

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by October 21, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 29, 2024.
Martha Guzman Aceves,
Regional Administrator, Region IX.

For the reasons stated in the preamble, EPA amends part 52, chapter I, Title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

■ 2. In § 52.120, in paragraph (c), amend “Table 4 to Paragraph (c)—EPA-Approved Maricopa County Air Pollution Control Regulations” by:

■ a. Removing the entries for “Rule 22,” “Rule 28,” “Rule 32 (Paragraphs G, H, J, and K only),” “Rule 41 (Paragraphs A and B only),” “Rule 42,” and “Rule 74 (Paragraph C only);” and

■ b. Adding entries for “Rule 320 section 306” and “Rule 320 section 307” after the entry for “Rule 318”.

The additions read as follows:

§ 52.120 Identification of plan.

* * * * *
 (c) * * *

TABLE 4 TO PARAGRAPH (c)—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Post-July 1998 Rule Codification				
*	*	*	*	*
Regulation III—Control of Air Contaminants				
*	*	*	*	*
Rule 320 section 306	Odors and Gaseous Air Contaminants, Limitation—Sulfur from Other Industries.	July 2, 2003	August 20, 2024, [INSERT FEDERAL REGISTER CITATION].	Submitted on November 13, 2023.
Rule 320 section 307	Odors and Gaseous Air Contaminants, Operating Requirements—Asphalt Kettles and Dip Tanks.	July 2, 2003	August 20, 2024, [INSERT FEDERAL REGISTER CITATION].	Submitted on November 13, 2023.
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 [FR Doc. 2024–17500 Filed 8–19–24; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–31; FCC 24–76; FR ID 237079]

Addressing the Homework Gap Through the E-Rate Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission

(Commission or FCC) takes steps to modernize the E-Rate program to meet the evolving needs of schools and libraries around the country by allowing for the distribution of Wi-Fi hotspots and services to students, school staff, and library patrons for off-premises use.

DATES: Effective September 19, 2024, except for the amendments to §§ 54.504 and 54.516, at amendatory instructions 4 and 9, respectively, which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date for those sections.

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Molly O’Conor, Telecommunications Access Policy Division, wireline competition Bureau, at *Molly.OConor@fcc.gov* or (202) 418–7400 or TTY: (202) 418–0484. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Report and Order (*Order*) and Further Notice of Proposed Rulemaking (*FNPRM*) in WC Docket No. 21–31; FCC 24–76, adopted on July 18, 2024 and released on July 29, 2024. The full text of this document is available at the following internet address: <https://docs.fcc.gov/public/attachments/FCC-24-76A1.pdf>.

Introduction

Technology has become an integral part of the modern classroom and receiving an education, especially in the recent past, and the barrier to accessing such technology puts individuals at a significant disadvantage to their peers and often prevents educators from being able to teach. In the Report and Order (*Order*), the Commission take steps to modernize the E-Rate program to meet the evolving needs of schools and libraries around the country by allowing for the distribution of Wi-Fi hotspots and services to students, school staff, and library patrons for off-premises use.

Since its inception more than 25 years ago, the Commission’s E-Rate program has supported high-speed, affordable internet services to and within school and library buildings, and has been instrumental in providing students, school staff, and library patrons with access to the essential broadband services that are required for next-generation learning. Recognizing the Commission’s responsibility to ensure the E-Rate program evolves with the educational needs of students and library patrons, the Commission has frequently modernized the program to reflect the changes in education and technology, including by providing more equitable access to funding for Wi-Fi networks in schools and libraries. Recently the Commission has seen significant advances in technology that have changed not only the way schools and libraries provide educational resources, but also the way students, school staff, and library patrons access such resources. In particular, an internet connection has become an essential requirement for learners to access tasks

that are vital to obtaining an education, including homework assignments, online classes, library materials, continuing education, and career and government applications.

The need for internet connectivity beyond the campus boundaries was further underscored by nationwide school and library closures beginning in 2020 as a result of the COVID–19 pandemic, when most educational activities were unexpectedly forced to shift online overnight. During this time, thanks to the creativity and resourcefulness of schools and libraries around the country, many students, school staff, and library patrons that would have been caught on the wrong side of the digital divide or the “Homework Gap”—*i.e.*, students unable to fully participate in educational opportunities because they lack broadband connectivity in their homes—were able to obtain a broadband connection provided by their local school or library. Many schools and libraries used funding provided through the congressionally-appropriated Emergency Connectivity Fund (ECF) program to purchase connected devices, Wi-Fi hotspot devices, broadband connections, and other eligible equipment and services for students, school staff, and library patrons in need, to use at a variety of locations, including locations other than schools and libraries, during the pandemic. Notably, schools and libraries found success in establishing ECF-funded Wi-Fi hotspot lending programs to provide the hotspot equipment and monthly mobile wireless broadband services needed to connect individuals who otherwise lacked the internet access needed to fully participate in remote learning.

Even with schools and libraries reopening and returning to in-person instruction, the need for internet connections outside of the school or library buildings to fully engage in education remains, and schools and libraries are seeking to continue funding these valuable lending programs to keep their students, school staff, and library patrons connected. That is why the Commission adapts the E-Rate program to recognize these needs. Building on its experiences in the ECF program and the comments the Commission received in response to the *Notice of Proposed Rulemaking (NPRM)*, 88 FR 85157, December 7, 2023, the Commission adopts a budget mechanism to allow for the equitable distribution of Wi-Fi hotspots and services to students, school staff, and library patrons. These rules are intended to be another step in updating the E-Rate program to reflect the realities of many schools and

libraries by lending Wi-Fi hotspots and services through community and school libraries across the country so that students, school staff, and library patrons with the greatest need can be connected and learn without limits.

Discussion

In the *Order*, the Commission takes steps to modernize the E-Rate program to ensure that schools and libraries across the nation have the tools necessary to connect their students, school staff, or library patrons who have fallen onto the wrong side of the digital divide or the Homework Gap. First, the Commission permits schools and libraries to purchase Wi-Fi hotspots and services that they can lend to students, school staff, and library patrons for off-premises use and direct the Wireline Competition Bureau (Bureau) to make the services and equipment eligible as part of the funding year 2025 eligible services list proceeding. Second, relying on the successes of and lessons learned from the ECF program, as well as the Wi-Fi hotspot lending programs established by schools and libraries with ECF support, the Commission establishes a budget mechanism to set a limit on the amount of support that an eligible school or library can request for Wi-Fi hotspots and services that can be loaned to their students, school staff, and library patrons, thereby allowing schools and libraries the flexibility to target those with the greatest need in their respective populations. Next, the Commission also remains committed to supporting the connectivity needs of school and library buildings by prioritizing funding for these off-premises services after on-premises-related funding requests. Mindful of its duty to be a responsible steward of limited universal service resources, the Commission also adopts safeguards to ensure the E-Rate funds are used for their intended purpose. Finally, the Commission reaffirms its conclusions that the obligations of the Children’s internet Protection Act (CIPA) apply if the school or library receives E-Rate support for internet service, internet access, or network connection services or related equipment, including Wi-Fi hotspots.

Based on the record and consistent with its authority pursuant to section 254(h) of the Communications Act, the Commission adopts its proposal to permit schools and libraries to receive E-Rate support for Wi-Fi hotspots and services to be used off-premises by students, school staff, and library patrons. Although the E-Rate program has not historically provided support for most off-premises uses of E-Rate-

supported services, the Commission agrees with commenters that today's educational environment has substantially changed since the advent of the E-Rate program in 1997. Namely, the increasing shift to digital learning due to evolving technologies as well as pandemic-related changes has resulted in internet connectivity becoming a necessity to being able to fully participate in modern education for students, school staff, and library patrons alike.

For schools, the pandemic highlighted the digital divide, leaving those students without access to reliable home internet unable to access educational resources, participate in remote learning, or connect with teachers. Smith Bagley, Inc. (SBI) described how emergency funding during the pandemic increased educational opportunities for Tribal students by focusing on digital inclusion and introducing digital learning tools that have been available to urban and suburban communities for years, allowing them to connect to schools on days they would otherwise miss and allowing teachers to reach students that would otherwise be left disconnected. The digital divide between students with access to broadband at home and those without exacerbates existing inequalities, particularly for certain communities—such as those in rural or economically-disadvantaged areas. Commenters note that stable internet connectivity at home is essential to “educational opportunity, equity, and achievement” with digital learning tools enabling “more expansive, up-to-date content, the inclusion of educational videos, and effective online collaboration.” Others explain the reliance on online digital resources allows learners “to engage with supplemental educational materials, complete homework assignments, and connect with one another,” which leaves “[s]tudents and staff that are unable to access the connected classroom . . . at a significant disadvantage.” A 2021 report observed that “[h]istorically students caught in the digital divide have lower academic achievement with a significant impact on lifetime earnings.”

Likewise, for libraries, providing free, high-speed access to the internet is critical to many of the services libraries provide, particularly for disadvantaged communities. Library services increasingly include virtual offerings. For example, libraries allow patrons to access digital resources remotely, including reserving or renewing books, accessing digital collections and e-materials, providing community support resources, and even offering support to

library patrons who are educators or students, making these digital resources available to library patrons at the moment they need them. Additionally, Wi-Fi hotspot lending programs that provide remote access to the internet for library patrons are both successful and in high demand. For instance, one commenter explains that at the Chicopee Public Library, Wi-Fi hotspots are checked out “every day to people who have no other way of accessing this service without putting themselves in danger of being unable to afford basic necessities.”

The Commission modernizes the E-Rate program to address this digital inequity that leaves some students, school staff, and library patrons unable to fully participate in schoolwork or access library resources. The Commission further recognizes how learning is no longer confined to the physical school or library building during regular operating hours, and how libraries and schools often serve to fill the educational and connectivity gap for their students, school staff, and library patrons who lack access to the internet. Additionally, based on its experiences through the ECF program, the Commission further seeks to recognize the utility of Wi-Fi hotspots as an easily sourced and affordable means of providing connectivity for schools and libraries and acknowledge the commenters' countless examples of how Wi-Fi hotspot lending programs established with ECF funding have benefitted communities and students around the nation. Now, numerous libraries and schools are faced with the difficult decision to reduce the number of Wi-Fi hotspots available for circulation or start charging fees, not because of lack of demand, but because of lack of available funding. This has only been further exacerbated by the recent loss of Affordable Connectivity Program (ACP) benefits by many low-income households across the country. As such, the Commission extends eligibility to provide eligible schools and libraries with much-needed assistance in getting the students, school staff, and library patrons with the greatest need connected via Wi-Fi hotspots and services that can be used off-premises.

Eligible Equipment & Services. The Commission adopts the proposed definitions to permit Wi-Fi hotspots and mobile wireless internet services as eligible for E-Rate support. In the *NPRM*, the Commission sought comment on what specific equipment and services should be deemed eligible for the off-premises use of Wi-Fi hotspots and mobile wireless internet

services. Specifically, the Commission sought comment on adopting the ECF program's definition of a Wi-Fi hotspot (*i.e.*, “a device that is capable of (a) receiving advanced telecommunications and information services; and (b) sharing such services with a connected device through the use of Wi-Fi”) and limiting service eligibility to commercially available mobile wireless internet services that can be supported by and delivered with such Wi-Fi hotspots. Commenters are largely supportive of making off-premises uses eligible for E-Rate funding and, despite also requesting additional equipment and services be made eligible, were supportive of the proposed definitions of Wi-Fi hotspots and mobile wireless internet services that can be used off-premises. Based on the record, the Commission adopts the proposed definitions for the equipment and services eligible for support in the E-Rate program and direct the Bureau to add Wi-Fi hotspots and mobile wireless internet services that can be used off-premises as eligible services as part of the funding year 2025 eligible services list proceeding.

With respect to eligible equipment, the Commission adopts definitions of “Wi-Fi” and “Wi-Fi hotspot” in its rules that are based on the definitions adopted by it in the ECF program. Specifically, the Commission defines “Wi-Fi” as “wireless networking protocol based on Institute of Electrical and Electronics Engineers standard 802.11” and the Commission defines “Wi-Fi hotspot” as “a device that is capable of receiving advanced telecommunications and information services, and sharing such services with another connected device through the use of Wi-Fi.” The Commission finds that this decision is both supported by the record and by its own experiences successfully providing connectivity to students, school staff, and library patrons delivered by Wi-Fi hotspots through the ECF program. However, the Commission also wishes to acknowledge that these terms may have other accepted meanings within the communications industry. For example, Intel defines “Wi-Fi hotspot” to mean “a physical location where individuals can access the internet wirelessly through a wireless local area network (WLAN) using Wi-Fi technology.” The Commission concludes that this definition would be overly broad for these purposes, as the function described can be provided by many different types of devices and may permit unintended scenarios such as funding public Wi-Fi hubs in a public

park or a community center, which is beyond the scope of its goal to provide connectivity to individual students, school staff, or library patrons caught in the Homework Gap or digital divide. Therefore, for the purposes of the E-Rate program, the definition the Commission adopts for “Wi-Fi hotspot” means a device (sometimes referred to as a “mobile hotspot” or “portable hotspot device”) that is intended to provide Wi-Fi connectivity to a hotspot user as its sole function. Additionally, the Commission limits the capability of a sole purpose Wi-Fi hotspot to devices that: (1) are portable; and (2) are a single device (*i.e.*, not a set of linked devices). Finally, these Wi-Fi hotspots must be for use with a commercially available mobile wireless internet service, rather than for use with Citizens Band Radio Service (CBRS) or other private network services.

The Commission declines to make other multi-functional devices that can support Wi-Fi eligible for E-Rate support. Thus, the Commission finds such multi-functional devices, *e.g.*, smartphones, PCs, notebooks, tablets, customer premises equipment, routers or switches, and wireless access points, etc., are not eligible. In the *ECF Order*, 86 FR 29136, May 28, 2021, the Commission also found it unnecessary to support costly smartphones used as Wi-Fi hotspots, when much less expensive hotspot devices can serve the same purpose. The Commission finds this determination remains true today; and therefore, the Commission limits E-Rate support to sole function Wi-Fi hotspot devices. Additionally, with respect to the requests to support end-user devices like laptops or tablets, the Commission concludes that this equipment remains ineligible for E-Rate support, consistent with its previous decisions to decline support for “computers and other peripheral equipment” based on its finding that only equipment that is an essential element in the transmission of information is eligible (*e.g.*, internal connections) for E-Rate support. Similar to its reasoning for making smartphones ineligible, the Commission also finds it unnecessary to take on the costly expenses of laptops or tablets with built-in wireless connections, when less expensive, sole purpose Wi-Fi hotspots are capable of delivering the same service. The Commission also declines to permit applicants to request the mobile wireless services delivered to broadband-enabled end user devices (*e.g.*, laptops, tablets). While the Commission recognizes that there are some benefits to students using these

devices, the Commission is concerned that it adds unneeded complexity in its review of the services eligibility, particularly in trying to ensure these E-Rate-supported services are targeted to students with need, rather than just to students who need a school-assigned tablet or laptop.

