

currently approved under the Paperwork Reduction Act of 1995.

#### **Executive Order 12988, Civil Justice Reform**

FEMA has reviewed this rule under Executive Order 12988, "Civil Justice Reform" (61 FR 4729, published February 7, 1996). This rule meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Though this rule will not result in such an expenditure, FEMA does discuss the effects of this rule elsewhere in this preamble.

#### **Executive Order 12898, Environmental Justice**

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, published February 16, 1994), FEMA incorporates environmental justice into its policies and programs. The Executive Order requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in programs, denying persons the benefits of programs, or subjecting persons to discrimination because of race, color, or national origin.

FEMA believes that no action under this rule will have a disproportionately high or adverse effect on human health or the environment as it contains only a clarifying amendment regarding agency organization and practice and has no substantive effect on the regulated public. Accordingly, the requirements of Executive order 12898 do not apply to this rule.

#### **Congressional Review of Agency Rulemaking**

FEMA has sent this final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, ("Congressional Review Act") Public Law 104–121. This rule is not a "major

rule" within the meaning of the Congressional Review Act. This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have "significant adverse effects" on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises.

#### **Executive Order 13045, Protection of Children**

FEMA has analyzed this final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or safety that might disproportionately affect children.

#### **Executive Order 13175, Consultation and Coordination With Indian Tribal Governments**

FEMA has reviewed this rule under Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, published November 9, 2000). As this rule provides clarification with respect to agency organization and practice and has no substantive effect on the regulated public, it will not have a substantial direct effect on one or more Indian tribes, 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.

#### **Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights**

FEMA has reviewed this rule under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" (53 FR 8859, published March 18, 1988) as supplemented by Executive Order 13406, "Protecting the Property Rights of the American People" (71 FR 36973, published June 28, 2006). This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630.

#### **List of Subjects in 44 CFR Part 5**

Courts, Freedom of Information, Government employees.

■ For the reasons set forth above, FEMA amends 44 CFR part 5 as follows:

## **44 CFR Chapter 1—Federal Emergency Management Agency, Department of Homeland Security**

### **Subchapter A—General**

#### **PART 5—[REVISED]**

■ 1. The authority citation for part 5 is revised to read as follows:

**Authority:** 5 U.S.C. 552; 5 U.S.C. 301; 6 U.S.C. 101 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127; and E.O. 12148.

■ 2. Amend § 5.80, by adding paragraph (d) to read as follows:

#### **§ 5.80 Scope and applicability.**

\* \* \* \* \*

(d) The Department of Homeland Security's regulations, 6 CFR 5.41 through 5.49, apply to any subject matter not already covered by this subpart, including but not limited to demands or requests directed to current or former FEMA contractors.

Dated: August 1, 2007.

**R. David Paulison,**

*Administrator, Federal Emergency Management Agency.*

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 6 and 64**

[WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198 and CC Docket No. 92–105; FCC 07–110]

#### **IP-Enabled Services; Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons With Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission extends the disability access requirements that currently apply to telecommunications service providers and equipment manufacturers under section 255 of the Communications Act of 1934, as amended (the Act), to providers of "interconnected voice over Internet Protocol (VoIP) services," as defined by the Commission, and to manufacturers of specially designed

equipment used to provide those services. In addition, the Commission extends the Telecommunications Relay Services (TRS) requirements contained in its regulations to interconnected VoIP providers.

**DATES:** Effective October 5, 2007 except for the amendments to 47 CFR 6.11(a) and (b), 6.18(b), 6.19, 64.604(a)(5), 64.604(c)(1) through (c)(3), 64.604(c)(5)(iii)(C), 64.604(c)(5)(iii)(E), 64.604(c)(5)(iii)(G), 64.604(c)(6)(v)(A)(3), 64.604(c)(6)(v)(G), 64.604(c)(7), and 64.606(b), which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB), and on which the Commission must seek comment pursuant to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Written comments on the new or modified information collection requirements must be submitted on or before October 5, 2007. The Commission will publish a document in the **Federal Register** announcing the effective date of those rules and requirements.

**ADDRESSES:** You may submit PRA comments identified by FCC number 07-110 and CG Docket No. 03-123, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- *E-mail:* Parties who choose to file by e-mail should submit their PRA comments to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to Jasmeet Seehra, at [Jasmeet\\_K\\_Seehra@omb.eop.gov](mailto:Jasmeet_K_Seehra@omb.eop.gov). Please include FCC number 07-110 and CG Docket No. CG 03-123 in the subject line of the message.

- *Mail/Fax:* Parties who choose to file by paper should submit their PRA comments to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC 20554, and to Jasmeet Seehra, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via fax (202) 395-5167.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov), phone (202) 418-0539 or TTY: (202) 418-0432.

**FOR FURTHER INFORMATION CONTACT:** Lisa Elster Boehley, Consumer & Governmental Affairs Bureau at (202) 418-7395 (voice), or e-mail [Lisa.Boehley@fcc.gov](mailto:Lisa.Boehley@fcc.gov). For additional information concerning the PRA information collection requirements

contained in this document, send an e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov) or contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:** This document contains new or modified information collection requirements subject to the PRA. These will be submitted to OMB for review under § 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collections contained in this proceeding.

On September 29, 1999, the Commission issued an order (*Section 255 Order*) implementing the disability access provisions in sections 255 and 251(a)(2) of the Act (FCC 99-181), published at 64 FR 63235, November 19, 1999. The *Section 255 Order* included a *Further Notice of Inquiry (NOI)*, published at 64 FR 63277, November 19, 1999, which sought comment on applying accessibility requirements to Internet Protocol telephony and computer-based equipment that replicates telecommunications functionality. The *NOI* sought comment on the extent to which Internet telephony was impairing access to communications services among people with disabilities, the efforts manufacturers were taking to render new technologies accessible, and the degree to which these technologies should be subjected to the same disability access requirements as traditional telephony facilities.

On March 10, 2004, the Commission released a *Notice of Proposed Rulemaking (FCC 04-28)*, published at 69 FR 16193, March 29, 2004, seeking comment on issues relating to services and applications utilizing Internet Protocol. On June 15, 2007, the Commission released this *Order (FCC 07-110)* extending the disability access requirements that currently apply to telecommunications service providers and equipment manufacturers under section 255 of the Act to providers of "interconnected voice over Internet Protocol (VoIP) services," as defined by the Commission, and to manufacturers of specially designed equipment used to provide those services, and extending the TRS requirements contained in 47 CFR 64.601 *et seq.* of the Commission's rules to interconnected VoIP providers. Copies of document FCC 07-110 and any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document FCC 07-110 and any subsequently filed

documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at their Web site: <http://www.bcpweb.com> or call 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Document FCC 07-110 can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.html#orders> under TRS Headlines (June 15, 2007).

