

TABLE 1 TO SUBPART AAAA OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA—Continued

Part 63 citation	Description	Applicable to subpart AAAA before September 28, 2021	Applicable to subpart AAAA no later than September 27, 2021	Explanation
*	*	*	*	*
<p><sup>1</sup> Before September 28, 2021, this subpart requires affected facilities to follow part 60, subpart WWW of this subchapter, which incorporates the General Provisions of part 60 of this subchapter.</p>				
<p>[FR Doc. 2022–02654 Filed 2–11–22; 8:45 am] BILLING CODE 6560–50–P</p>				
<b>FEDERAL COMMUNICATIONS COMMISSION</b>				
<b>47 CFR Part 54</b>				
<b>[CC Docket No. 02–6; FCC 22–8; FR ID 70414]</b>				
<b>Schools and Libraries Universal Service Support Mechanism</b>				
<b>AGENCY:</b> Federal Communications Commission.				
<b>ACTION:</b> Final rule.				
<b>SUMMARY:</b> In this document, the Federal Communications Commission (Commission) takes steps to address one of the barriers to participation and clarify the eligibility of Tribal libraries for E-Rate program support by updating the definition of “library” in its E-Rate program rules to include Tribal libraries. By doing so, the Commission seeks to resolve a longstanding issue for Tribal libraries in the E-Rate program rules, consistent with Congressional action taken in 2018, and to encourage increased Tribal library access to affordable broadband connectivity through the E-Rate program.				
<b>DATES:</b> Effective March 16, 2022.				
<b>FOR FURTHER INFORMATION CONTACT:</b> Kate Dumouchel, Wireline Competition Bureau, (202) 418–7400 or by email at <i>Kate.Dumouchel@fcc.gov</i> . The Commission asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to <i>fcc504@fcc.gov</i> or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.				
<b>SUPPLEMENTARY INFORMATION:</b> This is a synopsis of the Commission’s Report and Order in CC Docket No. 02–6; FCC 22–8, adopted January 27, 2022 and released January 28, 2022. Due to the COVID–19 pandemic, the Commission’s headquarters will be closed to the general public until further notice. The full text of this document is available at				
	the following internet address: <a href="https://www.fcc.gov/document/fcc-connecting-tribal-libraries-through-e-rate-program-0">https://www.fcc.gov/document/fcc-connecting-tribal-libraries-through-e-rate-program-0</a> .			
	<b>I. Introduction</b>			
	1. The E-Rate program provides support to schools and libraries across the nation to obtain affordable, high-speed broadband services and internal connections to connect today’s students and library patrons with next-generation learning opportunities and services. Since the beginning of the program, E-Rate support has helped libraries afford these services and provide free, public internet access to their communities. But for far too long, Tribal libraries have been unable to participate fully in the E-Rate program. This situation has exacerbated enduring inequities, as Tribal libraries often serve as a critical source of internet access in underserved areas across the nation.			
	2. The Commission takes steps to address one of the barriers to participation and clarify the eligibility of Tribal libraries for E-Rate program support by updating the definition of “library” in its E-Rate program rules to include Tribal libraries. By doing so, the Commission seeks to resolve a longstanding issue for Tribal libraries in the E-Rate program rules, consistent with Congressional action taken in 2018, and to encourage increased Tribal library access to affordable broadband connectivity through the E-Rate program.			
	<b>II. Discussion</b>			
	3. To ensure that our nation’s Tribal libraries and their library patrons have access to high-speed broadband and to encourage Tribal libraries’ participation in the E-Rate program, the Commission now amends its E-Rate program rules to clarify that Tribal libraries are eligible for E-Rate support. Specifically, the Commission adds “Tribal library” to the definition of library in section 54.500 of the Commission’s rules and removes the reference to Public Law 104–208, which contains the version of the Library Services and Technology Act (LSTA) enacted in 1996. All stakeholders			
	submitting comments support this rule change, and no commenter opposed it.			
	4. Interested parties agree that this rule change is the first step in ensuring that Tribal libraries have access to funding to provide affordable internet access to their communities. These changes update the E-Rate program rules and ensure that the E-Rate program can support library services in Tribal communities. The changes align with both Congress’ 2018 amendments to the LSTA and the Commission’s Emergency Connectivity Fund program rules. Moreover, the changes will simplify administration of the E-Rate and Emergency Connectivity Fund programs for the Universal Service Administrative Company (USAC), which administers both programs and checks applicant eligibility. Consistent with the rules adopted for the Emergency Connectivity Fund program, the E-Rate rules clarify that Tribal libraries, which are by statute eligible for support from State library administrative agencies under the LSTA, are eligible for support from the E-Rate program. Receipt of LSTA funds by Tribal libraries is not required for participation in the E-Rate program.			
	5. These rule changes should also clarify and simplify E-Rate eligibility for Tribal libraries and, in time, will increase Tribal participation in the program. Comments filed by the American Library Association (ALA) and the Association of Tribal Archives, Libraries and Museums (ATALM) include preliminary results of a 2021 ATALM comprehensive digital inclusion survey, which note that only 12 percent of the Tribal libraries responding reported that they had ever applied, even fewer than the 15 percent of Tribal libraries that had previously reported receiving E-Rate support. This data is especially troubling, given that there is reduced broadband access in Tribal areas and libraries are often the “next best alternative for many Tribal families and households” to obtain internet access. Tribal governments and libraries have had issues interacting with and gaining support from State			

