relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 30, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.503 is amended by adding alphabetically the following commodities and a footnote to the table in paragraph (a) and removing paragraph (e) to read as follows:

§ 180.503 Cymoxanil, tolerance for residues.

(a) * * *

Commodity	Parts per million
Grape[1]	0.1
Hop, dried cones	1.0
Lettuce, head	4.0
Lychee[1]	1.0
* * *	* *
Vegetable, cucurbit, group 9	0.05
Vegetable, fruiting, group 8	0.2

[1]There are no U.S. registrations for grape and lychee.

* * * * *

[FR Doc. 03–17731 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 03–115]

Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this document, the Commission addresses the requests of several petitioners to reconsider portions of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, adopting rules to provide additional, targeted universal service support to low-income consumers on tribal lands and establishing a framework for the resolution of eligible telecommunications carrier (ETC) designations. The Commission also concludes that the definition of ''reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. The Commission addresses several requests for reconsideration relating to the rule amendments to the universal service low-income programs adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. The Commission also clarifies, on its own motion, the Commission's rules regarding the qualification criteria for enhanced Lifeline and Link-Up service. In addition, the Commission declines to adopt a rule that would require resolution of the merits of any request for ETC designation within six months of the filing date. The Commission also declines to extend the enhanced low-income programs to the Northern Mariana Islands.

DATES: Effective August 15, 2003.

FOR FURTHER INFORMATION CONTACT: Shannon Lipp, Attorney, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Twenty-Fifth Order on Reconsideration and Report and Order (Order) in CC Docket No. 96–45 released on May 21, 2003. This Order was also released with a companion Further Notice of Proposed Rulemaking. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction

1. In this Order, we address the requests of several petitioners to reconsider portions of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, 65 FR 47941, August 4, 2003, adopting rules to provide additional, targeted universal service support to low-income consumers on tribal lands and establishing a framework for the resolution of Eligible Telecommunications Carrier (ETC) designations under section 214(e)(6) of the Communications Act of 1934, as amended (the Act). The advancement of universal service on tribal lands remains a major policy goal of this Commission. Through our on-going dialogue with the tribes, as most recently exemplified by the Commission's launch of the Indian Telecommunications Initiatives in Phoenix, Arizona on September 19, 2002, the Commission continues in its efforts to promote telecommunications subscribership within American Indian and Alaskan Native tribal communities.

2. We affirm that the framework adopted by the Commission for resolution of ETC designations on tribal lands provides a reasonable means to facilitate the expeditious resolution of such requests, while balancing the respective federal, state, and tribal interests. We also conclude that the definition of ''reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* despite the Bureau of Indian Affairs' (BIA) subsequent modification of that definition for purposes of its direct assistance programs. We address several requests for reconsideration relating to the rule amendments to the universal service low-income programs adopted in the *Twelfth Report and Order and*

Further Notice of Proposed Rulemaking. We also clarify, on our own motion, the Commission's rules regarding the qualification criteria for enhanced Lifeline and Link-Up service. In addition, we decline to adopt a rule that would require resolution of the merits of any request for ETC designation within six months of the filing date. We also decline to extend the enhanced low-income programs to the Northern Mariana Islands.

II. Order on Reconsideration

A. Petitions for Reconsideration

3. In September 2000, petitions for reconsideration were filed in response to the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. Several petitioners request that the Commission reconsider the framework to resolve jurisdictional issues under section 214(e)(6) for carriers seeking ETC designation on tribal lands. Several petitioners also raise issues relating to the amendments to the universal service low-income programs adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*.

B. Discussion

1. ETC Designation Framework for Carriers Serving Tribal Lands

4. As discussed in greater detail, we deny petitions for reconsideration of the framework to resolve requests for ETC designations for carriers providing service on tribal lands. We affirm the Commission's prior conclusion that this framework facilitates the expeditious resolution of such requests, while balancing the relevant federal, state, and tribal interests in determining jurisdiction over carriers operating on tribal lands. In addition, we note that similar arguments were previously considered and rejected by the Commission in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. We find no basis to now reconsider these issues.

