# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

**[CC Docket No. 96–45, FCC 01–31]**

### Federal-State Joint Board on Universal Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on implementation of the Children's Internet Protection Act (CHIP Act), Public Law 106–554. The CHIP Act provides that in order to be eligible to receive discounted Internet access, Internet services, and internal connection services, schools and libraries that have computers with Internet access must have in place certain Internet safety policies.

**DATES:** Comments are due on or before February 15, 2001. Reply comments are due on or before February 22. 2001. Written comments by the public on the proposed and/or modified information collections discussed in this Further Notice of Proposed Rulemaking are due on or before February 15, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before April 2, 2001.

**ADDRESSES:** All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to vhuth@omb.eop.gov. Parties should also send three paper copies of their filings to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, SW., Room 5–B540, Washington, DC 20554. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20037.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Secrest, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (FPRM) in CC Docket No. 96–45 released on January 23, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

This NPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

### Paperwork Reduction Act

The FNPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection(s) contained in this NPRM, as required by the PRA, Public Law 104–13. Public and agency comments on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due on or before February 15, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before April 2, 2001. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

1. *OMB Control Number:* 3060–0853.
*Title:* Receipt of Service Confirmation Form and Adjustment of Funding Commitment and Modification to Receipt of Service Confirmation Form—Universal Service for Schools and Libraries.
*Form No.:* FCC Form 486.
*Type of Review:* Proposed Revised Collection.
*Respondents:* Business or other for-profit; Not-for-Profit Institutions.
*No. of Respondents:* 30,000.
*Est. Time Per Response:* 35* hours.
*Total Annual Burdern:* 1,050,000 hours.
*Cost to Respondents:* $0.

2. *OMB Control Number:* 3060–0806.
*Title:* Universal Service—Schools and Libraries Universal Service Program.
*Form No.:* FCC Form 471.
*Type of Review:* Proposed Revised Collection.
*Respondents:* Business or other for-profit; Not-for-Profit Institutions.
*No. of Resondents:* 60,000.
*Est. Time Per Response:* 4.5 hours.
*Total Annual Burden:* 270,000 hours.
*Cost to Respondents:* $0.
*Needs and Uses:* In this Further Notice of Proposed Rulemaking, the Commission is seeking comment on the implementation of the Children's Internet Protection Act (CHIP Act) that provides that in order to be eligible under section 254 of the Communications Act of 1934, as amended, to receive discounted Internet access, Internet services, and internal connection services, schools and libraries that have computers with Internet access must have in place certain Internet safety policies. All schools and libraries receiving Internet

*First year only. 1.5 hours subsequent years.

access and internal connection services supported by the schools and libraries support mechanism must certify that they are enforcing a policy of Internet safety and enforcing the operation of a technology prevention measure. The Commission is also seeking comment on whether to use a modified FCC Form 486, the Receipt of Service Confirmation Form (OMB 3060–0853), to serve as the appropriate means of certification pursuant to the CHIP Act. In future years, the Commission contemplates using FCC Form 471 for the certification.

**Synopsis of FNPRM**

**I. Introduction**

1. On December 21, 2000, the President signed into law the Children's Internet Protection Act (the CHIP Act), included as part of the Consolidated Appropriations Act, 2001. Section 1721 and related sections of the CHIP Act provide that in order to be eligible under section 254 of the Communications Act of 1934, as amended (the Act), to receive discounted Internet access, Internet services, and internal connection services, schools and libraries that have computers with Internet access must have in place certain Internet safety policies. In this Further Notice of Proposed Rulemaking (Notice), we seek comment on implementation of the legislation.

**II. Issues for Comment**

2. In this Notice, we seek comment generally on implementation of the CHIP Act as it affects section 254 of the Communications Act of 1934, as amended. We seek comment in particular on the following issues.

3. We tentatively conclude that the most efficient and effective way of obtaining the certifications required under the legislation, while imposing the least burden on recipients, is to modify an existing FCC Form to include a certification that the recipient is in compliance with the requirements of the legislation, or that the statute does not apply. We propose that recipients use one of the following certifications: ''I certify that the recipient complies with all relevant provisions of the Children's Internet Protection Act, 42 U.S.C. 254(h).'' Or, ''I certify that the requirements of the Children's Internet Protection Act, 42 U.S.C. 254(h), do not apply.'' We seek comment on this proposal.

4. We contemplate for funding year 4 that FCC Form 486, the Receipt of Service Confirmation Form, could serve as the appropriate means of certification pursuant to the CHIP Act when modified to include the required certification. In future years, we contemplate adding the certification to the Form 471. We invite comment on use of these forms for this purpose.

5. Under the schools and libraries universal service funding mechanism, applicants often include entire school districts, comprising numerous schools, or consortia that include eligible schools and libraries. We therefore seek comment on which entities in these and other situations may make the certifications required under the CHIP Act.

6. Although the CHIP Act specifies when eligible entities must make the certifications under 254(h) for enforcing, for both minors and adults, a policy of Internet safety that includes operation of a technology protection measure, the statute does not similarly specify when eligible entities must certify that they are in compliance with the separate Internet safety policy described in section 254(l). We seek comment on whether the timing requirements under section 254(h)(5)(E) and 254(h)(6)(E) also apply to certifications by schools and libraries regarding the adoption and implementation of an Internet safety policy as required by section 254(l).

