



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 54**

**[WC Docket No. 10-90, WT Docket No. 10-208; DA 17-1027]**

**Connect America Fund; Universal Service Reform – Mobility Fund**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Rural Broadband Auctions Task Force (Task Force), with the Wireline Competition Bureau and the Wireless Telecommunications Bureau (the Bureaus), propose and seek comment on specific parameters and procedures to implement the Mobility Fund Phase II (MF-II) challenge process. This document describes the steps the Federal Communications Commission (Commission) intends to use to establish a map of areas presumptively eligible for MF-II support from the newly collected, standardized 4G Long Term Evolution (LTE) coverage data and proposes specific parameters for the data that challengers and respondents will submit as part of the challenge process, as well as a process for validating challenges.

**DATES:** Comments are due on or before November 8, 2017 and reply comments are due on or before November 29, 2017.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 10-90 and WT Docket No. 10-208, by any of the following methods:

- Federal Communications Commission's Web Site: <http://apps.fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 888-835-5322.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** Wireless Telecommunications Bureau, Auction and Spectrum Access Division, Jonathan McCormack, at (202) 418-0660.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice (MF-II Challenge Process Comment Public Notice), WC Docket No. 10-90, WT Docket No. 10-208, DA 17-1027, adopted on October 18, 2017 and released on October 18, 2017. The MF-II Challenge Process Comment Public Notice includes as attachments the following appendices:

Appendix A, Generating Initial Eligible Areas Map; Appendix B, Validating Challenge Evidence; Appendix C, Applying Subsidy Data; Appendix D, File Specifications and File Formats; and Appendix E, Relational Mapping of Form 477 Filers to Providers. The complete text of the MF-II Challenge Process Comment Public Notice, including all attachments, is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street S.W., Room CY-A257, Washington, DC 20554. The complete text is also available on the Commission's website at

[http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2017/db1018/DA-17-1027A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1018/DA-17-1027A1.pdf).

Alternative formats are available to persons with disabilities by sending an email to FCC504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the MF-II Challenge Process Comment Public Notice in WC Docket No. 10-90 and WT Docket No. 10-208. Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998).

The Bureaus strongly encourage interested parties to file comments electronically.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing

the ECFS: <https://www.fcc.gov/ecfs/>. Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket numbers, WC Docket No. 10-90 and WT Docket No. 10-208.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 888-835-5322 (tty).

## **I. INTRODUCTION**

1. In the MF-II Challenge Process Order, 82 FR 42473, September 8, 2017, the Commission established the framework for a robust and efficient challenge process to resolve disputes about areas presumptively ineligible for Mobility Fund Phase II (MF-II) support. Pursuant to the Commission's direction, the Rural Broadband Auctions Task Force (Task Force), with the Wireline Competition Bureau and the Wireless Telecommunications Bureau (the Bureaus), now propose and seek comment on specific parameters and procedures to implement the MF-II challenge process.

2. The challenge process will begin with a new, one-time collection of current, standardized coverage data on qualified 4G LTE service, defined by download speeds of 5 Mbps at the cell edge with 80 percent probability and a 30 percent cell loading factor. The coverage data will be used, in conjunction with subsidy data from the Universal Service Administrative Company (USAC), to establish the map of areas presumptively eligible for MF-II support. The MF-II Challenge Process Comment Public Notice describes the steps the Commission intends to use to process the coverage and subsidy data and create that map. The MF-II Challenge Process Comment Public Notice also proposes specific parameters for the data that challengers and respondents will submit as part of the challenge process, as well as a process for validating challenges.

## **II. PROCEDURES FOR GENERATING THE INITIAL ELIGIBLE AREAS MAP**

3. Appendix A and Appendix C of the MF-II Challenge Process Comment Public Notice describe in detail the methodology the Bureaus plan to use to generate the map of areas presumptively eligible for MF-II support. This map will form the baseline for the challenge process. In accordance with the MF-II Challenge Process Order, the methodology revises an earlier methodology for determining presumptively eligible areas. The revised methodology accounts for the new, one-time 4G LTE data collection as the initial source of coverage data. In this multi-step process, Commission staff will first use the newly-collected 4G LTE coverage data

and USAC subsidy data to determine the unsubsidized coverage for each provider. Consistent with the Commission's past practice in releasing Form 477 coverage data, and as discussed in Appendix C of the MF-II Challenge Process Comment Public Notice, the Bureaus plan to consolidate data from any attributable entities that file separately to a common provider name when generating provider-specific maps to be used in the challenge process. Commission staff would then aggregate these data across all providers to determine the presumptively eligible areas, that is, those areas lacking unsubsidized qualifying coverage by any provider.

