impracticable, unnecessary, and contrary to public interest because it is based on removing obsolete information. This rule implemented Executive Order 12637, ''Productivity Improvement Program for the Federal Government,'' which was revoked by Executive Order 13048, ''Improving Administrative Management in the Executive Branch,'' on June 10, 1997. The DoD-level program was discontinued in 2010, and the corresponding internal DoD guidance was canceled. Any associated reporting was sunset thereafter. The content of the rule is obsolete and should be removed.

This rule is not significant under Executive Order (E.O.) 12866, Regulatory Planning and Review, therefore, the requirements of E.O. 13771, Reducing Regulation and Controlling Regulatory Costs do not apply.

List of Subjects in 32 CFR Part 162

Armed forces, Arms and munitions, Government contracts.

PART 162—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 162 is removed.

Dated: February 12, 2019.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 2019–02619 Filed 2–15–19; 8:45 am]

BILLING CODE 5001–06–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32, 54, and 65

[WC Docket Nos. 10–90, 14–58, 07–135, CC Docket No. 01–92; FCC 18–176]

Connect America Fund, ETC Annual Reports and Certifications, Establishing Just and Reasonable Rates for Local Exchange Carriers, Developing a Unified Intercarrier Compensation Regime

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) continues its efforts to bridge the digital divide. The Commission addresses the challenges that rate-of-return carriers face by taking steps to promote broadband deployment, ensure the efficient use of resources, and provide sufficient and predictable support necessary to increase broadband deployment. The Commission also denies three petitions seeking reconsideration of its decision directing the Wireline Competition Bureau (Bureau) to offer additional support up to $146.10 per-location to all carriers that accepted the revised offers of model-based support.

DATES: Effective March 21, 2019, except for the amendments to §§ 54.313 and 54.316, which contain information collection requirements that have not been approved by OMB—the FCC will publish a document in the **Federal Register** announcing the effective date of those amendments awaiting OMB approval—and except for the amendments to §§ 32.1410, 32.2680, 32.2681, 32.2682, 32.3400, 32.3410, 32.4130, 32.4200, 32.4300, 32.7500, 54.643, and 65.450, which are effective January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Suzanne Yelen, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order and Order on Reconsideration in WC Docket Nos. 10–90, 14–58, 07–135, CC Docket No. 01–92; FCC 18–176, adopted on December 12, 2018 and released on December 13, 2018. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554 or at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-18-176A1.pdf.* The Further Notice of Proposed Rulemaking (FNPRM) that was adopted concurrently with the Report and Order and Order on Reconsideration will be published elsewhere in this issue of the **Federal Register**.

I. Introduction

1. In the Report and Order, the Commission continues its efforts to bridge the digital divide. According to the Commission's most recently available data, about 30% of rural Americans lack access to fixed, terrestrial high-speed internet of at least 25 Mbps download/3 Mbps upload (25/3 Mbps), the Commission's current speed benchmark, which reflects consumer demand for high-speed broadband services. In urban areas, that number is 2%. The gap between broadband access in rural and urban areas is unacceptable. The Commission must do better. The Commission has made progress in bringing broadband service to rural Americans living in areas served by our nation's largest telecommunications companies, and will realize additional gains as the winners of the Connect America Fund (CAF) Phase II auction begin to deploy 25/3 Mbps or higher speed service to approximately 713,176 locations. But the rules governing smaller, community-based providers—rate-of-return carriers—have not kept pace, making it more difficult for these carriers to bring 25/3 Mbps service to rural America. The Report and Order addresses the challenges that rate-of-return carriers face by taking steps to promote broadband deployment, ensure the efficient use of resources, and provide sufficient and predictable support necessary to increase broadband deployment.

2. By improving access to modern communications services, the Commission can help provide individuals living in rural America with the same opportunities that those in urban areas enjoy. Broadband access is critical to economic opportunity, job creation, education, and civic engagement. And as important as these benefits are in America's cities, they can be even more important in America's more remote small towns and rural and insular areas. Rural Americans deserve to reap the same benefits of the internet—and not run the risk of falling yet further behind.

3. The Report and Order marks a significant next step in closing the digital divide. The Commission recognizes that access to 25/3 Mbps broadband service is not a luxury for urban areas, but important to Americans wherever they live. To that end, the Commission adopts additional measures toward its goal of expanding the availability of affordable broadband service to rural America. First, the Commission makes another model offer to those rate-of-return carriers currently receiving Alternative Connect America Cost Model (A–CAM) support for additional funding if they commit to building out to additional locations at speeds of 25/3 Mbps. Second, the Commission makes a new model offer to those on legacy support in return for specifically tailored obligations to build out broadband networks providing speeds of 25/3 Mbps. Third, for those rate-of-return carriers remaining on legacy support that do not take the new model offer, the Commission adopts a new budget based on uncapped 2018 claims that will be increased by inflation annually, as well as new deployment obligations that require speeds of 25/3 Mbps rather than 10/1 Mbps. Fourth, the Commission adopts measures to mitigate the regulatory burden on providers and encourage the

efficient use of universal service support.

4. In the Order on Reconsideration, the Commission denies three petitions seeking reconsideration of the Commission's decision directing the Bureau to offer additional support up to $146.10 per-location to all carriers that accepted the revised offers of model-based support.

I. Report and Order

5. To promote additional broadband deployment in areas served by existing A–CAM carriers, the Commission initiates a new set of revised model offers which would provide support up to $200 per month, per location. These revised offers, in effect, fund the initial offers extended by the Bureau on August 3, 2016, before those offers were reduced for budgetary reasons. To ensure these revised offers are in the public interest, the Commission conditions them on increased deployment obligations. These increased deployment obligations will further advance the Commission's goal of widespread availability of 25/3 Mbps service throughout the nation.

6. *Discussion.* The Commission authorizes additional support up to $200 per location to all carriers that are currently authorized to receive A–CAM support. Increasing support immediately will result in substantial additional broadband deployment, while balancing overall budgetary constraints. This increase does not affect funding available to those carriers on legacy support.

7. The record uniformly supports increasing the funding cap for A–CAM to $200, as long as doing so does not adversely affect carriers receiving legacy support. With additional funding, parties have made clear the economic, educational, and healthcare benefits that will directly follow.

8. Consistent with the Commission's goal of realizing widespread deployment of 25/3 Mbps service, it increases the deployment obligations associated with this revised offer. In adopting the speed obligations in the *2016 Rate-of-Return Reform Order,* 81 FR 24282, April 25, 2016, the Commission noted that ''our minimum requirements for rate-of-return carriers will likely evolve over the next decade.'' The Commission acknowledged, in particular, NTCA's argument that ''a universal service program premised on achieving speeds of 10/1 Mbps risks locking rural America into lower service levels.'' Although the Commission agreed that ''our policies should take into account evolving standards in the future,'' it required carriers electing A–CAM to deploy 25/3 Mbps service to only a fraction of their fully funded eligible locations. The Commission's recent experience with the CAF Phase II auction, which resulted in more than 99.7% of new locations being served by 25/3 Mbps service, affirms its conclusion that a higher standard of service is achievable.

9. Therefore, the Commission increases the 25/3 Mbps deployment obligations associated with the revised offer. Carriers receiving A–CAM under the existing offers must deploy 25/3 Mbps service to a number of eligible locations equal to at least 25%, 50%, or 75% of the number of fully funded locations, depending on the density of the population in the carrier's service territory. The Commission increases the 25/3 Mbps service requirement to 50% of fully funded locations for low density carriers, 65% of fully funded locations for medium density carriers, and 85% of fully funded locations for high density carriers consistent with ITTA's proposal. ITTA's proposal assumes that carriers will devote the additional support from the revised offer entirely to capital expenses associated with the deployment of new broadband, and estimates the number of locations that carriers in each band would, on average, be able to reach with 25/3 Mbps service as a result. The Commission finds that ITTA's proposal provides a reasonable estimate of how many additional locations a carrier could be expected to serve with 25/3 Mbps service and ensure that all new fully funded locations based on this offer will receive 25/3 Mbps service.

10. The Commission notes that the revised offer will be made available to all carriers that accepted the first A–CAM offer, including those carriers whose offer of model-based support is less than their legacy support (referred to as glide path carriers). Although this will not provide any additional support to glide path carriers during the eight remaining years of the original authorization, it would provide an opportunity for the glide path carriers to receive an additional two years of A–CAM support, through the end of the term of this revised offer, in consideration for additional obligations to deploy 25/3 Mbps service. Glide path carriers currently receive approximately $51 million per year in A–CAM support (excluding transitional support) and would be required to deploy 25/3 Mbps service to over 8,300 additional eligible locations if all companies accepted.

11. If all eligible carriers accept the revised offer, this deployment obligation would increase the number of locations to which carriers would be required to offer 25/3 Mbps service by more than 100,000 locations. This exceeds the more than 39,000 partially funded locations, currently required to be served with 4/1 Mbps or only upon reasonable request, that would be fully funded and would be required to be served by at least 10/1 Mbps service. The Commission further notes that the number of locations subject to the reasonable request standard would be reduced by more than 26,000. The Commission finds that these higher deployment obligations justify the potential $67 million per year cost of funding to the $200 per location cap.

12. In the absence of the increased deployment obligations, the Commission does not believe a revised offer for the existing A–CAM carriers with a $200 per-location funding cap would provide a sufficient value for its limited universal service resources. Absent the higher deployment obligations, in contrast to the increased deployment figures noted above, the revised offer could increase the number of locations that would receive 25/3 Mbps over the course of the support term by only 17,800, with only another 21,678 locations receiving 10/1 Mbps (while still reducing the number of locations subject to provision of broadband service only on reasonable request by more the 26,000). Given a $67 million per year price tag, the Commission does not believe that this result, without more, achieves sufficient ''bang for the buck.''

13. The Commission declines to adopt ITTA's request to count existing locations towards the deployment obligations of existing A–CAM carriers. Specifically, ITTA proposes that a carrier should be permitted to satisfy its deployment obligations by providing service to locations that were ineligible in the original offer because they were in census blocks in which the carrier or its affiliate already served with fiber-to-the-premises or cable facilities. The Commission does not believe this modification would be in the public interest. In most cases, the otherwise eligible locations that were excluded because they were already served by the carrier with fiber-to-the-premises or cable facilities are likely to be relatively less costly to serve than other eligible locations. As a result, ITTA's proposal would allow A–CAM carriers to meet their deployment obligations by serving locations that are, in many cases, far less costly to serve than the ones on which their A–CAM support offers were calculated. Further, by definition, some of these locations are already served by fiber-to-the-premises or cable technology, so making these areas

eligible for deployment would limit the amount of deployment to additional unserved locations. Finally, the Commission notes that this approach would make it much more difficult for the Commission to monitor and verify whether any built out locations are actually new.

14. The Commission declines to adopt Gila River's proposal to apply a Tribal Broadband Factor, as it does with the new model offer, in the following, to existing A–CAM recipients. In the new model offer, the Commission includes a Tribal Broadband Factor to reflect that the assumptions made about the amount of end-user revenues in the model may not be reasonable for Tribal lands. When the existing A–CAM carriers accepted the model offer, they implicitly accepted that the end-user revenue assumptions were sufficiently reasonable for them to meet the deployment obligations associated with the model offer. Accordingly, the Commission does not believe that existing A–CAM carriers require the adjustment that it adopts for the new model offer.

15. To provide carriers accepting this revised A–CAM offer sufficient time to meet the increased deployment obligations, the Commission adopts a modified term of support and deployment milestones for those carriers. The term of the revised offer will be ten years, beginning January 1, 2019, and running until December 31, 2028. Effectively, this revised term extends A–CAM by two years for carriers that elect this revised offer. Carriers electing this revised offer will be obligated to meet the deployment milestones to which they previously agreed with respect to 10/1 Mbps service. In addition, they will be required to meet similar milestones to deploy 25/3 Mbps service to the required number of eligible locations on a ten-year schedule beginning January 1, 2019. In other words, each carrier will be required to serve at least 40% of the requisite number of eligible locations by end of the 2022, 50% by the end of 2023, 60% by the end of 2024, 70% by the end of 2025, 80% by the end of 2026, 90% by the end of 2027, and 100% by the end of 2028.

16. The Commission directs the Bureau to release a public notice announcing the revised model-based support amounts and corresponding deployment obligations and providing carriers that have previously been authorized to receive A–CAM support with 30 days to confirm that they will accept the revised offer. Any such election shall be irrevocable. USAC shall begin disbursing this revised model support the month following a Bureau public notice authorizing those carriers that accept this revised offer.

17. The Commission extends a new model offer, or A–CAM II, to legacy rate-of-return carriers that did not previously elect model support or support pursuant to the Alaska Plan. This offer will re-open a voluntary path for legacy rate-of-return carriers to receive model-based support in exchange for deploying broadband-capable networks to a predetermined number of eligible locations. Expanding the number of carriers receiving model-based support will advance the Commission's longstanding objective to provide high-cost support based on a carrier's forward-looking, efficient costs and will help spur additional broadband deployment in rural areas. As described in the following, this new model offer retains many elements of the original A–CAM offer but makes several critical adjustments to encourage new carriers to take advantage of model-based support and accelerate deployment of broadband networks.

18. *Discussion.* The Commission adopts a new model offer, A–CAM II, as described in detail in the following. This new model offer of up to $200 per location will be available to all existing legacy carriers, including those previously excluded because they had deployed 10/1 Mbps service to more than 90% of eligible locations. The new model offer will include a Tribal Broadband Factor, rely on broadband coverage data from the most recent FCC Form 477 (which the Commission anticipates will be data as of December 2017), and include census blocks where the carrier or its affiliates have deployed fiber-to-the-premises or cable. It will exclude census blocks served by an unsubsidized competitor only when the competitor offers voice and 25/3 Mbps or faster broadband service. In addition to the deployment requirements previously required of A–CAM recipients, carriers accepting the new model offer will be required to deploy 25/3 Mbps service to a number of locations equal to the number of eligible fully funded locations in their service area. The new model offer will be fully funded up to the $200 per-location cap, and it will not affect the budget for rate-of-return carriers remaining on legacy support. To the extent the Report and Order is silent regarding the terms and conditions of the new model offer, the Commission adopts the terms of the original A–CAM offer.

19. While a few commenters unconditionally supported a new model offer to all legacy carriers, many commenters supported the broader new model offer only on the condition that the Commission address the budgetary concerns of carriers remaining on legacy support. Because the new model offer has no impact on funds available for rate-of-return carriers receiving legacy support, the Commission believes they have satisfied the primary concerns of these parties.

20. The Commission also is not persuaded by the Broadband Alliance's argument that any new model offer should be deferred until the Commission has gathered evidence about the efficacy of the existing A–CAM program as compared to legacy support. The Broadband Alliance suggests that legacy support may possibly be more effective because its members have ''already deployed [fiber-to-the-home] to 70 percent of their network, on average,'' but that model-based companies ''will not reach'' that same milestone until 2024. However, the Broadband Alliance contradictorily argues that whether legacy support or A–CAM offers better results cannot be empirically known for a number of years. In any event, the Commission disagrees with their argument. First, the Commission notes that Broadband Alliance ignores the difference between eligible locations (on which A–CAM recipients' deployment obligations are based) and all locations (on which Broadband Alliance's deployment percentage is based). Second, the Broadband Alliance seems to assume that A–CAM carriers will not deploy service before they are required to do so, but deployment submissions to the High Cost Universal Broadband (HUBB) portal show that there are A–CAM carriers deploying at faster rates than required by the Commission's rules. Further, the fixed amount of model-based support guaranteed to the carriers provides enormous benefits to carriers in planning capital spending, allowing them to deploy broadband to areas they would not have otherwise deployed than if they needed to base decisions on varying levels of legacy-based support.