5. Consistent with the Commission's prior conclusion, we decline to adopt the suggestion of those petitioners contending that section 214(e)(6) provides the Commission with the authority to assume jurisdiction over all carriers seeking ETC designation for service on tribal lands. These petitioners contend that any exercise of state jurisdiction in designating ETCs on tribal lands is inconsistent with the federal trust responsibility to tribes and the principle of tribal sovereignty. As the Commission concluded in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, we do not believe that Congress intended the Commission to use section 214(e)(6) to usurp the role of a state commission that has jurisdiction over a carrier providing service on tribal lands. To the contrary, in adopting section 214(e)(6), Congress recognized that some state commissions had asserted jurisdiction over tribal lands. Congress also acknowledged pending jurisdictional disputes between states and tribes and made clear that the adoption of section 214(e)(6) was not ''intended to impact litigation regarding jurisdiction between State and federally-recognized tribal entities.''

6. We affirm that this framework is consistent with the federal trust responsibility to the tribes and the principle of tribal sovereignty. In establishing the framework for the designation of carriers serving tribal lands, the Commission was guided by the recognition of, and respect for, principles of tribal sovereignty and self-determination. The designation framework recognizes that the principles of tribal sovereignty may lead some carriers and tribes to be unwilling to submit jurisdictional questions relating to tribal lands to a state commission. The adopted framework therefore provides the opportunity for parties to submit this issue directly to the Commission for resolution. In addition, the availability of a federal forum allows carriers and tribes to avoid the potential costs and delays that would arise if they were required to first challenge the jurisdictional issue in state proceedings and judicial appeals prior to requesting designation from this Commission under section 214(e)(6).

7. For the reasons discussed, we also decline to grant SDITC's request that the Commission require the relevant state commission to make the threshold determination as to whether it has jurisdiction over a carrier offering service on tribal lands. In addition, we note that nothing in the Commission's designation framework affects the ability of a carrier to seek designation from a state commission. The Commission's framework merely provides carriers with the option to seek resolution of the threshold jurisdictional issue on tribal lands from this Commission.

8. We also decline to adopt Western Wireless' suggestion that the Commission establish a standard whereby the Commission assumes jurisdiction under section 214(e)(6) in those instances in which the requesting carrier has obtained an agreement with the tribe and proposes to offer universal service that is targeted to the tribal land. In so doing, we note the admonition of the United States Supreme Court that ''[g]eneralizations on this subject have become * * * treacherous.'' Although the existence of a consensual relationship between the tribe and carrier regarding the provision of telecommunications service to tribal lands may be a significant factor in the jurisdictional analysis, we do not believe that it is prudent or necessary to establish such a fixed presumption. A careful analysis of the specific agreement between the tribe and carrier is necessary to determine its relevance to the jurisdictional determination. As noted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the issue of whether a state commission lacks jurisdiction over a carrier is a particularized inquiry guided in each case by the principles of tribal sovereignty, federal Indian law, and treaties, as well as state law. The framework established by the Commission allows for the careful balancing of the respective federal, state, and tribal interests, including an examination of the relationship between the carrier and tribe, to make this determination on a case-by-case basis. We therefore decline to adopt Western Wireless' proposal.

2. Definition of ''Tribal Lands''

9. Consistent with the request of NTCA, we confirm that the Commission's definition of ''tribal lands'' for purposes of considering requests for ETC designation under section 214(e)(6) is identical to the definition of ''tribal lands'' utilized in the context of the enhanced Lifeline and Link-Up support programs. In the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the Commission adopted a definition of ''tribal lands'' that included ''reservation'' and ''near reservation'' areas, as defined, at that time, in sections 20.1(v) and (r) of the BIA regulations. Subsequently, the Commission became aware that the term ''near reservation'' included wide geographic areas, extending substantially beyond the boundaries of reservations, that do not possess the same characteristics that warranted the targeting of support to reservations. For example, areas such as Phoenix, Arizona and Sacramento, California are considered to be ''near reservation areas,'' even though they are not isolated and underserved. As a result, the Commission issued an order staying implementation of the enhanced Lifeline and Link-Up rules to the extent that they apply to qualifying low-income consumers located on ''near reservation'' areas.