4. Specifically, in order to generate a map of unsubsidized qualified 4G LTE coverage for each provider, Commission staff would: 1) remove any subsidized areas from the provider's coverage map; 2) remove any water-only areas; 3) overlay a uniform grid with cells of one square kilometer (1 km by 1 km) on the provider's coverage map; and 4) remove grid cells with coverage of less than 50,625 square meters, or an area approximately equal to the minimum area that could be covered by a single speed test measurement when buffered. Consistent with past Commission practice, the Bureaus would treat a water-only census block (that is, a census block for which the entire area is categorized by the U.S. Census Bureau as water) as ineligible and not subject to challenge. The Bureaus seek comment on excluding all, some, or none of the water-only blocks, and specifically seek comment on: (1) whether there is a feasible subset of water-only areas that the Bureaus should not exclude, e.g., coastal waters, inland lakes; (2) specific hydrographic data sources; and (3) specific methodologies to identify water-only areas that should or should not be excluded, as well as any administratively efficient alternatives.

5. Using the maps that result from steps 1-4 of this process, staff would then generate the map of presumptively eligible areas for each state (or state equivalent) with the following steps: 5) merging the maps of unsubsidized coverage for all providers; 6) removing the merged unsubsidized coverage generated in step 5 (the ineligible areas) from the state's boundary to produce the eligible areas; and 7) removing any water-only areas from the eligible areas. In accordance with the Commission's adoption of the Alaska Plan to provide support for mobile

service within Alaska and its decision to therefore exclude from MF-II support mobile service within Alaska, the map of presumptively eligible areas will include all states except Alaska, as well as the District of Columbia and the U.S. Territories of Guam, the Northern Mariana Islands, Puerto Rico, the United States Virgin Islands, and American Samoa (collectively, state equivalents). State boundaries will be intersected with the grid. Grid cells along the state border may have portions that fall outside of the state boundary, and these portions would be ignored when generating data for the state. Such grid cells would therefore be smaller than one square kilometer in that state. The resulting map of presumptively eligible areas (overlaid with the uniform grid) for each state or state equivalent would then be made available to the public. The maps of unsubsidized coverage for specific providers would only be made available to challengers through USAC's online challenge portal (the USAC portal) after challengers agree to keep such maps confidential. Although the Commission will treat provider-specific coverage maps as confidential information, the map of presumptively eligible areas will be released publicly. In areas where there is known to be only one or two providers, it may be possible to determine some otherwise-confidential information from the publicly-released information in certain circumstances. The Bureaus seek comment on the proposed procedures for generating the initial map of presumptively eligible areas.

### **III. PROCEDURES FOR MF-II CHALLENGES**

6. As the Commission explained in the MF-II Challenge Process Order, adopting clear guidance and parameters on speed test data will help to ensure that the evidence submitted by challengers is reliable, accurately reflects consumer experience in the challenged area, and can be analyzed quickly and efficiently. The Bureaus propose and seek comment on the following requirements for the challenge process.

#### **A. Specifying Provider Approved Handsets**

7. In the MF-II Challenge Process Order, the Commission specified that service providers with qualified 4G LTE coverage will be required to identify at least three readily

available handset models appropriate for testing those providers' coverage. The Bureaus plan to consolidate coverage data from affiliated entities that file separately into a single common provider. The Bureaus propose to similarly consolidate submitted provider handset data for such entities to the extent that the lists of handsets differ. Challengers electing to use application-based tests and software-based drive tests must use the applicable handsets specified by each service provider with coverage in the challenged area.