21. *$200 per-location funding cap.* Consistent with the original A–CAM offer and with the new offer to existing A–CAM carriers described in this document, the Commission sets the per-location cap at $200. The Commission does not limit the amount of support available through this offer and does not adopt any provision to reduce the funding cap based on the amount of support resulting from carrier elections of this offer. Most commenters supported funding the new model offer up to a $200 per-location cap, rather than the proposed $146.10 per-location cap.

22. The Commission declines to make further adjustments to the per-location funding cap. Specifically, the Commission rejects WISPA's request to reduce significantly the per-location cap to account for changes in technologies and business models that reflect that not all deployments are fiber. While WISPA advocates for an ad hoc change in the way cost estimates are used to calculate support, the rationale for WISPA's proposal implies a major reconsideration in the model's methodology for estimating the costs of deployment. The Commission specified the use of a wireline network architecture to estimate model costs in the *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011, and rejected arguments that the model should also estimate wireless costs. Moreover, there is no evidence in the record to support how to construct a model based on the costs of deploying broadband with wireless technologies. Without a rigorous method of estimating the alternative costs of serving specific areas, considering their specific topography and other characteristics, the Commission cannot determine whether WISPA's suggested cost savings would even be achievable for any particular carrier. For example, the cost savings may be associated disproportionately with locations that are above the funding threshold by a relatively small amount. In that case, lowering the funding cap would have no effect on locations that could be cost-effectively served with wireless technologies, while reducing funding for model locations that could not be.

23. *Carriers Eligible for New Model Offer.* The new model offer will be extended to all carriers that currently receive legacy support, *i.e.,* CAF BLS and HCLS, and do not receive A–CAM or Alaska Plan support. Expanding the number of carriers receiving model-based support will advance the Commission's longstanding objective to provide high-cost support based on forward-looking efficient costs to help spur additional broadband deployment in rural areas. Model-based support, backed by significant, verifiable deployment obligations, provides the appropriate incentives for carriers to serve their rural and high-cost communities efficiently with modern broadband networks. For that reason, the Commission believes it is in the public interest to make the new model offer available to all carriers, including those that were not previously eligible. The Commission discusses some notable elements of this broad eligibility.

24. First, the Commission will extend the offer to carriers that have reported deploying 10/1 Mbps service to more than 90% of eligible locations. All commenters addressing this question support this approach. The Commission recognizes that the high-cost of maintaining networks in rural America means that the deployment of 10/1 Mbps does not end the need for high-cost support. Further, the model is an appropriate tool for determining high-cost support even when a carrier has fully deployed broadband service. The model's cost module, which calculates the cost of deploying and maintaining the network, estimates the static, life cycle cost of a network fully deploying fiber-to-the-premises, and does not distinguish between carriers that have already deployed broadband and those that have not. As such, the model appropriately estimates the forward-looking costs of a carrier that is maintaining a broadband network and replacing its depreciated assets. Finally, because the Commission's deployment obligations require significant deployment of 25/3 Mbps service, it is likely that A–CAM II support will, in fact, spur deployment of higher speeds, even for carriers that were previously excluded due to their reported 10/1 Mbps deployment. The Commission therefore finds that it is appropriate to extend the model offer to all rate-of-return carriers receiving legacy support, regardless of the existing deployment.

25. Second, the Commission extends the offer of support to all legacy carriers, even those that would receive more annual support from the model than under legacy rate-of-return support mechanisms. The model and its associated deployment obligations provide effective incentives for efficient and widespread deployment of high-quality, 25/3 Mbps broadband service. If the model indicates that a carrier should receive additional support, then that suggests the carrier may require additional support to deploy or maintain its broadband network. And the Commission believes that providing the long-term funding certainty to such carriers, along with verifiable deployment obligations, outweighs the additional costs to the Fund. Although some commenters would prefer to limit the new model offer to carriers willing to accept lower payments than they have historically received, they rely on the rationale that doing so would enable the Commission to provide additional funding to other legacy and A–CAM carriers. As the Commission explains in the following, it delinks the legacy budget from the model budgets, ensuring that its decisions here do not impact those carriers that remain on legacy support mechanisms.

26. The Commission declines to adopt Shawnee and Moultrie's proposal to limit the loss of support for each glide path carrier to a specified percentage of its current legacy support, essentially setting carrier-specific funding caps. Under Shawnee and Moultrie's proposal, some carriers could have funding caps well in excess of $200 per location, by virtue of their current high levels of legacy support. The Commission does not believe, at this time, that using model-based support to fund those very high cost locations is an effective use of universal service resources.

27. Third, the Commission declines to exclude carriers from eligibility for the new model offer if the offer would include no fully funded locations. In other words, a carrier may elect the offer even if it would be required to deploy only 4/1 Mbps or on reasonable request. The Commission notes, however, that new model offers meeting this criterion would represent a very small number of carriers and very little support; moreover, these carriers can always exceed the minimum obligation.

28. *Revising Model Parameters.* The Commission adopts revised model parameters for the purpose of extending the new model offer. The revised parameters will encourage carriers to take advantage of model-based support.

29. First, for reasons similar to those for which the Commission permits carriers with more than 90% deployment to participate, it finds that the new model offer should include census blocks where fiber-to-the-premises or cable has already been deployed by the incumbent or its affiliate. ITTA, WTA, and USTelecom support this modification, and no commenter opposed it. Including census blocks which already have some fiber-to-the-premises will promote more and higher speed deployment to locations in those census blocks that do not currently have 25/3 Mbps or better service. Moreover, the Commission has previously recognized that areas with partially or fully-deployed fiber-to-the-premises may still require high-cost support to maintain existing service. The cost module of the model does not distinguish between those areas that have or have not had 25/3 Mbps service, and the model fairly estimates the costs of providing service even if that service has already been deployed.

30. Second, the Commission adjusts the model so that it excludes locations presumed to be served by unsubsidized competitors only when the

unsubsidized competitor provides voice and at least 25/3 Mbps service. Previously, the model excluded areas served by unsubsidized competitors only if they provided voice and 10/1 Mbps or faster service. Based on the Commission's recent experience with the CAF Phase II auction, it believes that a higher standard of service is achievable. Given the Commission's commitment to using model-based support to achieve widespread deployment of 25/3 Mbps service, the Commission finds it necessary to exclude locations from eligibility only when a competitor provides a comparable level of service. NTCA, in particular, has emphasized the need for deployment of networks capable of providing 25/3 Mbps or greater service throughout rural areas. Simultaneously asking carriers to deploy 25/3 Mbps service while excluding from eligibility locations served by competitors with inferior service would consign many more rural locations to lower quality service for at least the term of the new model offer.

31. The Commission is not persuaded by WISPA's arguments that the model should exclude locations presumed to be served by unsubsidized competitors when the unsubsidized competitor provides at least 10/1 Mbps, rather than 25/3 Mbps. WISPA argues that there is ''inherent inequity'' in providing A–CAM II support to rate-of-return carriers in areas where they provide 10/1 Mbps but excluding areas from A–CAM II only if an unsubsidized competitor provides 25/3 Mbps. The Commission finds no such inconsistency in these model parameters. Rate-of-return carriers that have already deployed 10/1 Mbps currently receive high-cost support pursuant to legacy mechanisms and likely require support in areas where the model indicates their forward-looking costs exceed their reasonable end-user revenues. Providing A–CAM II model-based support that requires them to widely deploy 25/3 Mbps service is not inconsistent with the separate consideration that A–CAM II support is not required in areas where an unsubsidized competitor already provides 25/3 Mbps service.

32. WISPA further argues that the Commission's universal service resources would be better used if A–CAM II excluded areas where an unsubsidized competitor provides service of at least 10/1 Mbps because that unsubsidized competitor may provide 25/3 Mbps service at a future date or because the current service may be closer to 25/3 Mbps than 10/1 Mbps. To create a functional model offer the Commission must have a brightline threshold for whether an unsubsidized competitor's service is sufficient to make an area ineligible for A–CAM II support. WISPA's proposal to address hypothetical future unsubsidized services, or services that do not meet the threshold, would effectively lower the threshold. The Commission concludes that reducing the threshold does not appropriately drive deployment of the 25/3 Mbps service that is the new service standard.

33. Finally, WISPA notes that the 25/3 Mbps unsubsidized competitor standard harms service providers that have invested in reliance on ''the Commission's representations that the establishment of 10/1 Mbps service would be sufficient to avoid government-funded subsidies flowing to competitors.'' WISPA does not cite with specificity any such representations, and the Commission finds that such reliance would be misplaced in any event. Congress explicitly defined universal service as ''an evolving level of telecommunications services . . . taking into account advances in telecommunications and information technologies and services.'' The Commission has previously stated that broadband speeds would be subject to an evolving standard, which indicates that higher speed thresholds would likely be established at a later time. Indeed, the Commission first determined that advanced telecommunications capability required 25/3 Mbps in 2015. Further, the areas subject to the new model offer currently receive high-cost support from legacy mechanisms that support rate-of-return carriers without regard to whether a competitor provides 10/1 service, except in the rare case where a competitive provider has completely overbuilt the incumbent provider.

34. Third, the Commission modifies the model by updating the broadband coverage data with the most recent publicly available FCC Form 477 data (which the Commission anticipates will be data as of December 2017) prior to any additional offer of support. This broadband coverage data is used to determine which census blocks are served by unsubsidized competitors providing 25/3 Mbps broadband service, so that universal service resources can be effectively targeted to areas that require high-cost support. NCTA and WISPA support the use of FCC Form 477 data to identify areas of competitive overlap. Relying on the certified FCC Form 477 data will permit us to avoid a time-consuming and administratively burdensome challenge process. In the challenge process for the first A–CAM offer, the Bureau granted only 61 challenges of the more than 250 requests to change A–CAM coverage. Even that low success rate may overstate the consequences of the granted challenges because those particular census blocks still would not be considered ''unserved'' if there were other unsubsidized providers reporting service in those census blocks. Further, given the Commission's decision to adjust the model so that it will only exclude locations presumed to be served by unsubsidized competitors providing at least 25/3 Mbps service, the Commission believes that even fewer locations will be excluded based on competitive overlap, and many fewer will be linked to the type of false positives that the challenge process is intended to address.

35. The Commission's reliance on FCC Form 477 data is consistent with the process the Commission used in the Connect America Phase II auction proceeding. There, the Commission found that FCC Form 477 data superseded the results of the prior Connect America Phase II model support proceeding. The Commission further did not require the Bureau ''to entertain challenges from parties seeking to establish that a block reported as served on a certified FCC Form 477 . . . is unserved.'' In other words, the Connect America Phase II auction proceeding did not permit the type of challenges at issue here. In declining to permit such challenges, the Commission found that the ''Phase II model support process ''was very time-consuming and administratively burdensome for all involved.'' The Commission specifically found that it is ''difficult for the incumbent provider to prove a negative—that a competitor is not serving an area. . . .'' This burden of proving a negative is precisely the burden that possible electors of a new model offer would carry in their challenge process.

36. Several commenters argue in favor of retaining a challenge process. Although a challenge process might make some modest improvement to the quality of the data, the Commission remains unconvinced that the challenge process represents a significant improvement over the FCC Form 477 data, such that the benefits of the improved data would outweigh the significant administrative burdens of conducting a challenge process.

37. The Blooston Rural Carriers (Blooston), while conceding that the challenge process is administratively burdensome and that only 20% were granted in the past, argue that the ''volume of [challenges] . . . clearly

demonstrates the inaccuracy of [the 477] data.'' Blooston does not explain why the absolute number of challenges is more relevant than the low success rate of the challenges, nor does it try to quantify in any way the supposed benefit of the challenge process. Blooston further cites two Mobility Fund proceedings in which the Commission did not rely on FCC Form 477 data to suggest the ''importance of a bona fide challenge process used in connection with Form 477 data.'' The Commission does not find the two Mobility Fund proceedings cited by Blooston informative here. The Mobility Fund Phase I process did not rely on FCC Form 477 data (which did not collect the relevant broadband deployment information at that time), and instead used commercially available data to preliminarily identify eligible areas. In the Mobility Fund Phase II proceeding, the Commission ultimately decided to adopt an industry consensus proposal to perform a one-time data collection very specifically tailored to identify qualified 4G LTE coverage for the purposes of Mobility Fund II. Identifying qualified 4G LTE coverage is a significantly more complex issue than determining whether qualified broadband service is offered in a census block, and there is no industry consensus surrounding an alternative data collection process in this proceeding. Neither case provides any useful data regarding the benefits or burdens of a challenge process for the FCC Form 477 data. Similarly, to demonstrate the supposed inadequacies of FCC Form 477 data, TCA points to the Commission's review of study areas receiving legacy high-cost support to identify study areas 100% overlapped by unsubsidized competitors but that proceeding uses a much higher standard for competitive coverage than is used to determine A–CAM eligibility.

38. WTA and Granite State support the use of a challenge process, but specifically do so as a means of setting a higher standard for when a census block would be deemed ineligible for the new model offer. WTA argues specifically that the challenge process should be based on the ''actual availability'' of service ''throughout the census block.'' Granite State argues in favor of ''a challenge process similar to the one adopted for the 100 percent overlap and rate-of-return challenge process where the competitor has the burden of proof.'' The Commission declines to adopt their proposals. Neither proposal includes sufficient detail to determine how the challenge process would work in the model offer context. Moreover, both proposals would appear to make locations eligible for model support even if they are served by unsubsidized competitors providing comparable service, on the grounds that the unsubsidized competitors do not provide service throughout the census block. Providing model support for such locations would be inconsistent with the Commission's policy, adopted in the *USF/ICC Transformation Order,* to condition Connect America Fund broadband obligations on not spending the funds in areas already served by an unsubsidized competitor.

39. Finally, to address the unique challenges of deploying high-speed broadband to rural Tribal communities, the Commission incorporates a Tribal Broadband Factor into the model. Specifically, A–CAM incorporates nationwide assumptions about take rates and potential average revenues per subscriber to estimate a reasonable amount of end-user revenues per location that form the basis of the $52.50 per location funding threshold. Those assumptions may be unrealistic given the ''high concentration of low-income individuals [and] few business subscribers'' in many rural, Tribal areas. By reducing the funding threshold by 25% for locations in Indian country—in other words, by setting a high-cost funding benchmark of $39.38 on Tribal lands—the revised model directly addresses the lower expected end-user revenues in rural, Tribal areas and by improving the business case will spur further broadband deployment there. The Commission believes that 25% is a reasonable approximation of the additional funding needed in Tribal areas. Because A–CAM support is calculated at the census block level, the Tribal Broadband Factor will efficiently target support to carriers that serve significant Tribal lands, as well as those carriers that serve only a minimal amount of Tribal lands or a small number of housing units on Tribal lands in their study area. For the purpose of this revised parameter, the Commission adopts the definition of ''Tribal lands'' that was used in the *USF/ICC Transformation Order* and later modified in the *2015 Lifeline Reform Order,* 80 FR 40923, July 14, 2015. Several commenters support this revised parameter.

