TABLE 2—AFFECTED CODES FROM THE MAPPING OF THE ICD–10–CM RECORDED IN ITEM I0020B OF THE MDS ASSESSMENT TO PDPM CLINICAL CATEGORIES REMOVING SURGICAL OPTION—Continued

ICD–10–CM code	ICD–10–CM code description
S42294A	Other nondisplaced fracture of upper end of right humerus, initial encounter for closed fracture.
S42294D	Other nondisplaced fracture of upper end of right humerus, subsequent encounter for fracture with routine healing.
S42294G	Other nondisplaced fracture of upper end of right humerus, subsequent encounter for fracture with delayed healing.
S42294K	Other nondisplaced fracture of upper end of right humerus, subsequent encounter for fracture with nonunion.
S42294P	Other nondisplaced fracture of upper end of right humerus, subsequent encounter for fracture with malunion.
S42295A	Other nondisplaced fracture of upper end of left humerus, initial encounter for closed fracture.
S42295D	Other nondisplaced fracture of upper end of left humerus, subsequent encounter for fracture with routine healing.
S42295G	Other nondisplaced fracture of upper end of left humerus, subsequent encounter for fracture with delayed healing.
S42295K	Other nondisplaced fracture of upper end of left humerus, subsequent encounter for fracture with nonunion.
S42295P	Other nondisplaced fracture of upper end of left humerus, subsequent encounter for fracture with malunion.

Given these errors, we are republishing the PDPM ICD–10 code mappings accordingly on the CMS website at *https://www.cms.gov/medicare/medicare-fee-for-service-payment/snfpps/pdpm,* applicable to October 1, 2023.

III. Waiver of Proposed Rulemaking

Under section 553(b) of the Administrative Procedure Act (the APA) (5 U.S.C. 553(b)), the agency is required to publish a notice of proposed rulemaking in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment, and delay in effective date requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting document does not constitute a rulemaking that would be subject to notice and comment requirements. This document merely corrects technical errors in the FY 2024 SNF PPS final rule and in the tables referenced in the final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were proposed, subject to notice and comment procedures, and adopted in the FY 2024 SNF PPS final rule. As a result, the corrections made through this correcting document are intended to resolve inadvertent errors so that the rule accurately reflects the policies adopted in the final rule. Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. It is in the public interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the FY 2024 SNF PPS final rule and the tables referenced in the final rule accurately reflect our methodologies, payment rates, and policies. This correcting document ensures that the FY 2024 SNF PPS final rule and the tables referenced in the final rule accurately reflect these methodologies and policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors in the Preamble

In FR Doc. 2023–16249 of August 7, 2023 (88 FR 53200), make the following corrections:

1. On page 53221, second column, third full paragraph:

a. Second sentence that reads, ''We proposed adding the surgical option that allows 45 subcategory S42.2—codes for displaced fractures to be eligible for one of two orthopedic surgery categories.'' is corrected to read, ''We proposed adding the surgical option that allows 46 subcategory S42.2—codes for displaced fractures to be eligible for one of two orthopedic surgery categories.''

b. Fourth sentence that reads, ''We also proposed adding the surgical option to subcategory 46 M84.5—codes for pathological fractures to certain major weight-bearing bones to be eligible for one of two orthopedic surgery categories.'' is corrected to read, ''We also proposed adding the surgical option to subcategory 45 M84.5—codes for pathological fractures to certain major weight-bearing bones to be eligible for one of two orthopedic surgery categories.''

Elizabeth J. Gramling,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2024–07522 Filed 4–9–24; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36, 51, and 54

[WC Docket Nos. 10–90, 23–328, 14–58, 09–197; WT Docket No. 10–208; FCC 23–87; FR ID 204795]

Connect America Fund, Alaska Connect Fund, ETC Annual Reports and Certifications, Telecommunications Carriers Eligible To Receive Universal Service Support, Universal Service Reform—Mobility Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) adopts a Report and Order (Order) amending existing rules and requirements governing the management and administration of the

Commission's Universal Service Fund (USF) high-cost program. The modifications adopted in the Order streamline processes, align timelines, and refine certain rules to more precisely address specific situations experienced by carriers.

DATES: Effective May 10, 2024, except for the amendments to §§ 36.4 (amendatory instruction 2), 54.205 (amendatory instruction 7), 54.313 (amendatory instruction 10), 54.314 (amendatory instruction 11), 54.316 (amendatory instruction 13), 54.903 (amendatory instruction 18), and 54.1306 (amendatory instruction 22), which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Nissa Laughner, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Nissa.Laughner@fcc.gov* or 202–418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in WC Docket Nos. 10–90, 23–328, 14–58, 09–197 and WT Docket No. 10–208; FCC 23–87, adopted on October 19, 2023, and released on October 20, 2023, with an Erratum issued by the Wireline Competition Bureau on Feb. 13, 2024. The full text of this document is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-23-87A1.pdf.*

I. Adopting High-Cost Program Administrative Improvements

1. The Commission adopts its proposal to revise § 54.313(i) of its rules to streamline the process for submitting annual high-cost information and certifications by requiring that such filings be made only with the universal service program administrator, *i.e.,* the Universal Service Administrative Company (USAC). Currently, this rule requires high-cost support recipients to file this information with the Commission, with USAC, and with the relevant state commission or relevant authority in a U.S. Territory, or Tribal government, as appropriate, resulting in redundant and unnecessary administrative burdens on high-cost support recipients. In addition to relieving recipients of these burdens, this rule change is warranted because the Commission can take advantage of technological advances to make this information more readily available to all interested parties by using the benefits of a centralized, online collection of information and improving access and records management. Several commenters support this change, and the Nebraska Public Service Commission asks the Commission to ensure that states retain full access to the annual reports. The Commission agrees that states should retain full access to the annual reports and it directs USAC to continue to provide access to this information to the States, U.S. Territories, and Tribal governments electronically via links to the data on USAC's website. Accordingly, the Commission finds that modifying § 54.313(i) of its rules to limit submission of the annual high-cost report to USAC is well warranted.

2. The Commission similarly adopts its proposal to revise § 54.314 of its rules to require states that desire Eligible Telecommunication Carriers (ETCs) to receive high-cost support and ETCs not subject to state jurisdiction to file annual reports with USAC only, rather than both USAC and the Commission's Office of the Secretary (OSEC). Several commenters support this modification, and none opposes. The Commission notes that its staff coordinates routinely with USAC, so this modification should have no impact on its ability to review and monitor these filings as part of its program oversight. The Wireless internet Service Providers Association (WISPA) supports this modification but only if reports are made publicly available so that funding recipients can ensure that the certification has been received and can demonstrate this to third parties, such as potential investors. The Commission finds that WISPA's request is reasonable. The Commission thus modifies its rules to require the submission of annual certifications under § 54.314 of the Commission's rules with USAC only and commit to making this information publicly available.

3. Third, the Commission adopts its proposal to more closely align support reductions with an ETC's failure to certify by the deadlines established in its rules. Current rules provide that support reductions do not occur until January of the year following the year when the ETC misses a reporting deadline. The revised rules the Commission adopts in this document will instead reduce support in the month immediately following the notice of support reduction to the eligible telecommunications carrier from USAC or as soon as feasible thereafter. Because support reductions are based on the number of days late, and payments usually occur mid-month, in situations where a filing is not received in time for USAC to calculate the requisite support reduction for the next month's payment, USAC will implement the support reduction as soon as feasible. No commenter opposes this change and CTIA—The Wireless Association (CTIA) agrees that requiring USAC to implement late filing support reductions more promptly by reducing support in the month immediately following the issuance of a notice of support reduction or as soon as feasible immediately thereafter avoids confusion and improves accountability.

4. The Commission modifies the reporting requirements for performance testing to require all high-cost support recipients serving fixed locations to report and certify performance testing results on a quarterly basis, rather than annually. High-cost support recipients must perform broadband performance testing one week out of each quarter. All high-cost support recipients, including those that are in compliance with speed and latency requirements, will be required to report and certify the results of the performance tests quarterly rather than annually. This modification will allow the Commission to better assess whether carriers are on track to meeting the Commission's performance measures requirements and to determine whether there are significant problems with a carrier's network that may interfere with consumer service. The Wireline Competition Bureau (Bureau) will continue to assess compliance with program requirements based on the annual testing results (*i.e.,* annual calculations), and carriers found not compliant will have support withheld until the carrier achieves a full quarter of compliance. No commenter opposes this modification, and NTCA—The Rural Broadband Association (NTCA) supports quarterly certification of performance test results for all high-cost support recipients, stating that reporting and certifying a carrier's performance testing results on a quarterly basis so the burden is minimal while also ensuring access to results enhances the Commission's oversight.

5. Carriers are required to report and certify locations in the High Cost Universal Broadband portal (HUBB) by March 1st annually but some carriers may not have reported locations when scheduled to begin performance pre-testing or testing. As a result, the Commission recognizes that certification of HUBB locations on March 1st may impede the carrier's ability to complete some of its testing. In these circumstances, the Bureau may exercise discretion when assessing the scope of a carrier's compliance or when implementing support withholdings.

6. Currently, the Commission requires quarterly reporting of carriers' pre-testing data, reflecting the results of tests conducted prior to the commencement of the official test period. Those quarterly testing results must be reported and certified within one week after the end of the quarter in which the tests are conducted, to provide insight into carriers' experience with the testing process. The Commission adopts a similar schedule of quarterly reporting filings for all high-cost carriers' testing. Once effective, all high-cost carriers will be required to report and certify their quarterly performance testing results within two weeks, rather than within one week, after the end of the quarter in which the tests are conducted. The Commission provides two weeks to offset the fact that, for administrative ease, it declines to adopt any grace period: first quarter testing results will be due April 15th, second quarter results will be due July 15th, third quarter results will be due October 15th, and fourth quarter results will be due January 15th. The Commission directs the Bureau to announce when quarterly reporting and certification will go into effect.

7. The Commission believes that establishing a specific reporting schedule will provide certainty, promote accountability, and conform with timelines for other testing protocols to minimize confusion. Given that carriers will be certifying locations quarterly, support withholding for non-compliance may be implemented sooner than when reports were due by July 1st annually. This will ensure that the withholding is closer in time to the determination of noncompliance and encourage the non-compliant carrier to improve its performance so that it can regain the withheld support.

8. Under this new quarterly certification schedule, the Commission implements support reductions for late performance measures reporting based on the current framework under § 54.313(j) that reduces support based on the number of days late, but factoring in that it is requiring quarterly filing certifications. Support reductions due to late filings will be assessed at the end of the fourth quarter and will be based on total number of days late divided by four, then rounded to the nearest whole number. When that number is between 1 and 7, a carrier will have its support reduced an amount equivalent to seven days in support; when that number is 8 or higher, a carrier will have its support reduced on a pro-rata basis equivalent to the period of non-compliance (*i.e.,* the number of days), plus the minimum seven-day reduction.