With respect to mobile wireless internet services, the Commission limits the use of services to those that can be supported by and delivered with Wi-Fi hotspots provided to an individual user. The Commission appreciates the suggestions of several commenters who urge it to also expand eligibility beyond just Wi-Fi hotspots and mobile wireless services. Citing concerns that limiting eligibility to Wi-Fi hotspots and mobile wireless services would be contrary to the statutory requirement in section 254(h)(2)(A) of the Communications Act to establish “competitively neutral” rules, these commenters argue that the Commission should also permit E-Rate support for other off-premises technologies, including: fixed wireless connections and the related equipment, private 5G/LTE networks, CBRS and television white space (TVWS), fiber, and network expansion or construction. The Commission acknowledges these commenters’ concerns and recognize that connectivity provided by Wi-Fi hotspots is not a one-size-fits-all solution. However, in taking this action, the Commission remains focused on the statutory obligation to establish rules that enhance access to the extent it is “economically reasonable.” At this time, the Commission does not possess the information necessary to make a broader determination, nor did any commenters sufficiently analyze the feasibility of broadening the scope of eligibility. In particular, the Commission does not have sufficient data to rely on to establish funding caps on the equipment or service costs associated with other solutions or to establish an overall budget like the one adopted for Wi-Fi hotspots herein. At this time, the Commission establishes caps in this program on both services and equipment in order to simplify review, aid administration, and constrain costs. Commenters provided examples of costs for existing network builds, but not in a way that would allow the Commission to establish caps or assess cost-effectiveness on costs of access points, antennas, switches, radios, customer premises equipment, backhaul, installation, RF design and planning, engineering, licenses, maintenance, software updates, and other miscellaneous charges. For example, while some stakeholders urge

the Commission to permit E-Rate support for applicant-enabled off-campus networks, and provide some analysis for the potential cost efficiency of such solutions, they also acknowledge that these alternatives that would require much higher up-front deployment costs and rely on reaching a large number of students, school staff, and library patrons. Even if constrained by the overall budgets adopted, the Commission is concerned that these alternative solutions would be challenging to review for cost-effectiveness by applicants and the Administrator without additional data and analysis. In contrast, the Commission’s experiences funding Wi-Fi hotspots and mobile wireless internet services through the ECF program have demonstrated that this particular solution can reasonably be supported. The Commission therefore finds that taking this incremental step toward supporting the off-premises educational needs of its nation’s students, school staff, and library patrons is not only in the public interest, but it is also within its legal authority. As such, the Commission limits eligibility to commercially available mobile wireless internet services and the Wi-Fi hotspots needed to deliver such services to an individual user.

Per-User Limits. Mindful of the importance of maximizing the use of limited funds, and consistent with the limitation adopted in the ECF program, the Commission adopts a rule to prohibit an eligible school or library from applying for more than one Wi-Fi hotspot provided for use by each student, school staff member, or library patron in the E-Rate program. The *NPRM* sought comment on whether the Commission should impose per-user limitations on eligible Wi-Fi hotspots and services. The ECF program limited support to one Wi-Fi hotspot device per student, school staff, or library patron. Many commenters expressed support for this approach. In adopting a per-user limitation on these equipment and services, the Commission seeks to equitably distribute and maximize the use of limited funds and the number of students, school staff, and library patrons served.

Minimum Service Standards. The Commission declines to adopt minimum service standards for Wi-Fi hotspots and services used off-premises at this time. While the Commission understands commenters’ requests to establish limits related to data and quality of service, it finds that adopting minimum service standards runs the risk of penalizing the students, school staff, and library patrons in places

where slower speed, data capped, and/or high latency services are currently the only affordable options.

Furthermore, the Commission agrees with commenters' views that schools and libraries are in the best position to know what is available and sufficient for their students', school staff members', and library patrons' remote learning needs. The Commission expects that schools and libraries will make the best decisions to meet the remote learning needs of their students, school staff, and library patrons.

Demonstrating Cost-Effective Purchases of Wireless Services. In making the off-premises use of Wi-Fi hotspots and mobile wireless services eligible, the Commission concludes that the E-Rate program's current requirement that applicants demonstrate that mobile wireless services are more cost-effective than internal broadband services is not applicable to off-premises use. The Commission adopted that requirement because schools and libraries often require substantial bandwidth connections to meet their on-premises connectivity needs, which in turn would require them to seek E-Rate support for large numbers of data plans to meet those needs that may be more expensive than other methods of providing internal broadband access for mobile devices at the school or library. Here, the Commission solely makes the off-premises use of mobile wireless services eligible at this time; and thus, it finds no need to impose any such requirements for applicants seeking support for the off-premises use of wireless internet service and the Wi-Fi hotspots needed to deliver the services. In the event that the off-premises use of additional services and equipment becomes eligible in the future, the Commission will reconsider this approach and whether other requirements may be necessary. The Commission also reminds applicants seeking support for the off-premises use of wireless internet services and Wi-Fi hotspots that they remain subject to the E-Rate program's competitive bidding rules when seeking support for these services and equipment, including the requirement that they select the most cost-effective service offering, using price of the eligible equipment and services as the primary factor considered.

Implementation. The Commission directs the Bureau to make Wi-Fi hotspots and internet services eligible for E-Rate funding as part of the funding year 2025 eligible services list proceeding. Additionally, in implementing these changes, the Commission reaffirms the delegation of

authority to the Bureau to interpret its rules and otherwise provide clarification and guidance regarding any ambiguity that may arise to ensure that support for these services provided to schools and libraries further the goals it has adopted for the E-Rate program. The Commission also directs the Universal Service Administrative Company (USAC), the Administrator of the E-Rate program, in coordination with and under the oversight of the Bureau, to issue further guidance and training on administrative and related processes for requesting support for the off-premises use of Wi-Fi hotspots and services.

Wi-Fi Hotspot Lending Program Mechanism. The Commission now adopts a budget mechanism to allow for the equitable distribution of Wi-Fi hotspots and services to students, school staff, and library patrons. In doing so, the budget mechanism will allow eligible schools and libraries to develop hotspot lending programs, while setting a limit on the amount of support that an applicant can request for Wi-Fi hotspots and services. In the *NPRM*, the Commission sought comment on how to establish a Wi-Fi hotspot program, recognizing that there are insufficient E-Rate funds to support a Wi-Fi hotspot and recurring service for every student, school staff member, and library patron across the nation. The *NPRM* also asked whether a per-student limit, like the one used for category two funding budgets, could help ensure support was distributed equitably to schools and libraries. The *NPRM* sought administratively feasible ways to prioritize support to students and library patrons without sufficient internet access. In response, several commenters described the challenges to the approaches used in the ECF program and sought greater flexibility for schools and libraries. The Commission also looks to lessons learned from its administration of the ECF program in addressing these challenges, with particular focus on program integrity. With these considerations in mind, the Commission adopts a budgeted approach based on a mechanism provided in the comments to create a targeted lending program that allows eligible schools and libraries to be able to request a limited number of Wi-Fi hotspot devices and services, if they have need for them, within a pre-discount budget similar to the E-Rate program's category two budgets. This approach takes into account the applicant size, using information that is already collected as part of the category two budget process, and also relies on the E-Rate program's historic focus on

poverty and rurality by using the applicants' discount rates to calculate a Wi-Fi hotspot budget. Schools and libraries at higher discount rate levels will be eligible to request and receive a greater amount of E-Rate support for Wi-Fi hotspot devices and services than schools and libraries at lower discount rate levels.

In establishing a budgeted approach to the lending program mechanism, the Commission expects that the limited number of available Wi-Fi hotspots will more naturally be targeted to students, school staff, or library patrons with the most need. The budget mechanism will allow schools and libraries to target the appropriate individuals that lack broadband access; therefore, the Commission finds it does not need to adopt a survey requirement or other document collection requirement. Specifically, except in the one occasion discussed in this document, this limited lending approach will not require applicants to document whether a particular student, school staff member, or library patron has "unmet need" as the Commission defined that term in the ECF program, relying instead on establishing a hotspot budget to prevent applicants from over-purchasing Wi-Fi hotspots and services and permitting applicants to use their judgment to determine the need in their own localities within those limits. Instead, to ensure that use of the hotspot lending program is consistent with its objectives, the Commission will require schools and libraries to adopt and provide notice to the Wi-Fi hotspot recipients of an acceptable use policy (AUP) that highlights that the goal of the hotspot lending program is to provide broadband access to students and library patrons who need it. In combination with the applicant's requirement to pay its non-discounted share of costs, schools and libraries will be incented to right-size their Wi-Fi hotspot and service requests. However, the details of such a hotspot lending program—such as length of lending periods and how to target the appropriate students and library patrons—will be left to the applicant to determine and tailor the hotspot lending program to their local needs. For these reasons, the Commission can streamline the procedures that caused applicants the most challenges in the ECF program, benefiting applicants, service providers, and the Administrator.

The Commission finds adopting this approach to be a reasonable mechanism for limiting how many Wi-Fi hotspots and connections can be requested by an applicant. Specifically, applicants will be limited to a budget based on their

full-time student count or library square footage, and their category one discount rate. In doing so, the Commission establishes bright line limits that are fair and equitable—allowing eligible schools and libraries to request Wi-Fi hotspots and service, but limiting the pool of Wi-Fi hotspots and service lines an applicant can request based on its discount rate and school or library size. This will allow schools and libraries to request funding for a Wi-Fi hotspot lending program that can provide wireless internet service to its students, school staff, and library patrons when it is needed most. The Commission prohibits one situation based on its experience in the ECF program—using Wi-Fi hotspots as part of a one to one (1:1) hotspot initiative, where every student receives a Wi-Fi hotspot. The Commission recognizes that even under the limiting mechanism, applicants might have a sufficient Wi-Fi hotspot budget that they could try to focus them all to a 1:1 initiative at a single low-income school in a district or a particular grade (e.g., all juniors). Generally, applicants are prohibited from seeking E-Rate support for a 1:1 hotspot initiative like this and will be required to certify on the FCC Form 471 application that the hotspots and service will not be used for a 1:1 hotspot initiative. If E-Rate-funded Wi-Fi hotspots are used as part of a 1:1 initiative—either in practice by providing all of the devices to a single school in the district or in conjunction with Wi-Fi hotspots funded via other sources, applicants must document clearly (i.e., individual survey results or attestations) that each individual student needed a Wi-Fi hotspot, in accordance with the AUPs, and may not rely on general or estimated findings about income levels. Funding disbursements for applicants without specific documentation to support a 1:1 Wi-Fi hotspot initiative will be subject to denial and/or recovery.

Wi-Fi Hotspot and Services Funding Caps. The Commission first adopts pre-discount funding caps on the amounts that can be requested for services and hotspot equipment in the E-Rate program. Specifically, the Commission adopts a pre-discount \$15 per month limit on recurring mobile wireless internet service and a pre-discount \$90 per Wi-Fi hotspot limit, based on the median cost of monthly services and Wi-Fi hotspots purchased in the ECF program. Taxes and State electronic waste fees are not included in the cap, while other reasonable costs such as delivery fees, activation, and configuration costs are included in the

capped amounts. All taxes and fees should be separately identified on invoices and requested on a separate funding line. In the *NPRM*, the Commission sought comment on cost control mechanisms, including funding caps on Wi-Fi hotspots or services. Some commenters support a cap on the Wi-Fi hotspots and services, with some suggesting that the averages from the ECF program would be an appropriate place to start. Others disagreed, suggesting that competitive bidding and the applicants' non-discounted share of costs requirement would be sufficient, with some cost-effectiveness checks during the Program Integrity Assurance (PIA) review process.

On balance, the Commission agrees with commenters suggesting that funding caps will more effectively ensure equitable distribution of Wi-Fi hotspots, drive more cost-effective purchasing within the E-Rate program, and reduce the likelihood that these costs become unsustainable. The Commission also expects that clear funding caps will lead to a more streamlined review of these funding requests, simplifying administration of these requests. For example, the Commission disagrees with commenters that unreasonable costs are easily taken up in the PIA reviews, when the data the Commission have from the ECF program and the record in this proceeding shows a large variation in costs depending on service provider, technology type, and how contracts are structured. Setting funding caps will also reduce concerns about applicants selecting multiple service offerings in instances where a single service provider will not be able to cover the entire coverage area. In these instances, the program's competitive bidding rules would otherwise be less effective in ensuring cost-effective purchasing when applicants may need multiple service providers in order to provide coverage options in various geographic parts of the student or library patron community. By using a funding cap, applicants that select multiple service providers will still be capped at a cost-effective price, even if they require selection of service offerings that may be more expensive.

Consistent with the ECF program, applicants are permitted to select a Wi-Fi hotspot or service that costs more than the funding caps, but E-Rate commitments will not exceed the funding caps. The Commission expects the E-Rate program's competitive bidding rules to aid applicants in selecting the most cost-effective service offerings, but it also directs USAC to examine costs that do not appear to be

cost-effective, based upon other costs within the program or other commercially available offerings. Although the Commission is adopting funding caps for recurring services and Wi-Fi hotspots to help control overall costs to the E-Rate program, the Commission expects applicants to request E-Rate support based on actual, commercial-based costs. For example, an applicant cannot request funding at the cap levels, but purchase Wi-Fi hotspots and recurring services at lower costs and allow service providers to keep the difference in costs as their profit or windfall. The Commission will also require service providers to certify that the costs of the Wi-Fi hotspots do not exceed commercial value. USAC is permitted to modify or reduce such funding requests, as appropriate, to reflect the actual, market-based price of commercially-available Wi-Fi hotspots and to seek recovery in the event of a later determination that the E-Rate funded costs were higher than the actual costs of the requested Wi-Fi hotspots and/or recurring services.

Calculating Budgets. Next, the Commission establishes a formula to calculate a three-year pre-discount Wi-Fi hotspot and service budget, limiting the amount of E-Rate support that can be requested by an applicant for Wi-Fi hotspots and recurring service over three funding years. E-Rate Central suggests adopting a formula modeled after the category two budgets that limits applicants to 20 hotspots per 100 students and 5.5 hotspots per 1,000 library square feet, adjusted by discount rate. Using this proposed formula and multiplying the result by the three-year cost of the funding caps (\$630), applicants will calculate a three-year Wi-Fi hotspots and service budget. This is the maximum amount of pre-discount funding permitted for Wi-Fi hotspots and/or service over three funding years. E-Rate Central proposed limiting the quantity of Wi-Fi hotspots and services, but there are important benefits to calculating a maximum Wi-Fi hotspot budget for several reasons. One, a budget will allow schools and libraries greater flexibility in spending by allowing applicants to request funding for the most appropriate mix of Wi-Fi hotspots and service, depending on their needs. Two, a budget will provide applicants better incentives to make cost-effective purchases by permitting them to purchase higher quantities if there are lower costs. Three, budgets will also facilitate use of existing Wi-Fi hotspots purchased through the ECF program or with other Federal funds that are still functional by permitting

applicants to purchase higher quantities of service requests, if needed. Applicants that select lower-cost Wi-Fi

hotspots, or that find ways to maintain Wi-Fi hotspots for longer, will be able to request a larger quantity of E-Rate

supported hotspots or lines of service depending on their individual needs and budget.

$$\text{Independent School or District Budget} = \left[\text{student count} \times \frac{20 \text{ hotspots}}{100 \text{ students}} \times \text{C1 discount rate} \right] \times \$630$$

$$\text{Library or Library System Budget} = \left[\text{square feet} \times \frac{5.5 \text{ hotspots}}{1000 \text{ square feet}} \times \text{C1 discount rate} \right] \times \$630$$

Note: The value in the brackets above for both the schools and libraries budgets is rounded up to the nearest ten.