40. To fully effectuate this Tribal Broadband Factor, the Commission also raises the funding cap for Tribal lands to $213.12 per location to reflect the additional funding arising from the lower threshold. The Commission notes that this approach is consistent with Sacred Wind's proposal to adopt another tier of model support for carriers serving Tribal lands.

41. The Commission declines to adopt alternatives to the Tribal Broadband Factor proposed by the National Tribal Telecommunications Association (NTTA) and Gila River Telecommunications, Inc. (Gila River). Both propose a different tribal broadband factor that would be applied to increase support (both A–CAM and legacy) provided to carriers serving Tribal lands by 25%. Providing additional legacy support, without any particular correlation to circumstances faced by carriers serving Tribal lands, would not be an effective use of universal service resources in support of broadband deployment. Hypothetically, a carrier receiving high (but permissible) universal service support could receive enough additional support from this proposed factor that it could meet its revenue requirement without any subscribers and could receive more than an additional dollar of support for each additional dollar it spent. In contrast, the Tribal Broadband Factor the Commission adopts here makes model-based support more attractive for carriers serving Tribal lands by addressing a very specific element of model support—the estimated end-user revenues. NTTA further argues that, even with the Tribal Broadband Factor, most carriers serving Tribal lands are estimated to receive less support than they currently do under legacy support mechanisms. The Commission notes that some carriers have elected to receive A–CAM despite a reduction in support due to the stability of support and improved incentives for efficiently offering service.

42. *Term of Support.* The Commission adopts a ten-year term of support for carriers that elect the new model offer, beginning January 1, 2019. The Commission concludes carriers electing the new model offer should have ten-year terms to maximize broadband deployment. A ten-year term will also permit the Commission to align the deployment obligations of those accepting the new model offer with the terms set for the existing A–CAM carriers without adjusting the new model offer to a shorter term. Further, beginning the new model period on January 1, 2019 will reduce the short-term burden on the Fund; an earlier date would require the possible upfront payment of true-ups associated with a prior start date.

43. A ten-year term for the new model offer will align the termination of the term of the new model offer with existing A–CAM carriers that accept the revised offer adopted above. Multiple

commenters supported aligning the terms of support, and none opposed it. Carriers that decline the revised offer will have terms that end prior to the term of the new model offer. The Commission anticipates that it will take into account the different termination dates in a subsequent rulemaking to determine how support will be awarded at the end of the 10-year term and develop a plan that addresses them.

44. *Transition.* The Commission adopts the same three-tiered transition process for carriers that receive less A–CAM support than they had received under legacy support mechanisms as the Commission used for existing A–CAM recipients. Specifically, the Commission bases the transition payments on the percentage difference between model support and legacy support, as described in the *2016 Rate-of-Return Reform Order.* In that Order, the Commission found that ''a tiered transition is preferable because it recognizes the magnitude of the difference in support for particular carriers. At the same time, the transition is structured in a way that prevents carriers for whom legacy support is greater than [A–CAM] support from locking in higher amounts of support for an extended period of time.'' USTelecom and Concerned Rural LECs support the tiered transition process.

45. Several commenters propose alternatives to the transition payments that focus on capping reductions to a specific percentage of current support levels. The Commission declines to adopt these proposals. Permanently locking carriers into specified levels of support based on the legacy mechanisms, higher than what the model would provide, is inconsistent with the Commission's goal of moving carriers toward more rational, efficient levels of support.

46. As in the *2016 Rate-of-Return Reform Order,* if the difference between legacy and model-based support is 10% or less, the carrier will have a one-year transition; if greater than 10% but not more than 25%, then the transition period will be four years; and if the difference is greater than 25%, then the transition will occur over the full-term of the plan, with no extra transition support only in the final year of the term.

47. For carriers electing the new model offer, the Commission adopts 2018 claims as the base year for calculating transitional support. This is the most recent year for which complete data will be available when the new model offers are likely to be released.

48. *Deployment Obligations.* The Commission adopts robust obligations for carriers accepting the new model offer to deploy 25/3 Mbps to all fully funded locations. This requirement is consistent with the Commission's goal of realizing widespread deployment of 25/3 Mbps service throughout rural America. In adopting the speed obligations in the *2016 Rate-of-Return Reform Order,* the Commission noted that ''our minimum requirements for rate-of-return carriers will likely evolve over the next decade.'' The Commission acknowledged, in particular, NTCA's argument that ''a universal service program premised on achieving speeds of 10/1 Mbps risks locking rural America into lower service levels.'' Although the Commission agreed that ''our policies should take into account evolving standards in the future,'' it required carriers electing A–CAM to deploy 25/3 Mbps service to only a fraction of their fully funded eligible locations. The Commission's recent experience with the CAF Phase II auction, which resulted in more than 99.7% of new locations being served by 25/3 Mbps service, affirms its conclusion that a higher standard of service is achievable. Accordingly, the Commission does not adopt the same speed requirement as are used for existing A–CAM carriers, as urged by several commenters. The Commission instead requires carriers electing model support to maintain voice and existing broadband service as of December 31, 2018, and to offer 25/3 Mbps or higher service to at least the number of locations fully funded by the model by the end of the support term.

49. Consistent with the previous A–CAM offer, the Commission also requires carriers electing model support to offer at least 4/1 Mbps to a defined number of locations that are not fully funded by the end of the support term. Carriers with a density of more than 10 housing units per square mile will be required to offer at least 4/1 Mbps to 50% of all capped locations; and carriers with a density of 10 or fewer housing units per square mile will be required to offer at least 4/1 Mbps to 25% of all capped locations. The remaining capped locations will be subject to the reasonable request standard.

50. The Commission will require carriers electing the new model offer to provide a minimum usage allowance of the higher of 170 GB per month or one that reflects the average usage of a majority of consumers, using Measuring Broadband America data or a similar data source. In addition, the Commission will require carriers electing to receive model support to certify that 95% or more of all peak period measurements of round-trip latency are at or below 100 milliseconds. This latency standard will apply to all locations that are fully funded. As stated previously, the Commission ''recognize[s] there may be need for relaxed standards in areas that are not fully funded, where carriers may use alternative technologies to meet their public interest obligations.'' Therefore, the Commission adopts the high-latency metric used in the CAF Phase II auction proceeding for any capped locations served by a non-terrestrial technology. Under the high-latency standard, carriers are required to certify that 95% or more of all peak period measurements of round-trip latency are at or below 750 milliseconds, and with respect to voice performance, a score of four or higher using the Mean Opinion Score (MOS).

51. The Commission adopts the same deployment milestones that the Commission required for existing A–CAM recipients, except delayed by two years to reflect the later start of the ten-year term. Specifically, companies accepting the new model offer will be required to offer at least 25/3 Mbps service to 40% of fully funded locations by the end of 2022, to 50% of the requisite number of funded locations by the end of 2023, an additional 10% each year thereafter, and 100% by 2028. In addition, by the end of 2028, these carriers will be required to offer 4/1 Mbps to the requisite percentage of locations depending on density. The Commission also provides the same flexibility afforded other A–CAM recipients to deploy to only 95% of the required number of fully funded locations by the end of the term of support.

52. Consistent with existing obligations, the Commission requires carriers to report geocoded location information for all newly deployed locations that are capable of delivering broadband meeting or exceeding the speed tiers. The Commission also adopts defined deployment milestones so that the same previously adopted non-compliance measures would apply.

53. *Election Process.* The Commission adopts a single-step process whereby electing carriers make an irrevocable acceptance of the offered amount because no support adjustments will need to be made to address budget targets. The Commission directs the Bureau to release a public notice announcing the new model-based support amounts and corresponding deployment obligations and providing carriers with 45 days to confirm that they will accept the revised offer. Any such election shall be irrevocable.

54. To ensure sufficient and predictable support for legacy carriers and spur additional deployment of 25/3 Mbps broadband service, the Commission increases the budget and make corresponding adjustments to carriers' buildout obligations. A budget designed to spur the deployment of 4/1 Mbps broadband to rural America is no longer sufficient or appropriate for deploying the high-speed broadband capable networks of at least 25/3 Mbps that consumers living in rural America demand. Moreover, fluctuations in support reductions make it more challenging to engage in capital planning, potentially resulting in reduced broadband deployment that, in turn, could harm consumers. The Commission therefore establishes a minimum threshold of support for each carrier and establish a budget for legacy carriers that is independent of the fluctuating needs of other rate-of-return support streams. Commensurate with the Commission's changes to provide a sufficient and predictable support mechanism, the Commission adopts measurable deployment obligations that will spur the availability of 25/3 Mbps broadband service throughout rural America.

55. The Commission also adopts further reforms to the legacy program to streamline its rules where possible and promote further predictability and efficiency. For example, the Commission eliminates the capital investment allowance and revise the budget control mechanism to simplify its rules and promote greater certainty. Further, to ensure the efficient use of the Commission's limited funding, it reduces the maximum support that a legacy provider can obtain on a per-line basis and revise the Commission's methodology for allocating support to those areas that are close to 100% overlapped by unsubsidized competitors. Finally, the Commission addresses a number of technical changes, including revising line count reporting requirements and updating accounting rules.

56. To spur broadband deployment, the Commission adopts a budget for legacy rate-of-return carriers based on 2018 unconstrained claims, including an inflationary factor to increase the budget annually. The Commission also establishes a minimum threshold of support for rate-of-return carriers.

57. *Discussion.* The Commission addresses the concerns raised by Congress and the industry by adopting a budget that provides sufficient and predictable support to legacy carriers, while meeting its responsibilities as stewards of public funds. The Commission also adopts a minimum threshold of support for legacy carriers to ensure that they receive sufficient and predicable funding to meet their revised deployment obligations. In adopting this budget for legacy carriers, the Commission continues the progress and adherence towards the Commission's universal service reform principles and goals.

58. The Commission adopts a new budget for legacy carriers based on 2018 uncapped claims—approximately $1.42 billion—increased annually by inflation.

59. The increased legacy budget demanded by the industry and Congress is consistent with the Commission's requirement to base its policies on making services in ''rural, insular, and high cost areas . . . reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.'' Consumers demand higher speeds as they realize the benefits that come with them, and the Commission cannot leave consumers in rural areas behind. Providing legacy carriers an increased budget will provide the means and the certainty necessary to spur investments to meet demand and help achieve the Commission's universal service goals. Without increasing the budget for legacy carriers, the Commission could expect increasing rates, diminishing deployment, and a growing gap between rural and urban areas in broadband availability.

60. The Commission determines that using 2018 unconstrained claims as the basis to reset the budget is sufficient and will help spur broadband deployment in rural areas. Since the budget control mechanism became effective, the Commission has authorized repaying legacy carriers all support reductions since July 1, 2017. The Commission now takes 2018 support claims, *i.e.,* what the carriers are spending today, and increase that by inflation annually going forward. Claims for 2018 reflect a time when legacy carriers are fully engaged in deploying and/or maintaining broadband capable networks. Accordingly, the Commission finds it is a reasonable timeframe from which to establish a budget better tailored for today's broadband needs. Furthermore, by basing the budget on 2018 unconstrained claims, the Commission is using a figure beneficial to meeting consumers' demand because, based on the Commission's claims data, 2018 unconstrained claims are the highest since the *USF/ICC Transformation Order.*

61. Also, with a higher overall budget and a budget control mechanism that does not include a per-line reduction (discussed in the following), the Commission expects a higher degree of predictability for each carrier individually—predictability that over time will increase as carriers become more familiar with the process. A budget also helps with the overall predictability of the fund, which is financially prudent and in the public interest.

62. To mitigate any harmful effects of having a lower 2018 budget, the Commission will reimburse all support reductions due to the budget control mechanism from July 1, 2018 through December 31, 2018, or the effective date of this Report and Order, whichever is later. In addition, there will be no reductions to legacy support from January 1, 2019 through June 30, 2019, as the Commission anticipates claims to increase only slightly over 2018 claims during this time.

63. In addition, rather than awarding legacy support based on the budget remaining once other rate-of-return recipients have been funded under the overall $2 billion budget, the Commission establishes this budget for legacy providers separate and apart from the other programs. In doing so, the Commission provides greater certainty and predictability for legacy providers. The Commission agrees that separate budgets ''enable proponents of the two support mechanisms [legacy and A–CAM] to focus on how best to efficiently maximize broadband deployment under each paradigm.'' Furthermore, the Commission agrees that ''each should be afforded a budget analysis on its own bona fides without regard to the other,'' which will allow us in the future to better evaluate ''each support mechanism on its own merits.'' The Commission also agrees with ITTA's proposal to remove CAF ICC from the budget equation and administer it outside of the legacy budget and A–CAM support mechanism.

64. In establishing a separate budget for legacy carriers, the Commission declines to adopt the joint industry proposal to adopt an overall budget for all the rate-of-return support mechanisms. The Commission finds that an all-encompassing rate-of-return budget is no longer appropriate, given the different obligations and terms of the various rate-of-return funding streams. In light of how other high cost support streams have evolved, the Commission sees no reason going forward why the support amounts for A–CAM, Alaska Plan, and CAF ICC

should affect total legacy support. Legacy carriers should have their own budget—a budget that is suited to allow small, rural carriers to meet consumers' demands in rural areas in furtherance of universal service goals.

65. The Commission finds that a budget in general for legacy carriers is in the public interest. In contrast to other rate-of-return support mechanisms, legacy support is based on carriers' costs, *i.e.,* claims made for support, and support claims from legacy carriers have continued to increase since the Commission adopted a budget in 2011. The industry and NECA forecast continued increases. As the Commission noted in the *2018 Rate-of-Return Reform Order and NPRM,* 83 FR 18951, May 1, 2018 and 80 FR 17968, April 25, 2018, rate-of-return regulation provides incentives for companies to operate inefficiently by ''padding'' operating expenses and over-investing in capital projects to increase profits. Some portion of the continually increasing claims may be due to those incentives. Although commenters contend that there is no evidence to show rate-of-regulation provides incentives to operate inefficiently, that carriers lack the means to over spend/invest as a practical matter, and that the Commission's rules already counteract these alleged incentives, basic economic theory confirms that such motivations exist. The Commission also recognizes, however, that network improvements to meet demand have led to increased claims.

66. Setting a budget cap for legacy carriers is financially prudent and in the public interest. The Commission must be mindful of its obligation to ensure that scarce public resources are spent judiciously. Moreover, as courts have recognized, too much subsidization could affect the affordability of telecommunications services for those that pay for universal service support, in violation of section 254(b). An annual budget cap for a support mechanism that funds carriers' claims—claims that have continually increased at varying rates—helps us meet that obligation. A budget that constrains spending encourages efficiency and resourcefulness, and it ensures a relatively greater level of predictability for the overall CAF. Finally, the Commission notes that the record supports some form of a budget.