8. In order to ensure that at least one device is drive test compatible, the Bureaus propose to require providers to identify at least one device that is either: (a) officially supported by the latest versions of drive test software, such as JDSU, ZK-SAM, Rohde & Schwartz, TEMS, or Ookla; or (b) engineering-capable and able to be unlocked and put into diagnostic mode in order to interface with drive test software. The Bureaus seek comment on this proposal, particularly on whether it is sufficient to allow challengers to conduct drive tests efficiently and effectively.

**B. Requirements for Speed Test Measurements**

9. The Bureaus will require that speed test data meet the standard parameters adopted by the Commission, in particular that each test be conducted between 6:00 a.m. and 12:00 a.m. (midnight) local time, and that the date of the test be after the publication of the initial eligibility map and within six months of the close of the challenge window. The Bureaus propose to require challengers to submit all speed test measurements collected during these hours and during the relevant timeframe, including those that are above the speed threshold (i.e., showing speeds greater than or equal to 5 Mbps). Consistent with the validation framework adopted by the Commission however, only measurements showing download speeds below the 5 Mbps threshold will be considered as part of a valid challenge. All evidence submitted may be considered by Commission staff when adjudicating challenges using the preponderance of the evidence standard.

10. The Commission adopted in the MF-II Challenge Process Order a requirement that challengers take measurements that: 1) are no more than a fixed distance apart from one another in each challenged area, and 2) substantially cover the entire area. The Commission directed the Bureaus to adopt the specific value – no greater than one mile – for the maximum distance between speed tests. Consistent with this direction, the Bureaus propose to use a maximum distance value of one-half of one kilometer. The Bureaus propose to use kilometers instead of miles in order to be consistent with the de minimis challenge size adopted by the Commission, as well as to be consistent with the units used for the “equal area” map projection that the Bureaus plan to use when processing geospatial data. Consistent with the framework adopted by the Commission, the maximum distance parameter would be validated as part of a multi-step geospatial-data-processing approach. Specifically, under this automated-validation framework, if a challenger submits speed test measurements less densely than the maximum distance parameter in a challenged area, its evidence may be insufficient to cover at least 75 percent of the challengeable area within a cell, and its challenge would presumptively fail. In order to implement this density requirement, the Bureaus will buffer each speed test point and calculate the buffered area, as explained by the Commission, then compare the area of the buffered points to the challengeable area within a grid cell. The Bureaus propose that a challenger have at least one speed test within the challengeable area of a grid cell in order to challenge an area within the grid cell. The Bureaus seek comment on the proposal and how this fixed distance would affect the collection and analysis of challenge data.

11. The Bureaus propose to require challengers to provide other data parameters associated with a speed test. In addition to the parameters adopted by the Commission, which the Bureaus will require, the Bureaus propose to require that a challenger provide: signal strength and latency; the service provider identity and device used (which must be from that provider’s list of pre-approved handsets); the international mobile equipment identity (IMEI) of the tested device; the method of the test (i.e., software-based drive test or non-drive test app-based test);

and, if an app was used to conduct the measurement, the identity and version of the app. In order to effectuate the Commission's decision to not permit challenges to the allocation of subsidy data, the Bureaus will not allow a challenger to submit speed test data of its own network. The complete file specification for challenger speed tests is detailed in Appendix D of the MF-II Challenge Process Comment Public Notice. The Bureaus seek comment on these additional proposed data parameter requirements.

12. In the MF-II Challenge Process Order, the Commission explained that the evidence submitted by challenged parties must be reliable and credible to be useful during the adjudication process and indicated that submission of speed test data to refute a challenge would be particularly persuasive evidence. The Commission also required that, if a challenged party chooses to submit speed test data, the data must conform to the same standards and requirements it adopted for challengers, except for the recency of submitted data. The Bureaus would require the same additional parameters as they propose to require of challengers, except for the requirement to identify the service provider, as a challenged party may only provide speed tests of its own network in response to a challenge. The proposed file specification for respondent speed tests is detailed in Appendix D of the MF-II Challenge Process Comment Public Notice.