Calculating Independent School and School District Hotspot Budgets.

Independent schools and school district applicants will calculate their Wi-Fi hotspot and service budgets by multiplying their student counts by 20% (*i.e.*, 20 hotspots per 100 students), and adjusting by their category one discount rates. This number is rounded up to the nearest ten. The applicant then multiplies that rounded number by \$630 to determine the three-year budget. For example, an independent school with 500 students and a 90% discount rate would have a three-year, pre-discount budget of \$56,700, while a school district with 500 students and a 40% discount rate would have pre-discount budget of \$25,200. Unlike the ECF program, these limits will reduce the number of hotspots that could be requested from the start, requiring schools and districts to make choices about how to distribute and prioritize access for students with the greatest need or set lending terms that allow students to access devices at times when need is high. To the extent that the formula needs adjustments, the Commission provides a means for future changes as discussed, but expect that the benefits of a single formula applicable to all school applicants will be simpler and more administrable than attempting to find a precise number for different types of applicants and will greatly decrease burdens on applicants and the Administrator than if different formulas were adopted dependent upon type of school applicant.

Calculating Independent Libraries and Library System Hotspot Budgets. Likewise, independent libraries and library systems would calculate their Wi-Fi hotspots and service budgets using their square footage, allowing 5.5 devices per 1,000 square feet, adjusted by their category one discount rates. This number is rounded up to the nearest ten. The applicant then

multiplies that rounded number by \$630 to determine the three-year pre-discount budget. For example, an independent library of 10,000 square feet at the 90% discount rate would have a three-year pre-discount budget of \$31,500, while a library system with 100,000 square feet and a 90% discount rate would have a three-year pre-discount budget of \$315,000. Smaller libraries would thus be eligible for at least 10 devices and services lines, while larger library systems would be eligible for more. Like schools, the Commission adopts this formula in order to allow libraries to plan for and determine how and whether to request E-Rate support for a library hotspot lending program. The Commission adopts the factor suggested in the comments, which is roughly based on the ratios developed in the category two budgets for schools and libraries, but also adopt a means to adjust the formula in the future should the library factor be insufficient for library patron access, particularly in areas of the country where there may be higher need, but small libraries, such as rural-remote areas.

For purposes of the calculation, full-time student count and square footage figures will be calculated at the district-wide or library system level in order to make use of existing information collections and procedures. Independent schools may apply using entity-level student counts. In doing this, the Commission seeks to use data that is already collected on the FCC Form 471 application for the applicants' category two budgets. Similarly, the Commission will allow an applicant to rely on a validated category two student count or square footage figure for purposes of the Wi-Fi hotspot limiting mechanism. Relying on information already collected and validated for category two purposes will reduce burdens on applicants and the Administrator. For funding year (FY)

2025 through FY 2027, schools and school districts with a validated category two student count could rely on that number (and similarly, libraries with a validated square footage), but would need to revalidate student counts in the next three-year Wi-Fi hotspot funding cycle (*i.e.*, FY 2028 through FY 2030).

The Commission also will use fixed three-year budget cycles, after which the budgets will reset, beginning with funding years 2025 through 2027. Based on the experience with category two budgets, the Commission believes a fixed cycle will reduce applicant confusion and simplify administration. Entities are allowed to spread out their requests for Wi-Fi hotspots and services over the three-year timeframe, as long as the total pre-discount amount does not exceed the budget over the three funding years. Entities may request support for Wi-Fi hotspot service even if the associated Wi-Fi hotspots were not directly funded under the new E-Rate rules. However, applicants may not request more than 45% of its three-year budget in any year. The Commission finds this valuable in order to prevent applicants with high numbers of existing Wi-Fi hotspots from simply using the entire budget in a single funding year. The Commission will also require that such services must be competitively bid prior to requesting E-Rate support pursuant to the program's competitive bidding rules.

The Commission emphasizes that the hotspot budget represents the maximum pre-discount amount an applicant may request across three funding years, rather than an allocation of funding for Wi-Fi hotspots and service lines for which an applicant is entitled reimbursement. Applicants should evaluate whether there is need in their own school and library communities and what can be effectively used and tracked in compliance with program

rules. Applicants will also continue to be subject to the E-Rate program rules requiring that schools and libraries are responsible for paying the non-discounted share of the costs. The intent of this hotspot lending program is for the Wi-Fi hotspots to be available for loan to and for use by students, school staff, or library patrons without sufficient broadband access at home and other off-campus locations for educational purposes. Applicants and service providers will be subject to E-Rate program rules, certifications, and other requirements designed to protect program integrity, as discussed.

Applicants may not request funding for Wi-Fi hotspots for future use or to be stored in case of an emergency, and the Commission will not allow applicants to purchase Wi-Fi hotspots to store in case of theft, loss, or breakage. Each Wi-Fi hotspot must be associated with a line of service. The Commission recognizes the concerns from commenters about replacing Wi-Fi hotspots, but based on lessons from the ECF program, determine that a streamlined approach would be simpler to administer, provide clarity for applicants, and ensure limited E-Rate program funds are used appropriately. In the event of loss or breakage, applicants may purchase extra devices with other sources of funding to use with the E-Rate-supported service or they can request replacement devices paired with lines of service in the next funding year if they have not exhausted their budgets. The Commission cautions, however, that applicants that do not replace lost or broken hotspots must work with their service providers to discontinue the associated service within a reasonable amount of time of becoming aware of the issue (e.g., 30 days). In order to ensure the E-Rate program is not paying for services that sit unused for these or other reasons, the Commission will require service providers to exclude or waive any associated early termination fees for the services to Wi-Fi hotspots being funded with E-Rate support that are lost, broken, or unused and can no longer be distributed to students, school staff, or library patrons. The Commission reminds applicants that they must document information about lost or broken equipment in the asset inventory containing details about each Wi-Fi hotspot.

In combination, the Commission expects this three-year pre-discount budget mechanism and the funding caps to be effective in ensuring that schools and libraries with students, school staff, and library patrons with need have access to E-Rate funding to effectively set up and request funding for hotspot

lending programs, while protecting the Universal Service Fund from overspending and reducing administrative burdens, as compared to the ECF program. At the same time, the Commission is cognizant that a one-size formula for limiting hotspot requests may not fit every school and library and may need to be adjusted if it is impacting program participation. As such, the Commission delegates to the Bureau, working with the Office of Economics and Analytics, the ability to adjust the limiting mechanism quantities (i.e., 20 per 100 students and 5.5 per 1,000 square feet) as well as the funding caps in future funding years or future three-year budget cycles, after seeking comment on such an adjustment. The Commission also delegates to the Bureau the authority to resolve technical, procedural, and administrative issues that may arise in connection with this formula.

In the *NPRM*, the Commission sought comment on what category of service should be used for wireless internet service and the Wi-Fi hotspots needed to deliver the service, as well as how to prioritize such services should demand for E-Rate support exceed the annual funding cap. Consistent with the existing eligible services list, wireless internet services will be listed as eligible as a category one service, and will not be subject to the category two budgets. Wi-Fi hotspots will be eligible as category one network equipment necessary to make category one wireless internet services functional. The Commission agrees with commenters arguing that it should be eligible as category one, consistent with the treatment of supporting equipment necessary to sustain connectivity.

At the same time, in the event that demand for E-Rate support exceeds available funding, the Commission also adopts a rule to fund requests for eligible off-premises use of Wi-Fi hotspots and services after requests for eligible on-premises services, inclusive of both category one and category two services. Based on recent funding years and the limits that the Commission is adopting on Wi-Fi hotspot and recurring service requests, it does not expect the changes it adopts to cause demand to exceed the E-Rate funding cap. However, the Commission agrees with commenters that this approach will ensure that on-campus E-Rate funding is available and predictable for schools and libraries in future funding years. In making this determination, the Commission also applies it to requests for funding for off-premises use of school bus Wi-Fi services. Mobile wireless broadband connectivity for

school buses is also eligible as a category one service, but as an off-premises wireless internet service, it will be funded after eligible on-premises services should demand exceed the E-Rate annual funding cap. This appropriately treats these off-premises wireless internet services and the equipment needed for the connectivity in the same manner and ensures that future demand for these off-premises services does not make access to on-premises broadband connectivity to and within the schools and libraries less predictable.

Next, mindful of its obligation to protect the integrity of the E-Rate program and be a careful steward of these limited funds, the Commission adopts a number of safeguards aimed at ensuring compliance with its rules and strengthening program integrity. In deciding whether and which measures to adopt, the Commission considers a variety of factors, including, importantly, the intended purpose for which this funding is available, its experience with the ECF program, and commenters' concerns regarding the burdens associated with and feasibility around adopting such protections. The Commission also relies on and leverage existing tools to ensure compliance with its rules, such as its audit procedures and competitive bidding, non-discounted share of costs, and discount rate rules. Coupled with those protections already built into the design of the mechanism the Commission establishes for the distribution of Wi-Fi hotspots and services, it seeks to protect the Fund, and the Commission reiterates its commitment to identify and pursue instances of waste, fraud, and abuse, including recovery of improperly disbursed funds where appropriate.

In the *NPRM*, the Commission sought comment on ways to ensure that the off-premises use of Wi-Fi hotspots and services primarily serves an educational purpose consistent with the Commission's rules and section 254(h)(1)(B) of the Communications Act. Specifically, the Commission asked whether requiring schools and libraries to certify on their forms that E-Rate support is being used primarily for this purpose is sufficient or if additional safeguards should be imposed to protect against improper use. Based on its experience with the ECF program and recognizing that the off-premises use of Wi-Fi hotspots and services raises novel challenges about ensuring their proper use, the Commission finds that adopting additional safeguards is necessary to ensure that E-Rate program funds are used for their intended purpose and to protect the integrity of the program. In

so doing, the Commission rejects those views expressed by commenters that the existing certifications are sufficient safeguards, and that ensuring the proper use of Wi-Fi hotspots and services off-premises is overly burdensome or impractical.

The Commission reminds applicants that E-Rate program rules require schools and libraries to use E-Rate-supported services, including Wi-Fi hotspots and services used off-premises, primarily for educational purposes. Thus, in addition to requiring schools and libraries to use the existing E-Rate certifications to ensure that the off-premises use of E-Rate-funded Wi-Fi hotspots and services is primarily for an educational purpose, the Commission requires applicants to maintain and—where necessary—update their acceptable use policies to clearly state that this off-premises use must be primarily for an educational purpose as defined by its rules. With respect to schools, this means that the acceptable use policy must state that the use must be “integral, immediate, and proximate to the education of students.” Similarly, for libraries, the acceptable use policy must clearly state that the use must be “integral, immediate, and proximate to the provision of library services to library patrons.”

While the Commission’s rules require schools and libraries to ensure the use of E-Rate-funded services align with these purposes, it has long-recognized that schools and libraries are in the best position to determine what guidelines and restrictions should govern the appropriate use of their networks and other technology. The Commission did not find the need to impose any other restrictions or specifications in the ECF program; and the Commission agrees with commenters that schools and libraries are appropriately positioned to make determinations about acceptable use in their communities. Applicants are subject to the requirements under the Children’s Internet Protection Act, which requires local educational agencies and libraries to establish specific technical protections before allowing network access. In establishing such protections, applicants often create AUPs that outline expected user behaviors. For example, schools in Virginia are “required to establish guidelines for appropriate technology use” and AUPs must, among other things, state “the educational uses and advantages of the internet” and identify “prohibited forms of technology-based applications and hardware use.” School staff and students are also required to “monitor the use of technologies for grade-level and content appropriateness,

ethics, and safety.” Similarly, Maine State Libraries are encouraged to have an AUP in place for technology that is available for patron use and to review these policies with library staff. The Commission expects that schools and libraries will implement content and user network restrictions consistent with the restrictions that they place on their building-based networks, and to adopt suitable AUPs and other policies to limit access, but the Commission seeks to ensure applicants have the flexibility for unique situations and to avoid layering additional, similar restrictions that could result in program violations. For example, duration limits could deter applicants seeking to use hotspots for students that are home sick or home for inclement weather and accessing school or homework remotely.

Nor does the Commission require applicants to restrict access to the off-premises use of Wi-Fi hotspots and services to only users with appropriate credentials at this time. Based on the record, the Commission finds that it does not have sufficient information to adopt such requirements; and its experience with the ECF program suggests that many schools and libraries already require appropriate credentials when logging into their networks and using school- or library-issued devices, while those that do not have such restrictions typically have other technical solutions to limit access. To avoid unnecessarily penalizing those applicants with technical limitations and to provide applicants with flexibility, the Commission does not require schools and libraries to implement specific user access restrictions at this time, and it seeks additional comment on this issue in the companion *FNPRM*. Notwithstanding, consistent with Bureau’s expectation around the use of Wi-Fi services on school buses, to the extent schools and libraries already restrict access to their networks and devices, the Commission expects them to continue to implement content and user network restrictions consistent with those restrictions that they place on their building-based broadband networks as described in their acceptable use and other policies. The Commission finds that this approach provides reasonable limits to ensure that the off-premises use of Wi-Fi hotspots and services is primarily for educational purposes in accordance with a school’s and library’s existing AUP and other policies.

To ensure students, school staff, and library patrons are aware of the limited purpose for which they might use E-Rate-funded Wi-Fi hotspots and services off-premises, the Commission requires

schools and libraries to provide notice by adopting and publicly posting their acceptable use policies in whatever form they deem appropriate, but do not require them to collect signed documentation of user compliance with these policies as the Commission required of libraries participating in the ECF program. Given that schools and libraries already typically provide some form of notice of their acceptable use policies to students, school staff members, and library patrons, the Commission finds that imposing such a requirement would not be overly burdensome. The Commission likewise agrees with those commenters who argue that collecting signed documentation of user compliance with these policies is a significant burden on applicants, many of whom have limited resources and staff to collect and maintain such documentation. Indeed, its experience with libraries who participated in the ECF program has demonstrated just how onerous and complicated collecting and maintaining signed user compliance documentation can be; and the Commission is particularly sensitive to the concerns raised by some commenters that such measures might cause libraries to run afoul of their State privacy laws and, as a result, discourage participation. Accordingly, the Commission does not require applicants to collect this sort of user compliance documentation. However, applicants will be required to certify on their FCC Forms 486 that they have updated and publicly posted their acceptable use policies in accordance with the rules adopted herein. Additionally, applicants may be requested to provide their acceptable use policies and provide evidence of where it is publicly posted, upon request by the Commission or the Administrator.

