in the *NPRM,* we seek comment on whether E-Rate program support should continue to extend to Head Start and pre-kindergarten facilities and students. The *NPRM* also explores the Commission's interpretation of CIPA, and seeks comment on whether the statute should require schools and libraries to extend restrictions to third-party devices that connect to their E-Rate-funded networks and internet access services. Additionally, in the *NPRM,* we seek comment on adopting additional requirements for holding public hearings and providing public notice of proposed internet safety policies, as required by CIPA. The *NPRM* also seeks comment on whether the Commission should collect a school's or library's internet safety policy required under CIPA and make them publicly available.

The *FNPRM* proposes new or additional reporting or recordkeeping and/or other compliance obligations on small applicants and service providers. The proposed rules would require applicants and service providers to collect and submit to USAC an annual consultant certification and disclosure form, similar to the SPAC Form (FCC Form 473), on which consultants will disclose any conflicts of interest, among other things. In addition, the *FNPRM* proposes the creation of a consultant database that would assign every individual consultant seeking to participate in, or already participating in, the E-Rate program a CRN to verify their identity before being able to access any of the program's systems, including EPC. For the Lifeline program, there is a RAD for persons who enroll subscribers on behalf of eligible telecommunications carriers (ETCs). If a representative is found violating the program rules, USAC can block them from the RAD and prevent them from submitting more enrollments through the NLAD and the National Verifier. Any non-employee who assists the applicant or service provider, whether for a fee or not, will be required to register for a CRN and submit the annual certification form to the applicant or service provider.

The *FNPRM* also proposes to amend § 54.504(d) of the Commission's rules to require that applicants submit a service substitution request in writing and certify it under penalty of perjury by an authorized person. The *FNPRM* proposes requiring a deadline for the SPAC (FCC Form 473) to be filed and modifying the service provider change rules to allow an applicant to select another service provider if the original service provider refuses to file the required SPAC form. The rules currently require service providers to file this form annually, but do not include a deadline to file the form. The *FNPRM* also seeks comment on barring service providers who fail to file the annual FCC Form 473 by June 30th from participating in the program until the service provider complies with the rule.

In addition, the *FNPRM* proposes requiring consortium members to certify their compliance with the E-Rate program rules. The proposed rules would also require consortium leads to submit consortium members' certified FCC Forms 479 to USAC at the time the consortium lead files the consortium FCC Form 471. Currently, the consortium lead collects the FCC Form 479 from its members, but only provides it to USAC upon request. This action will ensure consortium members are subject to the same certification requirements as non-consortium applicants and will close another loophole in the rules.

As required under existing rules, participants will continue to be obligated to maintain records and produce them, upon request, to the Commission, USAC, and other entities with authority over the participants. In assessing the cost of compliance for small entities, at this time the Commission cannot quantify the cost of compliance with any of the proposals that may be adopted or determine whether these proposals will require small entities to hire professionals to comply. We do not anticipate that small entities will be required to hire professionals to comply with any proposals we adopt from the *NPRM & FNPRM* because the proposed requirements are similar to other E-Rate program rules and procedures with which applicants, and their service providers and consultants, are already familiar. For example, applicants and service providers are already required to certify their compliance with the Commission's rules and thus requiring consultants and consortium members to provide similar certifications based on the existing FCC Forms 471 and 473 will be a similar requirement that is familiar to these E-Rate participants.

We believe the benefits of the rules proposed in the *FNPRM,* protecting the limited E-Rate funding, would outweigh any additional burdens on applicants, service providers, and consultants who participate in the E-Rate program. Applicants and service providers are not required to use consultants in the E-Rate program and participation by consultants in the E-Rate program is voluntary. We expect the information we receive in comments will help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from potential changes discussed in the *NPRM & FNPRM.*

Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

In the *NPRM,* we seek comment on several ways we can affirm our commitment to ensuring E-Rate-funded networks are being used responsibly and consistently with the universal service principles set forth by Congress in section 254 of the Communications Act. For example, we seek comment on whether the E-Rate program should continue to support network construction and dark fiber, or if, in light of today's school connectivity rates and the availability of other federal funding sources for such connectivity, these services should be deemed ineligible for E-Rate funding going forward. We also seek comment on other eligible services that may no longer be necessary to achieve the Communications Act's goals or may be inconsistent with the statute.

In the *NPRM,* we seek comment regarding several alternative proposals and possible approaches the Commission and parents and guardians may take to better protect children when using an E-Rate-funded network, including limiting screen time. For example, we seek comment on whether to limit E-Rate program support to Head Start and pre-Kindergarten facilities and students that are part of a public school district, or limit funding altogether based upon expert recommendations for internet use by children under 5 years old and to prevent waste, fraud, and abuse through funding services that are not being used by children. We also seek comment on whether the Commission should mandate how schools and libraries should release public notices for hearings, such as a notice for each time internet safety policies are amended, on an annual basis, or other set period of time. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the input sought in the *NPRM* and outline any additional alternatives.