9. The Commission declines to relieve privately held rate-of-return carriers that receive Alternative Connect America Model (A–CAM) support or Alaska Plan support of the requirement to file annually a report of the company's financial conditions and operations. NTCA had sought this relief for all privately held rate-of-return carriers that receive A–CAM support or other fixed support mechanisms, such as the Alaska Plan, and the Commission sought comment on this issue in the *Administrative Notice of Proposed Rulemaking (NPRM),* 87 FR 36283, June 16, 2022.

10. Although NTCA and the Alaska Telecom Association (ATA) support eliminating this requirement, the Commission is not persuaded by their arguments. Moreover, the Commission has determined that the public interest benefits of collecting the information—understanding the efficacy of the model and helping to ensure that support is sufficient but not excessive—outweigh any burdens.

11. The Commission concluded in the *USF/Intercarrier Compensation (ICC) Transformation Order,* 76 FR 73830, November 29, 2011, that it is not necessary to require publicly traded companies to submit financial information because it could obtain such information directly for Securities and Exchange Commission registrants. At the same time, it declined to impose such a requirement on privately held price cap carriers receiving model-based support because the Commission ''expect[ed] that a model developed through a transparent and rigorous process will produce support levels that are sufficient but not excessive.''

12. NTCA argues that A–CAM carriers are similarly ''recipients of fixed support, which the Commission has already recognized leads them to being 'disciplined by market forces' and which should be the dispositive factor here.'' However, what the Commission actually stated was that ''support awarded through competitive processes,'' not model-based support, ''will be disciplined by market forces.'' And while the Commission concedes that, as NTCA notes, ''it is not true across the board'' that recipients of Connect America Fund (CAF) Phase II model-based support were publicly traded companies, the vast majority were, and as such their financial information was publicly available. Given these circumstances, it was sound policy not to require this information in that context. In contrast, there are many more rate-of-return carriers receiving A–CAM support, and many more of them are privately held and, thus, their information is not readily available to the Commission. The availability of support recipients' financial information enables the Commission to evaluate whether model-based support is actually sufficient but not excessive. Moreover, all high-cost support recipients have an obligation to use such support only for its intended purpose, and financial information helps the Commission validate compliance with this requirement. Thus, the Commission finds that the availability of the financial information of A–CAM carriers will help it evaluate whether A–CAM produces support levels that are sufficient but not excessive, and as such, it is important for the Commission to continue to collect such information.

13. ATA argues that Alaska Plan carriers' support is ''parallel to model-based support in that it is frozen at a set level'' and ''intended to be sufficient to support a carrier's performance obligations, but is not excessive because the support was frozen at a historic cost-based level which has in effect declined over time as costs increased.'' However, just because Alaska Plan support is frozen, does not ensure that the support is not excessive. The Commission finds that the continued availability of the financial information of Alaska carriers enables it to evaluate whether Alaska Plan carriers' support is sufficient but not excessive.

14. The Commission adopts its proposal to modify its rules to create a consistent, one-time grace period for all compliance filings with grace periods. Specifically, the Commission establishes a grace period that allows filers to submit compliance filings ''within four business days'' of the relevant due date without risking a finding of non-compliance for missing the filing deadline. Establishing a uniform grace period will reduce confusion and is supported by all commenters who addressed the issue, although WISPA prefers that the grace period be set at five business days instead of four. The Commission finds that a four-day grace period is adequate. As the Commission explained in the *Administrative NPRM,* it proposed to establish a set grace period to eliminate confusion. Currently, several Commission rules identify a specific date, after the due date, by which carriers could file reports without a support reduction if they had not previously missed a deadline, while other rules identified the grace period as three or four days after the filing deadline. The Commission also clarifies that the due date is day zero, so the day after the due date is day one. For

example, where a filing is due March 1, recipients must file by the end of March 5 or be subject to a support reduction. Consistent with the Commission's Computation of Time rule, if March 5 falls on a weekend or holiday, the filing must be made by the end of the next business day to avoid the support reduction. The Commission also clarifies that, by this rule modification, it is not establishing a new opportunity to utilize a grace period for carriers that have already taken advantage of the one-time grace period available to them.

15. The Commission modifies its rules to adopt uniform deployment, certification, and location reporting deadlines for all CAF Phase II auction support recipients (including recipients of support allocated through New York's New NY Broadband program). In doing so, the Commission codifies and makes permanent the Bureau's decision to waive recipient-specific reporting deadlines based on the date of authorization in favor of uniform reporting deadlines for all of these recipients, finding that this approach alleviates unnecessary administrative burdens and better facilitates Commission oversight. Two commenters support this change, and none oppose it. Accordingly, the Commission modifies its rules to provide that all CAF Phase II auction support recipients must comply with deployment milestones by deadlines occurring at the end of the specified calendar year (rather than the date the Bureau authorized the support recipient to receive support) and must meet annual certification and location reporting requirements (annual deployment report) as of March 1st annually, including reporting necessary to demonstrate compliance with the prior year milestone. In addition, the Commission modifies § 54.316(b)(7) of its rules regarding the certification deadlines for the Bringing Puerto Rico Together Fund stage 2 fixed program and the Connect USVI Fund stage 2 fixed program to make explicit the annual March 1st deadline, as specified in the respective authorization public notices, which aligns those programs' rules with the rules for other high-cost support mechanisms.

16. The Commission declines to amend § 54.316(a) of its rules to require ETCs receiving high-cost support and subject to defined deployment obligations to report the ''maximum speeds actually being offered, advertised, or delivered to customers.'' The Commission agrees with WISPA and CTIA, the only commenters to weigh in on this proposal, that such an amendment would result in collection of information similar to data the Commission already collects through its performance testing program and in fulfillment of its Broadband Data Collection (BDC) responsibilities. Through the performance testing program, the Commission assesses compliance with public service requirements, including speed and latency standards, by requiring high-cost support recipients to perform a minimum of one download test and one upload test per testing hour at a certain number of randomly chosen testing locations and to report this information to the Commission. Ultimately, the Commission will use this information to assess performance throughout the provider's entire supported service area. In addition, under the BDC, each facilities-based provider of fixed broadband internet access service must report maximum advertised download and upload speeds at the location level (with reference to the Broadband Serviceable Location Data Fabric). For these reasons, the proposed modification of § 54.316(a) would result in a largely redundant reporting requirement, and the Commission declines to adopt it.

17. The Commission adopts its proposal to amend § 54.316(a)(1) of its rules to more accurately reflect the deployed locations reporting obligations of support recipients. Currently, this rule directs ''recipients of high-cost support with defined broadband deployment obligations'' to ''provide to [USAC] on a recurring basis information regarding the locations to which the [ETC] is offering broadband service in satisfaction of its public interest obligations. . . .'' All filers subject to this requirement have a specific annual deadline for submitting this information, and the Commission finds that this section's reference to ''recurring'' filings is superfluous. Accordingly, the Commission modifies the rule to remove this language.

18. The Commission modifies its voice and broadband rate certification rules to clarify the reporting period. Specifically, the Commission makes explicit that carriers submitting the annual FCC Form 481 are certifying compliance with both the annual voice and broadband pricing benchmarks adopted in the prior calendar year ending the last day of December. As explained in the *Administrative NPRM,* when the Commission moved the annual FCC Form 481 filing deadline to July 1st, the Commission moved the date for the relevant voice rates to the rates in place as of June 1st the year the report was filed, as opposed to the prior year. Maintaining the rule's unique time period for voice rate certifications creates unnecessary confusion. Prior to the adoption of the rate floor provision, all certifications in Form 481 applied to the preceding calendar year, a uniformity to which the Commission returns with the adoption of this rule modification. For example, the support recipient submitting a Form 481 on July 1, 2024, will certify compliance during 2023 with voice and broadband benchmarks set for the 2023 calendar year (as announced in 2022). The Commission further updates the rule to reflect that the annual public notice announcing the benchmarks is issued by the Bureau and Office of Economics and Analytics.

19. Relatedly, in its comments, Teleguam Holdings LLC (GTA) asserts that the Commission should release its reasonable comparability benchmark rates earlier in the year (or extend the filing deadline for this certification) in order to allow support recipients sufficient time to modify their rates. The Commission agrees with GTA that release of these benchmark rates too close to the year-end can impose on support recipients, especially smaller companies, significant administrative burdens in effectuating rate changes at the start of the applicable year. Therefore, the Commission will endeavor to release these rates earlier in the year.

20. The Commission amends § 54.316(a) of its rules to make clear that it will permit high-cost support recipients to report and certify locations that should have been reported for a prior reporting year, even after the reporting deadline for that year, in future annual deployment reports and to count these locations (hereinafter ''late-reported locations'') toward their defined deployment obligations. To ensure that support recipients are motivated to submit complete and timely annual deployment reports, the Commission adopts a support reduction mechanism that will apply to all late-reported locations due to be reported after the effective date of the Order. For the submission of late-reported locations that should have reported before the effective date of the Order, the Commission exercises its discretion to not apply this mechanism.

21. Under § 54.316(a) of the Commission's rules, support recipients reporting in the HUBB have a duty to report all qualifying locations to which the support recipient deployed service during the relevant reporting period (the prior year) by March 1st, including locations that, if reported, would result in a carrier exceeding an interim or final milestone. As explained in the

Administrative NPRM, there is currently no mechanism by which support recipients can later submit and certify locations toward satisfaction of defined deployment obligations if the recipient missed the reporting deadline for those locations. Creating such a mechanism also better facilitates compliance with support recipients' general duty under § 1.17 of the Commission's rules to correct or amend information reported to the Commission and helps ensure that the Commission may effectively assess these recipients' progress in deploying service.

22. In the *Administrative NPRM,* the Commission proposed a formula for a support reduction mechanism for late-reported locations that would take into account the relative due diligence of support recipients in identifying and reporting locations. Specifically, the Commission proposed ''a support reduction mechanism where recipients' support will be reduced for [late-reported] locations based on the percentage of a recipient's total locations for the reporting year being reported after the deadline and the number of days after the deadline.'' The Commission adopts this formula with certain modifications to address concerns raised by commenters and to balance accountability with administrative burden.

23. As an initial matter, the Commission rejects NTCA's argument that any support reduction is unnecessary because support recipients are already sufficiently motivated to report and amend their filings to avoid possible default consequences and to gain the benefits of demonstrating to the public their deployment efforts. While, ultimately, support recipients may need to submit late-reported locations to avoid default, they would have no particular motivation to do so unless and until default is imminent, absent any consequence for late reporting. Indeed, acceptance of late-reported locations for the purpose of counting these locations toward defined deployment obligations at any time during the deployment period without consequence would encourage a lackadaisical approach to identifying and reporting locations on a timely basis and potentially could delay or disrupt verifications of compliance with milestones. Further, many support recipients are likely to delay deployment to the most difficult to serve areas where locations can be more difficult to assess, *e.g.,* where newly deployed areas are missing postal addresses. Support recipients may thus be motivated to delay reporting of certain easily identifiable locations in other earlier deployed areas in order to increase the likelihood of passing verification for later milestones, *i.e.,* by closing the non-compliance gap or increasing the probability of passing under the statistical measures used in the verification process. Finally, customers' goodwill toward their service providers is unlikely to be greatly affected by reporting delays unless the number of unreported locations is substantial and/or causes a milestone failure, and therefore, this concern is unlikely to be a significant factor in motivating support recipients to accurately assess and timely report or amend their annual deployment reports.