67. The Commission will adjust the new budget for legacy carriers based on 2018 uncapped claims increased annually by inflation—the United States Department of Commerce's Gross Domestic Product-Chained Price Index (GDP–CPI). The Commission notes that industry supports budget adjustments using some type of inflationary factor. While NTCA suggests using the Employment Cost Index (ECI) because it recognizes that labor is a key component in rising costs, the ECI only accounts for one specific cost input. However, of the two, the Commission finds that GDP–CPI is more appropriate as it measures price changes in goods and services purchased by consumers, businesses, and governments, and is the inflationary factor the Commission has used for many years in other legacy support mechanisms.

68. Further, in using an inflationary factor to annually increase the overall budget for legacy carriers, the Commission is not conceding that broadband deployment and maintenance costs increase over time commensurate with inflation. In the development of the Connect America Cost Model (CAM), Commission staff found that in the remote, model-supported areas the Commission is subsidizing, costs are unlikely on average to rise going forward; roughly speaking, this is because rising labor costs are offset by falling equipment costs and productivity gains. Some commenters have echoed the belief that new equipment may lower costs. Nonetheless, other parties argue that their costs for labor and equipment have increased or that deployment costs have not been offset by increased productivity or lower equipment costs. Therefore, the Commission adopts an inflationary escalator to increase the budget and note that this increased support will be included in the revised calculation of mandatory deployment obligations. The Commission uses the GDP–CPI to address inflation in other high-cost support mechanisms and see no reason to deviate from that precedent here. Moreover, the Commission declines the industry's request to increase the entirety of the high-cost USF program to reflect inflation or the overall rate-of-return budget. As noted in this document, the Commission believes that giving legacy carriers a separate, independent budget is more appropriate at this time, and the Commission declines to make legacy carrier support dependent on the A–CAM, the Alaska Plan, CAF ICC, or other high-cost support.

69. The Commission addresses issues raised regarding the effect that the increasing number of conversions to broadband-only lines are having on the budget. Several parties have raised the concern that as carriers convert voice and voice/broadband lines to broadband-only lines there will be additional pressure on the universal service budget because federal support for broadband-only lines is typically greater than for voice and voice/broadband lines. This circumstance is in large part because the costs of a broadband-only line are all interstate whereas a voice or voice/broadband line has a portion of its costs recovered through intrastate sources. The Commission believes that increases in support caused by these conversions will be offset through the approach it is taking to account for support for those carriers taking the new model offer.

70. Although the Commission currently has insufficient data to quantify this increase, it concludes that 7% is a reasonable estimate that will promote stability for legacy rate-of-return carriers. The Commission notes that carriers expecting above average numbers of broadband-only conversions (and thus greater funding increases under the legacy mechanism) are more likely to remain on legacy support than those expecting below average conversion rates, putting pressure on the legacy rate-of-return budget. A 7% increase balances the Commission's interest in accounting for expected increases without unduly increasing the rate-of-return budget while it considers long-term means of addressing these conversions, as discussed in the concurrently adopted FNPRM. To account for this increase, the Commission adjusts how it allocates funding for those carriers accepting the new model offer. For carriers that accept a new model offer that will receive more model support than their uncapped claims, USAC shall take those claims out of the legacy budget. However, for carriers accepting a new model offer that will receive less model support than their unconstrained claims (glide-path carriers), USAC shall take only the carriers' model support amounts out of the budget cap. The Commission anticipates that a sufficient number of glide-path carriers will accept model-based support and that the amount of increase to the legacy budget will therefore be at least 7% of the budget cap (as adjusted for those taking model-based support), if not greater. However, to ensure that this is the case, the Commission will increase the budget in July 2019 by 7%. Once the Commission has determined which carriers are accepting the new model offer, if, because of the number of glide-path carriers accepting model support, the legacy budget increases by more than 7%, legacy carriers will benefit from that entire increase in the budget going into effect in July 2020. This will be a one-time increase.

71. This approach will also ensure that if carriers whose legacy support is decreasing choose model-based support, the funding that would have been available to other legacy carriers will continue to be available to those carriers that remain on legacy support. For the same reasons, after any future overlap auctions, the Commission will also leave any resulting savings in the legacy budget. Although the Commission believes that the new budget will account for any support demand increases due to conversions to broadband-only lines, the Commission seeks comment on whether additional measures are needed in the concurrently adopted FNPRM.

72. The Commission recognizes that by setting the budget at 2018 unconstrained claims initially, it is not setting it as high as the industry requests. The industry requests an overall amount that will ''fully fund'' the entire high-cost program so that there is no budget constraint. Universal service support is paid by ratepayers, however, and increasing funding demands on those ratepayers could affect the affordability of telecommunications services, in violation of section 254(b). By adopting an overall budget for legacy carriers based on today's support claims and then limiting future budget increases, the Commission minimizes unexpected increases in the contributions required from ratepayers.

73. Moreover, the Commission still is providing sufficient and appropriate funding for the rate-of-return high-cost program. A–CAM carriers will receive up to $200 per location and all transition payments; Alaska Plan carriers will continue to receive their authorized amounts; CAF ICC will receive its full amounts; and for legacy carriers the Commission will reimburse all support cuts to date due to the budget control mechanism. To encourage efficient and resourceful spending and help minimize contribution burdens, going forward, starting in July 2019, the Commission establishes a budget for the legacy carriers, but to help meet demands and obligations, it still allows for gradual and predictable annual increases. Furthermore, as explained in the following, the Commission revises deployment obligations based on the projected funding that carriers will receive. As the Tenth Circuit stated in upholding the budget adopted in 2011, ''the FCC quite clearly rejected any notion that budgetary 'sufficiency' is equivalent to 'complete' or 'full' funding for carrying out the broadband and other obligations imposed upon carriers who are voluntary recipients of USF funds.''

74. In addition to the new budget described in this document, the Commission also adopts a minimum threshold of support for each carrier. The uncapped threshold will be based on a five-year CAF BLS forecast to be developed by NECA for establishing the carrier-specific deployment obligation, but any amounts greater than that may be subject to a budget control mechanism. Thus, no legacy carrier will receive less support, *i.e.,* HCLS plus CAF BLS, as a result of budget constraints than predicted in this CAF BLS forecast. The Commission links this minimum threshold of support for each carrier to its minimum deployment obligation so that carriers will receive at a minimum, the amount of support that went into determining minimum deployment obligations. This new five-year forecast will be calculated using the budget adopted in this Report and Order, including the annual inflation adjustment, and will be used to calculate each legacy carrier's new mandatory deployment obligations. In conjunction with the new budget, this minimum threshold will provide legacy carriers the sufficiency and predictability that they have argued did not exist under the previous budget. In addition, to the extent any support adjustments may be appropriate, by eliminating the per-line reduction component of the budget control mechanism, the Commission expects that no carrier will see drastic reductions from the budget control mechanism relative to other carriers.

75. While commenters support the general concept of using unconstrained claims for a support ''floor,'' there is no consensus on how any such ''floor'' should be established. Although some commenters express concerns with this approach, the Commission finds that a minimum threshold based on a revised NECA five-year forecast, in combination with the revised budget amounts adopted herein, will ensure that carriers can meet their deployment obligations. The Commission disagrees with NTTA's suggestion that it prioritizes Tribal areas, the highest-cost areas, and then all other areas because it lacks any justification of how such a proposal is consistent with the goals of the high-cost program, and in particular how it would further bringing broadband to all high-cost areas of the country. And the Commission disagrees with a recent industry proposal to use each carrier's ''unconstrained costs over the prior three years'' as a minimum. Such a proposal would essentially require the elimination of the budget constraint mechanism entirely while guaranteeing more support for each carrier than that tied to its deployment obligations. Indeed, this proposal would negate the overall predictability for the fund that a budget provides. The ''floor'' for each carrier would be dependent upon each's spending behavior, which can change annually or even quarterly. As the ''floor'' changes for each carrier, the Commission would be required to adjust the overall budget accordingly. In other words, the Commission could not know with as much predictability how much of the ratepayers' money it would be collectively spending each year on the high-cost program—a situation that as stewards of public funds the Commission aims to avoid. Consequently, the Commission declines to adopt this industry proposal.

76. In the *2018 Rate-of-Return Reform Order and NPRM,* the Commission sought comment on when it should next revisit the budget. Commenters support various timeframes. NTCA, WTA, USTelecom, and the Broadband Alliance suggest that the new budget should be in effect until 2026. ADTRAN recommends the Commission assess the budget four years after adoption, and FWA advocates reviewing the budget no later than three years after adoption. By fully funding A–CAM, the Alaska Plan, and CAF ICC, and adopting a legacy budget that annually adjusts for inflation, the Commission expects that rate-of-return carriers will have stable and sufficient budgets for at least the next five years. Although the Commission does not expect to review the budget prior to 2024, it may be appropriate to revisit the budget at the end of five years to reevaluate whether any changes to the budget are appropriate.

77. By May 1, 2019, the Commission directs USAC, in consultation with Bureau, to publish a new legacy budget cap along with the new budget adjustment factor. USAC will calculate 2018 actual unconstrained legacy support claims plus one year of inflation using GDP–CPI, as reported by NECA in the most recent October annual filing. The budget cap will be that total increased by 7%. USAC, in consultation with the Bureau, will calculate the budget adjustment factor using that budget cap pursuant to sections 54.901(f) and 54.1310(d), as modified in this Report and Order to eliminate the per-line reduction calculation. The budget adjustment factor USAC publishes by May 1, 2019 will be in effect from July 1, 2019 to June 30, 2020.

78. By May 1, 2020, the Commission directs USAC to publish the next legacy budget cap along with the next budget

adjustment factor to be in effect from July 1, 2020 to June 30, 2021. The budget cap will be set at the previous year's budget cap, *i.e.,* July 1, 2019 to June 30, 2020, plus inflation using GDP–CPI, which will be published in the October 2019 filing by NECA. USAC shall then account for the new model offers as follows. For carriers that accept the new model offer, USAC shall deduct those carriers' 2018 actual unconstrained claims plus the two years of inflation out of the legacy budget. For glide-path carriers, USAC shall calculate the total amount by which their 2018 actual unconstrained claims plus two years of inflation exceeds their model support. If that number is greater than 7% of the 2020 budget, USAC shall increase the budget by the amount in excess of 7%. In addition, prior to publishing the results of the 2020 budget cap, USAC shall compare the capped amount for each carrier with the CAF BLS five-year forecast adopted in this Report and Order. If the cap for any individual study area falls below the CAF BLS forecast for that study area in that year, USAC shall raise the cap for that study area to the amount of the CAF BLS forecast. Thus, carriers are assured of receiving at least the amount of support that will be identified in the forecast.

79. Going forward, for the 2021 budget and beyond, USAC shall annually increase the previous year's budget cap by inflation using GDP–CPI. Each year USAC shall use the budget cap to calculate the budget adjustment factor for that budget year, July 1 to June 30. Also, each year, for CAF BLS, USAC shall calculate the pro rata reductions once per year, and for HCLS, USAC shall calculate the pro rata reductions semiannually, which allows the reduction factor to reflect the new rural growth factor for HCLS that goes into effect January 1 of each calendar year. As noted above, if the cap for any individual study area falls below the CAF BLS forecast for that study area in that year, USAC shall raise the cap for that study area to the amount of the CAF BLS forecast. Based on the Commission's experience in implementing the budget control mechanism, it believes that it will enhance predictability with no discernable cost by setting the budget adjustment factor semiannually rather than quarterly.

80. To maximize the benefit resulting from the Commission's new legacy budget, it revises the deployment obligations for legacy carriers commensurate with the minimum threshold of support that will not be subject to the budget constraint. The Commission also revises the minimum speed obligation to 25/3 Mbps, up from 10/1 Mbps.

81. *Discussion.* The Commission revises the deployment obligations for legacy carriers commensurate with the revised budget and minimum threshold of support adopted in this Report and Order. The Commission also resets the five-year deployment term and revise the minimum speed obligation to 25/3 Mbps, up from 10/1 Mbps. By increasing the budget for legacy carriers, the Commission expects those carriers to do more to meet consumer demand and its obligations than they did when the budget was first adopted in 2011.

82. Under the Commission's rules, a carrier's deployment obligations are based, in part, on its five-year forecasted CAF BLS. The original five-year obligations were based on forecasted CAF BLS pursuant to the budget and rules in effect at the time, and also then-current data. Now that the Commission resets the budget for the legacy carriers and adopt a minimum level of support of no less than a carrier's revised CAF BLS five-year forecast, those original forecasts are outdated, and the Bureau must update them. The Commission disagrees with USTelecom and Blooston to the extent they do not support changing deployment obligations at this time. As NTCA stated, buildout obligations should correspond to the level of support; given that the Commission is increasing the amount of support, broadband deployment obligations should increase as well. The assumptions in the five-year forecast of the total CAF BLS support for each rate-of-return legacy study area for the purposes of determining deployment obligations were provided in Appendix D of the Order.

83. The Commission further finds that it is necessary to provide carriers revised CAF BLS deployment obligations at the time it expects to make the new model offers so that carriers can properly evaluate their options. Because the Commission expects the new offers in early 2019 and actual 2018 claims will not be available until March 2019, projected claims for 2018 may be used for calculating forecasted CAF BLS.

84. In addition to forecasted CAF BLS, part of the calculation for determining deployment obligations is a cost-per-location figure based on one of two methodologies. The Commission updates both methodologies to reflect that 25/3 Mbps is the Commission's new broadband standard. The methodologies also factor in the per-line, per-month cap, which the Commission revises in the Report and Order.

85. Revising deployment obligations at this junction is also consistent with the precedent established in the *2016 Rate-of-Return Reform Order.* There, the Commission appropriately decided that at the end of the five-year deployment term, ''carriers with less than 80 percent deployment of broadband service meeting then-current standards in their study areas will be required to utilize a specified percentage of their five-year forecasted CAF BLS to deploy broadband service meeting the Commission's standards where it is lacking in subsequent five-year periods.'' Because the Commission is increasing the budget for legacy carriers, setting a minimum threshold of support, and implementing the current broadband standard of 25/3 Mbps, the Commission is replacing the prior five-year, 10/1 Mbps deployment obligations with new obligations that reflect the increased budget and broadband speed. Therefore, allowing carriers a full five years—rather than the remaining three years of the original deployment term—to complete deployment is warranted.

86. To ensure that consumers in rural areas enjoy a reasonably comparable quality of broadband as those in urban areas, the Commission revises the deployment obligations to require recipients of CAF BLS to offer broadband service at actual speeds of at least 25/3 Mbps. Broadband of at least 25/3 Mbps is now the Commission standard, and deployment obligations for its legacy program must reflect that.

87. To be consistent with CAF BLS deployment obligations being based on a five-year term, the deployment term will run from the effective date of the Report and Order until December 31, 2023. For administrative convenience, the Commission bases this new term on the calendar year starting January 1, 2019. Further, the Commission will count towards the new five-year obligation any locations CAF BLS carriers deployed to with at least 25/3 Mbps since May 25, 2016, regardless of whether the carriers had defined deployment obligations in the original term. CAF BLS carriers that have not had HUBB portal reporting obligations will be provided an opportunity to certify as needed 25/3 Mbps or higher locations deployed to since May 25, 2016. The Commission also maintains the Commission's prohibition on deploying ''terrestrial wireline technology in any census block if doing so would result in total support per line in the study area to exceed'' the per-line, per-month cap, as revised in this Report and Order.