#### **Paperwork Reduction Act of 1995 Analysis**

Document FCC 07-110 contains new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in document FCC 07-110, as required by the PRA. Public and agency comments are due October 5, 2007. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

The Commission assessed the effects of imposing disability access requirements on interconnected VoIP providers and manufacturers, and of imposing TRS requirements on interconnected VoIP providers, and finds that there may be an increased administrative burden on businesses with fewer than 25 employees.

The Commission has taken steps to minimize the information collection burden for small business concerns, including those with fewer than 25

employees. For example, although the Commission requires covered entities to maintain records of their accessibility efforts that can be presented to the Commission to demonstrate compliance, the Commission does not delineate specific documentation or certification requirements for “readily achievable” analyses. In addition, by adopting general performance criteria, as opposed to accessibility standards or performance measurements specifying exactly how access must be achieved, the Commission’s rules provide small entities flexibility in determining how best to manage their compliance with these rules. Moreover, by adopting the “readily achievable” standard that currently applies to telecommunications service providers and manufacturers, covered interconnected VoIP providers and manufacturers are required to render their services or products accessible only if doing so is “easily accomplishable and able to be carried out without much difficulty or expense.” Finally, because the information interconnected VoIP providers currently provide on the Telecommunications Reporting Worksheet (FCC Form 499–A) for purposes of the USF reporting requirements also will be used to determine these entities’ TRS contribution, there will be no increased reporting burden on small businesses. These measures should substantially alleviate any burdens on businesses with fewer than 25 employees.

### Synopsis

Section 255 of the Act requires manufacturers of “telecommunications equipment or customer premises equipment” to ensure that such equipment is accessible to and usable by individuals with disabilities, if readily achievable, and requires providers of a “telecommunications service” to ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable. In this *Order*, the Commission extends those disability access requirements that currently apply to telecommunications service providers and equipment manufacturers under section 255 of the Act and 47 CFR part 6, to providers of “interconnected voice over Internet Protocol (VoIP) services,” as defined by the Commission, and to manufacturers of specially designed equipment used to provide those services. The Commission adopts this measure under its Title I ancillary jurisdiction in order to give full effect to the accessibility policies embodied in section 255 of the Act, and to further the Commission’s statutory mandate to make available a nationwide

communications system that promotes the safety and welfare of all Americans. In addition, the Commission extends the TRS requirements contained in the Commission’s regulations, 47 CFR 64.601 *et seq.* (subpart F), to providers of interconnected VoIP services, pursuant to section 225(b)(1) of the Act and the Commission’s Title I ancillary jurisdiction. Among the TRS requirements extended to interconnected VoIP providers, the Commission requires such providers to contribute to the Interstate TRS Fund (Fund) under the Commission’s existing contribution rules, and to offer 711 abbreviated dialing for access to relay services. Together, these measures will ensure that, as more consumers migrate from traditional phone service to interconnected VoIP services, the disability access provisions mandated by Congress under sections 255 and 225 of the Act will apply to, and benefit users of, interconnected VoIP services and equipment.

### Final Regulatory Flexibility Certification (FRFA)

Pursuant to the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601 *et seq.* (RFA), the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The Commission sought written public comment on the proposals in the notice, including comment on the Initial Regulatory Flexibility Analysis (IRFA). *See IP-Enabled Services NPRM*, 19 FCC Rcd at 4917, paragraph 91 and Appendix A. The Commission received three comments on the IRFA, which are discussed below. This FRFA conforms to the RFA. *See* 5 U.S.C. 604.

### Need for, and Objectives of, the Rules

*FCC 07–110* strengthens the Commission’s disability access rules. Section 255 of the Act requires telecommunications service providers and equipment manufacturers to render their services or equipment accessible to persons with disabilities, if readily achievable. The *Order* extends the disability access requirements, that currently apply to telecommunications service providers and equipment manufacturers under section 255 of the Act, to providers of interconnected VoIP services and to manufacturers of specially designed equipment used to provide those services. In addition, the *Order* extends the TRS requirements contained in the Commission’s regulations, 47 CFR 64.601 *et seq.* (subpart F), to providers of

interconnected VoIP services. Among the TRS requirements extended to interconnected VoIP providers, the Commission requires such providers to contribute to the Interstate TRS Fund under the Commission’s existing contribution rules, *see* 47 CFR 64.604(c)(5)(iii)(A), (B), and to offer 711 abbreviated dialing for access to relay services, *see* 47 CFR 64.603. Together, these measures will ensure that, as more consumers migrate from traditional phone service to interconnected VoIP services, the disability access provisions mandated by Congress under sections 255 and 225 of the Act will apply to, and benefit users of, interconnected VoIP services and equipment.

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

*Comments Received in Response to the IP-Enabled Services NPRM.* In this section, we respond to comments filed in response to the IRFA. To the extent comments raised general small business concerns during this proceeding, those comments have been addressed in the *Order*. The Commission disagrees with SBA and Menard that the Commission should postpone acting in this proceeding—thereby postponing extension of the application of the disability access and TRS contribution rules to interconnected VoIP providers—and instead should reevaluate the economic impact and the compliance burdens on small entities and issue a further notice of proposed rulemaking in conjunction with a supplemental IRFA identifying and analyzing the economic impacts on small entities, and less burdensome alternatives. *See* Comments of SBA at 2, 4, 6 (May 28, 2004); Comments of Menard at 2–5 (May 28, 2004); Reply of Menard at 4 (July 15, 2004).

The additional steps suggested by SBA and Menard are unnecessary, because small entities already had sufficient notice of the issues addressed in the *Order*, through comment sought by the *IP-Enabled Services NPRM* and the *Section 255 NOI*. Indeed, the Commission notes that a number of small entities submitted comments in this proceeding. The Commission has considered the economic impact on small entities as well as ways to minimize the burdens imposed on those entities, and, to the extent feasible, has implemented those less burdensome alternatives. *See Order*, FCC 07–110, section E of Appendix A.

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

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 rules adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such terms which are appropriate to the activities of the agency and publishes such definitions(s) in the **Federal Register**." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.

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

**Small Businesses.** Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.

**Small Organizations.** Nationwide, there are approximately 1.6 million small organizations.

**Small Governmental Jurisdictions.** The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. The Commission estimates that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, the Commission estimates that most governmental jurisdictions are small.