10. We agree with NTCA that the Commission's rationale for adopting a

separate designation framework for carriers seeking designation on tribal lands does not extend to ''near reservation'' areas, as defined by BIA. As defined by BIA, near reservations are designated areas or communities that are adjacent or contiguous to reservations where financial assistance and social service programs are provided. Because these areas often extend substantially beyond the exterior boundaries of reservations, we do not believe they invoke the same jurisdictional concerns and principles of tribal sovereignty associated with areas within the exterior boundaries of reservations. Therefore, pending resolution of the issues presented in the *Tribal Stay Order*, 65 FR 58721, October 2, 2000, petitions for designation filed under section 214(e)(6) relating to ''near reservation'' areas will not be considered as petitions relating to tribal lands. Petitioners seeking ETC designation in such areas must follow the procedures outlined in the *Twelfth Report and Order* for non-tribal lands prior to submitting a request for designation to this Commission under section 214(e)(6).

11. We also take this opportunity to confirm that the definition of ''reservation'' and ''near reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking.* Therefore, within the context of the universal service programs, the term ''reservation'' means ''any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.'' The term ''near reservation'' is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior's Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) Number of Indian people native to the reservation residing in the area, (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; (3) geographical proximity of the area to the reservation, and (4) administrative feasibility of providing an adequate level of services to the area.

12. As noted, the Commission defined the term ''reservation'' in a manner consistent with section 20.1(v) of the BIA regulations and stated that any future BIA modifications to the definition of ''reservation'' would also apply to the definitions adopted in the *Twelfth Report and Order*. Following the release of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, BIA revised its definition of ''reservation'' in such a way as to no longer explicitly include ''former reservations in Oklahoma'' or ''Indian allotments.'' Residence in a ''service area,'' rather than a ''reservation,'' is the new geographic eligibility requirement to receive financial assistance. As defined by BIA, ''service area'' means a geographic area, designated by the Assistant Secretary of Indian Affairs, where financial assistance and social services programs are provided. Such a geographic area designation can include a reservation, near reservation, or other geographic location. Under this mechanism, tribes may also request alternative service area designations. As noted, BIA has also eliminated section 20.1(r) defining near reservations and replaced it with a similar definition now contained in section 20.100.

13. To alleviate the potential for ongoing administrative uncertainty, we conclude that any future modifications to the definition of ''reservation'' or ''near reservation'' will take effect in the context of the universal service programs only upon specific action by the Commission. In so doing, we decline to incorporate BIA's recent revisions to the definition of ''reservation.'' Notwithstanding the fact that BIA modifications did not include ''former reservations in Oklahoma'' and Indian allotments in its definition of ''reservation,'' BIA continues to provide financial assistance in these areas. Accordingly, we find that maintaining the current definition of ''reservation'' for universal service purposes will be consistent with BIA's action in continuing to provide assistance in these areas, and with the Commission's commitment to increase subscribership and improve access to telecommunications services. We believe that this will ensure that the definition of ''reservation'' will remain consistent with the underlying goals of the Commission's enhanced Lifeline and Link-Up programs.