88. In the *2016 Rate-of-Return Reform Order,* the Commission did not set

mandatory deployment obligations for those carriers that had deployed broadband of 10/1 Mbps to 80% or more of their study areas, as determined by FCC Form 477. Rather, the Commission stated that it would monitor the deployment progress of legacy carriers without defined buildout obligations and could ''revisit this framework in the future if such carriers do not continue to make reasonable progress on extending broadband.'' Although those carriers with 80% or greater deployment of 10/1 Mbps have in many cases reported additional deployment, the Commission is unable to evaluate their progress without an understanding of how this new deployment relates to the mandatory obligations it has set for other carriers. Therefore, the Commission finds that all legacy carriers should be subject to deployment obligations.

89. As the Commission did in 2016, it finds that carriers' mandatory deployment obligations should be determined based on a percentage their CAF BLS, with those carriers with greater deployment devoting a lower percentage of support to new deployment and those with relatively lower levels of deployment devoting a higher percentage to new deployment. Therefore, legacy rate-of-return carriers with less than 20% deployment of 25/3 Mbps broadband service in their entire study area, based on the most recently available FCC Form 477 data, will be required to use 35% of their five-year forecasted CAF BLS support specifically for the deployment of 25/3 Mbps broadband service where it is currently lacking. Rate-of-return carriers with 20% or greater but less than 40% deployment of 25/3 Mbps broadband service in their entire study areas, will be required to use 25% of their five-year forecasted CAF BLS support specifically for the deployment of 25/3 Mbps broadband service where it is currently lacking. Rate-of-return carriers with 40% or greater deployment of 25/3 Mbps broadband service in their entire study areas, will be required to use 20% of their five-year forecasted CAF BLS support specifically for the deployment of 25/3 Mbps broadband service where it is currently lacking. Once a carrier has deployed broadband service of 25/3 Mbps to all locations within the study area, it has satisfied its deployment obligation, although the Commission encourages such carriers to continue to look for ways to increase the speed and reduce the latency of their services. Because all legacy carriers will have defined deployment obligations, all will be required to report their locations deployed in the HUBB portal.

90. The Commission finds that the capital investment allowance should be eliminated because its burdens and inefficiencies outweigh any benefits.

91. *Discussion.* The Commission finds that the capital investment allowance should be eliminated because the burdens it imposes outweigh the benefits. To show compliance with the capital investment allowance, legacy carriers must track every capital expenditure and allocate it to locations affected by that expenditure—something carriers were not required to do previously. While carriers always account for their capital expenditures, the requirement to tie these expenditures to particular locations is difficult and time consuming. In addition, the capital investment allowance may discourage marginal capital expenditures that are economically efficient. For instance, the capital investment allowance, which limits the total amount a carrier can spend on a project, may prevent a carrier from deploying broadband to an additional location or locations as part of an existing project if such expenditures would exceed the capital investment allowance. Accordingly, the Commission agrees with commenters that the capital investment allowance does not encourage efficient spending and is creating unnecessary burdens. Moreover, the Commission has found no evidence that the capital investment allowance has encouraged additional capital investment by those carriers below the average level of broadband deployment. Because the burdens and disincentives on deployment in the current capital investment allowance outweigh the purported benefits, the Commission finds that elimination of the capital investment allowance is appropriate.

92. The Commission declines to adopt NTCA's proffer of an engineer's certification and record retention. Carriers are already required to retain documentation for auditing purposes so that USAC can determine whether support is being used for its intended purpose, and NTCA's proposal appears to increase the paperwork burden on carriers without much benefit.

93. In this section, the Commission modifies sections 54.901(f) and 54.1310(d) and eliminate the per-line reduction calculation that is part of the budget control mechanism.

94. *Discussion.* The Commission eliminates the per-line reduction calculation that is part of the budget control mechanism. The previous Commission adopted the per-line and pro rata calculation on grounds that it struck a ''fair balance among differently-situated carriers.'' Although NTCA argues that incorporating the per-line reduction is part of a ''carefully designed balance'' or ''carefully struck balance'' between larger and smaller rate-of-return incumbent local exchange carriers (LECs), the Commission finds that this two-part calculation has resulted in some carriers bearing an unreasonably large share of the support limit.

95. When adopting the budget control mechanism with both the per-line and pro rata mechanisms, the Commission expected a ''fair balance'' among the legacy carriers, large and small. Data since adoption of this mechanism show, however, that the per-line reduction has resulted in an increasingly wide variation of cuts to carriers' support. The table in the following details across all legacy carriers over different time periods reductions in support due to the budget control mechanism with the per-line reduction.

From	To	Average reduction (%)	Standard deviation (%)	5th Percentile (%)	95th Percentile (%)	Weighted average reduction (%)
9/2016	12/2016	5.3	2.3	3.5	8.2	4.6
1/2017	6/2017	9.7	4.4	6.6	14.0	8.7
7/2017	6/2018	13.6	4.0	9.1	20.2	12.3
7/2018	6/2019	17.0	6.3	11.5	24.9	15.5

Number of Legacy Study Areas: 654.

96. What started as a relatively narrow variation has become significantly wider, and now ranges (between the 5th and 95th percentile) from 11.5% to 24.9% reductions in claimed support. The Commission thus concludes that the per-line reduction has not, over time, resulted in the ''fair balance'' that the Commission originally anticipated. The carriers collectively are exceeding their budget, but in applying the budget control mechanism, the Commission cuts some carriers significantly more than others. Given the large variations the Commission has now seen, it believes that it is more equitable for each carrier to have the same percentage reduction across the board. Accordingly, the Commission eliminates the per-line reduction calculation that is part of the budget control mechanism.

97. In addition to making the budget control mechanism more equitable, eliminating the per-line reduction will make it simpler to implement administratively. Eliminating the per-line calculation will make it easier for carriers to determine what their specific support reduction will be and make application of the budget control mechanism more transparent.

98. The Commission amends its rules to reduce the monthly per-line limit on support from $250 to $225, effective July 1, 2019, and then to $200, effective July 1, 2021. The Commission finds that reducing the presumptive cap on support will advance the Commission's goal of implementing responsible fiscal limits on universal service support.

99. *Discussion.* The Commission's experience indicates that a lower limit is justified and will be useful in mitigating wasteful spending. Currently, approximately 14 study areas are affected by the monthly per-line limit. However, carriers serving only 10 of those study areas have petitioned the Commission to justify higher support amounts, and some withdrew their requests following requests for further supporting information. To date, the Commission has awarded relief to only two companies. Further, the Commission's experience reviewing the waiver petitions that have been filed suggests that some companies cannot justify their high expenses. Based on this history, the Commission finds that the $250 per-line monthly limit has been neither too restrictive nor likely to have a negative impact on the ability of carriers to provide service. Moreover, the Commission notes that a reduction to $200 will currently affect approximately 30 study areas that are not already subject to the $250 per-line monthly limit, and the same waiver process would be available to all affected study areas.

100. The Commission is unpersuaded by the arguments of those opposing this change. Contrary to NTCA and SCC's claims, the Commission's experience suggests that, while some carriers legitimately incur high expenses, some of the highest supported carriers have been found to have wasteful or abusive expenses and/or improper accounting procedures. In the *Adak Reconsideration Order,* for example, the Commission denied relief of the $250 cap, affirming findings that the company had ''excessive and unreasonable'' operating expenses, unwarranted executive compensation, and had engaged in improper affiliate transactions. The Commission similarly identified noncompliance in evaluating Allband's request for waiver of the $250 cap, finding that Allband's consistent misapplication of its cost allocation rules rendered its cost accounting ''unreliable.'' Finally, the Commission uncovered improper support payments of more than $27 million in connection with its review of Sandwich Isles Communications, finding that the carrier had misclassified costs and received support for inflated and ineligible expenses. Other carriers may not seek waiver of the $250 monthly per-line limit because they wish to avoid scrutiny. Indeed, despite NTCA's arguments, other existing controls to promote the efficient distribution of support have not been sufficient to prevent the reporting of wasteful or abusive expenses by the highest cost carriers. The Commission does not find that its waiver process is unreasonable and burdensome. Rather, the Commission's review of previously filed waivers has shown that it is more likely that carriers would not be able to justify their high expenses and sought to avoid embarrassing scrutiny. In the Commission's experience, carriers have contributed to the time it has taken to resolve the waiver petitions because of their own reluctance to provide supporting data and the number of violations of the Commission's accounting rules that it has discovered.

101. The Commission does not agree that the budgetary relief that would be provided by this reduction is insignificant or that possible reductions in support will be crippling. Even if the budgetary relief is small, the Commission has an interest in eliminating waste, fraud, and abuse that will be served by the reduction in the monthly per-line cap. Moreover, any carrier entitled to support above the $250 cap can avoid support reductions by justifying its support needs through cost studies and accounting done consistent with our rules.

102. TCA provides no data or even anecdotal evidence in support of its assertion that carriers reduced or slowed deployment to avoid triggering a cap or limitation on support. Further, the Commission notes that it has invited carriers to use the waiver process specifically as an avenue to justify their necessary spending in the type of cases that TCA identifies. If investment is necessary to deploy service, then the expenses will be justifiable in the waiver process.

103. South Park's alternate proposal to modify the operation of the monthly per-line cap or to exempt carriers subject to monthly per-line cap from the budget constraint mechanism would tend to undermine the effect of the rule by exempting some support without regard for whether the underlying expenses have been justified. Exempting carriers subject to the monthly per-line cap from the budget constraint's operation would undermine the budget constraint's purpose of limiting the size of the fund.

104. The Commission declines to adopt, as Allband requests in its comments, a streamlined waiver process to review any requests that Allband might file of the monthly per-line cap, because it previously was granted relief. Allband maintains that a streamlined process would allow it to ''redirect financial resources from such filings to provide expanded lines and services'' to the areas it serves. Although the Commission is mindful of minimizing regulatory burdens in order to maximize the benefit of limited universal service support, the Commission must balance that goal with our responsibility as stewards of the Fund. The Commission does not believe it is appropriate at this time to take further action to reduce Allband's evidentiary burdens in light of its prior misallocation of costs and need for corrective action.

105. Finally, the Commission notes that its decision to reduce the monthly cap in two steps addresses the possibility that a sudden influx of many petitions for waiver will be administratively difficult to manage. By our estimates, only an additional 10 carriers would currently be impacted by the intermediate $225 monthly per-line cap. The two years prior to the further reduction of the cap to $200 should be sufficient to address any petitions for waiver arising from the $225 monthly per-line cap. Both reductions to $225 and $200 will be implemented on July 1, to ease administrative considerations associated with the calculation of the budget constraint mechanism.

106. In this section, the Commission finds that the 100% overlap process the Commission has used to ensure that federal funding is not being used to compete with unsubsidized competitors has not lived up to its promise. Accordingly, the Commission ends that process and replace it with competitive auctions for legacy service areas that are nearly entirely overlapped by unsubsidized competitors. In the concurrently adopted FNPRM, the Commission seeks further comment on several auction-related issues.

107. *Discussion.* The Commission finds that an auction mechanism in certain legacy study areas would be an efficient, market-based way to distribute any high-cost support that may be necessary. In a study area that is 100%, or almost entirely, overlapped by unsubsidized competitors, there may still be some locations within census blocks that do not have access to broadband, *i.e.,* although a block is partially served by an unsubsidized provider not all of the locations in that block are served. As the Commission has noted previously, competitive bidding can result in more efficient levels of support by providing incentives to bid less than current levels of support in the area. The Commission agrees with WISPA in general that an auction in competitive areas ''recognizes that when a competing provider is serving a critical mass of nearby areas, the incumbent carrier is no longer uniquely capable of rolling out new service to locations within the study area that remain unserved.'' While an auction would also require administrative resources, an auction would help move the CAF towards market-based solutions rather than sorting through documentary evidence in hopes of determining whether locations are in fact served by competitors. The Commission also has now seen the success of the CAF II auction, which ''unleashed robust price competition'' so that ''more locations will be served at less cost.'' The total locations awarded support had an initial reserve price (maximum amount) of $5 billion over ten years, but the amount awarded to cover these locations is only $1.488 billion.

108. The Commission determines that support in legacy study areas identified by FCC Form 477 data as entirely or almost entirely overlapped with voice and 25/3 Mbps broadband by an unsubsidized competitor or group of competitors will be awarded through a competitive bidding process. When there are competitors, competitive bidding can be an efficient, market-based way to distribute high-cost support. By auctioning off support in study areas that are entirely or almost entirely overlapped at 25/3 Mbps, the Commission expects to see significant savings relative to current legacy claims in those areas. Competitive bidding will result in a market-based allocation of limited funding in areas where support is overwhelmingly not needed to achieve our universal service goals as evidenced by the amount of unsubsidized competition. And the Commission will dedicate those savings to increasing the overall budget for legacy carriers—shifting support to areas where it is needed most. Currently, there are eight legacy study areas with 100% overlap and seven additional legacy study areas with at least 95% overlap with approximately $12 million in unconstrained projected claims for 2018 respectively. The Commission expects an auction to shift a large portion of that support to other study areas not entirely or almost entirely overlapped.

109. Consequently, the Commission eliminates the current 100% overlap rule and process. By replacing the existing process, the Commission eliminates the resources used to sort through documentary evidence; and if that evidence shows even one location in the study area is not served by unsubsidized competition, the entire process results in zero savings. Although the Commission recognizes that an auction could theoretically result in more funding in an area entirely or almost entirely overlapped by unsubsidized competitors than the existing process, the existing process has yielded almost no tangible results and instead allowed incumbent carriers almost entirely overlapped by unsubsidized competitors to continue to receive support for locations also being served by unsubsidized providers. The Commission believes that it would be better to allow such incumbent carriers to compete against their unsubsidized competitors for federal funds and to use a competitive bidding process to reduce funding to a more competitive level rather than to continue with the status quo.

110. The Commission declines to formally codify a rule for this process until it resolves certain issues it seeks comment on in the concurrently adopted FNPRM, including ensuring the Commission properly addresses issues raised by the incumbent LECs in their comments. In the meantime, the Commission will reserve sections 54.319(a)–(c) of the Commission's rules. The Commission declines to adopt the proposals of WISPA and NCTA to auction study areas that are at least 50% overlapped but seek further comment in the concurrently adopted FNPRM on how to determine which study areas are almost entirely overlapped.

111. The Commission adopts two changes to our rules governing the filing of line count data by rate-of-return carriers on FCC Form 507.

112. *Discussion.* The Commission adopts its proposal to change the date for mandatory line count filings for CAF BLS to March 31 of each year but to continue to require line counts as of December 31 (*i.e.,* reduce the lag until filing to 3 months). This change will ensure that recent line counts are used to apply the monthly cap and administer the budget control mechanism. Currently, when USAC performs the necessary calculations in April of each year, it typically must rely on the carrier's FCC Form 507 from the prior July, which in turn reports line counts as of the prior December 31. In other words, these calculations are based on line counts that are more than 15 months old. By changing the collection date to March 31, USAC will be able to use line count data that is much more recent—only three months old—in determining the monthly cap and administering the budget control mechanism.