### Telecommunications Service Entities

**Wireless Carriers and Service Providers.** The Commission has included small incumbent local exchange carriers in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The

SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. The Small Business Act contains a definition of "small-business concern," which the RFA incorporates into its own definition of "small business." SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. The Commission therefore has included small incumbent local exchange carriers in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

**Wired Telecommunications Carriers.** The SBA has developed a small business size standard for wireline firms within the broad economic census category, "Wired Telecommunications Carriers." Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census Bureau data for 2002 show that there were 2,432 firms in this category that operated for the entire year. Of this total, 2,395 firms had employment of 999 or fewer employees, and 37 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

**Incumbent Local Exchange Carriers (LECs).** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,307 carriers, an estimated 1,019 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the Commission's action.

**Competitive Local Exchange Carriers, Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."**

Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers, under which a business is small if it has

1,500 or fewer employees. According to Commission data, 859 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are "Other Local Service Providers." Of the 44, an estimated 43 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by the Commission's action.

**Local Resellers.** The SBA has developed a small business size standard for the category of Telecommunications Resellers, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 184 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 181 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the Commission's action.

**Toll Resellers.** The SBA has developed a small business size standard for the category of Telecommunications Resellers, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 853 have 1,500 or fewer employees and 28 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by the Commission's action.

**Payphone Service Providers (PSPs).** Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 657 carriers have reported that they are engaged in the provision of payphone

services. Of these, an estimated 653 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by the Commission's action.

*Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 330 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 309 have 1,500 or fewer employees and 21 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by the Commission's action.

*Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees.

Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by the Commission's action.

*Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 104 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, 102 are estimated to have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that all or the majority of prepaid calling card providers are small entities that may be affected by the Commission's action.

*800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-

like service ("toll free") subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers, under which a business is small if it has 1,500 or fewer employees. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use. According to this source, as of the end of June 2006, the number of 800 numbers assigned was 7,647,941, the number of 888 numbers assigned was 5,318,667, the number of 877 numbers assigned was 4,431,162, and the number of 866 numbers assigned was 6,008,976. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, we estimate that there are approximately 7,647,941 small entity 800 subscribers, approximately 5,318,667 small entity 888 subscribers, approximately 4,431,162 small entity 877 subscribers, and approximately 6,008,976 small entity 866 subscribers.

#### International Service Providers

The Commission has not developed a small business size standard specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of "Satellite Telecommunications" and "Other Telecommunications." Under both categories, such a business is small if it has \$12.5 million or less in average annual receipts. The first category of Satellite Telecommunications "comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under \$10 million, and 26 firms had receipts of \$10 million to \$24,999,999. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by the Commission's action.

The second category of Other Telecommunications "comprises

establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems." For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year.

Of this total, 259 firms had annual receipts of under \$10 million and 15 firms had annual receipts of \$10 million to \$24,999,999. Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by the Commission's action.

#### Wireless Telecommunications Service Providers

Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. The Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

*Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

*Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category "Cellular and Other Wireless Telecommunications," under which a wireless business is small if it has 1,500 or fewer employees. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the great majority of firms can be considered small. Also, according to Commission data, 432 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. The Commission has estimated that 221 of these are small, under the SBA small business size standard.

*Common Carrier Paging.* The SBA has developed a small business size standard for wireless firms within the broad economic census category, "Cellular and Other Wireless Telecommunications," under which a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. In the *Paging Third Report and Order*, the Commission developed a small business size standard for "small businesses" and "very small businesses." See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89–552, *Third Report and Order and Fifth Notice of Proposed Rulemaking*, 12 FCC Rcd 10943, 11068–70, paragraphs 291–295, 62 FR 16004 (April 3, 1997) (*220 MHz Third Report and Order*).

A "small business" and a "very small business" are entities that, together with their affiliates and controlling principals, have average gross revenues not exceeding \$15 million for \$3 million, respectively, for the preceding three years. The SBA has approved these small business size standards. An

auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. Also, according to Commission data, 375 carriers reported that they were engaged in the provision of paging and messaging services. Of those, the Commission estimates that 370 are small, under the SBA-approved small business size standard.

*Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A "small business" and a "very small business" are entities with average gross revenues of \$40 million or \$15 million, respectively, for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as "very small business" entities, and one that qualified as a "small business" entity.

*Wireless Telephony.* Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for "Cellular and Other Wireless Telecommunications" services, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 432 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. The Commission has estimated that 221 of these are small, under the SBA small business size standard.

*Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of \$40 million or less in the three previous calendar years. See Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96–59, *Report and Order*, 11 FCC Rcd 7824, 61 FR 33859 (July 1, 1996) (*PCS*

*Order*). For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years." See *PCS Order*. These standards defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. See, e.g., Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Fifth Report and Order*, 9 FCC Rcd 5332, 59 FR 37566 (July 22, 1994). No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

*Narrowband Personal Communications Services.* To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, "small businesses" were entities with average gross revenues for the prior three calendar years of \$40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. A "small business" and a "very small business" are entities that, together with affiliates and controlling interests, have average gross revenues of not more than \$40 million or \$15 million, respectively, for the three preceding years. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of

licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined. The Commission assumes, for purposes of this analysis that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

**220 MHz Radio Service—Phase I Licensees.** The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the small business size standard under the SBA rules applicable to "Cellular and Other Wireless Telecommunications" companies, under which a small business is a wireless company employing no more than 1,500 persons. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small. Assuming this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard.

**220 MHz Radio Service—Phase II Licensees.** The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, the Commission adopted a small business size standard for "small" and "very small" businesses for entities that, together with affiliates and controlling interests, have average gross revenues not exceeding \$15 million or \$3 million, respectively, for the three preceding years. See *220 MHz Third Report and Order*, 12 FCC Rcd at 11068–70, paragraphs 291–295. The SBA has approved these small business

size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

**800 MHz and 900 MHz Specialized Mobile Radio Licenses.** The Commission awards "small entity" and "very small entity" bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than \$15 million in each of the three previous calendar years, or that had revenues of no more than \$3 million in each of the previous calendar years, respectively. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. The Commission assumes that the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz auction, 38 of the 524 licenses won were won by small and very small entities.

**700 MHz Guard Band Licensees.** In the *700 MHz Guard Band Order*, the Commission adopted a small business size standard for "small businesses" and "very small businesses" for entities that, together with affiliates and controlling interests, have average gross revenues not exceeding \$15 million or \$3 million, respectively, for the three preceding years. See Service Rules for the 746–764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99–168, *Second Report and Order*, 65 FR 17599 (Apr. 4, 2000). An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the

104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

**Rural Radiotelephone Service.** The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. The service is defined in section 22.99 of the Commission's Rules, 47 CFR 22.99. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). BETRS is defined in sections 22.757 and 22.759 of the Commission's Rules, 47 CFR 22.757 and 22.759. The Commission uses the SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

**Air-Ground Radiotelephone Service.** The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. The service is defined in section 22.99 of the Commission's Rules, 47 CFR 22.99. The Commission will use SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA small business size standard.