7. Sections 254(h)(5)(F) and 254(h)(6)(F) set forth consequences for schools or libraries that fail to submit certifications or fail to comply with the CHIP Act certifications. These sections also set forth procedures for remedying noncompliance. We seek comment on whether any rules are necessary to implement these remedial provisions of the statute, and how these provisions can be implemented in a way that is administratively efficient and fair to applicants. We invite comment on how these provisions should be implemented in light of the annual funding cycle, our rule imposing a cap on the amount of federal universal service support for schools and libraries, and our rule that provides priority for applicants that file within a specified filing period. Finally, we invite commenters to address any additional issues regarding effective implementation of the CHIP Act by the Commission.

**III. Procedural Matters and Ordering Clauses**

8. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

*1. Need for, and Objectives of, the Proposed Rules*

9. The Children's Internet Protection Act, included as part of the Consolidated Appropriations Act, 2001, Public Law 106–554, requires the Commission to prescribe regulations in order to implement the legislation. This Notice seeks to obtain comments about procedures that may be implemented in accordance with those requirements.

*2. Legal Basis*

10. The legal basis for this Notice is contained in the Children's Internet Protection Act, included as part of the Consolidated Appropriations Act, 2001, Public Law 106–554, and in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 1–4, 201–205, 254, 303(r), and 403, and § 1.411 of the Commission's rules.

*3. Description and Estimate of the Number of Small Entities To Which Rules Will Apply*

11. 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 that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a

population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96 percent) are small entities.

12. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally ''a non-profit institutional day or residential school that provides elementary education, as determined under state law.'' A secondary school is generally as ''a non-profit institutional day or residential school that provides secondary education, as determined under state law,'' and not offering education beyond grade 12. For-profit schools and libraries, and schools and libraries with endowments in excess of $50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined as small entities elementary and secondary schools and libraries having $5 million or less in annual receipts. In funding year 2 (July 1, 1999 to June 20, 2000) approximately 83,700 schools and 9,000 libraries received funding under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these entities that would qualify as small entities under SBA's definition, we estimate that fewer than 83,700 schools and 9,000 libraries would be affected annually by the rules proposed in this Notice, under current operation of the program.

*4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

13. The measures under consideration in this Notice would, if adopted, result in minimal additional reporting. Specifically, the Notice proposes to require eligible schools and libraries receiving federal universal service support for Internet access or internal connections to make one of the following certifications: ''I certify that the recipient complies with all relevant provisions of the Children's Internet Protection Act, 42 U.S.C. 254(h);'' or, ''I certify that the requirements of the Children's Internet Protection Act, 42 U.S.C. 254(h), do not apply.'' The Commission proposes modifying FCC Form 486 to include a certification for funding year 4, and modifying FCC Form 471 to include the certification for future years. These forms are already completed on a regular basis, and the modification would merely require the checking of one additional box prior to signing the form. We estimate that it would take no more than one minute to review and check the appropriate certification box. The Commission tentatively concludes that this approach would be the most effective procedure for implementation of the CHIP Act's requirements, and the least burdensome to applicants.

*5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

14. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.

15. This requirement is legislatively mandated, and the Commission is merely attempting to implement it in most effective and least burdensome manner possible. Given that a certification is required by the legislation, we considered the alternative of having each school and library submit separate documentation, including the appropriate certification, but such an approach would likely be unnecessarily burdensome on these entities. As discussed, the Commission tentatively concludes that adding a certification requirement to an existing FCC form is the least burdensome alternative for implementing the requirements of the CHIP Act. The Commission will consider other options as well, based in part on input from commenters.

*6. Federal Rules that may Duplicate, Overlap, or Conflict with the Proposed Rules*

16. None.

*Comment Due Dates and Filing Procedures*

17. We invite comment on the issues and questions set forth in the Further Notice of Proposed Rulemaking and Initial Regulatory Flexibility Analysis contained herein. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may comment on or before February 15, 2001 and reply comment on or before February 22, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24,121, May 1, 1998.

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

19. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties also should send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, SW., Room 5–B540, Washington, DC 20554.

20. Parties who choose to file by paper should also submit their comments on diskette to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, SW., Room 5–B540, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM-compatible format using Microsoft Word 97 for Windows or a compatible software. The

diskette should be accompanied by a cover letter and should be submitted in ''read-only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding, including the lead docket number in the proceeding (CC Docket No. 96–45), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase (''Disk Copy Not an Original.'') Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037.

## IV. Ordering Clauses

21. Pursuant to the authority contained in the Children's Internet Protection Act, included as part of the Consolidated Appropriations Act, 2001, Public Law 106–554, and in sections 1–4, 201–205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, 303(r), 403, and § 1.411 of the Commission's rules, this Further Notice of Proposed Rulemaking is adopted, as described herein.

22. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

## List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–2744 Filed 1–30–01; 8:45 am]

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