Finally, while the Commission recognizes that schools and libraries may not have the same level of supervision or control over their students’, school staff members’, or patrons’ off-premises use of Wi-Fi hotspots and services as they might have on-premises or even on a school bus as one commenter suggests, with these additional safeguards in place, the Commission expects to better ensure their proper use consistent with its rules and the Communications Act than if the Commission only relied on the existing E-Rate certifications. And, consistent with its existing rules, the Commission remind applicants that its rules require that E-Rate-supported equipment and services be *primarily* used for educational purposes, not *solely* used

for this purpose as one commenter submits. Thus, its rules provide some, albeit intentionally limited, flexibility to use these Wi-Fi hotspots and services for other purposes when they are not needed for educational purposes in the first instance. Applicants may be required, during a post-commitment review or audit, to explain what steps they have taken to comply with the requirement that use of the Wi-Fi hotspots is primarily for educational purposes (e.g., user restrictions, content restrictions, or duration or time limits).

In the *NPRM*, the Commission sought comment on how to prevent the warehousing of Wi-Fi hotspots and reimbursement for unused equipment and/or services. Among the various ways contemplated, the Commission asked whether it should adopt numerical criteria to assess usage, require participants to provide evidence of usage, direct service providers to terminate services that are not being used, and/or limit E-Rate support to nine months out of the year (i.e., the length of a typical school year) to prevent the program from covering the costs of unused devices and services during the summer. Many commenters agree that the E-Rate program should not pay for unused and/or warehoused equipment or services. At the same time, commenters urge us to create requirements that are both administrable for participants and also take into consideration the practical reasons why equipment or services may go unused for limited periods of time before adopting specific non-usage requirements and reimbursement denial procedures. As a general matter, the Commission agrees with these commenters and recognize that there are numerous reasons for non-usage and that applicants and service providers are often unable to monitor or mitigate all instances of non-usage. The Commission therefore distinguishes the treatment for equipment or services that are entirely unused or warehoused from instances where Wi-Fi hotspot equipment and services may have limited periods of non-usage.

The Commission first relies on the agency's extensive experience overseeing the ECF program in designing a hotspot program that protects against waste and abuse. Its experience suggests that reasonable safeguards to prevent warehousing and manage non-usage are necessary and possible, and the Commission rejects the view expressed by one commenter that there is no need for any usage requirement if the Commission applies existing competitive bidding requirements to off-premises services. In

addition, the Commission made several important modifications to this hotspot initiative to distinguish it from the statutorily required procedures in the ECF program. First, the competitive bidding requirements required here were not mandatory in ECF, and the Commission believes requiring them will help ensure applicants consider available options and make cost-effective purchases. Next, the budget mechanism the Commission imposes will also require applicants to use limited funding to target those students, school staff, and library patrons with the greatest need. The Commission also placed funding caps for hotspot devices and recurring service, which will have the effect of limiting the E-Rate funding available for Wi-Fi hotspots and service. Finally, the Commission also believes requiring schools and libraries to pay the non-discount share of costs will help incentivize applicants to make measured choices and determine community needs. These important distinctions from the ECF program will be integral to helping us protect limited funds. The Commission disagrees with the commenter and find it is necessary to adopt additional requirements to ensure that the Commission is maximizing the use of E-Rate supported Wi-Fi hotspots and services.

Requirements. Considering its long-standing obligation to protect the integrity of the E-Rate program and being mindful of the concerns expressed by commenters regarding the feasibility of tracking and identifying non-usage, the Commission adopts a combination of requirements to protect against non-usage. The Commission first requires applicants to activate the Wi-Fi hotspot and service, make it available for loan, and publicize the availability of the Wi-Fi hotspot device and service to students, teachers, and library patrons via public notice or other means. To further protect the program from potential waste, the Commission also requires applicants to certify to having taken these steps on their FCC Forms 486. Applicants already use the FCC Form 486 to notify USAC that services have started on a particular funding request and will be required to certify to adopting measures to ensure proper use of E-Rate-funded Wi-Fi hotspots and services, among other things, and are required to submit these forms 120 days after the service start date or the date of the funding commitment decision letter, whichever is later. The Commission finds that requiring applicants to also certify to having taken these steps on their FCC Forms 486 before they or their service providers can begin to submit

their requests for reimbursement is reasonable and would not be overly burdensome. To be clear, the Commission expects schools and libraries to make every effort to make available and encourage the use of Wi-Fi hotspots and services supported by the E-Rate program.

Second, the Commission expects that schools and libraries will carefully consider how to structure their lending programs to promote ongoing use of Wi-Fi hotspots and services. ALA highlights the importance of flexibility in circulation policies to address local needs but notes a general standard is necessary to "ensur[e] the data is used regularly by users." The Commission agrees that schools and libraries understand well their community needs and are in the best position to structure a lending program to meet those needs, and can do so in a way that maximizes use of Wi-Fi hotspots and services following the requirements the Commission adopted. Such measures to encourage use may include limited lending periods (e.g., 21 days or less), providing technical assistance to students and library patrons, monitoring circulation statistics, or other approaches deemed suitable by the school or library for the local community. For example, EveryLibrary Institute explains that libraries often already have mechanisms in place to pause service to a specific device which is "typically enough reason for the patron to return the device." This prevents the service provider from billing "for the time elapsed when the device was not in service, reducing program costs automatically." Similarly, ALA reported that "the Dublin Public Library in Texas and Pima County Library in Arizona [are] able to work with service providers to track data usage and other aspects of hotspot use."

Finally, to further prevent the E-Rate program from paying for ongoing services that are not being used, lines of service that have no data usage for approximately three consecutive months must be terminated by the service provider. As discussed further in this proceeding, on a monthly basis, service providers are required to notify applicants of each line of hotspot service that goes unused for at minimum 60 consecutive days and to provide applicants 30 days for the hotspot to be used before terminating the line of service. Service providers are also required to provide schools and libraries with data usage reports as described, and schools and libraries should regularly review these reports to identify hotspots with periods of non-usage to determine if there is an issue

with the device or to seek the return of a Wi-Fi hotspot after some period of non-use so the device can be loaned out again.

Warehousing. In the ECF program, the Commission prohibited schools and libraries from requesting E-Rate support for the purchase of additional Wi-Fi hotspots beyond the per-user limitation to “maximize the use of limited funds” and only provided support for devices and services currently needed, thus avoiding unnecessary warehousing. Several commenters, including the EveryLibrary Institute, flagged “the possibility of applicants overstocking equipment to prepare for breakage or loss” and that the E-Rate program should not pay for such equipment and services. The Commission agrees and adopt the same per-user limitation and prohibition against warehousing. Considering the limited funding available, the Commission finds that permitting applicants to purchase hotspots in anticipation of future use, loss, or breakage would be wasteful, and it concludes that limiting support in this way is reasonable. Applicants must certify to their compliance with this limitation on the FCC Form 471 application. Wi-Fi hotspots that have not been made available for distribution per the requirements specified will be considered to have been warehoused, a violation of the Commission’s rules, and subject to a financial recovery.

Limited periods of non-use. As well-documented in the record, there may be legitimate reasons for limited periods of non-use by students, school staff, and library patrons that are outside of the control of schools, libraries, and service providers. Even in the context of the ECF program, the Commission has recognized that there may be circumstances where non-usage occurs but services would still be eligible for support, such as during a school’s summer break. At the same time, the Commission is mindful of the need to balance the legitimate reasons for limited periods of non-use with its need to protect program integrity, and as such have adopted the approach described, with a notice opportunity before services will be terminated.

Commenters expressed concern with requirements that would leave schools and libraries responsible for paying the full amount of service charges when there is limited usage and indicated that such an approach would discourage participation in the program. However, service providers have also asserted that they have no control over the hotspots provided by a school or library to students, staff members, or library patrons. In response to the approaches

proposed in the *NPRM*, commenters explained that assessing usage against numerical criteria would be challenging because usage below a pre-determined weekly, monthly, or quarterly threshold does not necessarily indicate that the hotspot devices are being warehoused and should be prohibited from reimbursement. Commenters also described the importance of student access to hotspots in the summer months to complete summer reading projects and other educational activities, and that the year-round access provided by libraries is essential. The Commission agrees with commenters that overly complex usage requirements would likely deter schools and libraries from seeking support for Wi-Fi hotspots and services, and find that such an outcome would negate its efforts to ensure schools and libraries can operate lending programs to connect students, school staff, and library patrons for off-premises use. Similarly, given the vital importance of internet connectivity, the Commission finds that limiting E-Rate support to nine months would contravene the purpose of this funding and “would further exacerbate the ‘summer slump’—the decrease in learning between school years—and inhibit remote learning during summer school.”

However, to reduce the risk of waste and inefficiencies in supporting Wi-Fi hotspots and services in the E-Rate program, the Commission finds that imposing a reasonable non-usage threshold requirement is both appropriate and necessary to ensure that E-Rate support is going to services that are actually being used. The Commission therefore adopt a rule to prohibit E-Rate support for lines of service that have not been used for a period of three consecutive months and have gone through the required notice process. Pursuant to this new rule, at least once every 31 days, service providers are directed to identify lines of service that have gone unused for no less than 60 days and provide the school or library with 30 days’ notice that failure for the hotspot service to be used within the 30-day notice period will result in service termination for that particular line. The Commission concludes that this approach appropriately accounts for limited legitimate instances of non-usage, such as a school’s summer break, while also providing sufficient time to allow schools and libraries to work with their service provider, as well as their student, school staff, and library patron users to cure the non-usage without being unnecessarily penalized. Upon

receipt of a non-usage notification from a service provider, applicants should take steps to determine whether the device and services are being used, should be redistributed, or should be discontinued. Applicants may work with their service provider to restart services that have been terminated (e.g., where a hotspot is redistributed) one time per funding year, but the Commission caution applicants that such action to restart service after termination will be subject to program integrity reviews and therefore, applicants should take steps to ensure that they have the associated need prior to restarting services terminated for non-usage again.

The Commission is also sympathetic to the concerns expressed in the comments regarding a rule that would leave schools and libraries responsible for paying the full amount of service charges for limited usage or in this case, a terminated line of service. In the event of a terminated line of service resulting from this non-usage requirement, service providers are prohibited from billing the applicant for the balance that was not paid for by the E-Rate program. Service providers will be required to certify on their FCC Form 473 (Service Provider Annual Certification (SPAC) Form) that they will comply with this non-usage notice and termination requirement and will not charge applicants the balance for the terminated services.

Finally, while the Commission understands service providers’ concerns regarding their lack of a direct customer relationship with a student, school staff, and library patron user, it finds that imposing this usage requirement will appropriately incentivize service providers to avoid requesting reimbursement for ongoing lines of services that are not being used. This requirement follows a similar principle to the non-usage rules adopted in other programs, like ACP and Lifeline, and therefore the Commission expects that many mobile wireless service providers are familiar with monitoring usage and have even adapted their systems to track and provide notice accordingly. The Commission concludes that this rule strikes a reasonable and appropriate balance between ensuring that E-Rate support for Wi-Fi hotspots is being used responsibly, while not implementing overly complex rules that would be unadministrable for schools and libraries or deter participation.

Some commenters alternatively suggest that the Commission provides program participants with an opportunity to explain the reason for the non-usage before denying funding and

argue that this approach is preferable. The Commission declines to take this approach because it finds that such a process would be overly resource intensive and fail to efficiently achieve the program's goals. In particular, the Commission finds that tracking down students, school staff members, and library patrons to ascertain the reason for non-usage while disbursements are on hold could take time and significantly delay the review and disbursement process. In addition, such an approach would require the Commission to prescribe a comprehensive list of the permissible reasons for which Wi-Fi hotspots and services may not be used after they have been distributed, which it would then need to be able to verify for purposes of ensuring program compliance. Considering the record, the Commission is reluctant to create and implement such a list because that approach would only delay reimbursements, frustrate program participants, and cause uncertainty about the availability of funding. Comparatively, the Commission finds the non-usage notice and termination rule detailed will better allow schools and libraries to work with their students, school staff, and library patrons, as well as their service providers to ensure the hotspots and services are being used without impacting or delaying the review and disbursement processes.

Moreover, in the context of the new program safeguards that the Commission adopts in the *Order*, the additional usage requirements the Commission establishes protects public funds and maximize the use of supported Wi-Fi hotspots and services. In particular, the Commission believes the funding cap for monthly service described will aid in controlling costs and the requirement of paying the non-discount share of costs will incentivize schools and libraries to avoid subscribing to unused services, enabling us to provide support for Wi-Fi connectivity necessary to engage in remote learning for students, school staff, and library patrons. However, in light of the challenges identified with the solutions proposed in the *NPRM* and lack of information in the record to address these issues, the Commission remains cognizant of the risk of non-usage of E-Rate-funded hotspots and want to ensure applicants are encouraging use among their students, school staff, and library patrons. The Commission therefore finds it necessary to explore further ways to monitor and address non-usage in the companion *FNPRM*. Additionally, the Commission

delegates authority to the Bureau to resolve any procedural or administrative issues that arise with the usage requirements adopted herein.

Usage reports. To enable schools and libraries to monitor usage and make adjustments to the structure of their lending programs in a way that maximizes the use of Wi-Fi hotspots and services, the Commission requires service providers to provide reports regarding data usage to applicants at least once per billing period. Such reports must be provided in machine-readable digital format, so that the information lines can be read and sorted, clearly identifying the lines that are not being used across billing periods or that will be or have been terminated as a result of the non-usage rules adopted herein. Because service providers regularly make such reports available to applicants and the Commission provides flexibility in how reports are provided, the Commission finds that imposing such a requirement would not be overly burdensome. Further, no commenter opposes this idea. Schools and libraries are also required to make these reports available to the Commission and/or USAC upon request, including to support program integrity reviews. The Commission expects applicants to review the data usage reports and to take actions to address non-usage included in the reports, including requesting the return of the Wi-Fi hotspot or requesting the service to be turned off to prompt the return of the unused hotspot device, consistent with the requirements described herein.

Program integrity reviews. In addition to the existing standard post-commitment reviews and audits to ensure compliance with E-Rate program rules more broadly, the Commission directs USAC to regularly conduct program integrity reviews to monitor school, library, and service provider compliance with the requirements defined, including checking for warehousing and discontinued lines of services for non-usage. The Commission further directs USAC, subject to approval by the Bureau, to develop risk-based procedures for these reviews. Schools and libraries subject to these program integrity reviews must provide usage reports and other documentation as requested, consistent with E-Rate program rules.