**Aviation and Marine Radio Services.** Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category "Cellular and Other Telecommunications," which is 1,500 or fewer employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station

licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of the Commission's evaluations in this analysis, we estimate that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined "small" businesses and "very small" businesses as entities that, together with affiliates and controlling interests, have average gross revenues not exceeding \$15 million or \$3 million, respectively, for the three preceding years. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as "small" businesses under the above special small business size standards.

*Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for "Cellular and Other Wireless Telecommunications" services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

*39 GHz Service.* The Commission created special "small business" and "very small business" size standards for 39 GHz licenses—entities that have average gross revenues of up to \$40 million or \$15 million, respectively, in the three previous calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

*Wireless Cable Systems.* Wireless cable systems use 2 GHz band frequencies of the Broadband Radio Service ("BRS") (formerly Multipoint Distribution Service ("MDS")) and the Educational Broadband Service ("EBS") (formerly Instructional Television Fixed Service ("ITFS")), to transmit video programming and provide broadband services to residential subscribers. These services were originally designed

for the delivery of multichannel video programming, similar to that of traditional cable systems, but over the past several years licensees have focused their operations instead on providing two-way high-speed Internet access services. Local Multipoint Distribution Service ("LMDS") is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. As described below, the SBA small business size standard for the broad census category of Cable and Other Program Distribution, which consists of such entities generating \$13.5 million or less in annual receipts, appears applicable to BRS, EBS and LMDS. Other standards also apply, as described.

The Commission has defined small MDS (now BRS) and LMDS entities in the context of Commission license auctions. In the 1996 MDS auction, the Commission defined a "small business" as an entity that had annual average gross revenues of less than \$40 million in the previous three calendar years. This definition has been approved by the SBA in the context of MDS auctions. In the MDS auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than \$40 million and are thus considered small entities. Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Act, 47 U.S.C. 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standards for "other telecommunications" (annual receipts of \$13.5 million or less). MDS licensees and wireless cable operators that did not receive their licenses as a result of the MDS auction fall under the SBA small business size standard for Cable and Other Program Distribution. Information available to the Commission indicates that there are approximately 850 of these licensees and operators that do not generate revenue in excess of \$13.5 million annually. Therefore, the Commission estimates that there are approximately 850 small entity BRS providers, as defined by the SBA and the Commission's auction rules. Educational institutions are included in this analysis as small entities; however, the Commission has not created a

specific small business size standard for ITFS (now EBS). The Commission estimates that there are currently 2,032 ITFS (or EBS) licensees, and all but 100 of the licenses are held by educational institutions. Thus, the Commission estimates that at least 1,932 ITFS licensees are small entities.

*Local Multipoint Distribution Service.* LMDS is a fixed broadband, point-to-multipoint, microwave service that provides for two-way video telecommunications. The Commission established "small business" and "very small business" size standards for LMDS licenses as entities that have average gross revenues not exceeding \$40 million or \$15 million, respectively, for the three preceding years. The SBA has approved these small business size standards in the context of LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses in LMDS auctions. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, the Commission concludes that the maximum number of small LMDS licensees consists of the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers.

*218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a \$6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than \$2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order*, 64 FR 59656, the Commission established standards for a "small business" and a "very small business" as entities that, together with affiliates and controlling interests, have average annual gross revenues not exceeding \$15 million or \$3 million, respectively, for the three preceding years. These special small business size standards will be used, as appropriate, in future auctions of 218–219 MHz spectrum.

*24 GHz—Incumbent Licensees.* This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of



"Cellular and Other Wireless Telecommunications" companies. This category provides that such a company is small if it employs no more than 1,500 persons. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small. These broader census data notwithstanding, the Commission believes that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is the Commission's understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

**24 GHz—Future Licensees.** With respect to new applicants in the 24 GHz band, the SBA approved small business size standards for a "small business" and "very small business," which are entities that, together with affiliates and controlling interests, have average annual gross revenues not exceeding \$15 million or \$3 million, respectively, for the three preceding years. These size standards will apply to the future auction, if held.

#### **Cable and OVS Operators**

**Cable and Other Program Distribution.** The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged as third-party distribution systems for broadcast programming. The establishments of this industry deliver visual, aural, or textual programming received from cable networks, local television stations, or radio networks to consumers via cable or direct-to-home satellite systems on a subscription or fee basis. These establishments do not generally originate programming material." The SBA has developed a small business size standard for Cable and Other Program Distribution, which is: all such firms having \$13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under \$10 million, and 43 firms had receipts of \$10 million or more but less than \$25 million. Thus, under this size

standard, the majority of firms can be considered small.

**Cable Companies and Systems.** The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small.

**Cable System Operators.** The Act also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000." The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. The Commission notes that it neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, and therefore it cannot provide a more accurate estimate of the number of cable system operators that would qualify as small under this size standard.

**Open Video Services.** Open Video Service (OVS) systems provide subscription services. The SBA has created a small business size standard for Cable and Other Program Distribution. This standard provides that a small entity is one with \$13.5 million or less in annual receipts. The Commission has certified approximately 25 OVS operators to serve 75 areas, some of which are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, DC, and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is

available for the other entities that are authorized to provide OVS and are not yet operational. Since some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to all 24 of the OVS operators other than RCN might qualify as small businesses that may be affected by the rules and policies adopted herein.

#### **Internet Service Providers**

**Internet Service Providers.** The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs "provide clients access to the Internet and generally provide related services such as web hosting, web page designing, and hardware or software consulting related to Internet connectivity." Under the SBA size standard, such a business is small if it has average annual receipts of \$23 million or less. According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year. Of these, 2,437 firms had annual receipts of under \$10 million, and an additional 47 firms had receipts of between \$10 million and \$24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

#### **Other Internet-Related Entities**

**Web Search Portals.** The Commission's action pertains to VoIP services, which could be provided by entities that provide other services such as e-mail, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The Commission has not adopted a size standard for entities that create or provide these types of services or applications. However, the Census Bureau identified firms that "operate web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format. Web search portals often provide additional Internet services, such as e-mail, connections to other web sites, auctions, news, and other limited content, and serve as a home base for Internet users." The SBA developed a small business size standard for this category of \$6.5 million or less in average annual receipts. According to Census Bureau data for 2002, 342 firms in this category operated for the entire year. Of these, 303 had annual receipts of under \$5 million, and 15 firms had receipts of between \$5 million and \$9,999,999. The Commission estimates that the majority of these firms are small

entities that may be affected by the Commission's action.