3. Universal Service Low-Income Programs

14. *SDITC Petition*. We grant SDITC's request to reconsider the Commission's finding that non-wireline carriers are eligible to receive Link-Up support for that portion of a handset that receives wireless signals. Upon reconsideration, we conclude that Link-Up should not offset any costs of a wireless handset. The Commission's rules preclude Link-Up support for facilities or equipment that fall on the customer side of the demarcation point. Although the Commission has never defined a demarcation point for wireless service, it has generally treated wireless handsets for purposes of bundled marketing of equipment and services as Customer Premises Equipment (CPE), which is equipment that falls on the customer side of the demarcation point between customer and network facilities. At the same time, we recognize that some portion of a wireless handset may perform functions analogous to the functions on the network side of the demarcation point, which, in the wireline context, would be eligible for Link-Up support. Nevertheless, under all the circumstances, we find that Link-Up should not support any costs of a wireless handset. In reaching this decision, we consider the difficulty of defining what portion, if any, of a wireless handset is on the network side of the demarcation point, as well as the difficulty in isolating the costs of such portion. We note that we make this finding regarding wireless handsets solely for purposes of determining what charges are eligible for Link-Up discounts. We further note that non-wireline carriers remain eligible to receive Link-Up support for the ''customary charge for commencing telecommunications service,'' as defined in § 54.411 of the Commission's rules, including wireless activation fees. Where wireless telecommunications service is provided to an eligible resident of tribal lands, such charges may also continue to include ''facilities-based'' charges associated with the construction of facilities needed to initiate service, as provided in § 54.411(a)(3).

15. *Florida Commission Petition*. We deny the Florida Commission's requests for reconsideration. We disagree with the Florida Commission's contention that the expansion of the existing Lifeline program may be without clear statutory authority and without support in the record. As the Commission explained in the *Twelfth Report and Order and Further Notice of Proposed*

Rulemaking, the authority to provide additional federal Lifeline and Link-Up assistance and broaden consumer qualification criteria for low-income consumers on tribal lands derives from sections 1, 4(i), 201, 205, and section 254 of the Act. The Commission concluded that the unavailability or unaffordability of telecommunications service on tribal lands is at odds with its statutory goal of ensuring access to such services to ''[c]onsumers in all regions of the Nation, including low-income consumers.'' The Commission further concluded that the lack of access to affordable telecommunications services on tribal lands is inconsistent with its statutory directive ''to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient Nationwide * * * wire and radio communication service, with adequate facilities at reasonable charges.'' The Commission also determined that its actions were consistent with its general authority to ''perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.''

16. In addition, the evidence and record before us at the time supported the expansion of the Lifeline and Link-Up program and nothing on reconsideration persuades us otherwise. In reaching the decision to enhance Lifeline and Link-Up assistance, the Commission relied on statistical evidence that demonstrated that American Indian and Alaska Native communities on average have the lowest reported telephone subscribership levels in the country. For example, the Commission noted that, according to the most recent census data, although approximately 94 percent of all Americans have a telephone, only 47 percent of Indians on reservations and other tribal lands have a telephone. In addition to these statistics, other statistical evidence, as well as the majority of comments, demonstrated that low incomes and poverty are the key reasons for low subscribership levels on tribal lands. Along with these conditions, the record also identified other factors as impediments to subscribership. These included: (1) The cost of basic service in certain areas (as high as $38 per month in some areas); (2) the cost of intrastate toll service (limited local calling areas); (3) inadequate telecommunications infrastructure and the cost of line extensions and facilities deployment in remote, sparsely populated areas; and (4) the lack of competitive service providers offering alternative technologies. Finally, the record demonstrated that non-Indian, low-income households on tribal lands may face the same or similar economic and geographic barriers as those faced by low-income Indian households. After careful consideration of this evidence, the Commission concluded that specific and immediate action was needed to remedy the disproportionately lower levels of infrastructure deployment and subscribership prevalent among tribal communities to ensure affordable access to telecommunications services in these areas.

17. We also reject the Florida Commission's contention that the creation of a fourth tier of federal Lifeline support available to eligible telecommunications carriers serving qualifying low-income individuals living on tribal lands ''may raise issues of discrimination.'' Specifically, the Florida Commission ''questions whether there is any discriminatory impact by singling out Native American and Alaska tribal areas for the benefit of up to an additional $25.00 per primary residential line.'' The Florida Commission adds that ''[i]f the goal is to increase subscribership for these populations, we respectfully request first increasing efforts to enroll qualified low-income Native Americans and Alaskan Natives in the already existing Lifeline and Link-Up programs.''