The Commission modifies § 54.516 of its rules to require E-Rate participants who receive support for the off-premises use of Wi-Fi hotspots and services to maintain detailed asset and service inventories of each hotspot and wireless service provided for use off-premises. In

the *NPRM*, the Commission sought comment on whether to adopt the ECF program's requirement to keep detailed asset and service inventories for each hotspot device and service provided to a student, school staff member, or library patron. In response, commenters raised concerns about the burdens associated with maintaining such inventories. The Commission's experience with the ECF program, however, demonstrated the inventory requirements served a critical purpose in ensuring that schools and libraries receiving support know where the equipment and services are located and that they comply with the program requirements. In particular, the inventories were helpful in detecting, for example, warehousing of devices by identifying which devices had not been distributed. As such, the Commission concludes that the benefit to the program of adopting more detailed inventory requirements will outweigh the burden of requiring increased recordkeeping. The Commission is further convinced that this is a reasonable requirement by the fact that the E-Rate program is not an emergency program like the ECF program. The Commission therefore concludes that there is time for schools and libraries to make a reasonable assessment of their needs and ability to comply with these recordkeeping requirements, and urge applicants to do so prior to requesting support. Relatedly, the Commission reminds participants that they may be asked to provide this information upon request to the Commission or USAC, and that failure to comply with program rules, including the requirement to maintain asset and service inventories, may result in a denial of funding or a financial recovery.

In adopting the more detailed inventory requirements, the Commission is sympathetic to the concerns expressed by library commenters, who claim that the level of detail required by the ECF program's inventory requirements served as a barrier to participation in the program because of conflicts with many States' library patron privacy laws and existing library circulation systems and practices. In particular, commenters explain that the majority of States have laws in place that protect the confidentiality of library records and prohibit disclosure of patrons' personally identifiable information (*e.g.*, individual names) without first seeking a waiver from each individual or, in some cases, needing a court order. Circulation and tracking systems are set up to be compliant with these State

laws, meaning that libraries did not already track and retain records with sufficient detail to meet the ECF program's requirements, resulting in the need for manual tracking of this information, and to do so potentially in conflict with applicable State laws. While the Commission recognizes that schools also have their own privacy laws to which they adhere, the limitations are not so strict as to create comparable burdens for recordkeeping. The Commission therefore agrees with commenters who advocate for adopting library-specific rules to recognize the realities of libraries' abilities to maintain such records and to ensure that libraries can take part in this important funding source to continue their successful hotspot lending programs.

The Commission also agrees with commenters who urges it to be clear up front about what is expected of the recordkeeping requirements. The Commission finds that modifying § 54.516 of its rules to adopt the specific information required for an asset and service inventory of Wi-Fi hotspots and services purchased with E-Rate support is the best approach to ensure parties understand exactly what is expected. The Commission also reminds applicants that the obligation of schools and libraries to keep track of and document the devices that they distribute includes documenting information about missing, lost, or damaged equipment.

For school participants receiving support for Wi-Fi hotspots and services, the asset and service inventory must identify: (1) the equipment make/model; (2) the equipment serial number; (3) the full name of the person to whom the equipment was provided; (4) the dates the equipment was loaned out and returned, or the date the school was notified that the equipment was missing, lost, or damaged; and (5) service detail. By "service detail," the Commission means the line number or other unique identifier that associates a device to that particular line of service. For library participants receiving support for Wi-Fi hotspots and services, the asset and service inventory must identify: (1) the equipment make/model; (2) the equipment serial number; (3) the dates the equipment was loaned out and returned, or the date the library was notified that the equipment was missing, lost, or damaged; and (4) service detail.

Consistent with the E-Rate program's current recordkeeping rule, program participants are required to retain documentation related to their participation in the E-Rate program, including the asset and service

inventories, acceptable use policies, evidence of publicizing Wi-Fi hotspot availability, and other required documentation for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Separately, the Commission amends the language of § 54.516 of its rules to include E-Rate-funded equipment and services provided on school buses.

As was the case for the ECF program, the Commission is mindful of privacy concerns regarding the collection of personally identifiable information about the individual (*e.g.*, student, school staff member, or library patron) that makes use of E-Rate-supported equipment and services. The Commission, USAC, and any contractors or vendors will abide by all applicable Federal and State privacy laws. The Commission also directs Commission, USAC, and contractor/vendor staff to take into account the importance of protecting the privacy of students, school staff and library patrons; to design requests for information, including those related to the data usage reports and asset and service inventories, from schools and libraries in a way that minimizes the need to produce information that might reveal personally identifiable information; and to work with auditors to accept anonymized or deidentified information in response to requests for information wherever possible. In addition to the existing standard post-commitment reviews and audits to ensure compliance with E-Rate program rules more broadly, the Commission directs USAC to regularly conduct program integrity reviews to monitor school, library, and service provider compliance with the asset and service inventory rules.

In the *NPRM*, the Commission sought comment on safeguards to prevent duplicative funding for off-premises use of Wi-Fi hotspots and services across the Federal universal service programs and other funding programs, including Federal, State, Tribal, or local programs. The Commission also requested comment on whether "a certification by the school or library [would] be sufficient to indicate that E-Rate support is only being sought for eligible students, school staff, or library patrons and the school or library does not already have access to Wi-Fi hotspots purchased with ECF support or other sources of funding." Generally, commenters agree that the Commission should not duplicate funding for Wi-Fi hotspots and services that are funded through other sources or programs. The

Commission concludes that it is appropriate to prohibit duplicative funding for off-premises Wi-Fi hotspots and services funded with E-Rate support and further find that protections against duplicate funding adopted herein should apply to all E-Rate-funded equipment and services.

For example, NTCA argues that Wi-Fi hotspots and services should be limited to locations where High-Cost USF support is not distributed and where the Commission's own broadband availability data indicate service is not already available. In contrast, other commenters contend that "the Commission should not impose unnecessary restrictions on households' receipt of funding from multiple Federal universal service programs . . . households are entitled to apply under different USF programs for different eligible needs." The Commission agrees that it should not duplicate funding for Wi-Fi hotspots and services that are already funded. However, the Commission disagrees that the availability of High-Cost support or the availability of service as indicated in its broadband data should preclude funding for an E-Rate-supported Wi-Fi hotspot because this does not guarantee that a student or library patron has the off-premises broadband access needed to complete their educational activities.

As noted in the *NPRM*, households may justifiably receive support from multiple universal service programs at the same time; however, to make the most of the support available through the E-Rate program, and to protect against waste, fraud, and abuse, the Commission finds it necessary to not extend E-Rate support to Wi-Fi hotspots and services that have already been funded through other sources or programs. Therefore, the Commission will not provide E-Rate support for eligible Wi-Fi hotspots and services, or the portion of eligible Wi-Fi hotspots and services that have already been reimbursed with other Federal, State, Tribal, or local funding, or other external sources of funding. Additionally, while commenters suggested that the Commission should not provide funding to households that receive ACP benefits, the Commission note that the ACP officially ended on June 1, 2024. As such, the Commission finds that not only does this eliminate the concern of duplicative funding between ACP and the Wi-Fi hotspots and services funded through the E-Rate program, but it also reinforces the need for E-Rate support to connect students, school staff, and library patrons who may now lack access as a result of losing the ACP benefit.

To prevent duplicative funding, the Commission takes a similar approach to the approach the Commission took in the ECF program and adopt a rule prohibiting E-Rate participants from seeking support or reimbursement for eligible equipment and services that have been funded by other programs, including Federal (e.g. other universal service programs, ECF, etc.), State, Tribal, or local programs. Recognizing that the need to protect against duplicative funding is not limited to E-Rate-funded Wi-Fi hotspots and services used off-premises, the Commission adopts rules to prohibit duplicative funding for all E-Rate-funded equipment and services. The Commission also finds this to be consistent with the Commission's past actions to prevent duplicate funding in other universal service support mechanisms. Additionally, consistent with record support for requiring applicants to certify that there is no duplicative funding for their requests, the Commission requires applicants to certify on the application for funding and on the request for reimbursement forms (i.e., the FCC Forms 472/474) that they are not seeking support for eligible equipment and services that have been funded by other sources. This measure balances the interest of applicants by allowing them to continue participating and receiving funding from other programs, for which they are eligible, while simultaneously preventing waste of limited E-Rate funds by not funding equipment and services that have already been funded by other programs. These rules will help ensure that applicants are aware of the prohibition on duplicative funding for equipment and services, and are only requesting funding that they do not otherwise have available.

Section 254(h)(3) of the Communications Act, which applies to the E-Rate program, and the existing E-Rate rules prohibit sale, resale, or transfer of E-Rate-supported equipment for five years. In the *ECF Order*, the Commission adopted a three-year wait time to dispose, sell, trade, or donate equipment purchased with ECF funds, including Wi-Fi hotspots, explaining that "devices and other equipment loaned to students, school staff, and library patrons and installed off-campus will likely have a shorter average life cycle than equipment installed and maintained on school or library premises." Consistent with its approach in the ECF program, the Commission finds that Wi-Fi hotspot devices intended for off-premises use by students, school staff, and library

patrons are likely to have a shorter lifecycle and therefore, the Commission adopts a rule that Wi-Fi hotspot devices for off-premises use and supported with E-Rate funds can be disposed of after three years.

Schools and libraries requesting E-Rate support for Wi-Fi hotspots are prohibited from selling, reselling, or transferring equipment in consideration of money or any other thing of value for three years after its purchase. Wi-Fi hotspots purchased with E-Rate funds and used off-premises will be considered obsolete at the end of the three year period. Obsolete equipment may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded. This approach takes into consideration the limited lifespan of Wi-Fi hotspots, while also helping prevent potential waste, fraud, and abuse by ensuring that the hotspot devices are used for a minimum of three years.

Head Start, Pre-Kindergarten, and Kindergarten. In the *NPRM*, the Commission proposed to limit the student population eligible for E-Rate support for the off-premises use of Wi-Fi hotspots and service. Specifically, the Commission proposed to exclude Head Start programs, providing early learning and development for pre-school children from the ages of 3 to 5, and pre-kindergarten students from receiving E-Rate support for off-premises use of Wi-Fi hotspots and services. Commenters agree with excluding the eligibility of Head Start and pre-kindergarten populations for a Wi-Fi hotspot to be used off-premises, but also urged that kindergarten populations should be excluded as well. SECA supports making young learners, pre-kindergarten, and kindergarten ineligible for Wi-Fi hotspots when they are off-campus stating that not giving them this device can "help curb lost and damaged devices" and further stating that "hotspots generally should be made available only for students in grades where they are required to access the internet off-campus for their homework and for other educational purposes." WISPA also agrees that funding for Wi-Fi hotspots should be limited to post-kindergarten students who are more likely to need internet access for educational purposes.

The Commission agrees and make Head Start, pre-kindergarten, and kindergarten populations ineligible for E-Rate-supported Wi-Fi hotspots for off-premises use, consistent with the support of commenters. As noted in the *NPRM*, studies recommend an hour or less of internet exposure for children under the age of five. Therefore, for

these populations the risks may outweigh the benefits of receiving an E-Rate-supported Wi-Fi hotspot for off-premises use, and as a result, these populations are less likely to need the internet for educational purposes. As mentioned in the *NPRM*, Head Start and/or pre-kindergarten education facilities serving this particular age group may be eligible for E-Rate funding for broadband connectivity to and within their facilities, if determined to be elementary schools under their applicable State laws. Commenters also note that kindergarteners are unlikely to need internet access for off-campus educational uses. The Commission thus limits eligibility for Wi-Fi hotspots and internet services to post-kindergarten students and school staff. The Commission notes, however, that for the purposes of calculating the hotspot budgets, it seeks to streamline the information collections and will use the full-time student enrollments that are used for category two budgets, which includes kindergarten students and may also include pre-kindergarten students in certain States.

In providing support for the off-premises use of Wi-Fi hotspots and services, the Commission is also mindful of the longstanding goal of fair and open competitive bidding for such equipment and services. The Commission recognizes that many schools and libraries may have taken advantage in recent years of discounted Wi-Fi hotspots and/or recurring services offered during the pandemic to enable their students, school staff, and library patrons to engage in remote learning. The Commission recognizes that applicants may have done this while it temporarily waived the gift rules for the ECF and E-Rate programs. The Commission reminds all E-Rate program participants seeking reimbursement for Wi-Fi hotspots and services of its gift rules, which prohibit applicants from soliciting or accepting any gift or other thing of value from a service provider participating in or seeking to participate in the E-Rate program. Similarly, service providers are prohibited from offering or providing any gift or other thing of value to those personnel of eligible entities involved in either program. The Commission's gift rule is always applicable to E-Rate program participants and is not in effect or triggered only during the time period when competitive bidding is taking place. Additionally, applicants are not permitted to solicit or accept a gift or thing of value over \$20 from a service provider, and service providers are not

permitted to offer or provide applicants a gift or thing of value over \$20.

The Commission has previously explained that the gift rule is not intended to discourage charitable donations to E-Rate eligible entities as long as those donations are not directly or indirectly related to E-Rate procurement activities or decisions and provided the donation is not given with the intention of circumventing the competitive bidding or other E-Rate program rules. For example, the Commission understands that some service providers offer free or discounted Wi-Fi hotspots with a service plan. The gift rule prohibits service providers from offering these kinds of special equipment discounts or equipment with service arrangements to E-Rate recipients only if such offerings are not currently available to some other class of subscribers or segment of the public.

Moreover, the record and its experiences in the ECF program have shown that service providers sometimes bundle Wi-Fi hotspots and ineligible components into the costs of services. Entities seeking E-Rate support for Wi-Fi hotspots and services for off-premises use are reminded that E-Rate recipients are required to cost-allocate ineligible components that are bundled with eligible equipment or services. With respect to offerings that bundle the costs of the eligible Wi-Fi hotspots and services together, applicants may continue to seek E-Rate funding for eligible components of bundled services. However, for the ease of administration and to streamline review of funding requests, applicants and service providers should itemize these eligible components when invoicing, and Wi-Fi hotspots, services, as well as any eligible components or fees should be requested on separate funding lines when seeking support for these equipment and services.

The Commission considers audits and other review mechanisms in the E-Rate program to be important tools in ensuring compliance with its rules and identifying instances of waste, fraud, and abuse. Considering the action the Commission takes to extend the off-premises uses eligible for E-Rate funding, the Commission expects that these tools will continue to be paramount to its ability to ensure that these finite funds are used appropriately and consistent with its rules. The Commission makes clear, therefore, that any support provided for the off-campus use of Wi-Fi hotspots and services under the program will be subject to all audits and reviews currently used by the program (*e.g.*, Beneficiary and

Contributor Audit Program (BCAP) audits, Payment Quality Assurance (PQA) assessments, and Program Integrity Assurance (PIA) reviews and Selective Reviews (SR) reviews) and could be subject to recovery should the Commission and/or USAC find a violation of its rules and deem it appropriate. Specifically, consistent with existing E-Rate audits and reviews, applicants and service providers may be subject to audits and other investigations to evaluate compliance with the rules the Commission adopt, including, for example, what equipment and services are eligible and how the equipment and services may be used.

