

change merely makes this eligibility explicit.

63. Second, we amend § 54.501(b)(1) of our rules, to reflect the new citations for the elementary school and secondary school definitions following the passage of the No Child Left Behind Act. Specifically, we replace the citations to 20 U.S.C. 8801(14) and 8801(25) with citations to 20 U.S.C. 7801(18) and 7801(38), respectively. Because the new provisions are substantively the same as the original definitions, we conclude that all of these rule changes are minor and technical, and we therefore find good cause to conclude that notice and comment procedures of the Administrative Procedure Act (APA) are unnecessary.

I. Removal of Obsolete Rules

64. The Biennial Regulatory Review 2000 Staff Report (Staff Report) recommended that §§ 54.701(b) through (e) of our rules, which mandate the merger of the Schools and Libraries Corporation and the Rural Health Care Corporation into the Universal Service Administrative Company, be removed. Given that the merger has been completed, the Staff Report concluded that these transitional provisions were no longer applicable. We now adopt the recommendations of the Staff Report and remove §§ 54.701(b) through (e), and renumber current provisions §§ 54.701(f) through (h) as §§ 54.701(b) through (d). Again, because the rule sections in question are now obsolete, we conclude that these rule changes are minor and technical, and we therefore find good cause to conclude that notice and comment under the APA is not necessary.

III. Procedural Issues

A. Paperwork Reduction Act Analysis

65. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose new or modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the PRA. Section 54.514(b) contains information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section. Sections 54.500(k), 54.503, 54.507(g)(i–ii), 54.517(b), and 54.514(a) will go into

effect July 1, 2004, following OMB approval.

B. Final Regulatory Flexibility Analysis

66. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Schools and Libraries NPRM*. The Commission sought written public comment on the proposals in the *Schools and Libraries NPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Second Report and Order

67. In this Order, the Commission adopted a number of rules to streamline program operation, and promote the Commission's goal of reducing the likelihood of fraud, waste, and abuse. We clarify the statutory term "educational purpose," the prohibition of funding of discounts for duplicative services, and that wireless services are eligible to the same extent wireline services are eligible. We conclude that voice mail should be eligible for discounts under the schools and libraries universal service support mechanism. We direct USAC to develop a pilot program testing an online list of internal connections equipment that is eligible for discounts. We codify an existing policy that a request must include less than "30 percent" of ineligible services. We adopt a rule requiring service providers to give applicants the choice each funding year whether to pay the discounted price or pay the full price and then receive reimbursement, and a rule requiring service providers to remit any reimbursement payments to the applicant within a set time period. We extend the time limit for filing an initial appeal to 60 days, and agreed to accept appeals as filed when postmarked. We also conclude that all successful appeals should be funded to the extent that they would have been funded had the discounts been awarded through the normal funding process. We adopt rules debarring persons convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries program, absent extraordinary circumstances. We also make several minor and technical rule changes to conform rules with the No Child Left Behind Act of 2002, clarify the docket for appeals filing, and remove certain obsolete sections.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

68. There were no comments filed that specifically addressed the rules and policies presented in the IRFA. Nevertheless, the agency has considered the potential impact of the rules proposed in the IRFA on small entities.

3. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

69. 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 SBA.

70. 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 1992, there were approximately 275,801 small organizations. The term "small governmental jurisdiction" is defined as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." As of 1997, there were approximately 87,453 government jurisdictions in the United States. This number includes 39,044 counties, municipal governments, and townships, of which 27,546 have populations of fewer than 50,000 and 11,498 counties, municipal governments, and townships have populations of 50,000 or more. Thus, we estimate that the number of small government jurisdictions must be 75,955 or fewer. Small entities potentially affected by the proposals herein include eligible schools and libraries and the eligible service providers offering them discounted services, including telecommunications service providers, Internet Service Providers (ISPs) and vendors of internal connections.

a. Schools and Libraries

71. Under the schools and libraries universal service support mechanism, which provides support for elementary