24. In their comments, GCI Communication Corp. (GCI) and NTCA object to the use of the support reduction mechanism as proposed in the *Administrative NPRM,* asserting that it would result in large variability in support reductions and have a disproportionately negative impact on those support recipients with fewer locations to serve and/or slower deployments at the beginning of their deployment term. While the Commission acknowledges that carriers with fewer deployed locations in a given year risk a larger support reduction for submitting late-reported locations for that year, it also notes that the time and effort associated with identifying and correctly reporting deployed locations should generally scale based on the number of locations deployed in a given year. In other words, as the number of deployed locations reported in a given year increases, so too do the burdens on carriers assessing locations and the associated likelihood of omitting a deployed location. Accordingly, this ratio is a reasonable measure of the relative due diligence by the reporting carrier warranting its incorporation in the support reduction formula.

25. GCI also asserts that ''[t]he penalties for providers who timely certified their deployed locations and need to add additional locations should not be worse than the penalties for failure to deploy on time,'' *i.e.,* a scaled withholding of support during a set time frame (cure period) during which time the carrier may recover withheld support upon demonstration of compliance. The Commission rejects GCI's attempt to analogize late reporting to delayed deployment. The cure period serves the Commission's overriding interest in maximizing deployment benefits by providing noncompliant carriers with the time to come into compliance by continuing to build the network. Carriers that seek to report late-reported locations do not need a cure period to provide them with additional time to file the locations. There may be circumstances where the support recipient has acted in good faith when deploying its network and reporting locations, only to learn of reporting errors during the verification process, such as the reporting of ineligible locations as eligible locations. In these circumstances, the support recipients may come into compliance by reporting locations newly deployed within the cure period (without support reduction) and/or reporting late-reported locations subject to the support withholding the Commission adopts here. Accordingly, all carriers reporting late-reported locations, whether they are in the cure period or not, are similarly situated in terms of support reduction consequences.

26. The Commission does, however, recognize that in certain circumstances application of the proposed formula would result in a significant support reduction that could threaten the ability of the support recipient to complete deployment, meet performance standards, and satisfy public interest obligations. The Commission also recognizes that some limited modification to the withholding formula would produce greater consistency in the amount of support withheld among support recipients with similar obligations and receiving similar support amounts, thus addressing some of GCI's expressed concerns. Accordingly, the Commission modifies the proposed formula to provide for a maximum per-day, per-location reduction of seven dollars ($7). The Commission also caps the duration multiplier at 15 days if the late-reported locations are filed as of the next reporting deadline after the locations should have been filed and at 30 days (for each instance of late reporting) if the late-reported locations are filed at any time thereafter. Further, the Commission adopts a one-time de minimis exception from support withholding for late-reported locations deployed in any single year that are less than five percent of the locations that were filed in the relevant reporting year. The Commission thus acknowledges GCI's and NTCA's concerns regarding the likelihood that carriers will make a minimum number of ''inevitable'' errors in reporting despite the exercise of due diligence, while also striking an appropriate balance to ensure that support recipients will make best efforts to avoid such errors.

27. Finally, and contrary to the Commission's tentative conclusion in the *Administrative NPRM,* it adopts a one-time grace period for amending an

annual filing with additional locations consistent with the grace period afforded support recipients that fail to submit their annual filing in § 54.316(c)(2)(iii) of its rules. The Commission finds that such one-time grace period, like that granted for late annual filings, places a minimum burden on the resources dedicated to program administration and evaluation of location information while accommodating the potential for a one-time administrative error. This is a particularly opportune time for the adoption of this grace period as carriers have been in the process of assessing their deployed locations for the mandatory BDC filings. The Commission will apply the support reduction for the filing of late-reported locations in the next month immediately following the notice of support reduction to the eligible telecommunications carrier from USAC or as soon as feasible thereafter.

28. To encourage support recipients to complete annual reviews of already served areas to identify unreported or misreported locations and to immediately report those locations even if the support recipient does not perceive such locations as necessary to meet interim deployment milestones, the Commission will not apply the support reduction consequence to any locations that were deployed in years prior to the effective date of this rule change but reported after the effective date of this rule. The Commission thus dismisses as moot all pending petitions for waiver to allow such reporting.

29. In addition, the Commission will not reduce support for late-reported locations reported after the support recipient has demonstrated compliance with the final milestone. Reducing support under these circumstances, where the benefit to carriers of such reporting is significantly less, would likely result in some support recipients failing to amend their filings. In addition, after the conclusion of the deployment period (including any cure period), the Commission will have a lesser stake in motivating timely reporting of every deployed location with a support reduction mechanism because such reporting will not threaten to disrupt verification processes. The Commission makes clear, however, that its approach to late-reported locations adopted here is independent of the obligation to amend filings under § 1.17 of its rules that attaches from the moment of filing and which could lead to forfeiture consequences, even in the absence of intentional misreporting and even after the demonstration of compliance with final deployment requirements. Support recipients have a continuing obligation to timely amend every annual deployment report upon discovery of an inaccuracy or omission.

30. In this document the Commission amends its rules to provide a simpler process for rate-of-return local exchange carriers (LECs) seeking to merge, consolidate, or acquire one or more rate-of-return study areas to calculate the new entity's Access Recovery Charge (ARC), CAF—Intercarrier Compensation (ICC) support, and reciprocal compensation and switched access rate caps. The Commission finds that the rule revisions proposed in the *Administrative NPRM* will significantly reduce the administrative burdens on rate-of-return LECs seeking to increase efficiencies and productivity through these transactions and provide predictability to carriers considering such transactions, ultimately benefiting consumers. The limited record received on the rule revisions proposed in the *Administrative NPRM* supports the proposed revisions, with one commenter agreeing that the proposals ''reflect a practical and effective step forward to streamline the merger and acquisition process. . . .'' No party opposes these proposed changes. Accordingly, the Commission now adopts those proposed changes and revises its rules to eliminate the need for a rate-of-return LEC that is involved in a merger, consolidation, or acquisition with another rate-of-return carrier to obtain a waiver of the applicable intercarrier compensation rules when certain conditions apply. The Commission also adopts a streamlined process that will apply in those cases where carriers are still required to seek a waiver of the Commission's rules.

31. In the *USF/ICC Transformation Order,* the Commission capped rate-of-return carriers' reciprocal compensation and interstate switched access rates and most intrastate switched access rates at the rates in effect on December 29, 2011. At the same time, the Commission adopted a multi-year transition for reducing most terminating switched access rates to bill-and-keep. As part of these reforms, the Commission adopted the ARC, which allows rate-of-return carriers to recover from end-users a portion of the intercarrier compensation revenues lost due to the Commission's reforms, up to a defined amount (Eligible Recovery) for each year of the transition. If the projected ARC revenues are not sufficient to cover the entire Eligible Recovery amount, rate-of-return carriers may elect to collect the remainder in CAF ICC support.

32. The calculation of a rate-of-return LEC's Eligible Recovery begins with its Base Period Revenue. A rate-of-return carrier's Base Period Revenue is the sum of certain terminating intrastate switched access revenues and net reciprocal compensation revenues received by March 31, 2012, for services provided during Fiscal Year (FY) 2011, and the projected revenue requirement for interstate switched access services for the 2011–2012 tariff period. A rate-of-return LEC's Base Period Revenue is calculated only once, but is adjusted during each step of the intercarrier compensation recovery mechanism calculations for each year of the transition. Specifically, the Base Period Revenue for rate-of-return carriers has been reduced by five percent each year, beginning in 2012, the first year of reform. A rate-of-return carrier's Eligible Recovery is equal to the adjusted Base Period Revenue for the year in question, less, for the relevant year of the transition, the sum of: (1) projected terminating intrastate switched access revenue; (2) projected interstate switched access revenue; and (3) projected net reciprocal compensation revenue. Eligible Recovery is also adjusted to reflect certain demand true-ups.

33. The Commission's existing rules for calculating Eligible Recovery do not address the adjustments that are necessary when study areas are merged after one company acquires all or a portion of another. Because a carrier's Base Period Revenue and interstate revenue requirement are study-area-specific, as are a carrier's capped switched access rates, combining two study areas requires a decision about how best to combine two different Base Period Revenues and interstate revenue requirements, and—when the study areas do not have the same capped rates—a waiver of the Commission's rules to establish the proper rate levels.

34. Since the Eligible Recovery rules have taken effect, several rate-of-return LECs have partially or fully merged study areas or acquired new study areas. Because the intercarrier compensation and CAF ICC rules adopted in the *USF/ICC Transformation Order* do not contemplate study area changes, these carriers have had to file petitions for waiver of portions of § 51.917 of the Commission's rules to reset the applicable Base Period Revenue associated with the study areas they have merged or acquired. In this line of waiver orders, the Bureau has permitted carriers to add together the relevant interstate revenues from FY 2011 of the merging study areas and the 2011–2012 interstate revenue requirement of the merging study areas. This calculation then creates a combined Base Period

Revenue which serves as the baseline for calculating the Eligible Recovery of the company serving the combined study area going forward. To facilitate mergers for entities that participate in the National Exchange Carrier Association (NECA) traffic-sensitive tariff, the Bureau has granted waivers of § 51.909 of the Commission's rules to allow NECA to place the consolidated study area in the rate bands that most closely approximate the merged entities' cost characteristics. The rate for each rate band then becomes the rate cap for the corresponding rate element in the merged study area.

35. In the *Administrative NPRM,* the Commission observed that the waiver process imposes costs and administrative burdens on rate-of-return LECs and, in some cases, may delay the closing of transactions. The Commission determined that rule revisions reflecting the pattern of outcomes in prior waiver orders would reduce these costs and administrative burdens by eliminating the need for carriers to obtain individual waivers when certain conditions apply. No party disputed these conclusions or identified any issues with the proposed rule revisions. In fact, the only comments addressing these proposals were filed by NECA, which agreed that the proposed rule changes would ease administrative burdens and provide carriers with predictability when considering mergers and/or acquisitions.

36. The Commission concludes that adopting the proposed rules will reduce regulatory costs and burdens, avoid potential delay, and allow carriers to assess the effects of a proposed transaction more accurately. For these reasons, the Commission adopts the rule revisions proposed in the *Administrative NPRM* and amends the intercarrier compensation rules in §§ 51.917 and 51.909 to address study area changes resulting from transactions involving rate-of-return carriers.