113. The Commission declines to make any changes to the HCLS line count filing at this time. When the Commission sought comment regarding whether to modify the FCC Form 507 line filing schedule, it noted that HCLS line counts are currently collected on the same schedule as FCC Form 507, and asked whether conforming changes to the HCLS line count filing would be appropriate. The Commission finds that such changes would not be appropriate because HCLS line counts are collected at the same time as HCLS cost data, and it believes that carriers will find it less burdensome to make the HCLS line count and cost data filing on the same schedule.

114. The Commission also adopts a requirement for rate-of-return carriers that do not receive CAF BLS (*i.e.,* carriers that have elected A–CAM or Alaska Plan support) to file line counts annually on FCC Form 507. Line count data is essential for monitoring and analyzing high-cost universal service programs. Carriers that elected A–CAM were required to file line count data on FCC Form 507 prior to the implementation of A–CAM because they received ICLS, which they no longer do. Likewise, carriers authorized for Alaska Plan were also required to file line count data on FCC Form 507 prior to the implementation of the Alaska Plan. Requiring the A–CAM and Alaska Plan

carriers to continue to provide line count information will allow the Commission to maintain a frequently used data set for assessing whether the Commission's rules are achieving its universal service goals, while being a minimal burden. To lessen what the Commission considers to be an already minimal the burden associated with this data collection, it requires carriers to file this data on July 1 of each year to coincide with other filing dates.

115. The Commission incorporates into its Part 32 accounting rules, the updated lease accounting standards adopted in 2016 by the Financial Accounting Standards Board (FASB and the FASB lease accounting standards). In so doing, the Commission eliminates the need for incumbent LECs to account for leases under different standards in order to comply with our rules and with the FASB lease accounting standards. To expedite the effectiveness of these changes and ease administrative burdens, the Commission also waives its Part 32 rules to the extent necessary, to permit an incumbent LEC to use the FASB standards immediately.

116. *Discussion.* The Commission agrees with TDS telecom that ''maintaining two sets of lease accounts, by its nature,'' imposes burdens on carriers subject to our Part 32 rules. The Commission also agrees that there is no benefit to requiring such carriers to maintain two sets of lease accounts that reflect different accounting procedures for regulated purposes and for financial reporting. Importantly, the amendments the Commission makes to its Part 32 rules will have no impact on a carrier's rates or on the amount of universal service support it receives. The Commission therefore amends its Part 32 rules to conform them to the FASB lease accounting standards, so that carriers can maintain a single set of lease accounts that is consistent with both our rules and the FASB standards.

117. The Commission adopts the definition of a lease as contained in the FASB lease accounting standards, which define a lease as a contract, or part of a contract, that conveys the right to control the use of identified property, plant and equipment (an identified asset) for a period of time in exchange for consideration. As a result of this definitional change, in order to comply with our Part 32 rules, a carrier will need to determine whether a contract is or contains a lease because lessees are required to recognize lease assets and lease liabilities for all leases (financing or operating) other than short-term (less than 12 months) leases. Furthermore, the FASB lease accounting standards require an entity to separate the lease components from the non-lease components (for example, maintenance services or other activities that transfer a good or service to the customer) in a contract. With respect to operating and finance leases, our rules allow carriers to use subsidiary accounts as they deem necessary to most efficiently process the transactions.

118. *Lessee Accounting for Operating Leases.* To be consistent with the FASB lease accounting standard's approach, the Commission amends its rules to require that when a lessee enters into an operating lease longer than one year, it records the net present value of the lease payments. As the lease term runs, the lessee must recognize the lease expense as a straight-line amortization over the life of the lease.

119. *Lessor Accounting for Operating Leases.* The FASB lease accounting standards do not require substantial modifications to our current rules governing a lessor's accounting for operating leases. A lessor will continue to report the capital asset that it is leasing to another entity and to apply the required standards to the asset, such as recording depreciation expense and disclosing changes in the amount of the asset during the fiscal year. The Commission does, however, amend its rules to make clear that a lessor must recognize a long-term lease receivable in Account 1410 ''Other Non-current Assets,'' measuring the amount in generally the same manner as a lessee liability. Pursuant to our amended rules, a lessor must also recognize a deferred inflow of resources equal to the lease receivable plus any up-front payments the lessor received from the lessee that relate to future periods in Account 4300 ''Other long-term liabilities and deferred credits.''

120. The Commission also amends its rules to require that when a carrier, that is a lessor, enters into an operating lease longer than one year, it records the present value of the lease receivables in each account. The lessor must determine the present value of the lease and recognize a deferred inflow of resources equal to the lease receivable plus any up-front payments the lessor received from the lessee that relate to future periods.

121. As the lease term runs, the lessor in the normal course will recognize lease revenue and a credit to the deferred lease account, which will be done as a straight-line amortization over the life of the lease. The actual amount recorded under our amended rules could vary from what would have been recorded under the previous Part 32 rules. Over the length of the lease, however, the lease revenues recognized under either approach will be the same.

122. *Finance Leases.* Other than referring to capital leases as finance leases, no additional changes are necessary to the sections of our Part 32 rules governing finance leases. As with operating leases, carriers may employ subsidiary accounts to facilitate FASB reporting requirements.

123. *Ratemaking and universal service considerations.* Our revisions to Part 32 do not raise any ratemaking or universal service concerns. While there may be slight differences in the timing of certain entries, the overall effect over the length of the lease will not create any material disruptions to the ratemaking and universal service processes.

124. *Effective date.* Section 220(g) of the Act provides that the Commission shall give notice of alterations in the manner or form of the keeping of accounts at least six months before the alterations are to take effect. Thus, the earliest the rules the Commission adopts in this document could become effective would be mid-2019. Because most accounting systems are based on a calendar year, the Commission makes the revised rules effective on January 1, 2020. That is also the first month in which the FASB lease accounting standards are applicable to all entities that use GAAP accounting. For those carriers that must comply with the FASB lease accounting standards before January 1, 2020 and for those that elect an earlier date to conform their accounts to the FASB lease accounting standards, the Commission grants a waiver of Part 32 as described in the following to cover the time period between now and January 1, 2020.

125. *Waiver.* Generally, the Commission's rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the specific facts make strict compliance inconsistent with the public interest. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.

126. On the Commission's own motion, it grants incumbent LECs subject to Part 32 a waiver allowing them to employ the revised procedures adopted herein effective upon release of this Report and Order. Absent such relief, the six-month notice required by Section 220(g) of the Act would require those incumbent LECs subject to the FASB lease accounting standards to have two sets of lease accounts until the revised rules become effective. The Commission finds good cause exists to

grant this waiver to preclude the imposition of duplicative accounting requirements. To encourage efficient use of carrier resources, the Commission extends this waiver to any carrier electing to follow the FASB lease accounting standards before January 1, 2020.

127. The Commission declines to make any changes to the rural growth factor or the application of the HCLS cap.

128. *Discussion.* The Commission declines to make any changes to the rural growth factor or the application of the HCLS cap. Commenters fail to address that HCLS support should be declining as customers switch to broadband-only services, which are supported through CAF BLS. The rural growth factor, which accounts for line loss, results in a declining HCLS cap and a decline in the overall amount of HCLS. When there are fewer lines to be supported, the amount of support should decrease. The Commission also notes that because 100% of the cost above the revenue imputation is available under CAF BLS, relative to HCLS, more support is available to the carrier when that loop becomes a standalone broadband loop.

129. Although the Commission seeks to preserve and advance universal availability of voice service, it also strives to ensure universal availability of modern networks capable of providing voice and broadband service to homes, businesses, and community anchor institutions. Increasing HCLS support provides a disincentive for legacy carriers to deploy broadband capable networks. Freezing the HCLS cap or increasing it by removing line loss from the rural growth factor would provide carriers with an incentive to maintain voice-only loops, and discourage the deployment of broadband.

130. While in the past the Commission spoke of limiting increases to HCLS because at that time the number of lines was typically increasing, the Commission noted that ''using a rural growth factor will more accurately reflect changes in the number of rural lines over time.'' Even though the number of voice lines is now typically decreasing, the mechanism adopted by the Commission is still effectively aligning HCLS support appropriately with the number of lines. For these reasons, the Commission does not adopt any changes to the rural growth factor or the application of the HCLS cap.

131. At this time, the Commission finds that no changes to the rate-of-return operating expense (opex) limitation are needed.

132. *Discussion.* The Commission declines to make any changes to the opex limitation at this time. The opex limitation has been in effect for only a limited period of time and was recently adjusted to account for inflation. The Commission finds it prudent to continue to monitor the effects of this modified limitation before adopting any further changes. The Commission also declines to adopt any changes to account for business locations as the Concerned Rural LECs and NTCA recommend. As NTCA notes, the Commission does not have ''public availability of business location data.'' Although future consideration of this issue may be warranted, NTCA's suggestion that the Commission apply ''some kind of factor'' does not provide a sufficient basis or means for us to move forward with any modifications.

133. The Commission directs USAC to collect contributions based on projected demand in order to minimize the universal service burden on consumers and businesses, while ensuring sufficient support to implement the high-cost program.

134. *Discussion.* The Commission concludes that its traditional approach, which bases collections on actual projected demand, will best serve our goals of minimizing the universal service burden on consumers and businesses while ensuring sufficient and predictable support to implement the high-cost program. While the uniform collection may have served a useful purpose when the CAF program was first getting underway, the Commission has largely implemented the CAF program now that the Phase II auction has ended and associated support amounts have been determined. Moreover, now that the Commission has concluded its budget review through this Report and Order, the Commission expects a fairly predictable and stable budget for the high-cost program for the next several years. Finally, collecting only enough support to meet demand enhances transparency and promotes accountability in the high-cost program. The Commission therefore directs USAC to discontinue uniform collections for the high-cost program and going forward to collect contributions based on projected demand.

135. There is no need for us to do a ''full accounting'' of the high-cost support available as SCC recommends. The Commission and USAC always have a full accounting of the amount of high-cost support needed and how much has been collected in excess of this total. There is currently no excess cash in USAC's high-cost account; USAC will need to collect additional funds to meet the requirements of the high-cost program, including the allocations adopted in this Report and Order. The Commission further declines to address SCC's recommendation to ''allocate any unencumbered excess'' from other universal service programs to HCLS and CAF BLS at this time.

II. Order on Reconsideration

136. *Introduction.* In the Order on Reconsideration, the Commission denies three petitions purportedly seeking reconsideration of the Commission's decision in the *2018 Rate-of-Return Reform Order and NPRM* to increase A–CAM support by *approximately* $36.5 million annually—increasing support up to $146.10 per location for all A–CAM carriers authorized on January 24, 2017. Grand River Mutual Telephone Corporation (Grand River) requests additional A–CAM support for 747 locations. Clarity Telecom, LLC (Clarity) requests additional A–CAM support for 2,167 locations. Hamilton County Telephone Co-op (Hamilton) (collectively, Petitioners) requests additional A–CAM support for 2,444 locations. The petitions for reconsideration ''relate to matters outside the scope of the order for which reconsideration is sought.'' Accordingly, the Commission denies them.

137. *Discussion.* The Commission denies all three petitions for reconsideration because they ''relate to matters outside the scope of the order for which reconsideration is sought.'' While on their face, the Petitioners are asking for an additional increase of A–CAM support, in effect, they are requesting that the Commission reconsiders what locations (census blocks) are eligible for A–CAM support. In other words, to increase the amount of support as Petitioners request, the Commission *would* have to first direct the Bureau to revise the A–CAM eligible census blocks, which was not at issue in the *2018 Rate-of-Return Reform Order and NPRM.* Rather, the Commission made the determination regarding eligible census blocks in the *2016 Rate-of-Return Reform Order.* Since that 2016 order, the Commission has not sought comment on or otherwise indicated in any way that would allow changes, modifications, or adjustments to funded locations for authorized A–CAM carriers. Finally, the Commission finds that Petitioners' requests as they phrase them and as they argue pertain only to them and do not justify a change of any rule of general applicability based on their pleadings. Accordingly, the Commission denies the three petitions for reconsideration.

138. Even were the Commission to address the petitions for reconsideration on their merits, the arguments raise nothing new to consider and are identical to petitions the Bureau rejected in the *2016 Orders* and *A–CAM Challenge Process Order.* With respect to Hamilton, its attempt to introduce ''new evidence'' falls short. The ''new evidence'' is that since Hamilton accepted its A–CAM offer, Wisper ISP updated its FCC Form 477 and reduced the number of census blocks that ''knocked out many'' locations. Hamilton also claims that Wisper ISP decommissioned a tower that ''would have supposedly served some of the locations that were rendered ineligible from the A–CAM funding.'' Hamilton then claims that it ''knows without a doubt'' Wisper ISP will not provide service in the area.

139. Regarding the decommissioned tower and Wisper ISP's lack of intention to provide service in the area, Hamilton provides no support or evidence to back its claims. In addition, Hamilton's petition lacks clarity on the number of locations that should be funded due to Wisper ISP's updated FCC Form 477 and its decommissioned tower. Wisper ISP apparently still serves some of the area, so the Commission can surmise that not all of Hamilton's 2,444 locations would be funded. Based on the record before the Commission, however, it cannot determine an exact number. Accordingly, Hamilton's petition is unpersuasive on the merits.

140. As to Clarity and Grand River, the Commission agrees with the Bureau's decision not to waive the date for determining FTTP and cable deployment. As the Bureau determined, administrative closure on the data set for incumbent study areas ''at a specific moment in time'' was necessary for ''efficient implementation of the overall reform effort.'' Moreover, as the Bureau recognized, the Commission clearly stated that under the terms of their offers, ''carriers may not resubmit their previously filed data to reduce their reported FTTP or cable coverage.''

IV. Procedural Matters

A. Paperwork Reduction Act Analysis

141. The Report and Order adopted herein contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. 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), it previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In this present document, the Commission has assessed the effects of the new and modified rules that might impose information collection burdens on small business concerns, and find that they either will not have a significant economic impact on a substantial number of small entities or will have a minimal economic impact on a substantial number of small entities.

B. Congressional Review Act

142. The Commission will send a copy of this Report and Order and Order on Reconsideration to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

143. The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared a FRFA concerning the possible impact of the rule changes contained in the Report and Order on small entities. The FRFA is set forth in the following.