18. The goal of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* was not, as the Florida Commission implies, to increase subscribership solely among low-income Native American and Alaskan Natives. As explained, the Commission recognized that American Indian and Alaska Native communities, on average, have the lowest reported telephone subscribership levels in the country. In response, the Commission adopted amendments to its universal service rules to provide additional, targeted support under the low-income programs for all qualifying low-income individuals on tribal lands, as opposed to limiting these benefits solely to qualifying low-income tribal members on tribal lands. In addition, the Commission noted that its efforts in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* represent only the first step in addressing the causes of low subscribership within underserved and unserved areas. The Commission therefore continues to monitor the causes of low subscribership throughout the Nation and will be addressing this important issue on an ongoing basis. Accordingly, we do not find that our rules raise issues of discrimination.

4. Qualification Criteria for Enhanced Lifeline and Link-Up Service

19. We also clarify, on our own motion, the Federal default qualification criteria for enhanced Lifeline and Link-Up service as set forth in § 54.409(c) of the Commission's rules. As discussed, in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the Commission modified its universal service rules to increase access to telecommunications services among low-income individuals on tribal lands. In particular, the Commission created a fourth tier of federal Lifeline support to substantially reduce the cost of basic telephone service for such individuals. In addition, the Commission revised its rules governing the Link-Up program to provide increased federal support to reduce the costs of initial connection charges and line extension charges. Finally, the Commission broadened the federal default qualification criteria to enable low-income individuals living on tribal lands to qualify for this enhanced support by certifying their participation in certain additional means-tested assistance programs. We make this clarification to ensure that those otherwise eligible to participate in the enhanced programs will have the full opportunity to do so.

20. We take this opportunity to clarify that a low-income individual living on tribal lands in a state that mandates state Lifeline support shall be eligible for Tiers One, Two, Three, and Four of federal Lifeline support if the consumer meets the eligibility criteria established by the state for such support. If the consumer does not meet the eligibility criteria established by the state for such support, or if the consumer lives in a state that does not mandate state Lifeline support, the consumer living on tribal lands may qualify for Tiers One, Two, and Four of federal Lifeline support if the consumer participates in at least one of the following nine programs: Bureau of Indian Affairs General Assistance, Tribally-Administered Temporary Assistance for Needy Families, Head Start (only those meeting its income qualifying standard), the National School Lunch Program's free lunch program, Medicaid, Food Stamps, Supplemental Security Income, Federal Public Housing Assistance (Section 8) or the Low-Income Home Energy Assistance Program. In addition, such consumer may still be eligible to receive Tier Three of federal Lifeline support, as described in § 54.403(a)(3) of the Commission's rules, if the ETC

offering the Lifeline service provides carrier-matching funds. We strongly encourage eligible carriers to ensure that customer service representatives handling inquiries about the universal service low-income programs, especially enhanced Lifeline and Link-Up, are trained with regard to the operative eligibility criteria as clarified in this Order. We also take this opportunity to reiterate that the Commission's rules require eligible carriers to publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services.

III. Report and Order Addressing the Further Notice of Proposed Rulemaking in the *Twelfth Report and Order*

A. Discussion

21. We decline to adopt a rule at this time that would require state commissions to resolve the merits of any request for designation under section 214(e) within six months or some shorter period. We conclude that such action is unnecessary at this time. In so doing, we note that a number of ETC designation requests pending at the time of release of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* have been resolved by state commissions. We commend these state commissions for resolving those designation requests. We continue to encourage state commissions to act with the appropriate analysis yet as expeditiously as possible on all such requests. In addition, we note that a state's action on ETC designation requests may be reviewed under section 253 as a potential barrier to entry. Although we continue to encourage states to address such requests in a timely manner, we find no need for further action at this time.