In the *FNPRM,* we seek to update program rules and administration for applicants, including their consultants and service providers, that participate in the E-Rate program. We recognize that our proposed rules would impact small entities and seek comment on alternatives that may impose a significant economic impact upon them. For example, the *FNRPM* seeks comment on whether there are other certifications or disclosures consultants should be required to submit, beyond or instead of those proposed, that would help the Commission better prevent and detect misconduct and ensure transparency and compliance with program rules. We also seek comment on whether updates to the information provided on the form should be provided annually, or within a set period of time.

We propose to direct USAC to enhance its training and outreach materials to better assist E-Rate participants with complying with the Commission's updated rules and requirements. These enhanced training and outreach materials will help reduce participant confusion, thus reducing burdens on small and other participants to comply with E-Rate rules. We also propose to direct USAC to create an anti-fraud and E-Rate training program for consultants that must be completed when registering for a Consultant Registration Number (CRN), and then be completed annually thereafter. We will also consider any additional alternatives and comments concerning the impact of these proposals on small entities that we receive in response to the *FNPRM.*

Finally, we believe that to the extent the *FNPRM's* proposals introduce new compliance burdens on applicants in some respects, those burdens will likely be outweighed by the benefits to applicants. We expect that the proposed rules will better protect the integrity of the E-Rate program and will deter individuals that may want to commit fraud, waste, and abuse in the E-Rate program. The *FNPRM* seeks to expand upon E-Rate rules in order to close loopholes that allow for circumventing program rules. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments filed in response to the *NPRM & FNPRM.*

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority found in sections 1 through 4, 201–202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151 through 154, 201 through 202, 254, 303(r), and 403, the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking *is adopted* effective 60 days after publication in the **Federal Register**.

List of Subjects in 47 CFR Part 54

Communications common carriers, Infants and children, Internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

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

PART 54—UNIVERSAL SERVICE

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

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752, unless otherwise noted.

Subpart F—Universal Service Support for Schools and Libraries

■ 2. Amend § 54.500 by adding in alphabetical order the definition of ''*Consultant*'' to read as follows:

§ 54.500 Terms and definitions.

* * * * *

Consultant. A consultant is any non-employee working on behalf of a school, library, consortium that includes an eligible school or library, or service provider that participates in or is seeking to participate in the E-Rate program and who assists the school, library, consortium that includes an eligible school or library, or service provider, whether or not for a fee, with any aspect of participating in the E-Rate program, including, but not limited to, the application, competitive bidding, or disbursement processes. Examples of work performed by a consultant for purposes of this definition may include but are not limited to the planning, preparation, and submission of E-Rate applications or other E-Rate program forms; the planning and preparation of and/or assist with bids or bid evaluations; and responding to pre-commitment and/or post-commitment inquiries and audits, among other things. A ''non-employee'' of the applicant or service provider includes contractors or others who are employed by the applicant or service provider on a contract- or short-term basis and who do not receive a W–2 form from the applicant or service provider. A ''non-employee'' includes an employee, officer, representative, agent, or independent contractor of the consultant working on behalf of a school, library, consortium that includes an eligible school or library, or a service provider that participates in or is seeking to participate in the E-Rate program, including individuals who prepare, approve, sign, or submit E-Rate applications, or other forms related to the E-Rate program, or who prepare bid evaluations, bids, communicate or work with E-Rate service providers, other E-Rate consultants, or with the Administrator, as well as staff of such consultants responsible for monitoring compliance with E-Rate program rules.

* * * * *

■ 3. Amend § 54.503 by revising paragraphs (c)(2) and (c)(4) to read as follows:

§ 54.503 Competitive bidding requirements.

(c) * * *

(2) The FCC Form 470 shall be signed by a person authorized to request bids for eligible services for the eligible school, library, or consortium, including such entities.

(i) A person authorized to request bids on behalf of the entities listed on an FCC Form 470 shall certify under oath:

(A) I certify that the applicant includes:

(1) Elementary school(s) and/or secondary school(s) as defined in 47 CFR 54.500, that do not operate as for-profit businesses, and do not have endowments exceeding $50 million; and/or

(2) Libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act that do not operate as for-profit businesses and, except for the limited case of Tribal colleges or universities, their budgets are completely separate from any schools (including, but not limited to elementary and secondary schools, colleges, and universities).

(B) I certify that this FCC Form 470 and any applicable request for proposal (RFP) will be available for review by potential bidders for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology goals.

(C) I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I certify that I will retain all documents necessary to demonstrate compliance with the statute and with Commission rules regarding the form for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

(D) I certify that the entity or entities listed on this form have not received anything of value or a promise of anything of value, as prohibited by the commission's rules at 47 CFR 54.503(d), other than services and equipment sought by means of this form, by the service provider, or by any representative or agent thereof or any consultant in connection with this request for service.

(E) I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively.

(F) I certify that I have reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that I have knowledge of and have complied with them.