37. *Base Period Revenue calculation.* The Commission revises § 51.917 to provide guidance on calculating Base Period Revenues for rate-of-return study areas affected by a transaction, thereby permitting rate-of-return carriers to adjust their Base Period Revenues without the need for a waiver. Specifically, the Commission revises § 51.917 of its rules to provide that when two or more entire rate-of-return study areas are merged, the LEC shall combine the Base Period Revenue and interstate revenue requirements of the merging study areas for purposes of calculating Eligible Recovery. This approach is supported by NECA and consistent with the approach the Commission has taken previously in addressing transactions where study areas have merged. In the case of a partial study area change, the revised rules provide that rate-of-return LECs shall allocate the Base Period Revenue and interstate revenue requirement levels of the partial study area based on the proportion of access lines acquired compared to the total access lines in the pre-merger study area of the remaining entity.

38. *Setting rate caps.* The Commission revises § 51.909 to establish procedures for setting new rate caps for merging rate-of-return LECs and adopt a streamlined waiver process if the rates for the new combined study area would result in the new entity's CAF ICC support exceeding a certain threshold. Specifically, for carriers that file their own tariffs, the new rate cap for each rate element shall be the weighted average of the preexisting rates in each of the affected study areas. This approach is consistent with precedent and there was no opposition in the record to this logical and straightforward approach to establishing new rate caps for merging rate-of-return LECs that do not participate in NECA tariffs.

39. For merging rate-of-return LECs that participate in the NECA traffic-sensitive tariff and that have to establish a single switched access rate for a rate element, the revised rules provide that the new consolidated rate, as determined by NECA pursuant to the rate bands in its traffic-sensitive tariff, shall be the new rate cap if the merged entity's CAF ICC support will not increase as a result of the merger by more than two percent above the amount received by the merging entities prior to the transaction, using the demand and rate data for the preceding calendar year. In prior orders, the Bureau allowed NECA to place the consolidated study area in the rate bands that most closely approximated the merged entities' cost characteristics and NECA worked cooperatively with the Bureau to ensure that the most accurate rate bands are used for the merged entities. Under this approach, the rate for each rate band will become the rate cap for the corresponding rate element in the merged study area. The Commission expects that NECA will continue to evaluate the circumstances of each transaction, select the appropriate rate bands, and coordinate with the Bureau as appropriate.

40. The Commission proposed a two-percent threshold based on recently submitted petitions for waiver, which predicted increases between zero and two percent to CAF ICC as a result of the waiver. No party objected to this particular threshold or suggested an alternative one and increases in CAF ICC support of two percent or less will not materially impact the CAF ICC fund. Thus, the Commission now adopts the proposed two-percent threshold for carriers participating in the NECA traffic-sensitive tariff and eliminates the need for a waiver in circumstances where the CAF ICC increase is at or below two percent.

41. *Streamlined waiver process.* The *Administrative NPRM* also proposed revised rules that would streamline the waiver process for NECA tariff participants if the impact of rate banding exceeds the two-percent threshold. In such circumstances, the revised rules require carriers to file a petition for waiver specifying the impact of the merger, acquisition, or consolidation on the new entity's rates and CAF ICC support. Any petition for waiver should include information such as: (1) a description of the merging study areas, or portions of study areas involved; (2) the intrastate and interstate switched access demand for each rate element; (3) the relevant pre- and post-merger intrastate and interstate switched access rates for the study areas involved, as proposed; (4) the relevant pre-and post-merger intrastate and interstate switched access revenues, including the effects of interstate switched access revenue pooling, for the study areas involved; (5) the effect on CAF ICC resulting from the merger; and (6) a brief statement of the public interest benefits of the merger. The petition must be submitted for consideration via the Electronic Comment Filing System and a courtesy copy must be emailed to the Chief, Pricing Policy Division, Wireline Competition Bureau.

42. Under the new streamlined process, once the petition for waiver is filed, the Bureau will release a public notice announcing receipt of the waiver petition and establishing a 30-day comment period with an additional 15-day period for replies. If there is no opposition to the petition, the waiver will be deemed granted on the 60th day after the release of the public notice, unless the Bureau or the Commission acts to prevent the ''automatic'' grant. If an opposition is filed, the petition will no longer be eligible for the streamlined grant process and will instead be subject to the Commission's rules for waiver petitions generally. Because no party opposes this proposal or suggested changes to the proposed process or waiver requirements, the Commission adopts this streamlined process and delegates to the Bureau the authority to

review, analyze, and approve these petitions for waiver.

43. For the reasons specified in the *Administrative NPRM,* the Commission amends § 54.902 of its rules—which governs the amount of CAF Broadband Loop Support (BLS) a rate-of-return carrier receives when it acquires exchanges from another incumbent LEC—to better reflect the current state of the high-cost program. Currently, § 54.902(a) describes how CAF BLS support is calculated when a rate-of-return carrier acquires exchanges from another rate-of-return carrier, while § 54.902(b) specifies that in situations where a rate-of-return carrier acquires exchanges from a price cap carrier, the acquired exchanges remain subject to the support amounts and obligations established for frozen and model-based support. The Commission modifies § 54.902(a) to provide that only transferred exchanges that are already eligible for CAF BLS would be eligible for CAF BLS after their transfers. The Commission further modifies § 54.902(b) to provide that any acquired exchanges subject to § 54.902(b) continue to be subject to the support obligations in place at the time that the exchange is acquired, including obligations associated with frozen and auction-based support. As explained in the *Administrative NPRM,* these modifications are consistent generally with the rules as originally adopted, when all rate-of-return carriers were subject to the Interstate Common Line Support mechanism (which was renamed CAF BLS when modernized by the Commission in 2016), and consider changes to the high-cost program after the current rule went into effect: specifically, the creation of a voluntary pathway for rate-of-return carriers to select model-based support and the introduction of auction mechanisms permitting rate-of-return carriers to acquire exchanges from carriers that are not subject to rate-or-return or price cap regulation.

44. The Commission modifies the study area boundary process to require waivers for all study area boundary changes. The Commission finds that the original purpose of the study area boundary freeze—to prevent incumbent LECs from establishing separate study areas made up of only high-cost exchanges to maximize their receipt of high-cost universal service support—is best served by providing the Wireline Competition Bureau (WCB) with the opportunity to review such changes. By requiring waivers for all study area boundary changes, the Commission eliminates the exceptions adopted in 1996 by the then Common Carrier Bureau (now the WCB). Requiring all changes in study area boundaries to be reviewed by the Bureau will ensure that any proposed changes are not approved until the effects on the Fund are taken into account.

45. Since the exceptions to the study area boundary waiver requirement were adopted in 1996, the Commission has substantially reformed how universal service support is awarded. Incumbent LECs now receive support in different ways, including model-based support and auction support, in addition to traditional rate-of-return regulation (legacy support). Under the Commission's current rules, when a carrier that owns multiple study areas within a state wants to merge these commonly-owned study areas, the carrier is not required to petition the Commission. However, allowing carriers to merge study areas that receive support under different mechanisms creates opportunities for carriers to manipulate the Commission's support. For example, if a carrier seeks to merge two study areas in a state, one of which receives legacy rate-of-return support and another that receives model-based support, it would be difficult for the Commission to determine which lines in the new study area are entitled to rate-of-return support, which typically increases as the number of lines increases. Similarly, such a merger could create confusion regarding tracking carrier mandatory build-out obligations by changing the areas in which they must deploy broadband. For example, an A–CAM carrier receives a fixed amount of support in exchange for deploying broadband to a specific number of locations based on costs as determined by a model. If the A–CAM carrier merges its study area with a legacy rate-of-return study area in the same state owned by the same carrier, it would then be harder to track the deployment obligations under each program.

46. In addition, allowing carriers to add unserved areas to their study areas, even if those areas are not within an existing study area, could undermine the Commission's goal of distributing universal service support in the most efficient manner possible. In furtherance of this objective, the Commission has encouraged the transition to model-based support and auction-awarded support over traditional rate-of-return regulation. If rate-of-return carriers can extend their existing study area into unserved areas, this could result in the use of legacy support in additional areas when such areas could be served with broadband more efficiently using model-based or auction-based support.

47. The Nebraska Public Service Commission, the only party commenting on this issue, supports a streamlined mechanism for study area boundary changes, and suggests that any study area changes that have been previously approved by a state should be eligible for the streamlined review process. The Commission notes that it already has adopted a streamlined process to address all study area waiver petitions in the 2011 *USF/ICC Transformation Order,* and this streamlined process would apply to the waiver applications required here. The process takes into consideration whether the state commission having regulatory authority over the transferred exchanges does not object to the transfer, and whether the transfer is in the public interest. Evaluation of the public interest benefits of a proposed study area waiver include: (1) the number of lines at issue; (2) the projected universal service fund cost per line; and (3) whether such a grant would result in consolidation of study areas that facilitates reductions in cost by taking advantage of the economies of scale, *i.e.,* reduction in cost per line due to the increased number of lines. Under the streamlined process, once a carrier submits a petition the Bureau will issue a public notice seeking comment and noting whether the waiver is appropriate for streamlined treatment. Absent any further action by the Bureau, if the waiver is subject to streamlined treatment, it is granted on the 60th day after the reply comment due date. Alternatively, if the petition requires further analysis and review, the public notice will state that the petition is not suitable for streamlined treatment.

48. Requiring waivers for all study area boundary changes will help to avoid the issues created by merging study areas receiving different types of support or the expanded use of less efficient support methodologies. Requiring changes in study area boundaries to be reviewed by the Bureau will ensure that any proposed changes are not approved until the effects on the Fund are taken into account. Because the Commission has already established a streamlined process for such waivers, those requests that do not present any support or other concerns can be swiftly granted, thereby minimizing the burden on those carriers proposing mergers that promote efficiency and are clearly in the public interest.

49. As proposed in the *Administrative NPRM,* the Commission eliminates optional quarterly line count reporting for CAF BLS support recipients, finding that the mandatory annual line count

reporting set forth in §§ 54.313(h)(5) and 54.903(a)(1) of its rules suffices for the purposes of setting per line caps. No commenter filed comments on this proposal or the Commission's alternative proposal to update the schedule to file optional quarterly line counts to better align with the deadline for mandatory annual line count filings.