22. In addition, we disagree with those commenters who suggest that the Commission should adopt a rule requiring resolution within six months of all ETC designations filed with the Commission, including requests for designation on tribal lands. In the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the Commission committed to resolve the merits of any request for designation on tribal lands within six months of release of an order resolving the jurisdictional issue. We decline, however, to extend this commitment to resolution of the jurisdictional issues presented in tribal ETC designation proceedings. As the Commission noted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the determination of whether a state commission lacks jurisdiction over a carrier providing service on tribal lands is a legally complex inquiry that may require additional time to fully address. The Commission also has specifically committed to resolving, within six months from the date filed, all designation requests for non-tribal lands that are properly before it pursuant to section 214(e)(6). The Commission has acted expeditiously on all ETC requests filed since the release of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. We conclude, therefore, that no further measures beyond those adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* are required at this time to expedite the resolution of ETC designation requests filed before this Commission.

IV. Order Addressing the Request of the Commonwealth of Northern Mariana Islands

A. Discussion

23. We decline, at this time, to extend to the Northern Mariana Islands the same measures that were adopted to promote subscribership on tribal lands. The record is insufficient to establish that the Northern Mariana Islands has the same impediments to subscribership and infrastructure investment as tribal lands.

24. The actions taken by the Commission in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* were designed to address impediments to subscribership and infrastructure investment on tribal lands, where high cost service and low subscribership are most egregious. The Commission identified a number of factors that are primary impediments to subscribership on tribal lands, including the cost of basic service, the cost of intrastate toll service, inadequate telecommunications infrastructure and the cost of line extensions, and the lack of competitive service providers offering alternative technologies. We find that CNMI has not provided any information that would allow us to identify the main impediments to subscribership on the Northern Mariana Islands (*e.g.*, geographic isolation, limited local calling areas, cost of basic service). CNMI merely asserts that the Northern Mariana Islands has low telephone penetration rates, low income levels, and a trust relationship with the federal government that is similar to that of tribal communities. Given the lack of specific information in the record, we cannot conclude that the enhanced low-income programs established for tribal lands would be effective in addressing the causes of low subscribership rates on the Northern Mariana Islands.

25. We note that the Commission specifically chose not to apply the actions taken in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* more generally to all high-cost areas and all insular areas, which would have included the Northern Mariana Islands. The Commission found that, although the record demonstrated that subscribership levels are below the national average in other low-income, rural areas and in certain insular areas, it did not permit a determination that the factors causing low subscribership on tribal lands are the same factors causing low subscribership among other populations. We find that CNMI has not provided any evidence that would lead us to depart from this determination. Specifically, CNMI has not demonstrated that the Northern Mariana Islands has low penetration rates and low per capita incomes that are similar to those on tribal lands. Although CNMI provides 1995 data suggesting that telephone penetration rates and per capita incomes on the Northern Mariana Islands are below the national average, even these statistics exceed those that exist on tribal lands. In the *Twelfth Report and Order and Further Notice of Proposed Rulemaking,* the Commission noted that subscribership on reservations was approximately 47 percent and per capita incomes were only $4,478. By comparison, CNMI indicates that the subscribership rates in the Northern Mariana Islands is 61 percent and per capita income is $6,897. We therefore deny CNMI's request to extend to the Northern Mariana Islands the same measures adopted by the Commission to boost subscribership levels on tribal lands. As noted, however, the Commission continues to monitor the causes of low subscribership and develop appropriate measures to address these causes as necessary.