The Commission, USAC, and contractor/vendor staff are directed to work with auditors to accept anonymized or deidentified information in response to requests for information wherever possible. If anonymized or deidentified information regarding the students, school staff, and library patrons is not sufficient for auditors' or investigative purposes, the auditors or investigators may request that the school or library obtain consent of the parents or guardians, for students, and the consent of the school staff member or library patron to have access to this personally identifiable information or explore other legal options for obtaining personally identifiable information. In the event consent is not available, the Commission recognizes that the auditors may need to use other procedures or take different actions to determine if there is any evidence of waste, fraud, or abuse from the use of E-Rate funding for off-premises Wi-Fi hotspots. The Commission additionally delegates to the Bureau and Office of the Managing Director, in consultation with the Office of General Counsel (and specifically the Senior Agency Official for Privacy) the authority to establish requirements for the Bureau's, USAC's, or any contractor's/vendor's collection, use, processing, maintenance, storage, protection, disclosure, and disposal of personally identifiable information in connection with any audit or other compliance tool.

The Commission also reminds program participants of their obligation to maintain documentation sufficient to demonstrate their compliance with program rules for ten years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. And, upon request, they must submit documents sufficient to demonstrate compliance with program rules, including the Wi-Fi hotspot-specific documentation requirements the Commission adopted, such as

maintaining asset and service inventories and acceptable use policies. Additionally, schools, libraries, and service providers participating in the E-Rate program may be subject to other audit processes, including audits and inspections by the Office of Inspector General and other entities with authority over the entity.

Sections 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Communications Act collectively grant the Commission broad and flexible authority to establish rules governing the equipment and services that will be supported for eligible schools and libraries, as well as to design the specific mechanisms of support. This authority reflects recognition by Congress that in order to advance its universal service objective, the types of services supported by the various support mechanisms are constantly evolving in light of "advances in telecommunications and information technologies and services." In the *NPRM*, the Commission sought comment on whether these provisions authorize it to provide E-Rate support for schools or libraries to purchase Wi-Fi hotspots and wireless internet services for off-premises use, recognizing how today's technology-based educational environment has significantly evolved beyond the physical boundaries of a school or library campus. Specifically, the Commission proposed to find that school or library purchases of Wi-Fi hotspots and internet services for off-premises use by students, school staff, and library patrons for remote learning and the provision of virtual library services constitutes an educational purpose and enhances access to advanced telecommunications and information services pursuant to section 254 of the Communications Act. As explained further in this proceeding, the Commission concludes that it has authority under section 254 of the Communications Act to permit eligible schools and libraries to receive E-Rate support for the off-premises use of Wi-Fi hotspots and wireless internet services.

First, the Commission considers its proposed finding that the off-premises use of school- or library-purchased wireless internet services and the Wi-Fi hotspots needed to deliver such connectivity constitutes services that are "provide[d] . . . to elementary schools, secondary schools, and libraries," and thus, may be supported pursuant to section 254(h)(1)(B) of the Communications Act when used "for educational purposes." In response, many commenters agree that section 254(h)(1)(B) of the Communications Act

does not prohibit the Commission from allowing E-Rate funds to be used by schools or libraries to support remote learning for students and school staff, and access to library services for library patrons so long as it first finds that the equipment and services that schools or libraries purchase for off-premises use will serve an educational purpose. The Commission finds this view to be consistent with its determination in the *School Bus Wi-Fi Declaratory Ruling* that any future decision to support school or library purchases of E-Rate-supported services requires the Commission to first find that the off-premises use of such service is “integral, immediate, and proximate to the education of students or the provision of library services to library patrons” and, therefore, serves an educational purpose.

Turning next to the question of whether the off-premises use at issue herein serves an educational purpose, many commenters urge the Commission to find that the off-premises use of such wireless internet services and the Wi-Fi hotspots needed to deliver such connectivity to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons. For example, the North American Catholic Educational Programming Foundation (NACEPF) and Mobile Beacon argue that “[e]nabling students to participate in hybrid learning, complete their homework, or participate in other educational opportunities clearly qualifies as an ‘educational purpose.’” Likewise, commenters assert that Wi-Fi hotspots are needed to ensure library patrons can access library services. The Commission agrees with these commenters. Given the lack of a reliable broadband connection at some students’, school staff members’, and library patrons’ homes, the struggle for many households to afford high-speed broadband (particularly in light of the end of the ACP), and the increasing need for connectivity in today’s technology-based educational environment that extends learning beyond a school or library building (e.g., for virtual classes, electronic research projects, homework assignments, virtual library resources, research, etc.), the Commission finds that the off-premises use of such wireless internet services and the Wi-Fi hotspots needed to deliver such connectivity to students, school staff, or library patrons is “integral, immediate, and proximate to the education of students or the provision of library services to library patrons” and, therefore, serves an

educational purpose. For example, if a student is unable to complete their homework or participate in a virtual class or research project due to lack of internet access while off-premises, that lack of access is likely to have an immediate, negative impact on that student’s academic performance, which is integral to their education. Similarly, if a library patron is unable to access work-related research for school or career advancement, that lack of access is likely to have an immediate, negative impact on that patron’s career. As such, the Commission finds that the connectivity provided through the off-premises use of Wi-Fi hotspots can make a difference in a student’s, school staff member’s, or library patron’s ability to meaningfully engage in learning and fully access library services; the provision of such services thus serves an educational purpose.

The Commission disagrees with the commenters who assert that “educational purpose” is defined to require a physical link to a school or library campus. Although activities that occur on-campus are presumed to serve an educational purpose, the Commission has never stated that the inverse would be true (i.e., that all off-premises uses are presumed *not* to be for an educational purpose). To the contrary, the Commission has already recognized that in certain instances, the off-premises use of E-Rate-funded telecommunications services and information services are found to serve an educational purpose, such as when a school bus driver uses wireless telecommunications services while delivering children to and from school, or when students use Wi-Fi or similar access point technologies on school buses to complete homework. A number of commenters agree that it is consistent with this precedent to find that the off-premises use of wireless internet services and the Wi-Fi hotspots needed to deliver such connectivity similarly serves an educational purpose. The Commission further disagrees with NTCA’s claim that its prior orders have required that services be physically “tied to a place of instruction.” Although the Commission has previously stated that “the purpose for which support is provided” must “be for educational purposes in a place of instruction,” neither the Commission nor the statute has defined the physical confines of where instruction can take place, and the *Schools and Libraries Second Report and Order*, 68 FR 36931, June 20, 2003, that NTCA quotes did allow funding for certain off-premises services, demonstrating the

Commission’s longstanding understanding that “educational purposes in a place of instruction” can include off-premises uses. Therefore, based on the record and consistent with Commission precedent, the Commission concludes that section 254(h)(1)(B) of the Communications Act allows E-Rate support for services purchased by “elementary schools, secondary schools, and libraries” for the purpose of allowing students, school staff, and library patrons to use those services off-premises for educational purposes. Finally, contrary to NTCA’s assertion, the Commission also finds this conclusion is consistent with the statutory language requiring that services be provided “to” schools and libraries because schools or libraries are the customers and recipients of the services they purchase, and the services are therefore provided to them within the meaning of section 254(h)(1)(B), even if used elsewhere.

The provision of support to schools and libraries to purchase wireless internet services for off-premises use for educational purposes fits squarely within the Commission’s long-established authority and direction under section 254(h)(1)(B) of the Communications Act to designate “services that are within the definition of universal service under subsection (c)(3),” which itself authorizes the Commission to designate non-telecommunications services for support under E-Rate.” As explained in the *NPRM*, the Commission expressly rejected the assertion that the support provided under section 254(h) of the Communications Act is limited to telecommunications services when it concluded in the *First Universal Service Order*, 62 FR 32862, June 17, 1997, that section 254(h)(1)(B) through section 254(c)(3) of the Communications Act authorizes universal service support for telecommunications services *and* additional services such as information services. Pursuant to this longstanding precedent, authority provided by section 254(h)(1)(B) and section 254(c)(3) is not limited to telecommunications services but also authorizes support for the off-premises use of wireless internet services. Further, the Commission finds that section 254(h)(1)(B) through section 254(c)(3) of the Communications Act provides authority to support the Wi-Fi hotspot devices that are necessary to provide the wireless internet services. In the *First Universal Service Order*, the Commission concluded that “it can include ‘the information services’ e.g., protocol conversion and information

storage, that are needed to access the internet, as well as internal connections, as ‘additional services’ that section 254(h)(1)(B), through section 254(c)(3), authorizes us to support.” The Commission further distinguished between ineligible types of peripheral equipment (e.g., laptops) and eligible equipment that is necessary to make the services functional. The Commission find that because Wi-Fi hotspots can provide a critical connection for delivery of internet service, they fall into the latter category, and the Commission therefore concludes that it has authority under section 254(h)(1)(B) through section 254(c)(3) of the Communications Act to support the off-premises use of Wi-Fi hotspot devices that are needed for the delivery of wireless internet services.

Separately, the Commission finds that section 254(h)(2)(A) of the Communications Act authorizes it to permit E-Rate support for the off-premises use of Wi-Fi hotspots and services because hotspots and services that connect students, school staff, and library patrons to digital learning will “enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms . . . and libraries.” First, the Commission finds that providing support for such equipment and services through the E-Rate program will be “technically feasible and economically reasonable.” This is best demonstrated by the more than one million ECF-funded Wi-Fi hotspots and services that were distributed to students, school staff, and library patrons who may have otherwise lacked access and who were successfully connected to remote learning. Based on those experiences in the ECF program, as well as demand falling short of the E-Rate program’s funding cap for many years and the limited lending program budget mechanism adopted herein, the Commission believes that the cost of funding the off-premises use of Wi-Fi hotspots and services can be accomplished within the E-Rate program’s existing budget.

Second, the Commission concludes that funding Wi-Fi hotspots and services for off-premises use will help enhance access for school classrooms and libraries to the broadband connectivity necessary to facilitate digital learning for students and school staff, as well as library services for library patrons who lack broadband access when they are away from school or library premises. As discussed, the internet has become critical for equitable access to

education. For example, even before the pandemic, a significant number of teachers and students around the country reported requiring an internet connection to complete homework, and after the pandemic, some schools still retain the option to attend classes virtually. Beyond the context of school, digital literacy has become increasingly important in the workforce, with many applications, interviews, and forms that in an earlier era applicants might have used library resources to complete in person are now taking place online. Yet, a portion of our population still lacks internet access, meaning that they are unable to engage in such regular educational tasks like homework, research, developing or updating resumes, or applying for jobs. For many of these individuals, the internet access provided by their local school or library is their primary means of accessing such critical resources. The record is filled with examples of how Wi-Fi hotspots and services, in particular, have been very effective at closing this Homework Gap and digital divide. By providing E-Rate support for Wi-Fi hotspots and wireless internet services that can be used off-premises, the Commission can help schools and libraries to connect, for example, the student who has no way of accessing their homework to prepare for the next day’s classroom lesson, or the school staff member who is unable to engage in parent-teacher meetings or professional trainings that take place after the school day ends, or the library patron who needs to attend a virtual job interview or perform bona fide research after their library’s operating hours. Thus, the Commission concludes that by permitting support for the purchase of Wi-Fi hotspots and internet wireless services that can be used off-premises and by allowing schools and libraries to use this technology to connect the individuals with the greatest need to the resources required to fully participate in classroom assignments and in accessing library services, the Commission will thereby extend the digital reach of schools and libraries for educational purposes and allow schools, teachers, and libraries to adopt and use technology-based tools and supports that require internet access at home. For these reasons, the Commission concludes that the action adopted is within the scope of its statutory directive under section 254(h)(2)(A) of the Communications Act to enhance access to advanced telecommunications and information services for school classrooms and libraries.

Furthermore, the Commission agrees with commenters that permitting E-Rate support for the off-premises use of Wi-Fi hotspots and services is consistent with its exercise of its authority under section 254(h)(2)(A) of the Communications Act to establish the Connected Care Pilot Program and to clarify that the use of Wi-Fi on school buses is eligible for E-Rate funding. In establishing the Connected Care Pilot Program, the Commission found that providing support for patients’ home broadband connections expanded health care providers’ digital footprints for purposes of providing connected care services and allowed health care providers and patients to overcome the obstacle of cost to adopt beneficial connected care services through the pilot program, thus enhancing eligible health care providers’ access to advanced telecommunications and information services. As NACEPF & Mobile Beacon explain in their reply comments, similar reasoning exists to support off-premises access for classrooms and libraries: many students lack the broadband connectivity required to fully participate in their education and to complete their assignments. Providing for the off-premises use of Wi-Fi hotspots and services would remove this obstacle and therefore, enhance the ability of classrooms and libraries to connect with learners and enable them to participate fully in their classwork and lessons, and complete their assignments. The Commission disagrees with ACA Connects’ assertion that the *NPRM*’s proposal differs from the permissible actions taken in the *School Bus Wi-Fi Declaratory Ruling* because unlike a school bus, which is a school-controlled facility, no nexus exists between the school or library and the off-premises learning location (e.g., a student’s home). The Commission does not agree that the school or library needs to be in control of a location where the individual learns for there to be a nexus, because the Commission finds that this is not in line with the reality of how classroom instruction incorporates online resources (e.g., assignments that must be completed and submitted online—often by a deadline outside of “school hours”, schoolwork sent home with a student, online school days, required use of e-books or online videos) or the intent of E-Rate funding. Rather, the Commission finds that students, school staff, and library patrons have a direct nexus with their school or library through the provision of remote learning and education and that this nexus will be further

strengthened by the safeguards the Commission also imposed.

Finally, the Commission finds section 254(h)(2)(A)'s reference to services for "classrooms" includes using E-Rate support to connect students, school staff, and library patrons to valuable digital educational resources when they are not located on the school or library campus. The Commission notes that the statute directs the Commission to establish rules to enhance access "for all public and nonprofit elementary and secondary school classrooms . . . and libraries." Notably, the text does not say to enhance access to services "at" or "in" school classrooms (or libraries), as would more naturally indicate a tie to a physical location. Moreover, the Commission sought comment in the *NPRM* on whether the reference in section 254(h)(2)(A) of the Communications Act to "elementary and secondary school classrooms . . . and libraries" includes expanding access to supported services that can be used in student, school staff, and library patron homes, given that today's educational environment often extends outside of the physical school or library building. In response, many commenters highlight the proliferation of online instruction and remote learning, particularly in the wake of the COVID-19 pandemic. Specifically, commenters argue that the language of section 254(h)(2)(A) of the Communications Act should be interpreted to reflect the increasingly hybrid nature of education and enable off-premises access to important educational resources that support learning, such as student access to homework or online classes, or educator access to professional learning courses, networks, and materials, and library patron access to e-books and virtual programs. As exemplified during the COVID-19 pandemic-era campus closures, the physical school building is not the only place where a student can be in "class" and there are myriad reasons why a student, school staff member, or library patron may not be able to travel to the physical campus but still requires access to their remote learning and other educational resources. As such, the Commission concludes that section 254(h)(2)(A)'s reference to "classrooms" is appropriately interpreted to extend beyond the brick and mortar school buildings. Although a few commenters argue that interpretation is inconsistent with the statute's use of the word "classroom" because hotspots can be used anywhere, the Commission disagrees. As explained, in today's

world, effective classroom learning often demands access to the internet outside of the school or library building, and the Commission therefore continues to believe that the best reading of "for . . . classrooms" allows funding for services that support effective classroom instruction, even if such services are used outside of a brick-and-mortar classroom. At the same time, to ensure the Commission is making the most-effective use of these scarce funds and limiting the off-premises use of Wi-Fi hotspots and services to educational purposes, the Commission finds it necessary to adopt the specific safeguards discussed.