*Data Processing, Hosting, and Related Services.* Entities in this category "primarily \* \* \* provid[e] infrastructure for hosting or data processing services." The SBA developed a small business size standard for this category of \$23 million or less in average annual receipts.

According to Census Bureau data for 2002, 6,877 firms in this category operated for the entire year, 6,418 of which had annual receipts of under \$10 million, and an additional 251 of which had receipts of between \$10 million and \$24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

*All Other Information Services.* "This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives)." The Commission's action pertains to VoIP services, which could be provided by entities that provide other services such as e-mail, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA developed a small business size standard for this category of \$6.5 million or less in average annual receipts. According to Census Bureau data for 2002, there were 155 firms in this category that operated for the entire year. Of these, 138 had annual receipts of under \$5 million, and an additional four firms had receipts of between \$5 million and \$9,999,999. The Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

*Internet Publishing and Broadcasting.* "This industry comprises establishments engaged in publishing and/or broadcasting content on the Internet exclusively. These establishments do not provide traditional (non-Internet) versions of the content that they publish or broadcast." The SBA developed a small business size standard for this census category of 500 or fewer employees. According to Census Bureau data for 2002, 1,362 firms in this category operated for the entire year. Of these, 1,351 employed 499 or fewer employees, and six firms employed between 500 and 999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

*Software Publishers.* These companies may design, develop or publish software and may provide other support services to software purchasers, such as providing documentation or assisting in

installation. The companies may also design software to meet the needs of specific users. The SBA developed a small business size standard of \$23 million or less in average annual receipts for all of the following pertinent categories: Software Publishers, Custom Computer Programming Services, and Other Computer Related Services. For Software Publishers, Census Bureau data for 2002 indicate that there were 6,155 firms in the category that operated for the entire year. Of these, 7,633 had annual receipts of under \$10 million, and an additional 403 firms had receipts of between \$10 million and \$24,999,999. For providers of Custom Computer Programming Services, the Census Bureau data indicate that there were 32,269 firms that operated for the entire year. Of these, 31,416 had annual receipts of under \$10 million, and an additional 565 firms had receipts of between \$10 million and \$24,999,999. For providers of Other Computer Related Services, the Census Bureau data indicate that there were 6,357 firms that operated for the entire year. Of these, 6,187 had annual receipts of under \$10 million, and an additional 101 firms had receipts of between \$10 million and \$24,999,999. Consequently, the Commission estimates that the majority of the firms in each of these three categories are small entities that may be affected by the Commission's action.

#### **Equipment Manufacturers**

The disability access requirements we adopt today apply to manufacturers of specialized VoIP equipment and CPE. The following entities include those that may be affected by the actions taken in this Order.

*Telephone Apparatus Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, 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 is: All such firms having 1,000 or fewer employees. According to Census Bureau data for 2002, 518 establishments in this category operated for the entire year. Of

this total, 511 employed under 1,000, and an additional 7 employed 1,000 to 2,499. Thus, under this size standard, the majority of firms can be considered small.

*Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "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, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." The SBA established firms having 750 or fewer employees as the small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. According to Census Bureau data for 2002, 1,041 establishments in this category operated for the entire year. Of this total, 1,010 employed under 500, and an additional 13 employed 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

*Other Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment)." The SBA established firms having 750 or fewer employees as the small business size standard for Other Communications Equipment Manufacturing. According to Census Bureau data for 2002, there were a total of 503 establishments in this category that operated for the entire year. Of this total, 493 employed under 500, and 7 employed 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

SBA small business size standards are given in terms of "firms." Census Bureau data concerning computer manufacturers, on the other hand, are given in terms of "establishments." The Commission notes that the number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, although that location may be owned by a

different establishment. Thus, the census numbers provided below may reflect inflated numbers of businesses in the given category, including the numbers of small businesses.

*Electronic Computer Manufacturing.* This category “comprises establishments primarily engaged in manufacturing and/or assembling electronic computers, such as mainframes, personal computers, workstations, laptops, and computer servers.” The SBA has established firms having 1000 or fewer employees as the small business size standard for this category of manufacturing. According to Census Bureau data, 485 establishments in this category operated with payroll during 2002. Of these, 476 employed under 1,000, and an additional four employed 1,000 to 2,499. Consequently, the Commission estimates that the majority of these establishments are small entities.

*Computer Storage Device Manufacturing.* These establishments manufacture “computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.” The SBA established firms having 1000 or fewer employees as the small business size standard for this category of manufacturing. According to Census Bureau data, 170 establishments in this category operated with payroll during 2002. Of these, 164 employed under 500, and five employed 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Computer Terminal Manufacturing.* “Computer terminals are input/output devices that connect with a central computer for processing.” The SBA established firms having 1000 or fewer employees as the small business size standard for this category of manufacturing. According to Census Bureau data, 71 establishments in this category operated with payroll during 2002, and all employed fewer than 1,000. The Commission estimates that all of these establishments are small entities.

*Other Computer Peripheral Equipment Manufacturing.* Examples of peripheral equipment in this category include keyboards, mouse devices, monitors, and scanners. The SBA established firms having 1000 or fewer employees as the small business size standard for this category of manufacturing. According to Census Bureau data, 860 establishments in this category operated with payroll during 2002. Of these, 851 employed under 1,000, and five employed 1,000 to 2,499. The Commission estimates that the

majority of these establishments are small entities.

*Audio and Video Equipment Manufacturing.* These establishments manufacture “electronic audio and video equipment for home entertainment, motor vehicle, public address and musical instrument amplifications.” The SBA established firms having 750 or fewer employees as the small business size standard for this category of manufacturing. According to Census Bureau data, 571 operated with payroll during 2002. Of these, 560 employed under 500, and ten employed of 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Electron Tube Manufacturing.* These establishments are “primarily engaged in manufacturing electron tubes and parts (except glass blanks).” The SBA developed a small business size standard of 750 or fewer employees for this category of manufacturing. According to Census Bureau data, 102 establishments in this category operated with payroll during 2002. Of these, 97 employed under 500, and one employed 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Bare Printed Circuit Board Manufacturing.* These establishments are “primarily engaged in manufacturing bare (*i.e.*, rigid or flexible) printed circuit boards without mounted electronic components.” The SBA developed a small business size standard of 500 or fewer employees for this category of manufacturing. According to Census Bureau data, 936 establishments in this category operated with payroll during 2002. Of these, 922 employed under 500, and 12 employed 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Semiconductor and Related Device Manufacturing.* Examples of manufactured devices in this category include “integrated circuits, memory chips, microprocessors, diodes, transistors, solar cells and other optoelectronic devices.” The SBA developed a small business size standard of 500 or fewer employees for this category of manufacturing. According to Census Bureau data, 1,032 establishments in this category operated with payroll during 2002. Of these, 950 employed under 500, and 42 employed 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Electronic Capacitor Manufacturing.* These establishments manufacture “electronic fixed and variable capacitors and condensers.” The SBA developed a