13. Recognizing that some providers may reduce the speed of data on their networks for network management purposes (e.g., in the case of large data usage by particular users), the Bureaus propose to allow a challenged party to submit data that identify a particular device that a challenger used to conduct its speed tests as having been subjected to reduced speeds, along with the precise date and time the speed reductions were in effect on the challenger's device. The proposed specifications for submitting these data are detailed in Appendix D of the MF-II Challenge Process Comment Public Notice. The Bureaus seek comment on this proposal.

14. Under the MF-II challenge process framework adopted by the Commission, challenged parties may submit device-specific data collected from transmitter monitoring software. The Bureaus propose to allow challenged parties to submit transmitter monitoring

software data that is substantially similar in form and content to speed test data in order to facilitate comparison of such data during the adjudication process. In particular, if a challenged party wishes to submit such data, the Bureaus propose to require: the latitude and longitude to at least five decimals of the measured device; the date and time of the measurement; signal strength, latency, and recorded speeds; and the distance between the measured device and transmitter. The Bureaus seek comment on this proposal.

15. The Bureaus propose to require that measurements from submitted transmitter monitoring software data conform to the standard parameters and requirements adopted by the Commission for speed test data submitted by a challenged party. The Bureaus propose to require that such measurements reflect device usage between the hours of 6:00 a.m. and 12:00 a.m. (midnight) local time and be collected after the publication of the initial eligibility map and within six months of the scheduled close of the response window. The Bureaus seek comment on these proposed requirements.

### **C. Automated Validation of Challenges**

16. The Bureaus plan to analyze geospatial data throughout the challenge process using a uniform grid based on cells of equal area, set at the de minimis challenged area threshold of one square kilometer. For each grid cell containing a speed test measurement submitted by a challenger, the system would consider the challengeable portion of the grid cell (i.e., the ineligible area, or any area that is neither eligible nor water-only) to constitute the challenged area. In order to allow for challenges in grid cells where the challengeable portion of the cell is less than this threshold, the Bureaus propose to validate that the sum of all challenged areas in a state is greater than or equal to one square kilometer. Consistent with the Commission's framework, if a challenge submitted for a state fails this validation, the system would reject the entire challenge.

17. To implement step two of the validation framework, the Bureaus propose to require a challenger to submit speed test measurement data in a standard format on a state-by-

state basis. This will permit the system to conduct an initial check for each speed test record to ensure that the data parameters are consistent with all adopted requirements and that the file matches the file specification. Any record that fails this initial check would be rejected, and the system would provide a warning message to the challenger with the reason for failing this step.

18. For each speed test measurement passing step two (a counted speed test), the system would calculate the speed test buffer area, thereby determining the density of submitted speed tests and implementing step three of the validation framework. The Bureaus propose that the system determine the set of grid cells in which at least one counted speed test is contained. For each of these grid cells, the system would apply a buffer (i.e., draw a circle of fixed size) with a radius of one-quarter of one kilometer (one-half of the maximum distance allowed between tests) to each counted speed test and determine the total portion of this buffered area that overlaps with the coverage map of the challenged provider for whose network the speed test measurement was recorded (measured areas). Since a challenger has the burden of showing insufficient coverage by each provider of unsubsidized, qualified 4G LTE service, the system would also determine the unmeasured area for each such provider, that is, the portion of each provider's coverage in the grid cell falling outside of the buffered area.

19. To implement step four of the validation framework, the system would merge the unmeasured area of all providers in a grid cell to determine the aggregated unmeasured area where the challenger has not submitted sufficient speed test evidence for every provider. Unmeasured area is the coverage area outside of the buffer area. If the calculated size of the aggregated unmeasured area in the grid cell is greater than 25 percent of the total challengeable portion of the grid cell (the total area of the grid cell minus any water-only areas and any eligible areas), the challenge would be presumptively unsuccessful because it failed the requirement to include speed test measurements of sufficient density for all providers. The system would provide a warning to the challenger for any grid cells that fail this step. In other words, if a challenger has not submitted speed tests that, when buffered and aggregated across providers,

dispute at least 75 percent of the coverage in that grid cell, the challenge would presumptively fail. This step would be performed after, and is unrelated to, the check in step one that a challenger has identified grid cells with challengeable areas that in sum meet the de minimis threshold of one square kilometer. In other words, the sufficiency of submitted evidence and whether a challenge is presumptively successful or not would be unrelated to whether a challenger has identified enough ineligible areas with its challenge.