The Commission concludes that the obligations of the Children's internet Protection Act (CIPA) apply if the school or library receives E-Rate (or ECF) support for internet access, internet service, internal connections, and/or the related network equipment, including Wi-Fi hotspots. Enacted as part of the Consolidated Appropriations Act of 2001, CIPA prohibits certain schools and libraries from receiving funding under section 254(h)(1)(B) of the Communications Act for internet access, internet service, or internal connections, unless they comply with specific internet safety requirements. Specifically, CIPA requires schools and libraries "having computers with internet access" to certify that they are enforcing a policy of internet safety that includes the operation of a technology protection measure (e.g., a filter). Congress enacted this law to ensure that children are protected from exposure to harmful material while accessing the internet provided by a school or library. Schools and libraries are therefore required to block or filter visual depictions that are obscene, child pornography, or harmful to minors across all sites, including social media. CIPA also requires monitoring the online activities of minors and providing education about appropriate online behavior, including warnings against cyberbullying.

First and foremost, the Commission remains focused on CIPA's intended purpose and expect schools and libraries to take every step necessary to ensure internet access funded by the E-Rate program remains safe for use by minors. Recognizing that accessing the internet carries inherent risk for minors, many schools have already implemented measures to restrict students' access to certain websites, including social media. For example, one school district in New Mexico relies on a filter to only permit student access to selected sites, while also blocking access to sites deemed non-educational.

The top 20 domains where students were denied access by the filter included primarily social media sites, with TikTok and Snapchat comprising roughly 40% of denied requests. Schools and libraries, in compliance with the requirements of CIPA, should continuously evaluate the effectiveness of their internet safety policies and technology protection measures against the shifting nature of potentially harmful online content and the various sites and platforms that make content available to minors. Similarly, many service providers offer network-level filtering in their service offerings to support schools' and libraries' deployment of network-level technology protection measures. The Commission recognizes that determinations of what is considered appropriate are left to the local communities, and it encourages schools and libraries to evaluate the needs of their communities and apply filters as appropriate at the network level to ensure E-Rate-funded internet is safe for use by minors in line with the intent of the law.

The *NPRM* sought comment on the applicability of CIPA when connecting E-Rate-funded Wi-Fi hotspots to the internet off-premises, and proposed to require that CIPA applies if the school or library accepts E-Rate or ECF support for internet access or internet services, or E-Rate support for internal connections. The Commission has previously clarified that Wi-Fi hotspots qualify as eligible "Network Equipment" for internet access, internet service, or internal connections and would trigger CIPA compliance for the purchasing school or library. In response to the *NPRM*, several commenters express support for requiring CIPA compliance. The Commission agrees with these commenters and find that the requirements of CIPA apply for off-premises use if the school or library receives E-Rate-funded internet service, internet access, internal connections, or related network equipment (including Wi-Fi hotspots).

The Commission finds the concerns raised about the applicability and privacy implications of CIPA when funding the off-premises use of Wi-Fi hotspots and services unpersuasive. The Commission is not aware of any issues with CIPA compliance arising from the ECF program, in which the Commission applied CIPA to off-premises use. Moreover, its rules require schools and libraries to certify to CIPA compliance, under penalty of reimbursement of funds and enforcement under Federal requirements regarding truthful statements. The Commission has

recognized the “long history” supporting this approach to CIPA compliance in the E-Rate application process. The Commission’s rules also provide that the certifying entity may be “the relevant school, school board, local education agency, or other authority with responsibility for administration of the school” or the relevant “library, library board, or other authority with responsibility for administration of the library.” The Commission is therefore confident that participants in E-Rate are well positioned to understand and enforce their CIPA obligations.

Finally, the Commission denies requests that E-Rate funds be used to pay for CIPA implementation costs. The Commission has previously determined that E-Rate recipients are statutorily prohibited from obtaining discounts under the universal service support mechanism for the purchase or acquisition of technology protection measures necessary for CIPA compliance.

Severability

All of the rules that are adopted in the *Order* are designed to further the support provided by the E-Rate program to schools and libraries to ensure affordable access to high-speed broadband and to protect the integrity of the E-Rate program funding. However, each of the separate rules the Commission adopts herein shall be severable. If any of the rules are declared invalid or unenforceable for any reason, it is the Commission’s intent that the remaining rules shall remain in full force and effect.

Procedural Matters

Paperwork Reduction Act. This document contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on the information collection requirements contained in the *Order* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

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).

Regulatory Flexibility Act. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Addressing the Homework Gap through the E-Rate Program Notice of Proposed Rulemaking*, released in November of 2023. The Federal Communications Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254. Under the schools and libraries universal service support mechanism, also known as the E-Rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, internet access, and internal connections. The Commission’s E-Rate program provides support to schools and libraries allowing them to obtain affordable, high-speed broadband services and internal connections, which enables them to connect students and library patrons to critical next-generation learning opportunities and services. The E-Rate program thus plays an important role in closing the digital divide, a top priority for the Commission.

In the *Order*, the Commission addresses the remote learning needs of today’s students, school staff, and library patrons and help close the country’s digital/educational divide by making the off-premises use of Wi-Fi hotspots and services by students, school staff, and library patrons eligible for E-Rate support. The ECF program highlighted the demand and need for off-premises use of Wi-Fi hotspots and services for educational success. As mentioned in the *NPRM*, “[b]roadband access is proven to improve individuals’ educational outcomes, while lack of access has been shown to severely hamper educational opportunities.” Allowing E-Rate support for the off-premises use of Wi-Fi hotspots and services is an important step to ensure student and library patrons can take advantage of all available educational opportunities, and to help close the “homework gap”, especially as the ECF

program is winding down and support under the ACP ended as of June 1, 2024.

In the *Order*, the Commission finds that the off-premises use of Wi-Fi hotspots and services constitutes an educational purpose and enhances access to advanced telecommunications and information services for schools and libraries. Applicants will have a calculated budget, limiting the amount of E-Rate support available for Wi-Fi hotspots and services based on applicant size and E-Rate discount rate. This will help schools and libraries create a hotspots lending program, lending Wi-Fi hotspots and services to students or patrons who most need remote access to meet their educational goals. Further, to balance its goal of reducing the digital divide with the responsibility of being a prudent steward of the universal service funds, the Commission adopts funding caps of \$15 month for service and \$90 for a Wi-Fi hotspot (for 3 years) to keep the costs low, limit the impact on the fund, and to encourage support to only those that need the devices and services the most. The budget mechanism and funding caps, along with other safeguards (e.g. certifications, competitive bidding, prohibition against duplicative funding, audits, recordkeeping, usage requirements, etc.) will protect program integrity and prevent potential waste, fraud, and abuse. Additionally, the Commission will ensure that off-premises funding for Wi-Fi on school buses and for Wi-Fi hotspots and wireless internet service does not deter on-premises funding by prioritizing on-campus funding before these off-premises funding requests. Overall, the measures taken in the *Order*, help ensure that off-premises educational opportunities are available to students, school staff, and library patrons with the most need, while also protecting E-Rate’s critical funds.

There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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 which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

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.

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 2022, there were approximately 530,109 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.

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 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments— independent school districts with enrollment populations of less than

50,000. Accordingly, based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 entities fall into the category of “small governmental jurisdictions.”

Small entities potentially affected by the rules herein are Schools, Libraries, Wired Telecommunications Carriers, All Other Telecommunications, Wireless Telecommunications Carriers (except Satellite), Wireless Telephony, Wired Broadband internet Access Service Providers (Wired ISPs), Wireless Broadband internet Access Service Providers (Wireless ISPs or WISPs), internet Service Providers (Non-Broadband), Vendors of Infrastructure Development or Network Buildout, Telephone Apparatus Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.

In the *Order*, the Commission applies existing or modified E-Rate or ECF recordkeeping requirements for the off-premises use of Wi-Fi hotspots and services. The Commission limits the use of services to those that can be supported by and delivered with Wi-Fi hotspots provided to an individual user. Schools and libraries must adopt and provide notice of an acceptable use policy highlighting that the goal of the hotspot lending program is to provide broadband access to students and library patrons who need it and for educational purposes. When E-Rate-funded hotspots are used in conjunction with hotspots funded via other sources, applicants must document clearly (*e.g.*, individual survey results or attestations) that each individual student needed a Wi-Fi hotspot, in accordance with the AUPs, and may not rely on general or estimated findings about income levels. Applicants will have a calculated budget, limiting the amount of E-Rate support available for off-premises Wi-Fi hotspots and services based on their full-time student count or library square footage, and their category one discount rate.

Additionally, the Commission requires applicants to certify on their FCC Form 486 that they have taken reasonable steps to ensure proper use, to prevent warehousing, and to manage non-usage of devices. This will not be overly burdensome, because applicants already use FCC Form 486 to notify USAC that services have started on a particular funding request. Considering the limited funding available, applicants may not request funding for hotspot devices for future use or to be stored in case of an emergency, and the Commission will not allow applicants to purchase extra devices to store in case of theft, loss, or breakage. The

Commission finds that this would be wasteful in this first year of expanding the program. Each device must be associated with a line of service, and applicants may not request more than 45 percent of the three-year hotspot budget in a single funding year.

At least once every 31 days, service providers are required to identify lines of hotspot service that have gone unused for 60 consecutive days and to provide applicants 30 days to use the hotspot before the line of service is terminated. Additionally, service providers must provide data usage reports to applicants at least once per billing period. The reports need to clearly identify the lines that are not being used across billing periods or that will be or have been terminated as a result of non-usage. The usage reports should not be overly burdensome because service providers regularly make such reports available to applicants. Applicants are also required to make these usage reports available to the Commission and/or USAC upon request, including to support program integrity reviews. Service providers are required to certify on their FCC Form 473 (Service Provider Annual Certification (SPAC) Form) that they will comply with this non-usage notice and termination requirement and will not charge the balance for terminated services.

Schools are required to maintain a similar, but modified asset and service inventory requirements to the ECF’s program’s asset and service inventory requirements, which details equipment and service inventories for each device or service purchased with E-Rate support and provided to an individual student or school staff member. The school’s asset inventory must identify: (1) the equipment make/model; (2) the equipment serial number; (3) the full name of the person to whom the equipment was provided; (4) the dates the equipment was loaned out and returned, or the date the school was notified that the equipment was missing, lost, or damaged and (5) service detail. By “service detail,” the Commission means the line number or other identifier that associates a device to that particular line of service.

Taking into consideration the State’s library patron privacy laws that some libraries must adhere to and existing library circulation systems and practices, the *Order*, adopts a limited asset and service inventory requirement for libraries. The limited asset and service inventory provides libraries more flexibility in accounting and tracking Wi-Fi hotspots and services funded with E-Rate support. For library

participants receiving support for Wi-Fi hotspots and services, the asset and service inventory must identify: (1) the equipment make/model; (2) the equipment serial number; (3) the dates the equipment was loaned out and returned, or the date the library was notified that the equipment was missing, lost, or damaged; and (4) service detail. The asset inventories of schools and libraries will help us verify that there is no warehousing of hotspots, and confirm that hotspots are being used as intended.

Consistent with the E-Rate program's current recordkeeping rule, program participants will be required to retain documentation related to their participation in the E-Rate program, including the asset and service inventories, acceptable use policies, and data usage reports for at least ten years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Commenters are concerned about adopting new recordkeeping requirements, but there is support for maintaining the E-Rate program's existing recordkeeping requirements, due to applicants' familiarity with the requirements. The recordkeeping adopted in the *Order*, would be similar to what most applicants, including small entities, are already familiar with and currently undertake for the E-Rate and ECF programs. As such, the Commission anticipates that the costs for compliance created by the decisions in the *Order* will be minimal. The recordkeeping requirements also help protect E-Rate funds from potential waste, fraud and abuse.

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."

In the *Order*, the Commission minimizes the economic impact on small entities by making the off-premises use of Wi-Fi hotspots and services eligible for E-Rate funding to support remote learning for students, school staff, and library patrons. The availability of E-Rate funding for Wi-Fi hotspots and services gives applicants, including small entities, the opportunity to administer hotspot lending programs and provide students, school staff, and library patrons the off-premise broadband connectivity needed for

educational success. The steps taken in the *Order* are especially important now that the ECF program is winding down and applicants will no longer have ECF funding available to meet the remote learning needs of their students, school staff, or library patrons and as of June 1, 2024, ACP support is no longer available for many households as well.

The Commission considered the benefits of multi-functional devices, including smartphones, tablets, and laptops with built-in wireless connections, but decline to include them at this time because it does not have sufficient information to justify this use and the Commission found them to be more expensive than sole-function Wi-Fi hotspots. Further, equipment such as laptops and tablets remain ineligible for E-Rate support. The Commission recognizes that off-premises connectivity provided via Wi-Fi hotspots is not a one-size-fits-all solution, however the actions in the *Order* are a step in creating an economically reasonable method of meeting its statutory obligations.

The *NPRM* asked whether applicants should be required to determine and maintain records of students', school staff members', or library patrons' unmet need by, for example, conducting surveys. Commenters were not in favor of recordkeeping for unmet need. Commenters mentioned that schools and libraries are in the best position to know which students and patrons need the hotspots and services most, and therefore, the Commission should not impose recordkeeping requirements for unmet needs, but should allow schools and libraries to determine who to lend the devices and services to. In consideration of the comments, and finding that a budget mechanism approach for a lending program reduces the need to implement any unmet needs requirements, the *Order* does not impose recordkeeping requirements for unmet needs. Applicants, including small entities, will be able to determine their unmet need and not be burdened by unmet need documentation.

Further, to minimize significant economic impact on applicants, service providers are not allowed to bill applicants for the balance that was not paid for by the E-Rate program for terminated lines of service from the non-usage requirements adopted in the *Order*.

Finally, any burdens for applicants presented in the *Order* are outweighed by the benefits to applicants. With funding from the E-Rate program applicants will now have the opportunity to offer off-campus access to broadband to help meet the

educational necessities of students, staff, and library patrons.

The Commission will send a copy of the *Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Late-Filed Comments. The Commission notes there were several comments filed in this proceeding after the January 16, 2024 comment deadline and January 29, 2024 reply comment deadline. In the interest of having as complete and accurate record as possible, and because the Commission would be free to consider the substance of those filings as part of the record in any event, the Commission will accept the late-filed comments and waive the requirements of 47 CFR 1.46(b), and have considered them in the *Order*.

Ordering Clauses

Accordingly, it is ordered, that pursuant to the authority contained in sections 1 through 4, 201–202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–202, 254, 303(r), and 403, the Report and Order *is adopted* effective September 19, 2024.

It is further ordered, that pursuant to the authority contained in sections 1 through 4, 201 through 202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–202, 254, 303(r), and 403, part 54 of the Commission's rules, 47 CFR part 54, is AMENDED, and such rule amendments shall be effective September 19, 2024, except for §§ 54.504(a)(1)(x)–(xii), 54.504(g), and 54.516(e)–(g), which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date for those sections after approved by the Office of Management and Budget as required by the Paperwork Reduction Act.