small business size standard of 500 or fewer employees for this category of manufacturing. According to Census Bureau data, 104 establishments in this category operated with payroll during 2002. Of these, 101 employed under 500, and two employed 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Electronic Resistor Manufacturing.* These establishments manufacture “electronic resistors, such as fixed and variable resistors, resistor networks, thermistors, and varistors.” The SBA developed a small business size standard of 500 or fewer employees for this category of manufacturing. According to Census Bureau data, 79 establishments in this category operated with payroll during 2002. All of these establishments employed under 500. The Commission estimates that all of these establishments are small entities.

*Electronic Coil, Transformer, and Other Inductor Manufacturing.* These establishments manufacture “electronic inductors, such as coils and transformers.” The SBA developed a small business size standard of 500 or fewer employees for this category of manufacturing. According to Census Bureau data, 365 establishments in this category operated with payroll during 2002, and all employed under 500. The Commission estimates that all of these establishments are small entities.

*Electronic Connector Manufacturing.* These establishments manufacture “electronic connectors, such as coaxial, cylindrical, rack and panel, pin and sleeve, printed circuit and fiber optic.” The SBA developed a small business size standard of 500 or fewer employees for this category of manufacturing. According to Census Bureau data, 321 establishments in this category operated with payroll during 2002. Of these, 315 employed under 500, and three employed 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Printed Circuit Assembly (Electronic Assembly) Manufacturing.* These are establishments “primarily engaged in loading components onto printed circuit boards or who manufacture and ship loaded printed circuit boards.” The SBA developed a small business size standard of 500 or fewer employees for this category of manufacturing. According to Census Bureau data, 868 establishments in this category operated with payroll during 2002. Of these, 839 employed under 500, and 18 employed 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Other Electronic Component Manufacturing.* The SBA developed a small business size standard of 500 or fewer employees for this category of manufacturing. According to Census Bureau data, 1,627 establishments in this category operated with payroll during 2002. Of these, 1,616 employed under 500, and eight employed 500 to 999. The Commission estimates that the majority of these establishments are small entities.

*Fiber Optic Cable Manufacturing.* These establishments manufacture "insulated fiber-optic cable from purchased fiber-optic strand." The SBA developed a small business size standard of 1,000 or fewer employees for this category of manufacturing. According to Census Bureau data, 96 establishments in this category operated with payroll during 2002. Of these, 95 employed under 1,000, and one employed 1,000 to 2,499. The Commission estimates that the majority or all of these establishments are small entities.

*Other Communication and Energy Wire Manufacturing.* These establishments manufacture "insulated wire and cable of nonferrous metals from purchased wire." The SBA developed a small business size standard of 1,000 or fewer employees for this category of manufacturing. According to Census Bureau data, 356 establishments in this category operated with payroll during 2002. Of these, 353 employed under 1,000, and three employed 1,000 to 2,499. The Commission estimates that the majority or all of these establishments are small entities.

#### **Description of Projected Reporting, Recordkeeping and Other Compliance Requirements**

*Disability Access Requirements.* (See FCC 07–110 at paragraphs 16–20, 25–31). The Commission requires providers of interconnected VoIP services and specialized equipment, and CPE manufacturers, to comply with the disability access requirements contained in 47 CFR Part 6. Covered entities must maintain records pertaining to their disability access compliance efforts and designate, and submit contact information for, an agent for service of disability access-related inquiries or complaints. In addition, the rules we adopt today: (1) Require manufacturers of specialized interconnected VoIP equipment or CPE to ensure that their equipment is designed, developed and fabricated to be accessible to individuals with disabilities, if readily achievable, and, where such accessibility is not readily achievable, to ensure that the

equipment is compatible with existing peripheral devices or specialized CPE, if readily achievable; (2) require interconnected VoIP providers to ensure that their service is accessible to individuals with disabilities, if readily achievable, and, where such accessibility is not readily achievable, to ensure that the service is compatible with existing peripheral devices or specialized CPE, if readily achievable; (3) require covered manufacturers and service providers to evaluate the accessibility, usability, and compatibility of covered services and equipment throughout the design and development process; and (4) require covered manufacturers and service providers to ensure that information and documentation provided in connection with equipment or services be accessible to people with disabilities, where readily achievable, and that employee training, where provided at all, account for accessibility requirements.

*TRS Requirements.* (See FCC 07–110 at paragraphs 16, 32–33, 36–40). The Commission requires providers of interconnected VoIP service to comply with the TRS requirements contained in our regulations, 47 CFR 64.601 *et seq.* (subpart F). Among the TRS requirements that the Commission extends to interconnected VoIP providers, the Commission requires such providers to contribute to the Interstate TRS Fund under the Commission's existing contribution rules, and to offer 711 abbreviated dialing for access to relay services. These providers will contribute to the Interstate TRS Fund through monthly or annual payments into the Fund as specified in the Commission's TRS rules. Interconnected VoIP provider payments into the Fund will be assessed on the basis of revenue information these providers currently submit to the Universal Service Administrative Company (USAC) on the FCC Form 499–A.

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

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the

use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

The Commission has considered how best to minimize any significant economic impact on small entities and, in FCC 07–110, has attempted to impose minimal regulation on small entities to the extent consistent with its goal of ensuring that individuals with disabilities have access to critical "POTS-like" communications services and equipment. The Commission has taken several steps to minimize the economic impact on small entities. For example, although the Commission requires covered entities to maintain records of their accessibility efforts that can be presented to the Commission to demonstrate compliance, the Commission does not delineate specific documentation or certification requirements for "readily achievable" analyses. In addition, by adopting general performance criteria, as opposed to accessibility standards or performance measurements specifying exactly how access must be achieved, the Commission's rules provide small entities flexibility in determining how best to manage their compliance with these rules. Moreover, by adopting the "readily achievable" standard that currently applies to telecommunications service providers and manufacturers, covered interconnected VoIP providers and manufacturers are required to render their services or products accessible only if doing so is "easily accomplishable and able to be carried out without much difficulty or expense." Inasmuch as interconnected VoIP providers will be permitted to file the identical Telecommunications Reporting Worksheet (FCC Form 499–A) for the TRS reporting requirements that these providers currently file in connection with the USF reporting requirements, there will be no increased reporting burden on small businesses. Finally, interconnected VoIP providers whose interstate end-user revenues are deemed *de minimis* under the Commission's TRS rules and procedures in a given Fund year, will be required to contribute only \$25 for that year. These measures should substantially alleviate any economic burdens on small entities.