50. The optional quarterly reporting deadlines, falling on September 30th, December 31st, and March 31st, pertain to line counts as of six months prior to the filing deadline. The Commission notes that the December 31st optional quarterly line count update is due on the same day as the mandatory annual line count report for the prior reporting year, making this optional quarterly filing obsolete. All other quarterly line count reports have a six-month lag time, *i.e.,* each quarterly report reports line counts as of six months earlier. These optional quarterly line count filings also have limited utility. While USAC uses these quarterly line count updates to administer the monthly per-line cap on high-cost universal service support each quarter, only a very limited number of carriers have filed these updates in recent years, many of which are not subject to the per-line cap. USAC also uses quarterly line count data to determine preliminary (CAF BLS) amounts for a carrier that has acquired exchanges from another CAF BLS support recipient, but those amounts are ultimately subject to a true-up based on the acquiring carrier's actual cost and revenue data for their exchange (including the acquired exchange). Because the Commission can generally rely on the mandatory annual line counts due on March 31st to monitor line counts with minimum impact on reporting carriers and with minimum limitation on accuracy, it concludes that eliminating the optional quarterly line count filings is a more efficient modification than merely updating the filing schedule for these filings. Accordingly, the Commission eliminates these optional quarterly line count filings and modifies all related rules regarding these quarterly line counts.

51. The Commission revises § 54.205 of its rules to require an ETC designated by a state authority and seeking to relinquish its ETC designation to also provide advance notice to the Commission. The Commission sought comment on this proposal, which was supported by NTCA. As per this proposal, the Commission will also require the former ETC to notify it of the state's decision to permit or deny such relinquishment by submitting the relevant state order or other document issued by the state within 10 days of such issuance in the Electronic Comment Filing System, WC Docket No. 09–197. The Commission will require these filings regardless of whether the ETC is currently receiving Federal support, consistent with long standing precedent that states that obligations run with the ETC designation. The Commission's decision to require notice of relinquishment will help deter waste, fraud, and abuse by enabling swift discontinuance of support payments to non-ETCs, and, where applicable, allow the Commission to initiate default and potentially enforcement proceedings where it becomes clear that the support recipient has failed to fulfill its obligations. The Commission notes that these changes are applicable to all ETCs, including Lifeline-only ETCs. The Commission makes these modifications pursuant to authority granted under section 254 and as reasonably ancillary thereto. These changes will apply to all ETCs submitting requests for relinquishment after the effective date of these rule changes.

52. The Commission adopts several minor changes to its rules to correct inaccuracies associated with subsequent rule changes. Specifically, the Commission makes the following corrections:

- Section 54.314(d)(2) of the Commission's rules cross references § 54.313(a)(8). Section 54.313 was revised and renumbered, and § 54.313(a)(8) became § 54.313(a)(4), while § 54.313(a)(8) was eliminated. Accordingly, the Commission takes this opportunity to revise § 54.314(d)(2) to reference § 54.313(a)(4) rather than § 54.313(a)(8).
- Section 54.315(c)(4) of the Commission's rules currently indicates that the failure of CAF Phase II auction support recipients to meet service milestones will trigger reporting obligations and support withholding consistent with § 54.320(c) of the Commission's rules. This rule section should instead cross reference § 54.320(d).
- Similarly, § 54.1508(e)(1) of the Commission's rules also includes an incorrect cross reference. Specifically, when the section references milestones, it should cross reference § 54.320(d) instead of § 54.320(c).
- Subpart K of part 54 of title 47 is titled ''Interstate Common Line Support Mechanism for Rate-of-Return Carriers.'' In 2016, the Commission reformed this mechanism to provide support for stand-alone broadband, now known as CAF BLS. Consistent with this reform, the Commission retitles subpart K to read ''Connect America Fund Broadband Loop Support for Rate-of-Return Carriers.''
- Similarly, §§ 54.701(c)(1)(iii) and 54.705(c) of the Commission's rules describe the high-cost support mechanisms to include ''interstate access universal service support mechanism for price cap carriers described in subpart J of this part, and the interstate common line support mechanism for rate-of-return carriers described in subpart K of this part.'' The Commission deleted subpart J of part 54 to reflect its decision in the *USF/ICC Transformation Order* to eliminate the Interstate Access Support mechanism as a stand-alone support mechanism. In 2016, the Commission replaced the interstate common line support mechanism. In subsequent years, the Commission also created several new high-cost support mechanisms for rate-of-return and price-cap carriers. Accordingly, the Commission revises §§ 54.701(c)(1)(iii) and 54.705(c) to remove the references to ''interstate access universal service support mechanism for price cap carriers described in subpart J of this part,'' and ''interstate common line support mechanism.'' The Commission adds to these sections a reference to the high-cost support mechanisms described in subparts J, K, M, and O of the part, and the low-income support mechanisms described in subpart E of the part.

53. GTA has submitted proposals as part of its comments in this proceeding to apply the newly adopted Alaska rate benchmarks as suitable proxy for all insular territories in the United States. This proposal is not sufficiently related to those proposals raised in the *Administrative NPRM* to provide the requisite notice and comment periods for rulemakings as specified in the Administrative Procedure Act. Accordingly, the Commission declines to address them as part of the Order. These issues would need to be raised in a petition for rulemaking. The Commission does note that in its comments in this proceeding, GTA did not provide sufficient arguments or evidence for it to evaluate the reasonableness of the proposal, so the Commission would expect any such petition to include substantial additional information.

II. Procedural Matters

A. Paperwork Reduction Act

54. The Order contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget

(OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new and modified information collection requirements contained in this proceeding. In addition, the Commission notes that, pursuant to the Small Business Paperwork Relief Act of 2002, it previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission describes impacts that might affect small businesses, which includes most businesses with fewer than 25 employees in this document.

55. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, OMB, concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

56. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Administrative NPRM* released in May of 2022. The Commission sought written public comment on the proposals in the *Administrative NPRM,* including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis conforms to the RFA.

57. In the Order, the Commission adopts several changes to its rules that will improve the administration of the high-cost program to enhance its efficiency and efficacy, better safeguard USF, and streamline annual reporting and certification requirements for high-cost support recipients. First, the Commission adopts its proposal to streamline the process for submitting annual high-cost information and certifications by requiring that such filings be made only with the USAC, rather than with both USAC and the Commission's OSEC. Second, the Commission similarly adopts its proposal to require states that desire ETCs to receive high-cost support and ETCs not subject to state jurisdiction to file annual reports with USAC only. Third, the Commission adopts its proposal to more closely align support reductions with an ETC's failure to certify locations by the deadlines established in its rules. Fourth, the Commission modifies the reporting requirements for performance testing to require all high-cost support recipients serving fixed locations to report and certify performance testing results on a quarterly basis, rather than annually. Fifth, the Commission retains annual financial reporting for privately held rate-of-return carriers that receive A–CAM support or Alaska Plan support. Sixth, the Commission adopts its proposal to modify its rules to create a consistent one-time grace period for all compliance filings with grace periods to ''within four business days.'' Seventh, the Commission modifies its rules to adopt uniform deployment, certification, and location reporting deadlines for all CAF Phase II auction support recipients. Eighth, the Commission declines to amend § 54.316(a) of its rules to require ETCs receiving high-cost support and subject to defined deployment obligations to report the maximum speeds offered, advertised, or delivered to customers. Ninth, the Commission adopts its proposal to amend § 54.316(a)(1) to more accurately reflect the deployed locations reporting obligations of support recipients. Tenth, the Commission modifies its voice and broadband rate certification rules to clarify the reporting period. The Commission also amends § 54.316(a) to clarify that it will permit high-cost support recipients to report and certify late-reported locations in future annual deployment reports and to count these locations toward their defined deployment obligations.

58. In addition, the Order amends the Commission's rules to provide a simpler process for rate-of-return LECs seeking to merge, consolidate, or acquire one or more rate-of-return study areas to calculate the new entity's ARC, CAFF ICC support, and reciprocal compensation and switched access rate caps. The Commission amends § 54.902 of its rules to better reflect the current state of the high-cost program. The Commission modifies the study area boundary process to require waivers for all study area boundary changes. The Order also eliminates optional quarterly line count reporting for CAF BLS support recipients and revises § 54.205 of the Commission's rules to require an ETC designated by a state authority and seeking to relinquish its ETC designation to provide advance notice to the Commission.

59. 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 rules adopted herein. 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).

60. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's, Office of Advocacy, 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 33.2 million businesses.

61. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

62. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least

48,971 entities fall into the category of ''small governmental jurisdictions.''

63. Small entities potentially affected by the rules herein include Wired Telecommunications Carriers, LECs, Incumbent LECs, Competitive LECs, Interexchange Carriers (IXCs), Local Resellers, Toll Resellers, Other Toll Carriers, Prepaid Calling Card Providers, Wireless Telecommunications Carriers (except Satellite), Cable and Other Subscription Programming, Cable Companies and Systems (Rate Regulation), Cable System Operators (Telecom Act Standard), All Other Telecommunications, Wired Broadband Internet Access Service Providers (Wired ISPs), Wireless Broadband Internet Access Service Providers (Wireless ISPs or WISPs), Internet Service Providers (Non-Broadband), All Other Information Services.

64. In the Order, the Commission adopts measures to improve the management, administration, and oversight of the high-cost program that may impact small entities, including: streamlining reporting and certification requirements; improving review of mergers between rate-of-return local exchange carriers; clarifying support for exchanges acquired by a CAF BLS recipient; establishing a streamlined process to merge jointly-owned study areas; improving the process to relinquish ETC status, and improving the Commission's audit program.

65. The Commission revises § 54.313(i) of its rules to streamline the process for submitting annual high-cost information and certifications by requiring that such filings be made only with the USAC which administers the program, rather than both USAC and the Commission's OSEC. The Commission similarly revises § 54.314 of its rules to require that high-cost support recipients file annual reports with USAC only. Additionally, the Commission more closely aligns support reductions with an ETC's failure to certify locations by the deadlines established in the Commission's rules. The Commission also modifies the reporting requirements for performance testing to apply to all high-cost support recipients serving fixed locations, not just those carriers that are not in compliance with speed and latency requirements. These carriers will be required to report and certify performance testing results on a quarterly basis instead of annually, and the Commission will allow for an additional week to file the report. Further, the Commission modifies its rules to create a consistent one-time grace period for all compliance filings to ''within four business days.'' The Commission updates its rules to adopt uniform deployment, certification, and location reporting deadlines for all CAF Phase II auction support recipients (including recipients of support allocated through the New York's New NY Broadband program). Section 54.316(a)(1) of the Commission's rules is amended to more accurately reflect the reporting obligations of support recipients in reporting deployed locations. The Commission's voice rate certification rule is updated to require carriers submitting an annual FCC Form 481 to certify compliance with the annual voice and broadband benchmarks adopted for the preceding calendar year ending the last day of December rather than those benchmarks applicable to the year that the report is filed. The Commission modifies and amends its rules to permit high-cost support recipients that have deployed locations in years prior to the annual reporting year to submit these locations (late-reported locations) and to count these locations toward their defined deployment obligations.