144. In the Report and Order, the Commission adopts further changes to universal service support mechanisms for rate-of-return carriers to spur broadband deployment to consumers in rural America, promote efficiency, and deter waste, fraud, and abuse. The Commission authorizes an offer of up to $200 per location for carriers currently on A–CAM support with revised deployment obligations, and the Commission authorizes a new A–CAM offer of up to $200 per location for current legacy carriers (those carriers receive HCLS and/or CAF BLS). The Commission then creates a separate budget for carriers that remain on legacy support and set that budget at 2018 unconstrained claims, which will be annually adjusted based on an inflationary factor. The Commission also sets a minimum threshold of support for legacy carriers equal to the five-year projection for CAF BLS. The Commission eliminates the per-line reduction that is part of the budget control mechanism, which will make legacy support amounts more predictable and make the budget control mechanism less burdensome administratively. The Commission eliminates the capital investment allowance, which has been deterring economically efficient investments and was administratively overburdensome for the carriers. To further the Commission's efforts in eliminating waste, fraud, and abuse, it reduces the per-line, per-month cap of legacy support from $250 to $225 and then to $200. The Commission modifies a reporting deadline related to line counts so that it is using more recent data in determining carriers subject to the per-line, per-month cap. The Commission also makes line count filings required for all rate-of-return carriers, which provides data it needs to effectively monitor our high-cost program while minimally burdening the carriers. The Commission amends the Uniform System of Accounts (USOA) contained in Part 32 of the Commission's rules to incorporate new lease accounting standards adopted by the Financial Accounting Standards Board (FASB). Amending the USOA eliminates the need for incumbent local exchange carriers (LECs) subject to Part 32 to maintain two methods of accounting for leases. The Commission updates deployment obligations consistent with the reset budget and rules changes adopted in the Report and Order. The Commission adopts changes whereby support in certain legacy areas will be awarded through competitive bidding. Finally, to make sure that consumers in rural areas have access to broadband consistent with demand and what services available in urban areas, the Commission generally makes 25/3 Mbps the minimum obligations for legacy support.

145. There were no comments raised that specifically addressed the proposed rules and policies presented in the *2018 Rate-of-Return Reform Order and NPRM IRFA.* Nonetheless, the Commission considered the potential impact of the rules proposed in the IRFA on small entities and generally reduced the compliance burden for all small entities to reduce the economic impact of the rules enacted herein on such entities.

146. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term

''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

147. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, 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 percent of all businesses in the United States which translates to 28.8 million businesses.

148. 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.'' Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

149. 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 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

150. In the Report and Order, the Commission requires all rate-of-return carriers, not just legacy carriers, to file line count data in the FCC Form 507, and the Commission changes the deadline for line count reporting. The Commission amends the Uniform System of Accounts (USOA) contained in Part 32 of the Commission's rules to incorporate new lease accounting standards adopted by the Financial Accounting Standards Board (FASB). The Commission updates deployment obligations consistent with the reset budget and rules changes adopted in the Report and Order. By adopting defined deployment obligations for all legacy carriers, the Commission requires all of them to report deployment in the High Cost Universal Broadband (HUBB) portal.

151. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The Commission has considered all of these factors subsequent to receiving substantive comments from the public and potentially affected entities. The Commission has also considered the economic impact on small entities, as identified in comments filed in response to *2018 Rate-of-Return Reform Order and NPRM and IRFA,* in reaching its final conclusions and taking action in this proceeding.

152. The rules that the Commission adopts in the Report and Order take steps to provide greater certainty and flexibility to rate-of-return carriers, many of which are small entities. The Commission authorizes additional support for existing A–CAM carriers. The Commission also authorizes a new A–CAM offer for current legacy carriers, providing them the opportunity to receive model-based support in exchange for deploying broadband-capable networks to a pre-determined number of eligible locations. The Commission recognizes that permitting rate-of-return carriers to elect to receive fix monthly support amounts over the ten years will enhance the ability of these carriers to deploy broadband throughout the term and free them from the administrative burdens associated with doing cost studies to receive high-cost support. For this new offer, as with the existing A–CAM carriers, to provide flexibility, the Commission adopts interim milestones over the support term and permit the carriers to meet their obligations by deploying to 95 percent of the minimum number of locations.

153. Furthermore, the Commission adopts a new and separate budget for the legacy carriers that annually adjusts to factor in inflation and includes a minimum threshold of support not subject to the budget constraint. This will increase the amount of support available providing sufficiency and predictability for the legacy carriers. The Commission reimburses all support reductions budget control mechanism. Another action the Commission takes to make carriers' support more predictable is eliminating the per-line reduction calculation that was part of the budget control mechanism. The Commission also eliminates the capital investment allowance, which provides further relief to legacy carriers. The capital investment allowance had been deterring economically efficient investments and was administratively overburdensome for the carriers.

154. In adopting mandatory line count reporting for all rate-of-return carriers, the Commission notes that this is something that all carriers were required to do previously, and the burden is minimal. In lowering the monthly per-line support for legacy carriers, to minimize the impact, the Commission does it gradually—from $250 to $225, effective July 1, 2019, and then to $200, effective July 1, 2021. In revising the deployment obligations for legacy carriers, to minimize the impact, the Commission restarts the five-year deployment term and allow any locations deployed to with at least 25/3 Mbps broadband in the original term to count towards this new term. Finally, our decision to auction off support in legacy study areas may have a significant economic impact on small entities, but to reduce that impact, the Commission limits the auction to study areas that are significantly overlapped with unsubsidized competition. Moreover, while it affects incumbent LECs, our decision to auction certain legacy areas may have a positive impact on other small entity providers who currently do not receive universal service support.

V. Ordering Clauses

155. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1–4, 5, 201–206, 214, 218–220,

251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151–155, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 403, 405, and 1302, the Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration *is adopted,* effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**, except for those rules and requirements involving Paperwork Reduction Act burdens, which shall become effective immediately upon announcement in the **Federal Register** of OMB approval, and the rules adopted pursuant to section III.C.8 of the Report and Order (paragraphs 115 to 126 of this **Federal Register** summary) shall become effective on January 1, 2020. It is the Commission's intention in adopting these rules that if any of the rules that it retains, modifies, or adopts herein, or the application thereof to any person or circumstance, are held to be unlawful, the remaining portions of the rules not deemed unlawful, and the application of such rules to other persons or circumstances, shall remain in effect to the fullest extent permitted by law.

156. *It is further ordered* that Part 32, 54, and 65 of the Commission's rules, 47 CFR part 32, 54, and 65, *are amended* as set forth in the following, and such rule amendments *shall be effective* thirty (30) days after publication of the rules amendments in the **Federal Register**, except that those rules and requirements which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act *will become effective* after the Commission publishes a notice in the **Federal Register** announcing such approval and the relevant effective date, and the rules adopted pursuant to section III.C.8 of the Report and Order (paragraphs 115 to 126 of this **Federal Register** summary) shall become effective on January 1, 2020.

157. *It is further ordered* that, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and sections 0.331 and 1.429 of the Commission's rules, 47 CFR 0.331 and 47 CFR 1.429, the Petition for Reconsideration filed by GRAND RIVER MUTUAL TELEPHONE CORPORATION on May 2, 2018 *is denied.*

158. *It is further ordered* that, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and sections 0.331 and 1.429 of the Commission's rules, 47 CFR 0.331 and 47 CFR 1.429, the Petition for Reconsideration filed by CLARITY TELECOM, LLC on May 10, 2018 *is denied.*

159. *It is further ordered* that, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and sections 0.331 and 1.429 of the Commission's rules, 47 CFR 0.331 and 47 CFR 1.429, the Petition for Reconsideration filed by HAMILTON COUNTY TELEPHONE CO-OP on May 8, 2018 *is denied.*

160. *It is further ordered,* pursuant to section 1.3 of the Commission's rules, 47 CFR 1.3, the Commission waives Part 32 rules to the extent necessary to allow carriers subject to those rules to employ the revised procedures adopted in section III.C.8 (paragraphs 115 to 126 of this **Federal Register** summary).

List of Subjects

47 CFR Part 32

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform system of accounts.

47 CFR Part 54

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

47 CFR Part 65

Administrative practice and procedure, Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 32, 54 and 65 as follows:

PART 32—UNIFORM SYSTEM OF ACCOUNTS FOR TELECOMMUNICATIONS COMPANIES

■ 1. The authority citation for part 32 continues to read as follow:

Authority: 47 U.S.C. 219, 220 as amended, unless otherwise noted.

■ 2. Amend § 32.1410 by adding paragraphs (l) and (m) to read as follows:

§ 32.1410 Other noncurrent assets.

* * * * *

(l) This account shall include property subject to a lessee operating lease longer than one year.

(1) An operating lease is a contract, or part of a contract, that conveys the right to control the use of identified property, plant and equipment (an identified asset) for a period of time in exchange for consideration.

(2) The amounts recorded in this account at the inception of an operating lease shall be equal to the present value not to exceed fair value, at the beginning of the lease term, of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs to be paid by the lessor, together with any profit thereon. Amounts subject to current treatment shall be included in Account 1350, Other current assets.

(3) Any balance in this account relating to capitalized operating leases shall be excluded in any ratemaking calculations.

(m) This account shall include the amount of lessor receivables from an operating lease longer than one year.

(1) The amount recorded in this account at the inception of an operating lease shall be equal to the present value not to exceed fair value, at the beginning of the lease term, of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs to be paid by the lessee, together with any profit thereon. Amounts subject to current settlement shall be included in Account 1350, Other current assets.

(2) Any balance in this account relating to receivables associated with capitalized operating leases shall be excluded in any ratemaking calculations.

■ 3. Revise § 32.2680 to read as follows:

§ 32.2680 Amortizable tangible assets.

This account shall be used by companies to record amounts for property acquired under finance leases and the original cost of leasehold improvements of the type of character detailed in Accounts 2681 and 2682.

■ 4. Amend § 32.2681 by revising the section heading and paragraphs (a) and (c) to read as follows:

§ 32.2681 Finance leases.

(a) This account shall include all property acquired under a finance lease. A lease qualifies as a finance lease when one or more of the following criteria is met:

* * * * *

(c) The amounts recorded in this account at the inception of a finance lease shall be equal to the original cost,

if known, or to the present value not to exceed fair value, at the beginning of the lease term, of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs to be paid by the lessor, together with any profit thereon.

■ 5. Amend § 32.2682 by revising paragraph (a) to read as follows:

§ 32.2682 Leasehold improvements.

(a) This account shall include the original cost of leasehold improvements made to telecommunications plant held under a finance or operating lease, which are subject to amortization treatment. This account shall also include those improvements which will revert to the lessor.

* * * * *

■ 6. Amend § 32.3400 by revising paragraphs (a)(1) and (b) to read as follows:

§ 32.3400 Accumulated amortization—tangible.

(a) * * *

(1) The accumulated amortization associated with the investment contained in Account 2681, Finance leases.

* * * * *

(b) This account shall be credited with amounts for the amortization of finance leases and leasehold improvements concurrently charged to Account 6563, Amortization expense—tangible. (Note also Account 3300, Accumulated depreciation—nonoperating.)

* * * * *

■ 7. Amend § 32.3410 by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 32.3410 Accumulated amortization—capitalized finance leases.

(a) This account shall include the accumulated amortization associated with the investment contained in Account 2681, Finance Leases.

(b) This account shall be credited with amounts for the amortization of finance leases concurrently charged to Account 6563, Amortization expense—tangible. (Note also Account 3300, Accumulated depreciation—nonoperating.)

* * * * *

■ 8. Amend § 32.4130 by revising paragraph (c) to read as follows:

§ 32.4130 Other current liabilities.

* * * * *

(c) The current portion of obligations applicable to property obtained under finance leases.

* * * * *

■ 9. Amend § 32.4200 by revising paragraph (a)(5) and adding paragraph (a)(9) to read as follows:

§ 32.4200 Long term debt and funded debt.

(a) * * *

(5) The noncurrent portion of obligations applicable to property obtained under finance leases. Amounts subject to current settlement shall be included in Account 4130, Other current liabilities.

* * * * *

(9) The noncurrent portion of obligations applicable to property subject to capitalized operating leases. Amounts subject to current settlement shall be included in Account 4130, Other current liabilities. Any balance in this account relating to capitalized operating leases shall be excluded in any ratemaking calculations.

* * * * *

■ 10. Amend § 32.4300 by adding paragraph (c) to read as follows:

§ 32.4300 Other long-term liabilities and deferred credits.

* * * * *

(c) This account shall include the deferred obligations associated with a capitalize operating lease longer than one year. The amounts recorded in this account at the inception of an operating lease shall be equal to the present value not to exceed fair value, at the beginning of the lease term, of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs to be paid by the lessor, together with any profit thereon.

■ 11. Amend § 32.7500 by revising paragraph (e) to read as follows:

§ 32.7500 Interest and related items.

* * * * *

(e) This account shall include the interest portion of each finance lease and capitalized operating lease payment.

* * * * *

PART 54—UNIVERSAL SERVICE

■ 12. 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, 254, 303(r), 403, and 1302 unless otherwise noted.

■ 13. Amend § 54.302 by adding two sentences to the end of paragraph (a) and revising paragraph (c) to read as follows:

§ 54.302 Monthly per-line limit on universal service support.

(a) * * * Beginning July 1, 2019, until June 30, 2021, each study area's universal service monthly per-line support shall not exceed $225. Beginning July 1, 2021, each study area's universal service monthly per-line support shall not exceed $200.

* * * * *

(c) The Administrator, in order to limit support for carriers pursuant to paragraph (a) of this section, shall reduce safety net additive support, high-cost loop support, safety valve support, and Connect America Fund Broadband Loop Support in proportion to the relative amounts of each support the study area would receive absent such limitation.

§ 54.303 [Amended]

■ 14. Amend § 54.303 by removing and reserving paragraph (b) and removing paragraphs (c) through (m).

■ 15. Amend § 54.308 by

■ a. Revising the first sentence of paragraph (a)(1);

■ b. Adding paragraphs (a)(1)(iii) and (iv); and

■ c. Revising paragraphs (a)(2) introductory text, (a)(2)(i), (a)(2)(ii)(A)(*1*) and (*2*), (a)(2)(ii)(B), and (a)(2)(iii).

The revisions and additions read as follows:

§ 54.308 Broadband public interest obligations for recipients of high-cost support.

(a) * * *

(1) Carriers that elect to receive Connect America Fund-Alternative Connect America Cost Model (CAF–ACAM) support pursuant to § 54.311 are required to offer broadband service at actual speeds of at least 10 Mbps downstream/1 Mbps upstream to a defined number of locations as specified by public notice, with a minimum usage allowance of 150 GB per month, subject to the requirement that usage allowances remain consistent with median usage in the United States over the course of the term. * * *

* * * * *

(iii) Revised A–CAM I carriers, as defined by § 54.311(a)(2), must offer the following broadband speeds to locations that are fully funded, as specified by public notice at the time of the authorizations, as follows:

(A) Revised A–CAM I carriers with a state-level density of more than 10 housing units per square mile, as specified by public notice at the time of election, are required to offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to 85 percent of all fully funded locations in the state by the end of the term.

(B) Revised A–CAM I carriers with a state-level density of 10 or fewer, but

more than five, housing units per square mile, as specified by public notice at the time of election, are required to offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to 65 percent of fully funded locations in the state by the end of the term.

(C) Revised A–CAM I carriers with a state-level density of five or fewer housing units per square mile, as specified by public notice at the time of election, are required to offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to 50 percent of fully funded locations in the state by the end of the term.

(iv) A–CAM II carriers, as defined by § 54.311(a)(3), must offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to 100 percent of fully funded locations in the state by the end of the term, and therefore have no additional 10/1 Mbps obligation.