In taking the actions described above, the Commission undertook to assess the interests of small businesses in light of the overriding public interest in, and statutory goal of, making critical communications services accessible by and to all Americans. Therefore, the Commission concluded that it was important for all providers of

interconnected VoIP service and covered manufacturers, including small businesses, to comply with the rules adopted in FCC 07-110, and the Commission rejected alternative solutions that would have exempted small businesses from these requirements. The record indicated that exempting small carriers from these requirements would compromise the Commission's goal of ensuring access to critical communications services for all Americans.

**Congressional Review Act**

The Commission will send a copy of FCC 07-110, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of FCC 07-110, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of FCC 07-110 and FRFA (or summaries thereof) will also be published in the Federal Register.

**Ordering Clauses**

Pursuant to the authority contained in sections 1-4, 225, 251, 255, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 225, 251, 255, and 303(r), the report and order is adopted.

Pursuant to the authority contained in sections 1-4, 225, 251, 255, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 225, 251, 255, and 303(r), part 6 of the Commission's rules, 47 CFR part 6, is amended.

Pursuant to the authority contained in sections 1-4, 225, 251, 255, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 225, 251, 255, and 303(r), part 64 of the Commission's rules, 47 CFR part 64, is amended.

The rules and requirements contained herein shall become effective October 5, 2007, except for the amendments to 47 CFR 6.11(a) and (b), 6.18(b), 6.19, 64.604(a)(5), 64.604(c)(1) through (c)(3), 64.604(c)(5)(iii)(C), 64.604(c)(5)(iii)(E), 64.604(c)(5)(iii)(G), 64.604(c)(6)(v)(A)(3), 64.604(c)(6)(v)(G), 64.604(c)(7), and 64.606(b), which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). These rules and requirements shall become effective upon OMB approval. The Commission will publish a document in the Federal Register announcing the effective date of these rules and requirements.

The Commission's Consumer & 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.

**List of Subjects**

47 CFR Part 6

Communications equipment, Individuals with disabilities, Telecommunications.

47 CFR Part 64

Individuals with disabilities, Telecommunications relay services.

Federal Communications Commission.

Marlene H. Dortch, Secretary.

**Rule Changes**

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 6 and 64 as follows:

**PART 6—ACCESS TO TELECOMMUNICATIONS SERVICE, TELECOMMUNICATIONS EQUIPMENT AND CUSTOMER PREMISES EQUIPMENT BY PERSONS WITH DISABILITIES**

■ 1. The authority citation for part 6 is revised to read as follows:

Authority: 47 U.S.C. 151-154, 251, 255, and 303(r).

■ 2. Section 6.1 is amended by revising paragraphs (b) and (c) and adding paragraphs (d) and (e) to read as follows:

**§ 6.1 Applicability.**

\* \* \* \* \*

(b) Any manufacturer of telecommunications equipment or customer premises equipment;

(c) Any telecommunications carrier;

(d) Any provider of interconnected Voice over Internet Protocol (VoIP) service, as that term is defined in § 9.3 of this chapter; and

(e) Any manufacturer of equipment or customer premises equipment that is specially designed to provide interconnected VoIP service and that is needed for the effective use of an interconnected VoIP service.

■ 3. Section 6.3 is amended by revising paragraph (c); redesignating paragraphs (e) through (k) as paragraphs (f) through (l), respectively; adding a new paragraph (e); and revising newly redesignated paragraphs (j) and (k) to read as follows:

**§ 6.3 Definitions.**

\* \* \* \* \*

(c) The term customer premises equipment shall mean equipment

employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications. For purposes of this part, the term customer premises equipment shall include equipment employed on the premises of a person (other than a carrier) that is specially designed to provide interconnected VoIP service and that is needed for the effective use of an interconnected VoIP service.

\* \* \* \* \*

(e) The term interconnected VoIP service shall have the same meaning as in § 9.3 of this chapter.

\* \* \* \* \*

(j) The term telecommunications equipment shall mean equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades). For purposes of this part, the term telecommunications equipment shall include equipment that is specially designed to provide interconnected VoIP service and that is needed for the effective use of an interconnected VoIP service as that term is defined in § 9.3 of this chapter.

(k) The term telecommunications service shall mean the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. For purposes of this part, the term telecommunications service shall include "interconnected VoIP service" as that term is defined in § 9.3 of this chapter.

\* \* \* \* \*

■ 4. Section 6.11 is amended by adding a note to paragraphs (a) and (b) to read as follows:

**§ 6.11 Information, documentation, and training.**

(a) \* \* \*

\* \* \* \* \*

Note to paragraph (a): The application of the reporting or recordkeeping provisions included in paragraph (a) of this section to interconnected VoIP providers and to manufacturers of equipment that is specially designed to provide interconnected VoIP service will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers and related manufacturers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers and related equipment manufacturers after it obtains OMB approval.

(b) \* \* \*

Note to paragraph (b): The application of the reporting or recordkeeping provisions included in paragraph (b) of this section to interconnected VoIP providers and to manufacturers of equipment that is specially designed to provide interconnected VoIP service will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers and related manufacturers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers and related equipment manufacturers after it obtains OMB approval.

■ 5. Section 6.18 is amended by adding a note to paragraph (b) to read as follows:

**§ 6.18 Procedure; designation of agents for service.**

(b) \* \* \*

Note to paragraph (b): The application of the reporting or recordkeeping provisions included in paragraph (b) of this section to interconnected VoIP providers and to manufacturers of equipment that is specially designed to provide interconnected VoIP service will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers and related manufacturers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers and related equipment manufacturers after it obtains OMB approval.

■ 6. Section 6.19 is amended by adding a note to section 6.19 to read as follows:

**§ 6.19 Answers to informal complaints.**

\* \* \* \* \*

Note to section 6.19: The application of the reporting or recordkeeping provisions included in § 6.19 to interconnected VoIP providers and to manufacturers of equipment that is specially designed to provide interconnected VoIP service will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers and related manufacturers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers and related equipment manufacturers after it obtains OMB approval.

**PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

■ 7. An authority citation for subpart F is added to read as follows:

**Authority:** 47 U.S.C. 151–154, 225, 255, and 303(r).

■ 8. Section 64.601 of subpart F is amended by:

- a. Revising the section heading;
- b. Redesignating the introductory text as paragraph (a) introductory text;
- c. Redesignating paragraphs (1) through (18) as paragraphs (a)(1) through (a)(18);
- d. Redesignating newly designated paragraphs (a)(9) through (a)(18) as paragraphs (a)(10) through (a)(19), respectively;
- e. Adding a new paragraph (a)(9); and
- f. Adding a new paragraph (b) to read as follows:

**§ 64.601 Definitions and provisions of general applicability.**

- (a) \* \* \*
- (9) Interconnected VoIP service. An interconnected Voice over Internet protocol (VoIP) service is a service that:
  - (i) Enables real-time, two-way voice communications;
  - (ii) Requires a broadband connection from the user's location;
  - (iii) Requires Internet protocol-compatible customer premises equipment (CPE); and
  - (iv) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(b) For purposes of this subpart, all regulations and requirements applicable to common carriers shall also be applicable to providers of interconnected VoIP service.

■ 9. Section 64.604 is amended by adding a note to paragraphs (a)(5), (c)(1) through (c)(3), (c)(5)(iii)(C), (c)(5)(iii)(E), (c)(5)(iii)(G), (c)(6)(v)(A)(3), (c)(6)(v)(G) and (c)(7) to read as follows:

**§ 64.604 Mandatory minimum standards.**

(a) \* \* \*

(5) \* \* \*

Note to paragraph (a)(5): The application of the reporting or recordkeeping provisions included in paragraph (a)(5) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

(c) \* \* \*

(1) \* \* \*

\* \* \* \* \*

Note to paragraph (c)(1): The application of the reporting or recordkeeping provisions included in paragraph (c)(1) of this section to interconnected VoIP providers will be submitted for approval to the Office of

Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

(2) \* \* \*

\* \* \* \* \*

Note to paragraph (c)(2): The application of the reporting or recordkeeping provisions included in paragraph (c)(2) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

(3) \* \* \*

Note to paragraph (c)(3): The application of the reporting or recordkeeping provisions included in paragraph (c)(3) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

(5) \* \* \*

(iii) \* \* \*

(C) \* \* \*

Note to paragraph (c)(5)(iii)(C): The application of the reporting or recordkeeping provisions included in paragraph (c)(5)(iii)(C) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

(E) \* \* \*

Note to paragraph (c)(5)(iii)(E): The application of the reporting or recordkeeping provisions included in paragraph (c)(5)(iii)(E) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

\* \* \* \* \*

(G) \* \* \*

Note to paragraph (c)(5)(iii)(G): The application of the reporting or recordkeeping provisions included in paragraph (c)(5)(iii)(G) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

\* \* \* \* \*

(6) \* \* \*  
(v) \* \* \*  
(A) \* \* \*  
(3) \* \* \*

Note to paragraph (c)(6)(v)(A)(3): The application of the reporting or recordkeeping provisions included in paragraph (c)(6)(v)(A)(3) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

\* \* \* \* \*

(G) \* \* \*

Note to paragraph (c)(6)(v)(G): The application of the reporting or recordkeeping provisions included in paragraph (c)(6)(v)(G) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

\* \* \* \* \*

(7) \* \* \*

Note to paragraph (c)(7): The application of the reporting or recordkeeping provisions included in paragraph (c)(7) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

■ 10. Section 64.606 is amended by adding a note to paragraph (b) to read as follows:

**§ 64.606 Furnishing related customer premises equipment.**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

Note to paragraph (b): The application of the reporting or recordkeeping provisions

included in paragraph (b) of this section to interconnected VoIP providers will be submitted for approval to the Office of Management and Budget (OMB). They are not effective as to interconnected VoIP providers until OMB approval has been obtained. The FCC will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule as to interconnected VoIP providers after it obtains OMB approval.

[FR Doc. E7-15086 Filed 8-3-07; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 76**

[MB Docket No. 05-311; FCC 06-180]

**Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** This document announces the effective dates of rules published in the **Federal Register** on March 21, 2007.

The rules relate to section 621 of the Communications Act of 1934, 47 U.S.C. 541, which prohibits franchising authorities from unreasonably refusing to award competitive franchises for the provision of cable services.

**DATES:** The final rule published on March 21, 2007 (72 FR 13189), adding 47 CFR 76.41, is effective August 6, 2007.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Brendan Murray, *Brendan.Murray@fcc.gov* of the Media Bureau, Policy Division, (202) 418-1573.

**SUPPLEMENTARY INFORMATION:** In a Report and Order released on March 5, 2007, FCC 06-180, and published in the **Federal Register** on March 21, 2007, 72 FR 13189, the Federal Communications Commission adopted a new rule which contained information collection requirements subject to the Paperwork Reduction Act. The Report and Order stated that the rule changes requiring OMB approval would become effective immediately upon announcement in the **Federal Register** of OMB approval. On July 25, 2007, the Office of Management and Budget (OMB) approved the information collection requirements contained in 47 CFR 76.41. This information collection is assigned OMB Control No. 3060-1103. This

publication satisfies the statement that the Commission would publish a document announcing the effective date of the rule changes requiring OMB approval.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. E7-15138 Filed 8-3-07; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

RIN 1018-AU66

**Endangered and Threatened Wildlife and Plants; Final Rule To Remove the Idaho Springsnail (*Pyrgulopsis*(=*Fontelicella*) *idahoensis*) From the List of Endangered and Threatened Wildlife**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (USFWS, Service, or we), under the Endangered Species Act of 1973, as amended (Act), hereby remove the Idaho springsnail (*Pyrgulopsis*(=*Fontelicella*) *idahoensis*) from the Federal List of Endangered and Threatened Wildlife (List). This determination is based on a thorough review of all available data, which indicate that the Idaho springsnail is not a discrete taxonomic entity and does not meet the definition of a species under the Act. It is now considered to be part of a more widely distributed taxon, the Jackson Lake springsnail. Because the Idaho springsnail is not recognized as a species, as defined by the Act, we have determined that it is not a listable entity and are removing it from the List.

**DATES:** This rule is effective September 5, 2007.

**FOR FURTHER INFORMATION CONTACT:** Susan Burch, U.S. Fish and Wildlife Service, 1387 S. Vinnell Way, Room 368, Boise, ID 83709 (telephone 208/378-5243; facsimile 208/378-5262).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Idaho springsnail (*Pyrgulopsis*(=*Fontelicella*) *idahoensis*; Hydrobiidae) was first described by Pilsbry (1933, pp. 11-12) and placed in the genus *Amnicola*. Subsequently, Greg and Taylor (1965, pp. 103-110) placed