agencies. The Navajo Nation Telecommunications Regulatory Commission (NNTRC) describes how the Navajo Nation, which spans three states, began an internal process in 2018 to participate in the E-Rate program by engaging with the State library administrative agencies in Arizona, New Mexico, and Utah to establish whether its Chapter Houses were libraries eligible for assistance from those State library administrative agencies under the LSTA. NNTRC explains that it took several years and significant resources to determine eligibility, which it argues could have been avoided if the rules the Commission adopts here had been in place then.

6. Several commenters asked the Commission to clarify who can designate a Tribal library or to interpret the definition of Tribal library in a flexible manner. First, the Commission agrees that Tribal libraries can be designated by a Tribal Council. Second, the Commission understands that “what constitutes a library is reflective of the cultural, educational, and social needs of each tribe,” but also remind applicants that they must be eligible by statute for support under the LSTA to be eligible to participate in E-Rate. The Institute of Museum and Library Services, the federal agency with expertise in the LSTA and that provides Native American library grants, requires Native American libraries applying for Native American Library Services Enhancement Grants to demonstrate that they have three basic characteristics: “(1) regularly scheduled hours, (2) staff, and (3) materials available for library users.” The Commission believes that these characteristics are therefore appropriate for Tribal libraries seeking support from the E-Rate program. In response to commenters seeking eligibility for Tribal College libraries, the Commission reminds applicants that when the Commission first adopted its rules on library eligibility for E-Rate discounts, it determined that libraries must be independent entities, “whose budgets are completely separate from any schools (including, but not limited to elementary schools, colleges, and universities.” As such, Tribal libraries that are part of a Tribal College or university remain ineligible for E-Rate support at this time.

7. On the whole, the Commission expects this rule change to simplify the process for Tribal libraries to apply for E-Rate funding by clarifying their eligibility without requiring Tribal libraries to fit within the precise definitions that may be put in place by a State library administrative agency. By

making Tribal library eligibility clear, the Commission aims to further the program goal of ensuring affordable access to high-speed broadband sufficient to support robust connectivity for Tribal libraries by increasing participation in the E-Rate program. The Commission also furthers the Commission’s ongoing obligation to advance digital equity for all, including Indigenous and Native American persons, people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality. By lowering the barriers to participating in the E-Rate program, the Commission hopes to narrow the digital divide in Tribal regions, “where increased digital inclusion will yield economic, educational, and healthcare outcome improvements.”