20. The Bureaus propose to allow challengers to certify their challenges notwithstanding this presumption. This would allow the system to consider all certified challenges in a particular grid cell across all challengers at the close of the challenge window. As a result, even if an individual challenger's submission is presumptively unsuccessful, the system may determine that, in the aggregate, challenges to an area are presumptively successful if, as a result of multiple certified challenges, the total aggregated unmeasured area across all challengers is less than 25 percent. While the Commission decided not to subject response data submitted by challenged parties to USAC's automatic system validation, the Bureaus propose to process any such data jointly at the close of the response window using a similar approach (i.e., applying a buffer with a fixed radius to submitted speed measurements) in order to help evaluate competing data during the adjudication process. This approach to processing data submitted by both challengers and challenged parties is detailed in Appendix B of the MF-II Challenge Process Comment Public Notice. Under the proposal, the system would process evidence submitted by both challengers (speed tests) and challenged parties (speed tests, transmitter monitoring software measurements, and/or data speed reduction reports) to facilitate the comparison of such data by staff. The Bureaus seek comment on this proposed implementation of the Commission's framework.

#### **D. File Formats**

21. In the MF-II Challenge Process Order, the Commission directed the Bureaus to provide instructions for how to submit data to initiate or respond to a challenge, including file

formats, parameters, and other specifications for conducting speed tests. The Bureaus propose that challengers and respondents submit speed test data in comma-separated values (CSV) format matching the respective file specifications. The Bureaus also propose to require that data from transmitter monitoring software match a substantially similar file specification in CSV form. The Bureaus likewise propose to require that data submitted about speed reductions for devices match the proposed file specification in CSV form. Additional details about the attributes and the file formats that the Bureaus propose to require for challengers and respondents may be found in Appendix D of the MF-II Challenge Process Comment Public Notice. The Bureaus seek comment on this proposal generally.

#### **IV. OTHER IMPORTANT CHALLENGE PROCESS INFORMATION**

##### **A. Access to USAC Challenge Process Portal**

22. Unless a party otherwise contacts the Commission as explained in the MF-II Challenge Process Comment Public Notice, USAC will create accounts for all service providers, using contact information submitted by a filer in its Form 477 filing data as of June 30, 2017. Any service provider eligible to participate that for some reason did not file Form 477 data in June 2017 would not have an account created unless it contacts the Commission as required for a filer that wishes to use a different contact in order to get access to the USAC portal. Additionally, as discussed in Appendix C of the MF-II Challenge Process Comment Public Notice, the Bureaus plan to consolidate any attributable entities that separately file Form 477 mobile broadband coverage data to a common provider. As a result, such entities would jointly have access to the USAC portal, and would submit or respond to challenges on behalf of a single provider. After creating the account, USAC will issue log-on information to access the portal via email. If a filer wants to use contact information other than the contact it submitted for its Form 477 for purposes of accessing the USAC portal, or if a filer wishes to add other users, the Bureaus propose that it email the Commission and provide its provider name, the first and last name of the user(s) it wishes to grant access to the portal, and the email address(es) of the user(s), up to a maximum of

three users. The Bureaus propose that government entities eligible to participate in the process (e.g., local, state, or Tribal government entities) submit via email the name of the entity, its legal jurisdiction, the first and last name of the user(s) that should have access to the portal on its behalf, and the email address(es) of the user(s), up to a maximum of three users. Other parties that seek to participate in the MF-II challenge process must first file a waiver petition with the Commission, and the Bureaus propose requiring them to submit the first and last name of the user(s) that should have access to the portal on its behalf, and the email address(es) of the user(s), up to a maximum of three users, as part of their petition for waiver. The Bureaus seek comment on these proposals.