V. Procedural Matters

Supplemental Final Regulatory Flexibility Analysis

26. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Tribal Stay Order and Further Notice of Proposed Rulemaking.* The Commission sought written public comment on the proposals in the Further Notice of Proposed Rulemaking, including comment on the IRFA. In addition, a Final Regulatory Flexibility Analysis (FRFA) and IRFA were included in the *Twelfth Report and Order and Further*

Notice of Proposed Rulemaking. In compliance with the RFA, this present FRFA supplements the FRFA contained in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* to the extent that changes to that Order adopted here on reconsideration require changes in the conclusions reached in the FRFA.

1. Need for and Objectives of the Order

27. The Commission issues this Order to ensure that enhanced Lifeline and Link-Up support is targeted to only the most underserved segments of our Nation. The Commission takes this action as part of its implementation of the Act's mandate that ''[c]onsumers in all regions of the Nation * * * have access to telecommunications and information services * * *.'' In this Order, we affirm that the framework adopted by the Commission for resolution of ETC designations on tribal lands provides a reasonable means to facilitate the expeditious resolution of such requests, while balancing the respective federal, state, and tribal interests. In addition, we conclude that the definition of ''reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* despite the Bureau of Indian Affairs' (BIA) subsequent modification of that definition for purposes of its direct assistance programs. We also clarify the Commission's rules regarding the qualification criteria for enhanced Lifeline and Link-Up service.

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

28. We received no comments directly in response to the IRFA in this proceeding. However, we reconsider our conclusion that Link-Up support should offset a portion of the costs of a wireless handset. Pending resolution of the issues presented in the *Tribal Stay Order*, we also conclude that carriers seeking designation as an ETC on ''near reservation'' areas must follow the procedures established for non-tribal designations in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*.

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

29. In the FRFA at paragraphs 162–178 of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, we described and estimated the number of small entities that would be affected by the new universal service rules and amendments for low-income consumers residing on tribal lands. The rule amendments adopted herein apply to the same entities affected by the rules adopted in that order. We therefore incorporate by reference paragraphs 162–178 of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

30. The actions taken herein will require carriers seeking designation as an ETC on near reservation areas to file such requests with the relevant state commission. Pending resolution of the issues presented in the *Tribal Stay Order and Further Notice of Proposed Rulemaking*, only in those instances where a carrier provides the Commission with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation will we consider section 214(e)(6) designation requests from carriers serving near reservation areas.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

31. In this Order, we confirm that the definition of ''reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. This decision will not result in a significant economic impact on small entities. We also conclude that Link-Up support should not offset any costs of a wireless handset. Given that Link-Up support is a one-time reduction in the eligible consumer's connection charge, we do not believe that this decision will result in a significant economic impact on any small wireless entities.

6. Report to Congress

32. The Commission will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

VI. Ordering Clauses

33. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 214(e), and 254 of the Communications Act of 1934, as amended, and 254, and § 1.429 of the Commission's rules, this Order on Reconsideration and Report and Order is adopted.

34. It is further ordered that the captioned petitions for reconsideration of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* are denied, to the extent discussed herein.

35. It is further ordered that the petition for reconsideration of the National Telephone Cooperative Association, filed on September 5, 2000, is granted, to the extent discussed herein.

36. It is further ordered that the petition for reconsideration of the South Dakota Independent Telephone Coalition, filed on September 5, 2000, is granted in part and denied in part, to the extent discussed herein.

37. It is further ordered that part 54 of the Commission's rules, is amended as set forth, effective August 15, 2003.

38. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Ruth A. Dancey,

Special Assistant to the Secretary.

Final Rules

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

PART 54—UNIVERSAL SERVICE

■ 1. The authority citations continue to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

■ 2. Amend § 54.400 by revising paragraph (e) and the note to paragraph (e) to read as follows:

§ 54.400 Terms and definitions.

* * * * *

(e) *Eligible resident of Tribal lands.* An ''eligible resident of Tribal lands'' is a ''qualifying low-income consumer,'' as defined in paragraph (a) of this section, living on or near a reservation. A ''reservation'' is defined as any federally recognized Indian tribe's reservation,

pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. ''Near reservation'' is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior's Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: Number of Indian people native to the reservation residing in the area; a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; geographical proximity of the area to the reservation, and administrative feasibility of providing an adequate level of services to the area.