(G) I certify that I am authorized to submit this form on behalf of the eligible entity(ies) listed on this application, that I have examined this form, that all of the information on this form is true and correct to the best of my knowledge, that the entities listed on this form have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone.

(H) I acknowledge that persons making any false statements on this form may be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations of the False Claims Act, and suspension and debarment by the Commission.

(I) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or the entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

(ii) A person authorized to both request bids and order services on behalf of the entities listed on an FCC Form 470 shall, in addition to making the certifications listed in paragraph (C)(2)(i) of this section, certify under oath that:

(A) I certify that this FCC Form 470 and any applicable request for proposal (RFP) will be available for review by potential bidders for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology goals.

(B) I certify that the services the applicant purchases at discounts provided by 47 U.S.C. 254 will be used primarily for educational purposes, see 47 CFR 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 CFR 54.513.

(C) I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the form for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

(D) I certify that the entity or entities listed on this form have not received anything of value or a promise of anything of value, as prohibited by the Commission's rules at 47 CFR 54.503(d), other than services and equipment sought by means of this form, by the service provider, or by any representative or agent thereof or any consultant in connection with this request for services.

(E) I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs. I certify that I am authorized to procure eligible services for the eligible entity(ies).

(F) I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this form, that I have examined this form, and all the information on this form is true and correct to the best of my knowledge, that the entities listed on this form have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone.

* * * * *

(4) After posting on the Administrator's website an eligible school, library, or consortium FCC Form 470, the Administrator shall send confirmation of the posting to the entity requesting service. That entity shall wait at least 28 days from the date on which its description of services is posted on the Administrator's website before making commitments with the selected providers of services. The confirmation from the Administrator shall include the date after which the requestor may sign a contract or legally binding agreement with its chosen providers, known as the Allowable Contract Date (ACD). Applicants are not permitted to rely on an existing contract or legally binding agreement that was signed or agreed to prior to the ACD established by the description of services requested.

* * * * *

■ 4. Amend § 54.504 by revising paragraphs (a), (d), and (f) and adding paragraph (h) to read as follows:

§ 54.504 Requests for services.

(a) *Filing of FCC Form 471.* An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart shall, upon entering into a signed contract or other legally binding agreement for eligible services, submit a completed FCC Form 471 to the Administrator.

(1) The FCC Form 471 shall be signed by the person authorized to order eligible services for the eligible school, library, or consortium and shall include that person's certification under oath:

(i) I certify that the entities listed in this application are eligible for support because they are schools under the statutory definitions of elementary and secondary schools found in 47 CFR 54.500, that do not operate as for-profit businesses and do not have endowments exceeding $50 million, and/or they are libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act that do not operate as for-profit businesses and, except for the limited case of Tribal colleges or universities, their budgets are completely separate from any schools, including, but not limited to, elementary, secondary schools, colleges, or universities.

(ii) I certify that I represent the entity or entities listed on this application.

(iii) Except as exempted by § 54.503(e), I certify that an FCC Form 470 was posted and that any related request for proposal (RFP) was made available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology goals. I certify that there are signed contracts or other legally binding agreements covering all of the services listed on this FCC Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements.

(iv) I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.

(v) I certify that the services the applicant purchases at discounts provided by 47 U.S.C. 254 will be used primarily for educational purposes, see 47 CFR 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 CFR 54.513.

(vi) I certify that the entity(ies) listed on this application have not received anything of value or a promise of anything of value, as prohibited by the Commission's rules at 47 CFR 54.503(d), other than services and equipment sought by means of this form, by the service provider, or by any representative or agent thereof or any consultant in connection with this request for services.

(vii) I certify that I and the entity(ies) I represent have knowledge of and have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities and suspension and debarment by the Commission.

(viii) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

(ix) I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I acknowledge that I may be audited pursuant to my participation in the schools and libraries program. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to USAC and the Commission, including its Office of Inspector General.

(x) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application; that I have examined this request; that all of the information on this form is true and correct to the best of my knowledge; that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of the program; that no kickbacks were paid to anyone; and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. 502, 503(b), or by fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations of the False Claims Act, and suspension and debarment by the Commission.

(xi) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or the entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

(xii) I certify that if any of the Funding Requests on this FCC Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the eligible and ineligible components as required by the Commission's rules at 47 CFR 54.504.

(xiii) I certify that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services featured on this FCC Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product will be considered a rebate of some or all of the cost of the supported services.

(xiv) *Competitive Bidding Exemption Certifications.* If a school, library, or consortium is requesting services that are exempt from posting an FCC Form 470 under § 54.503(e), the authorized person will certify under penalty of perjury to one or more of these certifications:

(A) I certify that I selected an eligible commercially available business-class internet access service exempt from the requirement to post an FCC Form 470.

(B) I certify that I represent an eligible library and I selected eligible Category Two equipment and services exempt from the requirement to post an FCC Form 470.

(C) I certify that I ordered eligible Category Two equipment from a preferred master contract exempt from the requirement to post an FCC Form 470.