66. The Commission amends its rules to provide a simpler process for rate-of-return LECs seeking to merge, consolidate, or acquire one or more rate-of-return study areas to calculate the new entity's ARC, CAF ICC support, and reciprocal compensation and switched access rate caps. Section 51.917 is modified to provide guidance on calculating Base Period Revenues for rate-of-return study areas affected by a transaction, thereby permitting rate-of-return carriers to adjust their Base Period Revenues without the need for a waiver. Specifically, the Commission revises § 51.917 of its rules to provide that when two or more entire rate-of-return study areas are merged, the LEC shall combine the Base Period Revenue and interstate revenue requirements of the merging study areas for purposes of calculating Eligible Recovery. The Commission modifies § 51.909 to establish procedures for setting new rate caps for merging rate-of-return LECs and adopt a streamlined waiver process if the rates for the new combined study area would result in the new entity's CAF ICC support exceeding a certain threshold. Specifically, for carriers that file their own tariffs, the new rate cap for each rate element shall be the weighted average of the preexisting rates in each of the affected study areas. Revising the waiver process will reduce costs and administrative burdens by eliminating the need for carriers, including small entities, to obtain individual waivers when certain conditions apply.

67. The Commission modifies § 54.902(a) to limit eligibility for CAF BLS support to those transactions where the acquiring carrier would only be eligible to receive CAF BLS support for exchanges acquired from existing CAF BLS recipients, and revises § 54.902(b) to include any model-based, auction-based, or frozen support. The Commission updates the study area boundary process to require waivers for all study area boundary changes. The Commission eliminates optional quarterly line count reporting for CAF BLS support recipients, finding that the mandatory annual line count reporting set forth in §§ 54.313(h)(5) and 54.903(a)(1) of the Commission's rules suffices for the purposes of setting per line caps. The Commission revises § 54.205 of the Commission's rules to require an ETC designated by a state authority and seeking to relinquish its ETC designation to also provide advance notice to the Commission. In addition, the Commission requires former ETCs designated by a state authority that have relinquished their designation to provide notice of such relinquishment within 10 days of the effective date of this rule modification. The Commission adopts several minor changes to its rules to correct inaccuracies associated with subsequent rule changes.

68. The Commission modifies § 54.902(a) to limit eligibility for CAF BLS support to those transactions where the acquiring carrier would only be eligible to receive CAF BLS support for exchanges acquired from existing CAF BLS recipients, and revise § 54.902(b) to include any model-based, auction-based, or frozen support. The Commission updates the study area boundary process to require waivers for all study area boundary changes. The Commission eliminates optional quarterly line count reporting for CAF BLS support recipients, finding that the mandatory annual line count reporting set forth in §§ 54.313(h)(5) and 54.903(a)(1) of its rules suffices for the purposes of setting per line caps. The Commission revises § 54.205 of its rules to require an ETC designated by a state authority and seeking to relinquish its ETC designation to also provide advance notice to the Commission. In addition, the Commission requires former ETCs designated by a state authority that have relinquished their designation to provide notice of such relinquishment within 10 days of the effective date of this rule modification. The Commission adopts several minor changes to its rules to correct inaccuracies associated with subsequent rule changes.

69. The record does not provide sufficient information to allow the

Commission to determine whether small entities will be required to hire professionals to comply with its decisions. The Commission anticipates the approaches it has taken to implement the requirements will have minimal cost implications because it expects that much of the required information is already collected to ensure compliance with the terms and conditions of support. Further, the changes the Commission makes to streamline waiver processes and eliminate duplicative filing requirements may reduce administrative costs and compliance requirements for small entities that may have smaller staff and fewer resources.

70. The RFA requires an agency to provide, ''a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.''

71. In reaching its final conclusions and through its actions in this proceeding, the Commission has considered the economic impact of, and alternatives to, proposals that may affect small entities. The rules that the Commission adopts in the Order will benefit small and other entities by improving and streamlining annual reporting and certification, as well as by eliminating ambiguity and reducing administrative burdens. Additionally, the Commission adopts consistent grace periods of four business days which will eliminate confusion for all entities from grace periods falling on a weekend or holiday. The Commission also eliminates the need for rate-of-return LECs, most of which are small entities, that are involved in a merger, consolidation, or acquisition with another rate-of-return carrier to obtain a waiver of certain intercarrier compensation rules. For carriers that do not satisfy the criteria identified for transactions when waiver is not required, the Commission adopts a streamlined CAF ICC merger approval process. Specifically, the Commission modifies § 54.314 to require the submission of annual certifications of its rules with USAC only, instead of USAC and the Commission. Revisions to § 54.316(a) clarify high-cost support recipients obligations for late-reported locations, addressing commenters concerns by modifying the support reduction and capping the duration multiplier if timely filing is made by the next deadline. The Commission, however, declines to amend § 54.316(a) to require ETCs receiving high-cost support and subject to defined deployment obligations to report the maximum speeds offered or delivered to customers because similar information is collected through fulfillment of their BDC responsibilities.

72. To the extent the Commission retains certification and reporting requirements, it finds that the importance of monitoring the use of the public's funds outweighs the burden of filing the required information on all entities, including small entities, particularly because much of the information that the Commission requires they report is information it expects they will already be collecting to ensure they comply with the terms and conditions of support and they will be able to submit their location data on a rolling basis to help minimize the burden of uploading a large number of locations at once. For example, the Commission declines proposals to relieve privately held rate-of-return carriers that receive A–CAM support or Alaska Plan support of the requirement to file annually a report of the company's financial conditions and operations, because the public interest benefits evaluating the efficacy outweigh the burdens. The Commission considered proposals that sought to apply the newly adopted Alaska rate benchmarks as suitable proxy for all insular territories in the United States, but declines to address them in the Order because they are not sufficiently related to the proposals in the *Administrative NPRM,* and recommend that commenters submit a petition for rulemaking to address this issue.

III. Ordering Clauses

73. Accordingly, *it is ordered,* pursuant to the authority contained in sections 4(i), 214, 218–220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 218–220, 254, 303(r), and 403, and §§ 1.1 and 1.425 of the Commission's rules, 47 CFR 1.1 and 1.425 the Order *is adopted.* The Order *shall be effective* thirty days after publication in the **Federal Register**, except for those portions containing information collection requirements in §§ 36.4, 54.205, 54.313(a)(2), (3), and (6), (i), and (j), 54.314(a) through (d), 54.316(a) through (d), 54.903(a)(2), and 54.1306 of the Commission's rules that have not been approved by OMB.

74. *It is further ordered* that parts 36, 51, and 54 of the Commission's rules *are amended* as set forth in this document, and that any such rule amendments that contain new or modified information collection requirements that require approval by the OMB under the PRA *shall be effective* after announcement in the **Federal Register** or OMB approval of the Commission's rules, and on the effective date announced therein.

List of Subjects

47 CFR Part 36

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone, Uniform System of Accounts.

47 CFR Part 51

Communications, Communications common carriers, Telecommunications, Telephone.

47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 36, 51, and 54 as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, 410, and 1302 unless otherwise noted.

■ 2. Delayed indefinitely, amend § 36.4 by adding paragraph (c) to read as follows:

§ 36.4 Streamlining procedures for processing petitions for waiver of study area boundaries.

* * * * *

(c) *Petitions for waiver required.* Effective as of [30 DAYS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (c)], local exchange carriers seeking a change in study area boundaries must file a study area petition consistent with the procedures

set out in paragraphs (a) and (b) of this section notwithstanding any prior exemption from such waiver requests including, but not limited to, when a company is combining previously unserved territory with one of its study areas or a holding company is consolidating existing study areas within the same state. The Wireline Competition Bureau or the Office of Economics and Analytics are permitted to accept study area boundary corrections without a waiver.

PART 51—INTERCONNECTION

■ 3. The authority citation for part 51 continues to read as follows:

Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 225–27, 251–52, 271, 332 unless otherwise noted.

■ 4. Amend § 51.909 by adding paragraph (a)(7) to read as follows:

§ 51.909 Transition of rate-of-return carrier access charges.

(a) * * *

(7) Rate-of-return carriers subject to § 51.917 that merge with, consolidate with, or acquire, other rate-of-return carriers shall establish new rate caps as follows:

(i) If the merged entity will file its own access tariff, the new rate cap for each rate element shall be the average of the preexisting rates of each study area weighted by the number of access lines in each study area; or

(ii) If the merged entity participates in the Association traffic-sensitive tariff and has to establish a single switched access rate for one or more rate elements, the new consolidated rate reflecting the cost characteristics of the merged entity, as determined by the Association, will serve as the new rate cap if the merged entity's Connect America Fund Intercarrier Compensation (CAF ICC) support will not be more than two percent higher than the combined amount received by the entities prior to merger, using rate and demand levels for the preceding calendar year. A merging entity that does not satisfy the requirement in this paragraph (a)(7)(ii) may file a streamlined waiver petition that will be subject to the following procedure:

(A) *Public notice and review period.* The Wireline Competition Bureau will issue a public notice seeking comment on a petition for waiver of the two-percent threshold established by this paragraph (a)(7)(ii).

(B) *Comment cycle.* Comments on petitions for waiver may be filed during the first 30 days following public notice, and reply comments may be filed during the first 45 days following public notice, unless the public notice specifies a different pleading cycle. All comments on petitions for waiver shall be filed electronically, and shall satisfy such other filing requirements as may be specified in the public notice.

(C) *Effectuating waiver grant.* A waiver petition filed pursuant to this paragraph (a)(7)(ii)(C) will be deemed granted 60 days after the release of the public notice seeking comment on the petition, unless opposed or the Commission acts to prevent the waiver from taking effect. The Association and the petitioner shall coordinate the timing of any tariff filing necessary to effectuate this change. The revised rate filed by the Association shall be the rate cap for purposes of applying paragraph (a) of this section.

* * * * *

■ 5. Amend § 51.917 by revising paragraph (c) to read as follows:

§ 51.917 Revenue recovery for Rate-of-Return Carriers.

* * * * *

(c) *Base Period Revenue*—(1) *Adjustment for Access Stimulation activity.* 2011 Rate-of-Return Carrier Base Period Revenue shall be adjusted to reflect the removal of any increases in revenue requirement or revenues resulting from Access Stimulation activity the Rate-of-Return Carrier engaged in during the relevant measuring period. A Rate-of-Return Carrier should make this adjustment for its initial July 1, 2012, tariff filing, but the adjustment may result from a subsequent Commission or court ruling.

(2) *Adjustment for merger, consolidation, or acquisition.* Rate-of-Return Carriers subject to this section that merge with, consolidate with, or acquire, other Rate-of-Return Carriers shall establish combined Base Period Revenue and interstate revenue requirement levels as follows:

(i) If the merger or acquisition is of two or more study areas, the Base Period Revenue and interstate revenue requirement levels of the study areas shall be added together to establish a new Base Period Revenue and interstate revenue requirement for the newly combined entity; or

(ii) If a portion of a study area is being acquired and merged into another study area, the Base Period Revenue and interstate revenue requirement levels of the partial study area shall be based on the proportion of access lines acquired compared to the total access lines in the pre-merger study area.

* * * * *

PART 54—UNIVERSAL SERVICE

■ 6. 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.