23. In accordance with the procedures adopted in the MF-II Challenge Process Order, the Bureaus propose to make available in a downloadable format through the USAC portal the provider-specific data underlying the map of presumptively eligible areas. These baseline data would include geospatial data on a state-by-state basis in shapefile format for: (a) the boundaries of the state (or state equivalent) overlaid with the uniform grid; (b) the confidential coverage maps submitted by providers during the new, one-time data collection; and (c) the map of initial eligible areas. Additionally, the baseline data for each state would include tabular data in CSV format with the list of pre-approved handsets and the clutter information submitted during the new, one-time data collection for each provider.

24. After Commission staff have adjudicated all challenges and responses, the Bureaus propose to make available to challengers and respondents data about their challenges or responses through the USAC portal. The Bureaus would provide to each challenger or respondent for each of the grid cells associated with their certified challenges or certified responses, respectively: (a) the outcome of the adjudication; (b) the confidential evidence submitted and certified by all challengers; and (c) the confidential evidence submitted and certified by all respondents. The Bureaus propose to make non-confidential information about the adjudication process available to the public on the Commission's website concurrent with an

announcement of the map of final eligible areas via public notice. Specifically, the public data would include: (a) the outcome of the adjudication for each challenged cell; and (b) the map of final eligible areas.

**B. Timing**

25. The Bureaus expect to make public a map of areas presumptively eligible for MF-II support no earlier than four weeks after the deadline for submission of the new, one-time 4G LTE provider coverage data. Providers are required to file new, one-time 4G LTE coverage data by January 4, 2018. Contemporaneous with the publication of the map of presumptively eligible areas, the Bureaus will announce via public notice the availability of this data and subsequent commencement of the challenge window. The Bureaus propose that the challenge process window open on the next business day following the release of the map. Eligible parties would be able to access the USAC portal and download the provider-specific confidential data necessary to begin conducting speed tests on that day. The challenge window will close 150 days later, consistent with the procedures adopted in the MF-II Challenge Process Order. Although challenges will be accepted until the close of the challenge window, the Bureaus encourage interested parties to file in advance of the closing date to allow ample time for data processing.

26. Following the close of the challenge window, the USAC portal system will process the data submitted by challengers. The Bureaus propose to open the response window no earlier than five business days after the close of the challenge window to allow for this data processing. Once opened, the response window will close 30 days later. Although challenged parties will have an opportunity to submit additional data via the USAC portal in response to a certified challenge for the entire duration of the response window, challenged parties are similarly encouraged to file in advance of the deadline. A challenged party will not have a further opportunity to submit any additional data for the Commission's consideration after the response window closes and should therefore plan accordingly.

27. Commission staff will adjudicate certified challenges and responses, consistent

with the standard of review and evidentiary standards adopted in the MF-II Challenge Process Order. Following the adjudication process, the Commission will publicly release the final map of areas eligible for MF-II support.

## **V. PROCEDURAL MATTERS**

### **A. Paperwork Reduction Act Analysis**

28. The MF-II Challenge Process Comment Public Notice proposes and seeks comment on specific parameters and procedures to implement the MF-II challenge process that was established by the Commission in the *MF-II Order*, 82 FR 15422, March 28, 2017, and the MF-II Challenge Process Order, 82 FR 42473, September 8, 2017 (collectively, *MF-II Orders*). The Commission is currently seeking PRA approval for the information collection requirements related to the challenge process, as adopted in the *MF-II Orders*. Because the MF-II Challenge Process Comment Public Notice does not propose any additional proposed information collection requirements beyond those established in the *MF-II Orders*, the proposals set out in the MF-II Challenge Process Comment Public Notice do not implicate the procedural requirements of the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, or those of the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

### **B. Supplemental Initial Regulatory Flexibility Analysis**

29. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission prepared Initial Regulatory Flexibility Analyses (IRFAs) in connection with the *USF/ICC Transformation FNPRM*, 76 FR 78383, December 16, 2011, the *2014 CAF FNPRM*, 79 FR 39195, July 9, 2014, and the *MF-II FNPRM*, 82 FR 13413, March 13, 2017 (collectively, MF-II FNPRMs), and Final Regulatory Flexibility Analyses (FRFAs) in connection with the *2014 CAF Order*, 79 FR 39163, July 9, 2014, and the *MF-II Orders*. The Commission sought written public comment on the proposals in the MF-II FNPRMs, including comments on the IRFAs. The Commission did not receive any comments in response to those Regulatory Flexibility Analyses.