8. *Outreach.* Preliminary results of the 2021 ATALM comprehensive digital inclusion survey of Tribal libraries included in ALA and ATALM’s comments show that “38% of respondents had not heard of the E-rate program, 30% were unsure if they were eligible, 13% said the application was too complicated, and 39% would like to learn more about the program.” The Commission agrees with commenters that these numbers demonstrate that the Commission needs to do more to increase awareness of the program and training opportunities among Tribal libraries. Therefore, in conjunction with this rule change, the Commission directs the Office of Native Affairs and Policy (ONAP) and the Wireline Competition Bureau (WCB), with assistance from the Tribal liaison at USAC, to target outreach efforts and program training for Tribal libraries.

9. Tribal library applicants face particular resource challenges in applying. Therefore, in addition to existing Tribal training materials, the Commission directs USAC, in coordination with ONAP and WCB, to develop training materials targeting Tribal libraries that may be provided during Tribal-specific outreach, as well as to its federal partners, like the Institute of Museum and Library Services, to build awareness and provide information about how to apply before the close of the funding year 2022 application filing window. In creating these targeted outreach goals, the Commission directs USAC to develop training materials focused on first-time E-Rate library applicants and to distribute these materials at national, regional, or local Tribal or library conferences. The Commission also

directs ONAP and WCB to undertake efforts to coordinate with organizations like the ALA, ATALM, the American Indian Library Association and the Chief Officers of the State Library Agencies to spread awareness in the current and upcoming funding years.

10. *Measuring Participation.* Adopting these rule changes and targeting specific Tribal library outreach are important steps towards the Commission’s goal of increasing participation and access to E-Rate support for Tribal libraries. The Commission also, consistent with the recommendation from the Government Accountability Office in 2016, seeks to determine whether the Commission is successfully achieving the E-Rate program’s goals, including ensuring affordable access to high-speed broadband sufficient to support robust connectivity for all libraries and making the program’s processes fast, simple, and efficient. To do so, the Commission now adopts new measures for these two goals by specifically measuring participation of Tribal libraries in future funding years and the speed of processing Tribal library applications, and the Commission directs USAC to measure progress towards achieving the Commission’s program goals. By creating specific Tribal library participation performance measures, the Commission can monitor performance of the E-Rate program over time and assess whether the Commission’s rules, policies, and outreach need to be revisited to draw more Tribal library applicants into the program.

11. *Other Issues Raised.* The importance of this rule clarification, combined with the E-Rate program’s funding year calendar—which generally accepts funding applications during the first quarter of the calendar year for the upcoming school year—make speedy action critical. Therefore, to ensure these rule changes are effective before the close of the funding year 2022 E-Rate application filing window, the Commission declines to address several of the issues raised by comments to the *Tribal Libraries Notice of Proposed Rulemaking (NPRM)*, 86 FR 57097, October 14, 2021, regarding the E-Rate program at this time. The Commission appreciates the many comments raising broader issues with the E-Rate program and look forward to revisiting these issues.

### III. Procedural Matters

12. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant

economic impact on a substantial number of small entities by the policies and rules proposed in the Schools and Libraries Universal Service Support Mechanism notice of proposed rulemaking, *Tribal Libraries NPRM*. The Commission sought written public comment on the proposals in the *Tribal Libraries NPRM*, including comment on the IRFA. The Commission did not receive any relevant comments in response to this IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

#### *A. Need for, and Objectives of, the Report and Order*

13. The Commission is required by Section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of Section 254. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets moved toward competition. Specifically, under the schools and libraries universal service support mechanism, also known as the E-Rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, internet access, and internal connections.

14. Taking steps to close the digital divide is a top priority for the Commission. The E-Rate program provides a vital source of support to schools and libraries, ensuring that students and library patrons across the nation have access to high-speed broadband and essential communications services. In this document, the Commission updates the E-Rate program rules to be consistent with the amended Library Services and Technology Act (LSTA), and clarify that Tribal libraries are eligible to apply for and receive E-Rate funding.