Note to paragraph (e): The Commission stayed implementation of paragraph (e) as applied to qualifying low-income consumers living ''near reservations'' on August 31, 2000 (15 FCC Rcd 17112).

■ 3. Amend § 54.409 by revising the third sentence of paragraph (a), and the first and third sentence of paragraph (c) to read as follows:

§ 54.409 Consumer qualification for Lifeline.

(a) * * * A state containing geographic areas included in the definition of ''reservation'' and ''near reservation,'' as defined in § 54.400(e), must ensure that its qualification criteria are reasonably designed to apply to low-income individuals living in such areas.

* * * * *

(c) A consumer that lives on a reservation or near a reservation, but does not meet the qualifications for Lifeline specified in paragraphs (a) and (b) of this section, nonetheless shall be a ''qualifying low-income consumer'' as defined in § 54.400(a) and thus an ''eligible resident of Tribal lands'' as defined in § 54.400(e) and shall qualify to receive Tiers One, Two, and Four Lifeline service if the individual participates in one of the following federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those meeting its income qualifying standard); or National School Lunch Program's free lunch program. * * * To receive Lifeline support under this paragraph for the eligible resident of Tribal lands, the eligible telecommunications carrier offering the Lifeline service to such consumer must obtain the consumer's signature on a document certifying under penalty of perjury that the consumer receives benefits from at least one of the programs mentioned in this paragraph or paragraph (b) of this section, and lives on or near a reservation, as defined in § 54.400(e). * * *

[FR Doc. 03–17567 Filed 7–15–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; FCC 03–42]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain sections of the Commission's rules regarding unauthorized changes of consumers' preferred telecommunications service providers. Certain sections of the rules contained information collection requirements that required the approval of the Office of Management and Budget (''OMB'') before they could become effective. Those sections have been approved by OMB.

DATES: The amendments to 47 CFR sections 64.1120(c)(3)(iii), 64.1130(j), 64.1150(b), 64.1160(g), 64.1170(g), 64.1180, to the requirements concerning local exchange carrier verification of in-bound carrier changes, and to certifications to exempt carriers from the drop-off requirement, released by the Commission on March 17, 2003, and a summary of which was published at 68 FR 19152, April 18, 2003, will become effective on July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Perlesta Hollingsworth of the Policy Division, Consumer & Governmental Affairs Bureau at (202) 418–7383, TTY (202) 202 418–7365 (tty).

SUPPLEMENTARY INFORMATION: On March 17, 2003, the Commission released the Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking (Order). The Order revised and clarified certain rules to implement Section 258 of the Communications Act. The rules and requirements implementing Section 258 can be found primarily at 47 CFR part 64. The modifications and additions adopted in the Order will improve the carrier change process for consumers and carriers, while making it more difficult for unscrupulous carriers to perpetrate slams. The Commission released the Order on March 17, 2003. In addition, a summary of the Order was published in the **Federal Register** at 68 FR 19152, April 18, 2003. On July 1, 2003, the Commission received approval for the information collection requirements, Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, OMB Control Number 3060–0787, contained in the Order pursuant to the ''emergency processing'' provisions of the Paperwork Reduction Act of 1995 (5 CFR 1320.13). Questions concerning OMB control numbers and expiration dates should be directed to Les Smith, Federal Communications Commission, (202) 418–0217 or via the Internet to *leslie.smith@fcc.gov.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–17976 Filed 7–15–03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 020319061–3166–03; I.D. 070803G]

RIN 0648–AP81

Sea Turtle Conservation Measures for the Pound Net Fishery in Virginia Waters

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

ACTION: Temporary final rule.

SUMMARY: NOAA Fisheries is prohibiting the use of all pound net leaders in the Virginia waters of the mainstem Chesapeake Bay effective immediately through July 30, 2003. The