30. The IRFAs for the *MF-II NPRMs* and the FRFAs for the *MF-II Orders* set forth the need for and objectives of the Commission's rules for the MF-II auction and challenge process; the legal basis for those rules; a description and estimate of the number of small entities to which the rules apply; a description of projected reporting, recordkeeping, and other compliance requirements for small entities; steps taken to minimize the significant economic impact on small entities and significant alternatives considered; and a statement that there are no federal rules that may duplicate, overlap, or conflict with the rules. The IRFAs prepared with the MF-II FNPRMs and the FRFAs prepared with the *MF-II Orders* describe in detail the small entities that might be significantly affected by the proposed rules in those proceedings. The MF-II Challenge Process Comment Public Notice proposes the procedures for implementing the rules adopted in the *MF-II Orders*; therefore, the Bureaus incorporate by reference the descriptions and estimates of the number of small entities that might be significantly affected from the MF-II FNPRMs IRFAs and the *MF-II Orders* FRFAs into the Supplemental IRFA. However, because the MF-II Challenge Process Comment Public Notice proposes specific procedures for implementing the rules proposed in the MF-II FNPRMs and adopted in the *MF-II Orders*, the Bureaus have prepared a supplemental IRFA seeking comment on how the proposals in the MF-II Challenge Process Comment Public Notice could affect those Regulatory Flexibility Analyses.

31. The proposals in the MF-II Challenge Process Comment Public Notice include procedures to allow interested parties the opportunity to contest an initial determination that an area is ineligible for MF-II support and challenged parties the opportunity to respond to challenges. These proposals are necessary in order to give effect to the Commission's directive to propose and provide an opportunity for comment on detailed instructions, deadlines, and requirements for filing a valid challenge, including file formats, parameters, and other specifications for conducting speed tests. The proposals in the MF-II Challenge Process Comment Public Notice are designed to lead to a more efficient and accurate challenge process, deter excessive and unfounded challenges, and minimize the burden on small business

challengers, as well as other parties utilizing the challenge process.

32. To implement the rules and framework adopted by the Commission in the MF-II Challenge Process Order, the MF-II Challenge Process Comment Public Notice details the technical procedures the Bureaus plan to use when generating the initial eligible areas map and processing challenges or responses submitted by challengers and challenged parties, respectively. The Public Notice also proposes additional requirements and parameters, including file formats and specifications, for data submitted during the challenge process. The Bureaus have made an effort to anticipate the challenges faced by small entities (e.g., governmental entities or small mobile service providers) in complying with the implementation of the Commission's rules and the Bureaus' proposals. The Bureaus plan to perform all geospatial data analysis on a uniform grid, which would remove the need for a challenger to submit a map of the area(s) it wishes to challenge on top of its evidence, reducing burdens on small entities. The Bureaus propose to allow a challenged entity to submit evidence identifying devices that were subject to data speed reductions, alongside evidence from transmitter monitoring software and speed tests, which would allow for a small entity to more easily respond to a challenge. The Bureaus note that smaller providers will have fewer resources available, and they therefore specifically seek comment on the parameters and procedures of the challenge process and ways to make them as efficient as possible for all interested parties, including small entities.

33. The Bureaus seek comment on how the proposals in the MF-II Challenge Process Comment Public Notice could affect the IRFAs in the MF-II FNPRMs or the FRFAs in the *MF-II Orders*. Such comments must be filed in accordance with the same filing deadlines for responses to the MF-II Challenge Process Comment Public Notice and have a separate and distinct heading designating them as responses to the IRFAs and FRFAs.

### **C. Ex Parte Presentations**

34. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are

reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Other provisions pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION.

Gary D. Michaels,  
Deputy Chief, Auctions and Spectrum Access Division, WTB.  
[FR Doc. 2017-23936 Filed: 11/2/2017 8:45 am; Publication Date: 11/3/2017]