(xv) I certify that as of the date of the start of the discounted services the recipient(s) of service under my authority and represented in the Funding Request Number(s) for which funding was requested or received: (1) have complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (*l*); (2) are undertaking actions to comply with the requirements of Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (*l*), for the next funding year, but has not completed all requirements for this funding year; or (3) Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (*l*), does not apply because the recipient(s) of service are receiving discount services only for telecommunications services.

* * * * *

(d) *Service substitution.*

(1) A request by an applicant to substitute a service or product for one identified on its FCC Form 471 must be in writing.

(2) The Administrator shall approve such written request where the applicant certifies under penalty of perjury that:

(i) The service or product has the same functionality;

(ii) The substitution does not violate any contract provisions or state, local, or Tribal procurement law;

(iii) The substitution does not result in an increase in the percentage of ineligible services or functions; and

(iv) The requested change is either:

(A) Within the scope of the controlling FCC Form 470, including any associated Request for Proposal, for the original services; or

(B) The result of an unanticipated need for additional bandwidth and the applicant will seek competitive bids prior to the next funding year if the applicant plans to continue to receive the additional bandwidth.

(3) In the event that a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service. Reimbursement for substitutions shall only be provided after the Administrator has approved a written request for substitution.

(4) For purposes of this rule, the two categories of eligible services are not deemed to have the same functionality as one another.

* * * * *

(f) *Filing of FCC Form 473.* All service providers eligible to provide telecommunications and other supported services under this subpart shall submit annually a completed FCC Form 473 to the Administrator by no later than June 30 of the applicable funding year. The FCC Form 473 shall be signed by an authorized person and shall include that person's certification under oath that:

(1) I am authorized to submit this Service Provider Annual Certification Form on behalf of the above-named Service Provider, which has been assigned the above-referenced Service Provider Identification Number, and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this Form has been examined and reviewed and is true, accurate and complete. I acknowledge that any false statement on this Form or on the Service Provider Invoice Form (FCC Form 474) can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. 502, 503 (b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations under the False Claims Act, and suspension and debarment by the Commission.

(2) I certify that the Service Provider Invoice Forms (FCC Form 474) that are submitted by this Service Provider contain requests for universal service support for services which have been billed to the Service Provider's customers on behalf of schools, libraries, and consortia of those entities, as deemed eligible for universal service support by the Administrator.

(3) I certify that the bills or invoices issued by this Service Provider to the Billed Entity are for equipment and services eligible for universal service support by the Administrator and exclude any charges previously invoiced to the Administrator by the Service Provider.

(4) I certify that this Service Provider permits the Billed Entity/Applicant to choose the method of payment for the discounted services from those methods approved by the Administrator as set forth in 47 CFR 54.514(c).

(5) I certify that any requests for reimbursement that are sought under a Service Provider Invoice Form (FCC Form 474) for discounts for products or services that contain both eligible and ineligible components are properly allocated and removed from the funding request as required by the Commission's rules at 47 CFR 54.504(e).

(6) I certify that the invoices that are submitted by this Service Provider to the Billed Entity for reimbursement pursuant to Billed Entity Applicant Reimbursement Forms (FCC Form 472) are accurate and represent payments from the Billed Entity to the Service Provider for equipment and services provided pursuant to schools and libraries universal service program rules.

(7) I certify that this Service Provider makes available to customers, upon their request, separate prices for distinct services to assist Billed Entity Applicants in identifying the portions of their bills that represent the costs of

services provided to eligible entities for eligible purposes.

(8) I certify that no non-discount portion of the costs for eligible services will be waived, paid, or promised to be paid by this Service Provider. I acknowledge that an eligible school, library, or consortium may not receive rebates for service or products purchased with universal service support and the provision by any service provider of a supported service or product, or of free services or products unrelated to the supported service or product constitutes a rebate of the non-discount portion of the supported services or product as stated in 47 CFR 54.523.

(9) I certify that no kickbacks were paid by this Service Provider to anyone in connection with the schools and libraries universal service program.

(10) I certify that this Service Provider is in compliance with the Commission's rules and orders regarding gifts and this Service Provider and has not directly or indirectly offered or provided any gifts, gratuities, favors, entertainment, loans, or any other thing of value to any eligible schools, libraries, or consortium that includes eligible schools or libraries, or any of their consultants or representatives, except as permitted by the Commission's rule at 47 CFR 54.503(d).

(11) I certify that if the Administrator, as necessary, requests additional supporting information, this Service Provider will make all documents requested available to the Administrator as required by 47 CFR 54.516(b). I certify that this Service Provider will retain for at least 10 years (or whatever retention period is required by the Commission's rules in effect at the time of this certification), after the latter of the last day of the applicable funding year or the service delivery deadline for the funding requests,

(i) Any and all records that I rely upon to complete this form and each Service Provider Invoice Form (FCC Form 474) that is submitted by this Service Provider during the present funding year,

(ii) Any and all records issued by this Service Provider to the Billed Entity for reimbursement pursuant to Billed Entity Applicant Reimbursement Forms (FCC Form 472), and

(iii) All documents necessary to demonstrate compliance with the statutory or regulatory requirements for the schools and libraries universal service support program as required by 47 CFR 54.516(a)(2). I acknowledge that this Service Provider may be audited pursuant to 47 CFR 54.516(c), and that the Service Provider must provide such records as required by 47 CFR 54.516(b).

