ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA148–5078b; FRL–7670–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; VOC Emission Standards for Portable Fuel Containers in the Metropolitan Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the Commonwealth of Virginia State Implementation Plan (SIP). The revisions pertain to new emission standards for portable fuel containers sold, supplied, offered for sale, or manufactured for sale in the Northern Virginia portion of the Metropolitan Washington, DC ozone nonattainment area (Northern Virginia Area). In the Final Rules section of this **Federal Register**, EPA is approving the new standards as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by July 8, 2004.

ADDRESSES: Submit your comments, identified by VA 148–5078 by one of the following methods:

A. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: morris.makeba@epa.gov.*

C. *Mail:* Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. VA148–5078. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers (215) 814–2308 , or by e-mail at *powers.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: May 27, 2004.

James W. Newsom,

Acting Regional Administrator, Region III.

[FR Doc. 04–12770 Filed 6–7–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 92–105; FCC 04–111]

The Use of N11 Codes and Other Abbreviated Dialing Arrangements

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission seeks comment on various abbreviated dialing arrangements that could be used by state ''One Call'' notification systems in compliance with the Pipeline Safety Improvement Act of 2002 (the Pipeline Safety Act). We seek comment on whether an N11 code, a code using a leading star or number sign, or another three-digit number should be assigned to comply with the Pipeline Safety Act. We also seek comment on implementation issues such as the integration of existing One Call Center numbers, an appropriate implementation timeframe for each proposed abbreviated dialing arrangement, and whether we should delegate authority to the state commissions to address implementation issues.

DATES: Comments are due on or before July 8, 2004. Reply comments are due on or before July 23, 2004.

ADDRESSES: All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Regina Brown, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400, TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* in CC Docket No. 92–105 released on May 14, 2004. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

I. Introduction

1. In this *Notice of Proposed Rulemaking*, (Notice) May 14, 2004, we seek comment on various abbreviated dialing arrangements that could be used by state ''One Call'' notification systems in compliance with the Pipeline Safety Improvement Act of 2002 (the Pipeline

Safety Act). A One Call notification system is a communication system established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities. One Call Centers, which cover different geographic areas, are generally accessed by dialing a toll-free or local telephone number. Our objective in initiating this proceeding is to assess possible abbreviated dialing arrangements to use to access state One Call Centers, while at the same time, seeking to minimize any adverse impact on numbering resources. We seek comment on whether an N11 code, a code using a leading star or number sign, or another three-digit number should be assigned to comply with the Pipeline Safety Act. We also seek comment on implementation issues such as the integration of existing One Call Center numbers, an appropriate implementation timeframe for each proposed abbreviated dialing arrangement, and whether we should delegate authority to the state commissions to address implementation issues.

II. Discussion

A. Abbreviated Dialing Arrangements

1. N11 Codes

2. *Background.* N11 codes are abbreviated dialing arrangements that enable callers to connect to a location in the public switched telephone network by dialing only three digits, where ''N'' represents one of the digits from 2–9. Thus, the network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit dialing sequence and route the call accordingly. Because there are only eight possible N11 codes (211, 311, 411, 511, 611, 711, 811, 911), N11 codes are among the scarcest of resources under the Commission's jurisdiction.

3. To date, the Commission has assigned the 211 for information and referral services, 311 for non-emergency police and other governmental services, 511 for travel and information services, 711 for telephone relay services for the hearing impaired, and 911 as the national emergency number. In addition, 411, 611 and 811 are widely used by carriers, but have not been assigned by the Commission for nationwide use. N11 codes that have not been assigned nationally can continue to be assigned for local uses, provided that such use can be discontinued on short notice.

4. *Discussion.* We seek comment on using an N11 code for access to One Call Centers. Specifically, we seek comment on which N11 code should be assigned for this purpose. When advocating a specific N11 code, we ask parties to explain why the proposed N11 code is preferred. We also seek comment on the NANC's recommendation that we assign 811. According to the NANC, 811 is the best alternative for satisfying the requirement in the Pipeline Safety Act to assign a three-digit code because 811 will have less impact on customer dialing patterns and can be implemented without the substantial cost and delay of switch development required with an alternative like #344 or 344. The NANC determined that using 811 to access One Call Centers consumes fewer numbering resources than other alternative abbreviated dialing arrangements.

5. Commenters should also address whether we should incorporate the One Call access service with existing N11 codes, such as 311 or 511, to preserve the few remaining N11 codes. For example, should we also assign 311, which is currently assigned for non-emergency police and other governmental services, for access to One Call Centers? Commenters should describe the advantages and disadvantages of such an approach. We ask commenters that advocate shared use of an existing N11 code to propose solutions to mitigate the concerns expressed by the NANC.

2. Codes Using a Leading Star or Number Sign

6. *Background.* The leading star and number signs serve as network control characters to speed up connections. The star indicates to the switching system that the digits following specify a certain desired feature/service from the switch. The dial equivalent to the star is the digits 1–1 and is used instead of the star when activating or deactivating a vertical service from a rotary phone.