It is further ordered that the Office of the Secretary *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Communications common carriers, Hotspots, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch, Secretary.

Final Rules

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

PART 54—UNIVERSAL SERVICE

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

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

2. Effective September 19, 2024, § 54.500 is amended by adding in alphabetical order definitions of “Wi-Fi” and “Wi-Fi hotspot” to read as follows:

§ 54.500 Terms and definitions.

* * * * *

Wi-Fi. “Wi-Fi” is a wireless networking protocol based on Institute of Electrical and Electronics Engineers standard 802.11.

Wi-Fi hotspot. A “Wi-Fi hotspot” is a device that is capable of receiving advanced telecommunications and information services, and sharing such services with another connected device through the use of Wi-Fi.

3. Effective September 19, 2024, § 54.502 is amended by redesignating paragraph (e) as (f) and adding new paragraph (e) as follows:

§ 54.502 Eligible services.

* * * * *

(e) Off-premises Wi-Fi hotspot program. Each eligible school district, school operating independently of a school district, library system and library operating independently of a system shall be eligible for support for category one services for a maximum pre-discount budget for off-premises Wi-Fi hotspots and recurring services pursuant to the formula described in paragraphs (e)(1) through (4) of this section and subject to the limitations described in paragraphs (e)(5) and (6) of this section.

(1) Fixed three-year funding cycle. Beginning in funding year 2025, each eligible school, school district, library, or library system shall be eligible for a budgeted amount of pre-discount support for category one off-premises Wi-Fi hotspots and recurring services over a three-year funding cycle that will reset every three funding years. Each school, school district, library, or library system shall be eligible for the total available budget less the pre-discount

amount of any support received for these services in the prior funding years of that fixed three-year funding cycle.

(2) School and school district mechanism. Each eligible school operating independently of a school district or school district shall be eligible for up to a pre-discount price calculated by multiplying the student count by 0.2 and the category one discount rate, rounded up to the nearest ten. This value is then multiplied by \$630. The formula will be based on the number of full-time students.

(3) Library and library system mechanism. Each eligible library operating independently of a system, or library system shall be eligible for up to a pre-discount price calculated by multiplying the square footage by 0.0055 and the category one discount rate, rounded up to the nearest ten. This value is then multiplied by \$630.

(4) Wi-fi Hotspots and service funding caps. The available funding for Wi-Fi hotspots is capped at \$90 and services at \$15 per month. An applicant may not request more than 45 percent of the Wi-Fi hotspot budget in a single funding year. Each E-Rate-supported Wi-Fi hotspot must have an accompanying request for recurring service.

(5) Non-usage notice and termination requirements. At least once every 31 days, service providers shall determine whether any E-Rate-supported lines have zero data usage in the prior 60 days and provide notice to the applicant of the particular lines within 5 business days. If there is zero data usage for 90 days, service providers shall discontinue service to such lines.

(6) Early termination. Service providers must exclude or waive early termination fees for lines of service associated with Wi-Fi hotspots that are lost, broken, or unused, including those for which service is discontinued in paragraph (e)(5) of this section. Service providers shall not bill applicants for unused lines of service that are discontinued.

(7) Off-premises hotspots program adjustments. The Chief, Wireline Competition Bureau, is delegated authority to adjust the limiting mechanism amounts and the Wi-Fi hotspot program cost caps, after seeking comment on a proposed adjustment.

(8) Eligible users. Eligible schools and libraries are permitted to request and receive support for the purchase of Wi-Fi hotspots and services for off-premises use by:

(i) In the case of a school, students and school staff; and

(ii) In the case of a library, patrons of the library.

(9) Per user limitation. Support for eligible Wi-Fi hotspots and services used off-premises is limited to not more than one Wi-Fi hotspot per student, school staff member, or library patron.

4. Delayed indefinitely, § 54.504 is amended by adding paragraphs (a)(1)(x) through (xii), and (g) to read as follows:

§ 54.504 Requests for services.

(a) * * *

(1) * * *

(x) The school, library, or consortium is not seeking support and reimbursement for eligible equipment and/or services that have been purchased and reimbursed with other Federal, State, Tribal, or local funding.

(xi) The school, library, or consortium will create and maintain an asset and service inventory as required by § 54.516(e).

(xii) The school, library, or consortium will not use Wi-Fi hotspots or service as part of a one-to-one Wi-Fi hotspot initiative, nor will the Wi-Fi hotspots be purchased for future use, emergency use, or use in the case of theft, loss, or breakage.

* * * * *

(g) Off-premises Wi-Fi hotspot certification on the FCC Form 486. An eligible school, library, or consortium that includes an eligible school or library receiving support for Wi-Fi hotspots and service for use off-premises must certify on FCC Form 486 that the school, library, or consortium has updated and publicly posted their acceptable use policy consistent with the requirements set forth in § 54.516(f); the Wi-Fi hotspots and/or services the school, library, or consortium purchased using E-Rate support for off-premises use have been activated and made available to students, school staff, and/or library patrons; public notice of their availability has been provided; and the authorized person is not requesting reimbursement for Wi-Fi hotspots and/or services that have not been made available for distribution.

5. Effective September 19, 2024, § 54.506 is added to read as follows:

§ 54.506 Duplicate support.

Entities participating in the E-Rate program may not seek E-Rate support or reimbursement for eligible equipment and services that have been purchased and reimbursed with other Federal, State, Tribal, or local funding.

6. Effective September 19, 2024, § 54.507 is amended by revising paragraph (f)(4) and adding paragraph (f)(5) to read as follows:

§ 54.507 Cap.

* * * * *

(f) * * *

(4) In the event that demand exceeds available funding, requests for category one services used off-premises shall be funded after on-premises category one and category two services.

(5) For paragraphs (f)(1) through (4) of this section, if the remaining funds are not sufficient to support all of the funding requests within a particular discount level, the Administrator shall allocate funds at that discount level using the percentage of students eligible for the National School Lunch Program. Thus, if there is not enough support to fund all requests at the 40 percent discount level, the Administrator shall allocate funds beginning with those applicants with the highest percentage of NSLP eligibility for that discount level by funding those applicants with 19 percent NSLP eligibility, then 18 percent NSLP eligibility, and shall continue committing funds in the same manner to applicants at each descending percentage of NSLP until there are no funds remaining.

■ 7. Effective September 19, 2024, § 54.513 is amended by revising paragraph (b) to read as follows:

§ 54.513 Resale and transfer of services.

* * * * *

(b) *Disposal of obsolete equipment components of eligible services.* Eligible equipment components of eligible services purchased at a discount under this subpart shall be considered obsolete if the equipment components have been installed for at least five years, except that Wi-Fi hotspots for off-premises use shall be considered obsolete after three years. Obsolete equipment components of eligible services may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

* * * * *

■ 8. Effective September 19, 2024, § 54.516 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 54.516 Auditing and inspections.

(a) * * *

(1) *Schools, libraries, and consortia.* Schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism

shall be retained as well. Subject to paragraph (e) of this section, schools, libraries, and consortia shall maintain asset and inventory records for a period of 10 years after purchase.

* * * * *

(b) *Production of records.* Schools, libraries, consortia, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a State education department, the Administrator, the FCC, or any local, State or Federal agency with jurisdiction over the entity. Where necessary for compliance with Federal or State privacy laws, E-Rate participants may produce records regarding students, school staff, and library patrons in an anonymized or deidentified format. When requested by the Administrator or the Commission, as part of an audit or investigation, schools, libraries, and consortia must seek consent to provide personally identifiable information from a student who has reach age of majority, the relevant parent/guardian of a minor student, or the school staff member or library patron prior to disclosure.

* * * * *

■ 9. Delayed indefinitely, § 54.516 is amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 54.516 Auditing and inspections.

* * * * *

(e) *Asset and service inventory requirements—(1) Schools.* Schools, school districts, and consortia including any of these entities, shall keep asset and service inventories as follows:

(i) For equipment purchased as components of supported category two services, the asset inventory must be sufficient to verify the actual location of such equipment.

(ii) For equipment needed to make wireless service for school buses functional, the asset inventory must be sufficient to verify the actual location of such equipment.

(iii) For each Wi-Fi hotspot provided to an individual student or school staff member, the asset and service inventory must identify:

- (A) The equipment make/model;
- (B) The equipment serial number;
- (C) The full name of the person to whom the equipment was provided;
- (D) The dates the equipment was loaned out and returned, or the date the school was notified that the equipment was missing, lost, or damaged; and
- (E) The service detail.

(2) *Libraries.* Libraries, library systems, and consortia including any of these entities, shall keep asset and service inventories as follows:

(i) For equipment purchased as components of supported category two services, the asset inventory must be sufficient to verify the actual location of such equipment.

(ii) For each Wi-Fi hotspot provided to an individual library patron, the asset and service inventory must identify:

- (A) The equipment make/model;
- (B) The equipment serial number;
- (C) The dates the equipment was loaned out and returned, or the date the library was notified that the equipment was missing, lost, or damaged; and
- (D) The service detail.

(f) *Acceptable use policies.* Schools, school districts, libraries, library systems, and consortia including any of these entities that receive support for the off-premises use of Wi-Fi hotspots and/or services, shall maintain, provide notice, and, where necessary, update an acceptable use policy that clearly states that the off-premises use of the Wi-Fi hotspot and/or service is primarily for educational purposes as defined in § 54.500 and that the Wi-Fi hotspot and/or service is for use by students, school staff members, and/or library patrons who need it.

(g) *Data usage reports.* Service providers shall provide reports regarding Wi-Fi hotspot data usage for off-premises use to applicants, and applicants shall make such reports available to any representative (including any auditor) appointed by a State education department, the Administrator, the FCC, or any local, State, or Federal agency with jurisdiction over the entity upon request. Data usage reports must be in machine-readable digital format so that information lines can be read and sorted, clearly identifying the lines that are not being used across billing periods and the lines that have been terminated pursuant to § 54.502(e)(5).

■ 10. Effective September 19, 2024, § 54.520 is amended by revising paragraphs (c)(1)(iii)(C), (c)(2)(iii)(C), and (c)(3)(i)(C) to read as follows:

§ 54.520 Children’s internet Protection Act certifications required from recipients of discounts under the Federal universal service support mechanism for schools and libraries.

* * * * *

- (c) * * *
- (1) * * *
- (iii) * * *

(C) The Children’s internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications

services, or is (are) receiving support under the Federal universal service support mechanism for schools and libraries for internet access or internal connections that will not be used in conjunction with a computer owned by the recipient(s).

(2) * * *

(iii) * * *

(C) The Children's internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services, or is (are) receiving support under the Federal universal service support mechanism for schools and libraries for internet access or internal connections that will not be used in conjunction with a computer owned by the recipient(s).

(3) * * *

(i) * * *

(C) The Children's internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments is (are) receiving discount services only for telecommunications services; and, or is (are) receiving support under the Federal universal service support mechanism for schools and libraries for internet access or internal connections that will not be used in conjunction with a computer owned by the recipient(s); and

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 240229-0063]

RIN 0648-BL80

Fisheries Off West Coast States; Extension of Emergency Action to Temporarily Modify Continuous Transit Limitations for California Recreational Vessels

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

ACTION: Temporary rule; emergency action extended.

SUMMARY: This temporary rule extends emergency measures that modify a continuous transit requirement for California recreational vessels. This modification will temporarily allow recreational vessels to anchor overnight and/or stop to fish for non-groundfish species inside the seasonal Recreational Rockfish Conservation Area off the coast of California, also known as the 50-fathom (91-meter) offshore fishery. These emergency measures were originally authorized until September 30, 2024. This temporary rule extends the emergency measures through December 31, 2024. This emergency measure will prevent the possible cancellation of thousands of recreational fishing trips during the 2024 recreational fishing season off California.

DATES: Effective August 20, 2024 until December 31, 2024.

ADDRESSES:

Electronic Access

This emergency rule is accessible via the internet at the Office of the Federal Register website at <https://ecfr.federalregister.gov/>. The continuing environmental effects of the California recreational fishery were previously considered under the *Environmental Assessment for Amendment 30 to the Pacific Coast Groundfish Fishery Management Plan, 2023–2024 Harvest Specifications, and Management Measures*. This document is available on the NMFS West Coast Region website at: <https://www.fisheries.noaa.gov/species/west-coast-groundfish.html>.

FOR FURTHER INFORMATION CONTACT:

Lynn Massey, phone: 562-900-2060, or email: lynn.massey@noaa.gov.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish fishery in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California is managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Pacific Fishery Management Council (Council) developed the Pacific Coast Groundfish FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* The Secretary of Commerce approved the Pacific Coast Groundfish FMP and implemented the provisions of the plan through Federal regulations at 50 CFR part 660, subparts C through G. Species managed under the Pacific Coast Groundfish FMP include more than 90 species of roundfish, flatfish, rockfish, sharks, and skates.

On April 1, 2024, NMFS published a temporary emergency rule (89 FR 22352) that allows recreational vessels

in California to stop and/or anchor in Federal waters shoreward of the Recreational Rockfish Conservation Area (RCA) line when the fishery is offshore-only. A full description of the issue can be found in the emergency rule (April 1, 2024, 89 FR 22352). NMFS held a public comment period on the emergency rule for 30 days from April 1, 2024, to May 1, 2024 and received no comments. Without extension, the emergency rule would expire on September 30, 2024. The California recreational groundfish seasons in the management areas from the border with Oregon to 36° N lat. are open in the offshore fishery in the months of October and December (closed in November). The management areas south of 36° N lat. are open in the offshore fishery in the months of October, November, and December (50 CFR 660.360(c)(3)(i)(A)). Therefore, this issue remains relevant through the remainder of the calendar year. The Council has developed an action to address this issue permanently, which, if approved, would be effective in 2025. Therefore, consistent with section 305(c)(3) of the Magnuson-Stevens Act, NMFS finds good cause to extend the emergency measures until December 31, 2024.

Emergency Measures

In Federal waters, extending the emergency measures requires a modification to 50 CFR 660.360(c)(3)(i)(A) that requires recreational vessels to continuously transit while shoreward of the RCA boundary. Under the extension of this emergency measure, recreational vessels in California would be allowed to stop and/or anchor in Federal waters shoreward of the Recreational RCA line until December 31, 2024. Recreational fishing vessels off of California would not be able to deploy groundfish recreational gear inside the Recreational RCA, therefore this action would not create any new risks of quillback rockfish mortality. Hook-and-line gear is the primary gear type used by recreational vessels to target groundfish; therefore, prohibiting its deployment while inside the Recreational RCA would help enforce the modified transit provisions while still allowing vessels to use other gear types for non-groundfish fishing (*e.g.*, traps for lobster or hoop nets for bait fish). This extended emergency rule would not change any other elements of the California recreational fishery. For additional explanation on the rationale and effects of this emergency rule extension, see the original emergency