(12) I certify that the prices in any offer that this Service Provider makes pursuant to the schools and libraries universal service support program have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to

(i) Those prices,

(ii) The intention to submit an offer, or

(iii) The methods or factors used to calculate the prices offered.

(13) I certify that the prices in any offer that this Service Provider makes pursuant to the schools and libraries universal service support program will not be knowingly disclosed by this Service Provider, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law.

(14) I certify that no attempt will be made by this Service Provider to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(15) I certify that this Service Provider is not suspended or debarred from participating in Federal programs.

(16) I certify that, in addition to the foregoing, this Service Provider has knowledge of and is in compliance with the rules and orders governing the schools and libraries universal service support program, and acknowledges that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service program could result in civil or criminal prosecution by law enforcement authorities and suspension and debarment by the Commission.

(17) I certify that no universal service support has been or will be used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by any company designated by the Federal Communications Commission as posing a national security threat to the integrity of communications networks or the communications supply chain since the effective date of the designations.

(18) I certify that no Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by 47 CFR 54.10.

* * * * *

(h) *Filing of FCC Form 479.* All consortium members eligible to receive support under this subpart shall annually submit a completed FCC Form 479 to the Administrator. The FCC Form 479 shall be signed by an authorized person for the consortium member and the entities represented, and shall include that person's certification under oath that:

(1) I certify that the entities are elementary and secondary schools as defined in 47 CFR 54.500, do not operate as for-profit businesses, and do not have endowments exceeding $50 million, or they are libraries eligible for assistance from a State library administrative agency under the Library Services and Technology Act, do not operate as for-profit businesses and, except for the limited case of Tribal colleges or universities, their budgets are completely separate from any schools, including, but not limited to, elementary, secondary schools, colleges, or universities.

(2) I certify that the entities have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. For entities that enter into installment payments with their service providers for the non-discounted portion of special construction costs, I certify that they are able to make all required installment payments.

(3) I certify that the services purchased at discounts provided by 47 U.S.C. 254 will be used primarily for educational purposes, see 47 CFR 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 CFR 54.513. Additionally, I certify the entities and I have not received anything of value or a promise of

anything of value, as prohibited by the Commission's rules at 47 CFR 54.503(d), other than services and equipment sought by means of the funding application, by the service provider, or by any representative or agent thereof or any consultant in connection with this request for services.

(4) I certify, to the best of my knowledge, the non-discount portion of costs for the eligible services will not be paid by the service provider(s). I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product will be considered a rebate of some or all of the cost of the supported services.

(5) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services. I also certify that the information provided for the entities' discount level is accurate and true to the best of my knowledge.

(6) I certify that the entities and I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I acknowledge the entities and I may be audited pursuant to participation in the schools and libraries program. I certify that the entities and I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and will make such records available to the Administrator and the Commission, including its Office of Inspector General.

(7) I certify that the entities and I have knowledge of and have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities and suspension and debarment by the Commission.

(8) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies), that I have examined this form, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations of the False Claims Act, and suspension and debarment by the Commission.

(9) I acknowledge that Commission rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

(10) I certify that as of the date of the start of the discounted services the recipient(s) of service under my authority and represented in the Funding Request Number(s) for which funding was requested or received:

(i) Have complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (*l*);

(ii) Are undertaking actions to comply with the requirements of Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (*l*), for the next funding year, but have not completed all requirements for this funding year; or

(iii) Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (*l*), does not apply because the recipient(s) of service are receiving discount services only for telecommunications services.

■ 5. Amend § 54.514 by adding paragraph (d) to read as follows:

§ 54.514 Payment for discounted services.

* * * * *

(d) *Submission of request for reimbursement (FCC Form 472 or FCC Form 474).* Reimbursement for the costs associated with eligible services shall be provided directly to an eligible school, library, consortium that includes an eligible school or library, or service provider upon submission and approval of a completed FCC Form 471 (Billed Entity Applicant Reimbursement Form) or FCC Form 474 (Service provider Invoice Form) to the Administrator.

(1) The FCC Form 472 shall be signed by the person authorized to submit requests for reimbursement for the eligible school, library, or consortium, and shall include that person's certification under penalty of perjury that:

(i) I am authorized to submit this Billed Entity Applicant Reimbursement Form (FCC Form 474) on behalf of the above-named Billed Entity Applicant, and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this Form has been examined and reviewed and is true, accurate and complete. I acknowledge that any false statement on this Form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations under the False Claims Act, and suspension and debarment by the Commission.