#### *B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

15. There were no comments filed that specifically address the rules and policies proposed in the IRFA.

#### *C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

16. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made

to the proposed rule(s) as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rule(s) in this proceeding.

#### *D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

17. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

18. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission’s actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes 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% of all businesses in the United States, which translates to 30.7 million businesses.

19. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

20. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau

data from the 2017 Census of Governments indicates that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments— independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

#### *1. Schools and Libraries*

21. As noted, a “small entity” includes non-profit and small government entities. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally “a non-profit institutional day or residential school that provides elementary education, as determined under state law.” A secondary school is generally defined as “a non-profit institutional day or residential school that provides secondary education, as determined under state law,” and not offering education beyond grade 12. A library includes “(1) a public library, (2) a public elementary school or secondary school library, (3) an academic library, (4) a research library, . . . and (5) a private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.” The rule changes adopted in this document update the definition of library to add Tribal libraries. For-profit schools and libraries, and schools and libraries with endowments in excess of \$50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined for-profit, elementary and secondary schools and libraries having \$6 million or less in annual receipts as small entities. In funding year 2017, approximately 103,699 schools and 11,810 libraries received funding under the schools and libraries universal service mechanism. Although the Commission is unable to estimate with precision the number of these entities that would qualify as small entities under SBA’s size standard, the Commission estimates that fewer than 103,699 schools and 11,810 libraries

might be affected annually by its action, notwithstanding the fact that more Tribal libraries may be encouraged to apply for funding under the rule change in the Report and Order.

## 2. Telecommunications Service Providers

**22. *Wired Telecommunications Carriers.*** The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including voice over internet protocol (VoIP) services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

**23. *All Other Telecommunications.*** The “All Other Telecommunications” category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for “All Other Telecommunications”, which consists of all such firms with annual receipts of \$35 million or less. For this

category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than \$25 million and 15 firms had annual receipts of \$25 million to \$49,999,999. Thus, the Commission estimates that the majority of “All Other Telecommunications” firms potentially affected by its action can be considered small.

**24. *Wireless Telecommunications Carriers (except Satellite).*** This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

**25. *Wireless Telephony.*** Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees and 12 firms had 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that a majority of these entities can be considered small. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, based on Commission data, more than half of these entities can be considered small.

## 3. Internet Service Providers (ISPs)

**26. *Internet Service Providers (Broadband).*** Broadband internet

service providers include wired (e.g., cable, digital subscriber line (DSL)) and VoIP service providers using their own operated wired telecommunications infrastructure fall in the category of Wired Telecommunication Carriers. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, under this size standard the majority of firms in this industry can be considered small.

**27. *Internet Service Providers (Non-Broadband).*** Internet access service providers such as Dial-up internet service providers, VoIP service providers using client-supplied telecommunications connections and internet service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) fall in the category of All Other Telecommunications. The SBA has developed a small business size standard for All Other Telecommunications which consists of all such firms with gross annual receipts of \$35 million or less. For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million. Consequently, under this size standard a majority of firms in this industry can be considered small.

## 4. Vendors of Internal Connections

**26. *Vendors of Infrastructure Development or Network Buildout.*** The Commission has not developed a small business size standard specifically directed toward manufacturers of network facilities. There are two applicable SBA categories in which manufacturers of network facilities could fall and each have different size standards under the SBA rules. The SBA categories are “Radio and Television Broadcasting and Wireless Communications Equipment” with a size standard of 1,250 employees or less and “Other Communications Equipment Manufacturing” with a size standard of 750 employees or less.” U.S. Census

Bureau data for 2012 shows that for Radio and Television Broadcasting and Wireless Communications Equipment firms 841 establishments operated for the entire year. Of that number, 828 establishments operated with fewer than 1,000 employees, and 7 establishments operated with between 1,000 and 2,499 employees. For Other Communications Equipment Manufacturing, U.S. Census Bureau data for 2012 shows that 383 establishments operated for the year. Of that number 379 operated with fewer than 500 employees and 4 had 500 to 999 employees. Based on this data, the Commission concludes that the majority of Vendors of Infrastructure Development or “Network Buildout” are small.