■ 7. Delayed indefinitely, amend § 54.205 by revising paragraph (a) and adding paragraphs (c) and (d) to read as follows:

§ 54.205 Relinquishment of universal service.

(a) A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give notice to the state commission and to the Federal Communications Commission of such intention to relinquish. The notice to the Federal Communications Commission shall be filed with the Office of the Secretary of the Commission clearly referencing WC Docket No. 09–197.

* * * * *

(c) Where a state authority permits an eligible telecommunications carrier to relinquish its designation, the former eligible telecommunications carrier must submit a copy of the state authority's order or other document permitting relinquishment to the Commission within 10 days of the state authority's decision.

(d) All notices to the Commission must be filed regardless of whether the eligible telecommunications carrier received or is receiving universal service support at the time of relinquishment.

■ 8. Amend § 54.305 by revising paragraph (d) to read as follows:

§ 54.305 Sale or transfer of exchanges.

* * * * *

(d) Transferred exchanges in study areas operated by rural telephone companies that are subject to the limitations on loop-related universal service support in paragraph (b) of this section may be eligible for a safety valve loop cost expense adjustment based on the difference between the rural incumbent local exchange carrier's index year expense adjustment and subsequent year loop cost expense adjustments for the acquired exchanges. Safety valve loop cost expense adjustments shall only be available to

rural incumbent local exchange carriers that, in the absence of restrictions on high-cost loop support in paragraph (b) of this section, would qualify for high-cost loop support for the acquired exchanges under § 54.1310.

(1) For carriers that buy or acquire telephone exchanges on or after January 10, 2005, from an unaffiliated carrier, the index year expense adjustment for the acquiring carrier's first year of operation shall equal the selling carrier's loop-related expense adjustment for the transferred exchanges for the 12-month period prior to the transfer of the exchanges. At the acquiring carrier's option, the first year of operation for the transferred exchanges, for purposes of calculating safety valve support, shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. For the first year of operation, a loop cost expense adjustment, using the costs of the acquired exchanges submitted in accordance with § 54.1305 shall be calculated pursuant to § 54.1310 and then compared to the index year expense adjustment. Safety valve support for the first period of operation will then be calculated pursuant to paragraph (d)(3) of this section. The index year expense adjustment for years after the first year of operation shall be determined using cost data for the first year of operation of the transferred exchanges. Such cost data for the first year of operation shall be calculated in accordance with §§ 54.1305 and 54.1310. For each year, ending on the same calendar quarter as the first year of operation, a loop cost expense adjustment, using the loop costs of the acquired exchanges, shall be submitted and calculated pursuant to §§ 54.1305 and 54.1310 and will be compared to the index year expense adjustment. Safety valve support for the second year of operation and thereafter will then be calculated pursuant to paragraph (d)(3) of this section.

(2) For carriers that bought or acquired exchanges from an unaffiliated carrier before January 10, 2005, and are not subject to the exception in paragraph (c) of this section, the index year expense adjustment for acquired exchange(s) shall be equal to the rural incumbent local exchange carrier's high-cost loop expense adjustment for the acquired exchanges calculated for the carrier's first year of operation of the acquired exchange(s). At the carrier's option, the first year of operation of the transferred exchanges shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. The index year expense adjustment shall be determined using cost data for the acquired exchange(s) submitted in accordance with § 54.1305 and shall be calculated in accordance with § 54.1310. For each subsequent year, ending on the same calendar quarter as the index year, a loop cost expense adjustment, using the costs of the acquired exchanges, will be calculated pursuant to § 54.1310 and will be compared to the index year expense adjustment. Safety valve support is calculated pursuant to paragraph (d)(3) of this section.

* * * * *

■ 9. Amend § 54.310 by revising paragraph (c) introductory text to read as follows:

§ 54.310 Connect America Fund for Price Cap Territories—Phase II.

* * * * *

(c) *Deployment obligation.* Recipients of Connect America Phase II model-based support must complete deployment to 40 percent of supported locations by December 31, 2017, to 60 percent of supported locations by December 31, 2018, to 80 percent of supported locations by December 31, 2019, and to 100 percent of supported locations by December 31, 2020. Recipients of Connect America Phase II support awarded through a competitive bidding process, including New York's New NY Broadband Program, must complete deployment to 40 percent of supported locations by December 31, 2022, to 60 percent of supported locations December 31, 2023, to 80 percent of supported locations by December 31, 2024, and to 100 percent of supported locations by December 31, 2025. Compliance shall be determined based on the total number of supported locations in a state.

* * * * *

■ 10. Delayed indefinitely, amend § 54.313 by:
■ a. Revising the section heading and paragraphs (a)(2), (3), and (6);
■ b. Removing the heading from paragraph (g);
■ c. Revising paragraph (i); and
■ d. Revising and republishing paragraph (j);

The revisions read as follows:

§ 54.313 Annual reporting requirements and quarterly performance reporting for high-cost recipients.

(a) * * *

(2) A certification that the pricing of the company's voice services during the prior calendar year is no more than two standard deviations above the applicable national average urban rate for voice service, as specified in the public notice issued by the Wireline Competition Bureau and the Office of Economics and Analytics;

(3) A certification that the pricing of a service that meets the Commission's broadband public interest obligations during the prior calendar year is no more than the applicable benchmark to be announced annually in a public notice issued by the Wireline Competition Bureau and the Office of Economics and Analytics, or is no more than the non-promotional price charged for a comparable fixed wireline service in urban areas in the states or U.S. Territories where the eligible telecommunications carrier receives support;

* * * * *

(6) The results of quarterly network performance tests pursuant to the methodology and in the format determined by the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Office of Engineering and Technology must be submitted on the following dates per year:

(i) *By April 15th.* Filing and certification for network performance test results for first quarter testing.

(ii) *By July 15th.* Filing and certification for network performance test results for second quarter testing.

(iii) *By October 15th.* Filing and certification for network performance test results for third quarter testing.

(iv) *By January 15th.* Filing and certification for network performance test results for the previous fourth quarter testing.

* * * * *

(i) All reports pursuant to this section shall be filed with the Administrator.

(j)(1) Other than for certifications under paragraph (a)(6) of this section, in order for a recipient of high-cost support to continue to receive support for the following calendar year, or to retain its eligible telecommunications carrier designation, it must submit the annual reporting information required by this section annually by July 1 of each year. Eligible telecommunications carriers that file their reports after the July 1 deadline shall receive a reduction in support pursuant to the following schedule:

(i) An eligible telecommunications carrier that files after the July 1 deadline, but by July 8, will have its support reduced in an amount equivalent to seven days in support; and

(ii) An eligible telecommunications carrier that files on or after July 9 will have its support reduced on a pro-rata daily basis equivalent to the period of non-compliance, plus the minimum seven-day reduction.

(2) An eligible telecommunications carrier that submits the annual reporting information required by this section after July 1 but within 4 business days will not receive a reduction in support if the eligible telecommunications carrier and its holding company, operating companies, and affiliates as reported pursuant to paragraph (a)(4) of this section have not missed the July 1 deadline in any prior year.

(3) For certifications under paragraph (a)(6) of this section, in order for a recipient of high-cost support to continue to receive support amount for the following calendar year, or retain its eligible telecommunications carrier designation, it must submit information required under paragraph (a)(6) by the required dates set. Reductions in support for late filings shall be calculated after the deadline under paragraph (a)(6)(iv) of this section by adding the total days late for each quarter and dividing that number by four (days late). Eligible telecommunications carriers that file their reports after the quarterly filing deadline will not receive a grace period for late filings, and shall receive a reduction in support pursuant to the following schedule:

(i) An eligible telecommunications carrier that is one to seven days late, will have its support reduced in an amount equivalent to seven days in support; and

(ii) An eligible telecommunications carrier that is 8 days late or more will have its support reduced on a pro-rata basis equivalent to the number of days late plus the minimum seven-day reduction.

(4) Any support reductions resulting from a failure to timely make required filing pursuant to this section shall be applied in the month following the notice of support reduction to the eligible telecommunications carrier from the Administrator or as soon as feasible thereafter.

* * * * *

■ 11. Delayed indefinitely, revise and republish § 54.314 to read as follows:

§ 54.314 Certification of support for eligible telecommunications carriers.

(a) *Certification.* States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Administrator stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. High-cost support shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

(b) *Carriers not subject to State jurisdiction.* An eligible telecommunications carrier not subject to the jurisdiction of a State that desires to receive support pursuant to the high-cost program must file an annual certification with the Administrator stating that all federal high-cost support provided to such carrier was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to the high-cost program shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(c) *Certification format.* (1) A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and must be filed with the Administrator of the high-cost universal mechanism, on or before the deadlines set forth in paragraph (d) of this section. If provided by the appropriate regulatory authority for the State, the annual certification must identify which carriers in the State are eligible to receive Federal support during the applicable 12-month period, and must certify that those carriers only used support during the preceding calendar year and will only use support in the coming calendar year for the provision, maintenance, and upgrading of facilities and services for which support is intended. A State may file a supplemental certification for carriers not subject to the State's annual certification.

(2) An eligible telecommunications carrier not subject to the jurisdiction of a State shall file a sworn affidavit executed by a corporate officer attesting that the carrier only used support during the preceding calendar year and will only use support in the coming calendar year for the provision, maintenance, and upgrading of facilities and services for which support is intended. The affidavit must be filed with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section.

(d) *Filing deadlines.* (1) In order for an eligible telecommunications carrier to receive Federal high-cost support, the State or the eligible telecommunications carrier, if not subject to the jurisdiction of a State, must file an annual certification, as described in paragraph (c) of this section, with the Administrator by October 1 of each year. If a State or eligible telecommunications carrier files the annual certification after the October 1 deadline, the carrier subject to the certification shall receive a reduction in its support pursuant to the following schedule:

(i) An eligible telecommunications carrier subject to certifications filed after the October 1 deadline, but by October 8, will have its support reduced in an amount equivalent to seven days in support.

(ii) An eligible telecommunications carrier subject to certifications filed on or after October 9 will have its support reduced on a pro-rata daily basis equivalent to the period of non-compliance, plus the minimum seven-day reduction.

(iii) Any support reductions resulting from a failure to timely make required filing pursuant to this section shall be applied in the month following the notice of support reduction to the eligible telecommunications carrier from the Administrator or as soon as feasible thereafter.

(2) If an eligible telecommunications carrier or state submits the annual certification required by this section after October 1 but within 4 business days, the eligible telecommunications carrier subject to the certification will not receive a reduction in support if the eligible telecommunications carrier and its holding company, operating companies, and affiliates as reported pursuant to § 54.313(a)(4) have not missed the October 1 deadline in any prior year.

■ 12. Amend § 54.315 by revising the first sentence of paragraph (c)(4)(i) to read as follows:

§ 54.315 Application process for Connect America Fund Phase Connect America Fund Phase II support distributed through competitive bidding.