(ii) The discount amounts listed in this Billed Entity Applicant Reimbursement Form are accurate and represent charges for eligible services and/or equipment delivered to and used by eligible schools, libraries, or consortia of those entities for educational purposes.

(iii) The amounts listed in this Billed Entity Applicant Reimbursement Form were already billed by the Service Provider and paid for by the Billed Entity Applicant on behalf of eligible schools, libraries, and consortia of those entities.

(iv) The discount amounts listed in this Billed Entity Applicant Reimbursement Form are for eligible services and/or equipment approved by the Fund Administrator pursuant to a Funding Commitment Decision Letter (FCDL).

(v) I acknowledge that I may be audited and will retain for at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request any and all records that I rely upon to complete this form.

(vi) I certify that this Billed Entity/Applicant will make all documents requested available to the Administrator and the Commission, including its Office of Inspector General, as required by 47 CFR 54.516(b).

(vii) I certify that, in addition to the foregoing, this Billed Entity Applicant has knowledge of and is in compliance with the rules and orders governing the schools and libraries universal service program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service program could result in civil or criminal prosecution by law enforcement authorities and suspension and debarment by the Commission.

(2) The FCC Form 474 shall be signed by the person authorized to submit requests for reimbursement for the eligible school, library, or consortium, and shall include that person's certification under penalty of perjury that:

(i) I am authorized to submit this Service Provider Invoice Form (FCC Form 474) on behalf of the above-named Service Provider, which has been assigned the above-referenced Service Provider Identification Number, and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this Form has been examined and reviewed and is true, accurate, and complete. I acknowledge that any false statement on this Form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations under the False Claims Act, and suspension and debarment by the Commission.

(ii) I certify that the equipment and services included in this request for reimbursement have been provided or delivered to the eligible school, library, or consortium.

(iii) I certify that this Service Provider has knowledge of and is in compliance with the rules and orders governing the schools and libraries universal service program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments.

(iv) I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service program could result in civil or criminal prosecution by law enforcement authorities and suspension and debarment by the Commission.

(v) I certify that the certifications made on the Service Provider Annual Certification Form (FCC Form 473) by this Service Provider are true and correct. I acknowledge that any false statement on the FCC Form 473 can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations under the False Claims Act, and suspension and debarment by the Commission.

■ 6. Amend § 54.516 by revising paragraphs (a)(1) and (2) to read as follows:

§ 54.516 Auditing and inspections.

(a) * * *

(1) *Schools, libraries, and consortia.* Schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Such documentation shall include, but not be limited to, all documents demonstrating a consultant's and/or consulting firm's compliance with program rules, letters of agency, consulting and fee agreements, and banking records showing payments to consultants and/or consulting firms. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools, libraries, and consortia shall maintain asset and inventory records for a period of 10 years after purchase.

(2) *Service providers.* Service providers shall retain documents related to the delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Such documentation shall include, but not be limited to, all documents demonstrating a consultant's and/or consulting firm's compliance with program rules, letters of agency, consulting and fee agreements, and banking records showing payments to consultants and/or consulting firms. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well.

* * * * *

■ 7. Add § 54.517 to read as follows:

§ 54.517 Consultants.

(a) *Filing of the FCC Form 5654.* All eligible schools, libraries, or consortia that include eligible schools or libraries seeking to receive discounts for eligible services under this subpart, and all service providers eligible to provide telecommunications and other supported services under this subpart, shall collect and submit to the Administrator an annual FCC Form 5654 to completed by each of their consultants. Eligible schools, libraries, consortia, or service providers that do not use a consultant as defined in § 54.500 must also submit this form to the Administrator and certify that a consultant is not being used to perform any services related to the universal service schools and libraries support mechanism.

(1) For schools, libraries, and consortia that include eligible schools or libraries, the FCC Form 5654 shall be signed by each consultant and include that person's certification under oath that:

(i) I am authorized to submit this certification and that based on information known to me or provided to me by persons responsible for the data being submitted, I hereby certify that the data set forth in this certification has been examined and is true, accurate, and complete.

(ii) I certify that the schools that I represent are elementary and secondary schools as defined under 47 CFR 54.500, may not operate as for-profit businesses, and may not have endowments exceeding $50 million.

(iii) I acknowledge that each library that I represent must be eligible for assistance from a State Library administrative agency under the Library Services and Technology Act and may not operate as a for-profit business and its budget must be completely separate from any school, unless it is an eligible Tribal College or University library that also serves as a public library.

(iv) I acknowledge that the entities I represent must secure access to all of the resources, including training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the necessary resources are not eligible for support. I also acknowledge that the entities I represent must secure access to the resources needed to pay their non-discounted share of costs for the eligible equipment and services. I further acknowledge that the non-discounted share of costs cannot be paid for by any service provider and that provision of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

(v) I acknowledge that the equipment and services purchased at discounts must be used for primarily educational purposes, see 47 CFR 54.500, and must not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by Commission's rules at 47 CFR 54.513.