* * * * *

(2) Rate-of-return recipients of Connect America Fund Broadband Loop Support (CAF BLS) shall be required to offer broadband service at actual speeds of at least 25 Mbps downstream/3 Mbps upstream, over a five-year period, to a defined number of unserved locations as specified by public notice, as determined by the following methodology:

(i) *Percentage of CAF BLS.* Each rate-of-return carrier is required to target a defined percentage of its five-year forecasted CAF BLS support to the deployment of broadband service to locations that are unserved with 25 Mbps downstream/3 Mbps upstream broadband service as follows:

(A) Rate-of-return carriers with less than 20 percent deployment of 25/3 Mbps broadband service in their study areas, as determined by the Bureau, will be required to use 35 percent of their five-year forecasted CAF BLS support to extend broadband service where it is currently lacking.

(B) Rate-of-return carriers with more than 20 percent but less than 40 percent deployment of 25/3 Mbps broadband service in their study areas, as determined by the Bureau, will be required to use 25 percent of their five-year forecasted CAF BLS support to extend broadband service where it is currently lacking.

(C) Rate-of-return carriers with more than 40 percent deployment of 25/3 Mbps broadband service in their study areas, as determined by the Bureau, will be required to use 20 percent of their five-year forecasted CAF BLS support to extend broadband service where it is currently lacking.

(ii) * * *

(A) * * *

(*1*) The weighted average unseparated cost per loop for carriers of similar density that offer 25/3 Mbps or better broadband service to at least 95 percent of locations, based on the most current FCC Form 477 data as determined by the Bureau, but excluding carriers subject to the current per-line per-month cap set forth in § 54.302 and carriers subject to limitations on operating expenses set forth in § 54.303; *or*

(*2*) 150% of the weighted average of the cost per loop for carriers of similar density, but excluding carriers subject to the per line per month cap set forth in § 54.302 and carriers subject to limitations on operating expenses set forth in § 54.303, with a similar level of deployment of 25/3 Mbps or better broadband based on the most current FCC Form 477 data, as determined by Bureau; or

(B) The average cost per location for census blocks lacking 25/3 Mbps broadband service in the carrier's study area as determined by the A–CAM.

(iii) *Restrictions on deployment obligations.* No rate-of-return carrier shall deploy terrestrial wireline technology in any census block if doing so would result in total support per line in the study area to exceed the per-line per-month cap in § 54.302.

* * * * *

■ 16. Amend § 54.311 by adding paragraphs (a)(1) through (3) and revising paragraph (c) through (e) to read as follows:

§ 54.311 Connect America Fund Alternative-Connect America Cost Model Support

(a) * * *

(1) For the purposes of this section, ''A–CAM I'' refers to carriers initially authorized to receive CAF–ACAM support as of January 24, 2017, including any carriers that later elected revised offers, except for carriers described in paragraph (a)(2) of this section. For such carriers, the first program year of CAF–ACAM is 2017.

(2) For the purposes of this section, ''Revised A–CAM I'' refers to carriers initially authorized to receive CAF–ACAM support as of January 24, 2017, and were subsequently authorized to receive CAF–ACAM pursuant to a revised offer after January 1, 2019. For such carriers, the first program year of CAF–ACAM is 2017.

(3) For the purposes of this section, ''A–CAM II'' refers to carriers first authorized to receive A–CAM support after January 1, 2019. For such carriers, the first program year of CAF–ACAM is 2019.

* * * * *

(c) *Term of support.* CAF–ACAM model-based support shall be provided to A–CAM I carriers for a term that extends until December 31, 2026, and to Revised A–CAM I and A–CAM II carriers for a term that extends until December 31, 2028.

(d) *Interim deployment milestones.* Recipients of CAF–ACAM model-based support must meet the following interim milestones with respect to their deployment obligations set forth in § 54.308(a)(1)(i) of this subpart. Compliance shall be determined based on the total number of fully funded locations in a state. Carriers that complete deployment to at least 95 percent of the requisite number of locations will be deemed to be in compliance with their deployment obligations. The remaining locations that receive capped support are subject to the standard specified in § 54.308(a)(1)(ii).

(1) A–CAM I and Revised A–CAM I carriers must complete deployment of 10/1 Mbps service to a number of eligible locations equal to 40 percent of fully funded locations by the end of 2020, to 50 percent of fully funded locations by the end of 2021, to 60 percent of fully funded locations by the end of 2022, to 70 percent of fully funded locations by the end of 2023, to 80 percent of fully funded locations by the end of 2024, to 90 percent of fully funded locations by the end of 2025, and to 100 percent of fully funded locations by the end of 2026. By the end of 2026, A–CAM I carriers must complete deployment of broadband meeting a standard of at least 25 Mbps downstream/3 Mbps upstream to the requisite number of locations specified in § 54.308(a)(1)(i). For Revised A–CAM I carriers, the deployment milestones for 10/1 Mbps service described in this paragraph shall be based on the number of locations that were fully funded pursuant to authorizations made prior to January 1, 2019.

(2) Revised A–CAM I and A–CAM II carriers must complete deployment of 25/3 Mbps service to a number of eligible locations equal to 40 percent of locations required by § 54.308(a)(1) of this subpart by the end of 2022, 50 percent of requisite locations by the end of 2023, 60 percent of requisite locations by the end of 2024, 70 percent of requisite location by the end of 2025, 80 percent of requisite locations by the end of 2026, 90 percent of requisite locations by the end of 2027, and 100 percent of requisite locations by the end of 2028.

(e) *Transition to CAF–ACAM Support.* An A–CAM I, Revised A–CAM I, or A–CAM II carrier whose final model-based support is less than the carrier's legacy rate-of-return support in its base year as defined in paragraph (e)(4) of this section, will transition as follows:

(1) If the difference between a carrier's model-based support and its base year support, as determined by paragraph (e)(4) of this section, is ten percent or less, it will receive, in addition to model-based support, 50 percent of that difference in program year one, and then will receive model support in program years two through ten.

(2) If the difference between a carrier's model-based support and its base year support, as determined in paragraph (e)(4) of this section, is 25 percent or less, but more than 10 percent, it will receive, in addition to model-based support, an additional transition payment for up to four years, and then will receive model support in program years five through ten. The transition payments will be phased-down 20 percent per year, provided that each phase-down amount is at least five percent of the total base year support amount. If 20 percent of the difference between a carrier's model-based support and base year support is less than five percent of the total base year support amount, the transition payments will be phased-down five percent of the total base year support amount each year.

(3) If the difference between a carrier's model-based support and its base year support, as determined in paragraph (e)(4) of this section, is more than 25 percent, it will receive, in addition to model-based support, an additional transition payment for up to nine years, and then will receive model support in year ten. The transition payments will be phased-down ten percent per year, provided that each phase-down amount is at least five percent of the total base year support amount. If ten percent of the difference between a carrier's model-based support and its base year support is less than five percent of the total base year support amount, the transition payments will be phased-down five percent of the total base year support amount each year.

(4) The carrier's base year support for purposes of the calculation of transition payments is:

(i) For A–CAM I and Revised A–CAM I carriers, the amount of high-cost loop support and interstate common line support disbursed to the carrier for 2015 without regard to prior period adjustments related to years other than 2015, as determined by the Administrator as of January 31, 2016 and publicly announced prior to the election period for the voluntary path to the model; and

(ii) For A–CAM II carriers, the amount of high-cost loop support and Connect America Fund—Broadband Loop Support disbursed to the carrier for 2018 without regard to prior period adjustments related to years other than 2018, as determined by the Administrator as of January 31, 2019 and publicly announced prior to the election period for the voluntary path to the model.

■ 17. Amend § 54.313 by revising paragraph (f)(1)(i) and adding paragraph (f)(5) to read as follow:

§ 54.313 Annual reporting requirements for high-cost recipients.

* * * * *

(f) * * *

(1) * * *

(i) If the rate-of-return carrier is receiving support pursuant to subparts K and M of this part, a certification that it is taking reasonable steps to provide upon reasonable request broadband service at actual speeds of at least 25 Mbps downstream/3 Mbps upstream, with latency suitable for real-time applications, including Voice over internet Protocol, and usage capacity that is reasonably comparable to comparable offerings in urban areas as determined in an annual survey, and that requests for such service are met within a reasonable amount of time; if the rate-of-return carrier receives CAF–ACAM support, a certification that it is meeting the relevant reasonable request standard; or if the rate-of-return carrier is receiving Alaska Plan support pursuant to § 54.306, a certification that it is offering broadband service with latency suitable for real-time applications, including Voice over internet Protocol, and usage capacity that is reasonably comparable to comparable offerings in urban areas, and at speeds committed to in its approved performance plan to the locations it has reported pursuant to § 54.316(a), subject to any limitations due to the availability of backhaul as specified in paragraph (g) of this section.

* * * * *

(5) Rate-of-return carriers receiving support pursuant to the Alternative Connect America Model or the Alaska Plan, that are not otherwise required to file count data pursuant to § 54.903(a)(1) of this subpart, must file the line count data required by § 54.903(a)(1).

* * * * *

■ 18. Amend § 54.316 by revising paragraphs (b)(2)(i) and (ii) and (b)(3)(i) and (ii) to read as follows:

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

* * * * *

(b) * * *

(2) * * *

(i) No later than March 1, 2021, and every year thereafter ending on no later than March 1, 2029, a certification that by the end of the prior calendar year, it was offering broadband meeting the requisite public interest obligations specified in § 54.308 to the required percentage of its fully funded locations in the state, pursuant to the interim deployment milestones set forth in § 54.311(d).

(ii) No later than March 1, 2027, a certification that as of December 31, 2026, it was offering broadband meeting the requisite public interest obligations specified in § 54.308(a)(1) to all of its fully funded locations in the state and to the required percentage of its capped locations in the state.

(3) * * *

(i) No later than March 1, 2024, a certification that it fulfilled the deployment obligation meeting the requisite public interest obligations as specified in § 54.308(a)(2) to the required number of locations as of December 31, 2023.

(ii) Every subsequent five-year period thereafter, a certification that it fulfilled the deployment obligation meeting the requisite public interest obligations as specified in § 54.308(a)(2)(iv).

* * * * *

§ 54.319 [Amended]

■ 19. Amend § 54.319 by removing and reserving paragraphs (a) through (c).:

■ 20. Amend § 54.643 by revising paragraph (a)(6)(iv) introductory text to read as follows:

§ 54.643 Funding commitments.

(a) * * *

(6) * * *

(iv) Sustainability plans for applicants requesting support for long-term capital expenses: Consortia that seek funding to construct and own their own facilities or obtain indefeasible right of use or finance lease interests are required to submit a sustainability plan with their funding requests demonstrating how they intend to maintain and operate the facilities that are supported over the relevant time period. Applicants may incorporate by reference other portions of their applications (*e.g.,* project management plan, budget). The sustainability plan must, at a minimum, address the following points:

* * * * *

■ 21. Amend § 54.901 by removing and reserving paragraph (f)(2) and revising paragraph (f)(3).

The revision reads as follows:

§ 54.901 Calculation of Connect America Fund Broadband Loop Support.

* * * * *

(f) * * *

(3) The Administrator shall apply a pro rata reduction to CAF BLS for each recipient of CAF BLS as necessary to achieve the target amount.

* * * * *

■ 22. Amend § 54.903 by revising the first sentence of paragraph (a)(1) to read as follows:

§ 54.903 Obligations of rate-of-return carriers and the Administrator.

(a) * * *

(1) Each rate-of-return carrier shall submit to the Administrator on March 31 of each year the number of lines it served as of the prior December 31, within each rate-of-return carrier study area showing residential and single-line business line counts, multi-line business line counts, and consumer broadband-only line counts separately. * * *

* * * * *

■ 23. Amend § 54.1310 by revising paragraph (d)(2) to read as follows:

§ 54.1310 Expense adjustment.

* * * * *

(d) * * *

(2) Each January 1 and July 1, the Administrator shall apply a pro rata reduction to High Cost Loop Support for each recipient of High Cost Loop Support as necessary to achieve the target amount.

* * * * *

PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION, PROCEDURES, AND METHODOLOGIES

■ 24. The authority citation for part 65 continues to read as follow:

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

■ 25. Amend § 65.450 by revising paragraph (b)(1) to read as follows:

§ 65.450 Net income.

* * * * *

(b) * * *

(1) Gains related to property sold to others and leased back under finance leases for use in telecommunications services shall be recorded in Account 4300, Other long-term liabilities and deferred credits, and credited to Account 6563, Amortization expense—tangible, over the amortization period established for the finance lease;

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600, 622, 697

[Docket No. 181009921–8999–02]

RIN 0648–BI46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagics Resources in the Gulf of Mexico and Atlantic Region; Amendment 31

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

ACTION: Final rule.

SUMMARY: NMFS issued regulations to implement management measures described in Amendment 31 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagics (CMP) of the Gulf of Mexico (Gulf) and Atlantic Region (Amendment 31), as prepared by the Gulf of Mexico (Gulf Council) and South Atlantic Fishery Management Councils (South Atlantic Council) (Councils). This final rule removes Atlantic migratory group cobia (Atlantic cobia) from Federal management under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). At the same time, this final rule implements comparable regulations under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) to replace the existing Magnuson-Stevens Act based regulations in Atlantic Federal waters. The purpose of Amendment 31 is to facilitate improved coordination of Atlantic cobia in state and Federal waters, thereby more effectively constraining harvest and preventing overfishing and decreasing adverse socio-economic effects to fishermen.

DATES: This final rule is effective March 21, 2019.

ADDRESSES: Electronic copies Amendment 31 may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/coastal-migratory-pelagics-amendment-31-management-atlantic-migratory-group-cobia.* Amendment 31 includes an environmental assessment, a fishery impact statement, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727–551–5753, or email: *karla.gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: The coastal migratory pelagics fishery in the Atlantic region is managed under the FMP and includes cobia, along with king and Spanish mackerel. The FMP was prepared by the Councils and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Act.

On October 11, 2018, NMFS published a notice of availability for Amendment 31 and requested public comment (83 FR 51424). On November 9, 2018, NMFS published a proposed rule for Amendment 31 and requested public comment (83 FR 56039). The proposed rule and Amendment 31 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 31 and implemented by this final rule is provided below.

Background

Through the CMP FMP, cobia is managed in two distinct migratory groups. The first is the Gulf migratory group of cobia that ranges both in the Gulf from Texas through Florida as well as in the Atlantic off the east coast of Florida (Gulf cobia). The second is the Atlantic migratory group of cobia that is managed from Georgia through New York (Atlantic cobia). The boundary between these two migratory groups is the Georgia-Florida state boundary. Both the Gulf and the Atlantic migratory groups of cobia were assessed through SEDAR 28 in 2013 and neither stock was determined to be overfished or experiencing overfishing.

The majority of Atlantic cobia landings occur in state waters and, despite closures in Federal water in recent years, recreational landings have exceeded the recreational annual catch limit (ACL) and the combined stock ACL. This has resulted in shortened fishing seasons, which have been ineffective at constraining harvest. Following overages of the recreational and combined stock ACLs in 2015 and 2016, Federal waters closures for recreational harvest occurred in both 2016 (June 20) and 2017 (January 24). Additionally, Federal waters were closed to commercial harvest of Atlantic cobia in 2016 (December 5) and 2017 (September 4), because the commercial