* * * * *

(c) * * *

(4) * * *

(i) Failure by a Phase II auction support recipient to meet its service milestones as required by § 54.310 will trigger reporting obligations and the withholding of support as described in § 54.320(d). * * *

* * * * *

■ 13. Delayed indefinitely, amend § 54.316 by revising paragraph (a)(1), the introductory text of paragraph (b), and paragraphs (b)(4) and (7) and (c) and adding paragraph (d) to read as follows:

§ 54.316 Broadband deployment reporting and certification requirements for high-cost recipients.

(a) * * *

(1) Recipients of high-cost support with defined broadband deployment obligations pursuant to § 54.308(a) or (c) or § 54.310(c) shall provide to the Administrator information regarding the locations to which the eligible telecommunications carrier is offering broadband service in satisfaction of its public interest obligations, as defined in either § 54.308 or § 54.309.

* * * * *

(b) *Broadband deployment certifications.* ETCs that receive support to serve fixed locations shall have the following broadband deployment certification obligations:

* * * * *

(4) Recipients of Connect America Phase II auction support, including recipients of support made available through the New York's New NY Broadband Program, shall provide, no later than March 1, 2023, and on March 1 every year thereafter ending March 1, 2026, a certification that by the end of the prior calendar year, it was offering broadband meeting the requisite public interest obligations specified in § 54.309 to the required percentage of its supported locations in each state as set forth in § 54.310(c).

* * * * *

(7) Recipients of Uniendo a Puerto Rico Fund Stage 2 fixed and Connect USVI Fund fixed Stage 2 fixed support shall provide: no later than March 1 following each service milestone in § 54.1506, a certification that by the end of the prior support year, it was offering broadband meeting the requisite public interest obligations specified in § 54.1507 to the required percentage of its supported locations in Puerto Rico and the U.S. Virgin Islands as set forth in § 54.1506. The annual certification shall quantify the carrier's progress toward or, as applicable, completion of deployment in accordance with the resilience and redundancy commitments in its application and in accordance with the detailed network plan it submitted to the Wireline Competition Bureau.

(c) *Filing deadlines.* In order for a recipient of high-cost support to continue to receive support for the following calendar year, or retain its eligible telecommunications carrier designations, it must submit the annual reporting information by March 1 as described in paragraphs (a) and (b) of this section. ETCs that file their reports after the March 1 deadline shall receive a reduction in support pursuant to the following schedule:

(1) An ETC that certifies after the March 1 deadline, but by March 8, will have its support reduced in an amount equivalent to seven days in support.

(2) An ETC that certifies on or after March 9 will have its support reduced on a pro-rata daily basis equivalent to the period of non-compliance, plus the minimum seven-day reduction.

(3) An ETC that certifies the information required by this section within 4 business days of March 1 will not receive a reduction in support if the ETC and its holding company, operating companies, and affiliates as reported pursuant to § 54.313(a)(4) in their report due July 1 of the prior year, have not missed the deadline in any prior year.

(4) Any support reductions resulting from a failure to timely make required filing pursuant to this section shall be applied in the next month following the notice of support reduction to the eligible telecommunications carrier from the Administrator or as soon as feasible thereafter.

(d) *Reporting locations pursuant to paragraph (a)(1) of this section after the March 1st annual deadline.* (1) An ETC that did not report and certify specific locations by March 1 of the year following the year in which the locations were deployed (late-reported locations) may report and certify those locations in a future year for the purpose of counting those locations toward fulfillment of future defined deployment obligations and/or for curing any noncompliance with such obligations in accordance with the terms of § 54.320. To do so, the ETC must indicate that the late-reported locations are being filed for this purpose.

(2) An ETC filing late-reported locations will be subject to a reduction in support calculated by multiplying the following numbers:

(i) The per diem per location support received by the ETC, subject to a maximum per-day, per-location reduction of seven dollars.

(ii) The number of days between the March 1 deadline for the reporting year in which the late-reported locations were deployed and the date that the ETC reported, certified, and indicated that the location should be counted toward defined deployment obligations, subject to a 15 day limit if the late-reported locations are filed as of the next reporting deadline after the locations should have been filed and at 30 day limit if the late-reported locations are filed at any time thereafter (for each instance of late reporting).

(iii) The number of late-reported locations as a percentage of the total number of locations that the ETC filed for the reporting year in which the untimely filed location should have been reported.

(3) If an ETC has not reported any untimely locations previously, the ETC is not subject to the reduction in support specified in paragraph (d)(2) of this section for a number of untimely reported locations deployed in any single year constituting 5% or less of the ETC's reported locations for the relevant reporting year.

(4) If an ETC has not reported any late-reported locations previously and the ETC filed a timely annual report, the ETC may amend the annual filing to include additional locations within four business days of the reporting deadline without being subject to the reduction in support specified in paragraph (d)(2) of this section.

(5) The reduction in support for the filing of the late-reported locations shall be applied in the next month following the notice of support reduction to the eligible telecommunications carrier from the Administrator or as soon as feasible thereafter.

■ 14. Amend § 54.701 by revising paragraph (c)(1)(iii) to read as follows:

§ 54.701 Administrator of universal service support mechanisms.

* * * * *

(c) * * *

(1) * * *

(iii) The High Cost and Low Income Division, which shall perform duties and functions in connection with the high cost support mechanisms described in subparts J, K, M, and O of this part, and the low income support mechanisms described in subpart E of this part, under the direction of the High Cost and Low Income Committee of the Board, as set forth in § 54.705(c).

* * * * *

■ 15. Amend § 54.705 by revising paragraph (c) to read as follows:

§ 54.705 Committees of the Administrator's Board of Directors.

* * * * *

(c) *High Cost and Low Income Committee*—(1) *Committee functions.* The High Cost and Low Income Committee shall oversee the administration of the high cost and low income support mechanisms described in subparts J, K, M, O, and E of this part. The High Cost and Low Income Committee shall have the authority to make decisions concerning:

(i) How the Administrator projects demand for the high cost and low income support mechanisms;

(ii) Development of applications and associated instructions as needed for the

high cost and low income, support mechanisms;

(iii) Administration of the application process, including activities to ensure compliance with Federal Communications Commission rules and regulations;

(iv) Performance of audits of beneficiaries under the high cost and low income support mechanisms; and

(v) Development and implementation of other functions unique to the high cost and low income support mechanisms.

(2) [Reserved]

* * * * *

■ 16. Revise the heading for subpart K to read as follows:

Subpart K—Connect America Fund Broadband Loop Support for Rate-of-Return Carriers

■ 17. Amend § 54.902 by revising the introductory text of paragraph (a) and paragraph (b) to read as follows:

§ 54.902 Calculation of CAF BLS Support for transferred exchanges.

(a) In the event that a rate-of-return carrier receiving CAF BLS acquires exchanges from an entity that also receives CAF BLS, CAF BLS for the transferred exchanges shall be distributed as follows:

* * * * *

(b) In the event that a rate-of-return carrier receiving CAF BLS acquires exchanges from an entity receiving frozen support, model-based support, or auction-based support, absent further action by the Commission, the exchanges shall receive the same amount of support and be subject to the same public interest obligations as specified pursuant to the frozen, model-based, or auction-based program.

* * * * *

§ 54.903 [Amended]

■ 18. Delayed indefinitely, amend § 54.903 by removing and reserving paragraph (a)(2).

■ 19. Amend § 54.1301 by revising paragraph (b) to read as follows:

§ 54.1301 General.

* * * * *

(b) The expense adjustment will be computed on the basis of data for a preceding calendar year.

■ 20. Amend § 54.1302 by revising paragraph (a) to read as follows:

§ 54.1302 Calculation of the incumbent local exchange carrier portion of the nationwide loop cost expense adjustment for rate-of-return carriers.

(a) Beginning January 1, 2013, and each calendar year thereafter, the total annual amount of the incumbent local exchange carrier portion of the nationwide loop cost expense adjustment shall not exceed the amount for the immediately preceding calendar year, multiplied times one plus the Rural Growth Factor calculated pursuant to § 54.1303. Beginning January 1, 2021, and each calendar year thereafter, the base amount of the nationwide loop cost expense adjustment shall be the annualized amount of the final six months of the preceding calendar year. The total amount of the incumbent local exchange carrier portion of the nationwide loop cost expense adjustment for the first six months of the calendar year shall be the base amount divided by two and for the second six months of the calendar year shall be the base amount divided by two, multiplied times one plus the Rural Growth Factor calculated pursuant to § 54.1303.

* * * * *

■ 21. Amend § 54.1305 by revising paragraph (a) to read as follows:

§ 54.1305 Submission of information to the National Exchange Carrier Association (NECA).

(a) In order to allow determination of the study areas and wire centers that are entitled to an expense adjustment pursuant to § 54.1310, each incumbent local exchange carrier (LEC) must provide the National Exchange Carrier Association (NECA) (established pursuant to part 69 of this chapter) with the information listed for each study area in which such incumbent LEC operates, with the exception of the information listed in paragraph (h) of this section, which must be provided for each study area. This information is to be filed with NECA by July 31st of each year. Rural telephone companies that acquired exchanges subsequent to May 7, 1997, and incorporated those acquired exchanges into existing study areas shall separately provide the information required by paragraphs (b) through (i) of this section for both the acquired and existing exchanges.

* * * * *

§ 54.1306 [Removed and Reserved]

■ 22. Delayed indefinitely, remove and reserve § 54.1306.

■ 23. Amend § 54.1309 by revising paragraph (b) to read as follows:

§ 54.1309 National and study area average unseparated loop costs.

* * * * *

(b) *Study area average unseparated loop cost per working loop.* This is equal to the unseparated loop costs for the study area as calculated pursuant to § 54.1308(a) divided by the number of working loops reported in § 54.1305(i) for the study area.

* * * * *

§ 54.1310 [Amended]

■ 24. Amend § 54.1310 by removing and reserving paragraph (c).

■ 25. Amend § 54.1508 by revising the first sentence of paragraph (e)(1) to read as follows:

§ 54.1508 Letter of credit for stage 2 fixed support recipients.

* * * * *

(e) * * *

(1) Failure by a Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 fixed support recipient to meet its service milestones as required by § 54.1506 will trigger reporting obligations and the withholding of support as described in § 54.320(d). * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 240404–0097]

RIN 0648–BM48

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Space Force Launches and Supporting Activities at Vandenberg Space Force Base, Vandenberg, California

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

ACTION: Final rule; notice of issuance of Letter of Authorization.

SUMMARY: NMFS, in response to the request of the U.S. Space Force (USSF), hereby issues regulations and a Letter of Authorization (LOA) to govern the unintentional taking of marine mammals incidental to launches and supporting activities at Vandenberg Space Force Base (VSFB) in Vandenberg, California, from April 2024 to April 2029. Missile launches conducted at VSFB, which comprise a portion of the activities, are considered military readiness activities under the Marine Mammal Protection Act (MMPA), as amended by the National Defense Authorization Act for Fiscal