(vi) I acknowledge that the entities that I represent must conduct a fair and open competitive bidding process, pursuant to 47 CFR 54.503, and must comply with all applicable state and local rules regarding the procurement of equipment and services for which support is being sought. I further acknowledge that the entities I represent must consider all bids received carefully and select the most cost-effective service offering using price of the eligible equipment and services as the primary factor.

(vii) I have not entered into any arrangements with others that may create an actual conflict of interest or the appearance of a conflict of interest as it relates to the entities that I represent and their participation in the program, including, for example, an arrangement with others who might seek to benefit from the competitive bidding process.

(viii) I acknowledge that the entities that I represent must retain all required documentation demonstrating compliance with program rules for a period of 10 years after the later of the last day of the funding year or the service delivery deadline, whichever date is later. I acknowledge that the entities I represent may be audited pursuant to participation in the Schools and Libraries universal service support mechanism and that I will make such records available to the Administrator, the Commission, including its Office of Inspector General, and any other authorized representative upon request.

(ix) I acknowledge that Commission's rules provide that persons who participate in the Schools and Libraries universal service support mechanism may be subject to suspension and debarment under the Commission's rules. I will institute reasonable measures to be informed, and will notify the Administrator should I be informed or become aware that any entities, or any persons associated with me or the entities I represent, is engaged in potential misconduct based on acts arising from their participation in the Schools and Libraries universal service support mechanism.

(x) I certify that I have not entered into a fee arrangement with the entities that I represent that is based on a percentage of the contract(s) or disbursements received through the Schools and Libraries universal service support mechanism.

(xi) I certify that I have entered into a letter of agency (LOA) or other similar agreement with each entity that I represent that includes the terms of my representation, and have submitted a copy to the Administrator with the submission of this form.

(xii) I certify that I have not received any kickbacks, gifts, or other things of value, other than my contracted payment from the entities that I represent.

(xiii) I certify that I have obtained a consultant registration number and have registered in the consultant registration database. I acknowledge that I must update the information provided in the database and submit an annual certification and disclosure form to the applicant or service provider that I am representing.

(xiv) I certify that I have completed the initial and annual program and anti-fraud training and have reviewed and understood all training content covered. I certify that I have knowledge of and have complied with all program rules and I acknowledge that the failure to comply with program rules may result in denial of discount funding and/or cancellation of funding commitments of the entities that I represent. I acknowledge that failure to comply with program rules could also result in civil or criminal prosecution by the appropriate law enforcement agencies and suspension and debarment by the Commission.

(xv) I certify that I am authorized to sign this certification and, to the best of knowledge, information, and belief, all information provided for the entities I represent regarding their participation in the Schools and Libraries universal service support mechanism is accurate and true, including information provided for any FCC form or in response to an inquiry from the Administrator, the Commission, or other authorized party. I acknowledge that any false statement on this Form or on other documents submitted by myself can be punished by fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations under the False Claims Act, and suspension and debarment by the Commission.

(2) For service providers, the FCC Form 5654 shall be signed by each consultant and include that person's certification under oath that:

(i) I am authorized to submit this certification and that based on information known to me or provided to me by persons responsible for the data being submitted, I hereby certify that the data set forth in this certification has been examined and is true, accurate, and complete.

(ii) I acknowledge that the entities that I represent must be compliant with the requirements of 47 CFR 54.504(f), 54.511(b); 54.514(c), and 54.516, among other program requirements.

(iii) I acknowledge that the entities that I represent must retain all required documentation that demonstrates compliance with the rules for a period of 10 years after the later of the last day of the funding year or the service delivery deadline, whichever date is later. I acknowledge that the entities I represent may be audited pursuant to participation in the Schools and Libraries universal service support mechanism and that I will make such records available to the Administrator, the Commission, including its Office of Inspector General, and any other authorized representative upon request.

(iv) I acknowledge that Commission's rules provide that persons who participate in the Schools and Libraries universal service support mechanism may be subject to suspension and debarment under the Commission's rules. I will institute reasonable measures to be informed, and will notify the Administrator should I be informed or become aware that any entities, or any persons associated with me or the entities I represent, is engaged in potential misconduct based on acts arising from their participation in the Schools and Libraries universal service support mechanism.

(v) I certify that I have not entered into a fee arrangement with the entities that I represent that is based on a percentage of the contract(s) or disbursements received through the Schools and Libraries universal service support mechanism.

(vi) I certify that I have entered into a letter of agency (LOA) or other similar agreement with each entity that I represent that includes the terms of my representation, and have submitted a copy to the Administrator with the submission of this form.

(vii) I certify that I have not received any kickbacks, gifts, or other things of value, other than my contracted payment from the entities that I represent.

(viii) I certify that I have obtained a consultant registration number and have registered in the consultant registration database. I acknowledge that I must update the information provided in the database and submit an annual certification and disclosure form to the applicant or service provider that I am representing.

(ix) I certify that I have completed the initial and annual program and anti-fraud training and have reviewed and understood all training content covered.