**27. Telephone Apparatus Manufacturing.** This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be stand-alone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless and wire telephones (except cellular), private branch exchange (PBX) equipment, telephone answering machines, local area network (LAN) modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways. The SBA has developed a small business size standard for Telephone Apparatus Manufacturing, which consists of all such companies having 1,250 or fewer employees. U.S. Census Bureau data for 2012 shows that there were 266 establishments that operated that year. Of this total, 262 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

**28. Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.** This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, global positioning system (GPS) equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer

than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry are small.

#### *E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

29. The rules adopted in the Report and Order will not result in modified reporting, recordkeeping, or other compliance requirements for small or large entities. In this document, the Commission updates the E-Rate program rules to make clear that Tribal libraries are eligible to apply for and receive E-Rate funding, as well as funding from the Emergency Connectivity Fund program. These changes will produce requirements that are equal to existing requirements, and the Commission does not believe small entities will have to hire attorneys, engineers, consultants, or other professionals in order to comply. Updating the E-Rate program rules to adopt the amended definition of library under the LSTA, for example, will clarify that Tribal libraries are eligible for support by statute. Moreover, this clarity may also alleviate some of the issues that Tribal libraries face when seeking E-Rate support.

#### *F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

30. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such 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 such small entities.”

31. In the Report and Order, the Commission has taken steps to minimize the economic impact on small entities with the rule changes that the Commission has adopted. Under the current E-Rate rules, only libraries eligible for assistance from a State library administrative agency under the 1996 version of the LSTA are eligible for E-Rate funding. Absent a rule change,

Tribal libraries continue to face uncertainty about eligibility which leads to them being underrepresented among E-Rate applicants. The Commission has therefore updated the rules to add Tribal libraries to the definition of library, which may encourage Tribal libraries to apply for and receive E-Rate support. In addition, Tribal libraries will have less difficulty determining eligibility than they have in the past.

#### *G. Report to Congress*

32. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

33. *Paperwork Reduction Act.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

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

#### **IV. Ordering Clauses**

35. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1 through 3, 201–202, 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–153, 201–202, 254, and 303(r), the Report and Order is *adopted*, and §§ 54.500 and 54.501(b)(1) of the Commission’s rules, 47 CFR 54.500 and 54.501(b)(1), *are amended* as set forth and such rule amendments shall be effective March 16, 2022.

36. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of

the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

37. *It is further ordered* that the Commission *shall send* a copy of the Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

**Katura Jackson,**  
*Federal Register Liaison Officer.*

**Final Rules**

For the reasons set forth above, part 54 of title 47 of the Code of Federal Regulations is amended as follows:

**PART 54—UNIVERSAL SERVICE**

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

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

■ 2. Amend § 54.500 by revising the definition of “Library” to read as follows:

**§ 54.500 Terms and definitions.**

\* \* \* \* \*

*Library.* A “library” includes:

- (1) A public library;
- (2) A public elementary school or secondary school library;
- (3) A Tribal library;
- (4) An academic library;
- (5) A research library, which for the purpose of this section means a library that:
  - (i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and
  - (ii) Is not an integral part of an institution of higher education; and

(6) A private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.

\* \* \* \* \*

■ 3. Amend § 54.501 by revising paragraph (b)(1) to read as follows:

**§ 54.501 Eligible recipients.**

\* \* \* \* \*

(b) \* \* \*

(1) Only libraries eligible for assistance from a State library administrative agency under the Library Services and Technology Act (20 U.S.C. 9122) and not excluded under paragraph (b)(2) or (3) of this section shall be eligible for discounts under this subpart.

\* \* \* \* \*