(x) I certify that I have knowledge of and have complied with all program rules, and I acknowledge that the failure to comply with program rules may result in denial of discount funding and/or cancellation of funding commitments of the entities that I represent. I acknowledge that failure to comply with program rules could also result in civil or criminal prosecution by the appropriate law enforcement agencies and suspension and debarment by the Commission.

(xi) I certify that I am authorized to sign this certification and, to the best of knowledge, information, and belief, all information provided for the entities I represent regarding their participation in the Schools and Libraries universal service support mechanism is accurate and true, including information provided for any FCC form or in response to an inquiry from the Administrator, the Commission, or other authorized party. I acknowledge that any false statement on this Form or on other documents submitted by myself can be punished by fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations under the False Claims Act, and suspension and debarment by the Commission.

(3) The FCC Form 5654 shall also include:

(i) The name(s) of the consulting firm(s) and/or company(ies) with whom the consultant is currently working or associated and their associated registration number;

(ii) Any association or relationship the consultant has that would potentially pose an actual or an appearance of a conflict of interest (*e.g.,* an association or partnership with a service provider or vendor participating in the Schools and Libraries universal service support mechanism); and

(iii) Consultant registration number (CRN).

(4) If a school, library, consortium of eligible schools and libraries, or service provider is not using a consultant as defined at § 54.500, the authorized person must submit the FCC Form 5654 and certify under oath:

(i) I am authorized to submit this certification and that based on information known to me or provided to me by persons responsible for the data being submitted, I hereby certify that the data set forth in this certification has been examined and is true, accurate and complete. I acknowledge that any false statement on this certification or on other documents submitted by myself can be punished by fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. 1001, 1343, civil violations under the False Claims Act, and suspension and debarment by the Commission.

(ii) I am not using a consultant, as defined at § 54.500, and I certify that only authorized employees have planned, prepared, approved, signed, or submitted E-Rate applications, or other forms related to the E-Rate program, or have planned and/or prepared bid evaluations, bids, communicated or worked with E-Rate service providers, or with the Administrator and the Commission.

(b) *Consultant Fee Arrangements.* Entities participating in the E-Rate program may not enter into any fee arrangement with a consultant that is based on a percentage of the E-Rate contract(s) and/or disbursements with and to the entity the consultant represents.

(c) *Letter of Agency (LOA) Requirement.* Applicants who use consultants, as defined under 47 CFR 54.500, must enter into a LOA or similar agreement with the consultant that sets forth the terms of the representation. The LOA or similar agreement must be provided to the Administrator with the submission of FCC Form 5654.

(d) *Mandatory training.* Consultants, as defined under 47 CFR 54.500, must complete a program and anti-fraud training offered by the Administrator and certify to having reviewed and understood the training content as part of the consultant registration database process. Consultants will be required to complete the training thereafter on an annual basis and will be prohibited from accessing the Administrator's systems until the training has been completed. If a consultant is prohibited from accessing USAC's systems, they are not permitted to complete and/or submit FCC forms on behalf of schools, libraries, consortia, or service providers.

(e) *Consultant Registration Database.* Consultants, as defined under 47 CFR 54.500, must register in the Consultant Registration Database and receive a Consultant Registration Number (CRN).

(1) A consultant will only be permitted to receive one CRN and must use this CRN to access the Administrator's systems and to complete and/or submit any FCC form on behalf of a school, library, consortium, or service provider.

(2) A consultant is prohibited from using another person's CRN to access the Administrator's systems or complete and/or submit any FCC forms. Any violations could result in civil or criminal prosecution by the appropriate law enforcement agencies and suspension and debarment by the Commission.

Subpart Q—Emergency Connectivity Fund

§ 54.1700 through 54.1710 [Removed]

■ 8. Remove §§ 54.1700 through 54.1710.

§ 54.1712 [Removed]

■ 9. Remove § 54.1712.

§ 54.1716 [Removed]

■ 10. Remove § 54.1716.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 260811–0511]

RIN 0648–BN52

Atlantic Highly Migratory Species; Revisions to Fishing Gear Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing regulatory revisions to fishing gear requirements in fisheries targeting Atlantic highly migratory species (HMS) to increase flexibility and remove inefficiencies, thus increasing fishing opportunities and the ability of HMS fisheries to achieve optimum yield. Specifically, NMFS is proposing changes to buoy gear regulations that include modifying gear deployment and retrieval requirements, authorizing this gear under additional permits, and allowing the retention of additional species. NMFS is also proposing changes to speargun fishing gear regulations that include authorizing this gear under additional permits and targeting additional species. Finally, NMFS is proposing overarching changes regarding gear used for the collection of bait in all HMS fisheries.

DATES: Written comments must be received by October 13, 2026. NMFS will hold two public hearing webinars on August 31, 2026 from 1 to 3 p.m. ET and October 1, 2026 from 1 to 3 p.m. ET. For additional details on the public hearings, see the **SUPPLEMENTARY INFORMATION** section of this document.