7. Vertical Service Codes (VSCs) are codes that use a leading star. They are numbering resources maintained and administered by the North American Numbering Plan Administrator (NANPA). Specifically, VSCs are customer-dialed codes that allow customers to access features and services provided by telecommunications service providers. The format of a VSC is *XX or *2XX (touchtone) and 11XX or 112XX (rotary). Services that rely on VSCs include call forwarding, which is activated by dialing *72 or 1172, automatic callback, and customer-originated trace.

8. The number key has generally been used to stop any switch timing protocol and immediately process the call and for control in telephone systems, such as voicemail (#86). In addition, the number key is used by Operator Services switching systems to re-originate a credit card call with the same billing information used in the preceding call. It is also used for control in telephone systems, such as voicemail. There is no dialed equivalent to the number sign character since, unlike the star character, the number sign is not used in the dialing sequence.

9. *Discussion.* We seek comment on whether a code with a leading star or number sign should be used to access One Call Centers. Commenters that propose the use of a code with a leading star or number sign should specify the code that should be used. We also seek comment on the extent to which using a code with a leading star or number sign will either promote or discourage exhaustion of NANP numbers.

10. Implementation of the #344 (#DIG) code in the wireless sector has been in progress since 1999. The NANC recommends that, because of the effort that has gone into wireless implementation of #344, calls from wireless customers to One Call Centers should continue to be permitted, but it does not recommend the use of a code with a leading star or number sign for the purpose of complying with the statute's requirement to utilize a ''three-digit'' number to access One Call Centers.

11. The NANC raises several concerns with respect to using a code with a leading star or number sign. First, the NANC maintains that codes using a leading star or number sign would not achieve the uniformity mandated by the Pipeline Safety Act since all users would not be dialing the same sequence. For example, an abbreviated dialing code using a leading star sign would require rotary customers to dial the digits ''1–1'' in place of the star. Second, many Private Branch Exchange systems use the star and/or number signs for feature access. Thus, the NANC believes that reprogramming these systems may not always be feasible and will involve considerable customer expense. Third, the NANC states that some switching systems are not capable of processing access codes using a leading star or number sign in the dialing sequences and the necessary switch development would delay the full implementation of the One Call functionality. Therefore, the NANC does not recommend assigning a code using a leading star or number sign as the One Call abbreviated dialing code. We seek comment on the

issues raised by the NANC. Specifically, we ask parties to discuss any existing measures that can mitigate or alleviate the limitations with using a leading star or number sign.

B. Establishment of 344 as an Abbreviated Dialing Code

12. *Background.* Easily Recognizable Codes (ERCs) are Numbering Plan Areas (NPAs) or area codes designating special services, *e.g.*, 888 for toll-free service. The NANPA has assigned certain area codes as ERCs. The second and third digits of an ERC are the same (*e.g.*, 344). Although the 344 NPA has not yet been allocated, there are NPAs in which 344 is assigned as a central office code (NXX). The DOT requests the establishment of an abbreviated dialing arrangement that uses the digits ''344'' (which corresponds to the digits of the 344 ERC) to access One Call centers throughout the country. Alternatively, DOT requests a substitute mnemonic three-digit abbreviated dialing arrangement.

13. *Discussion.* We seek comment on DOT's proposal to establish the digits ''344'' as an abbreviated dialing arrangement for access to One Call Centers or any other mnemonic three-digit abbreviated dialing arrangement for this purpose. We tentatively conclude that because 344 corresponds to an ERC, an abbreviated dialing code in the format of an ERC or other area code would be inconsistent with our numbering resource optimization policies by potentially rendering eight million NANP telephone numbers unusable.

14. The NANC raises several other concerns with respect to establishing an abbreviated dialing code that corresponds to the digits of an ERC. First, the NANC is concerned that the selection of an ERC for this purpose may set a precedent for similarly using other NPAs that would accelerate NANP exhaust. Second, according to the NANC, unlike areas where ten-digit dialing has been implemented, where seven-digit dialing is permissible, most wireline switches would need to implement an inter-digit timeout method to distinguish between calls to either the One Call Center or calls to a telephone number whose central office code has the same digits as the abbreviated dialing code. Thus, the NANC asserts that calls may be inappropriately routed to the One Call Center or may be interpreted by the end user as a problem with the service. If the call is interpreted by the end user as a service problem, they may hang up and not reinitiate contact with the One Call Center. Third, NANC states that existing switches may not be able to accommodate 344 as an abbreviated dialing code. For example, the NANC notes that switches may be unable to: (1) resolve code conflict where 344 is a working NXX and seven-digit dialing is allowed; and (2) support 344 as a three-digit code even where 344 is not a working NXX and/or ten-digit dialing is required.

15. We seek comment on the issues raised by the NANC and whether there are existing measures that can address these issues. We also seek comment as to the extent switch development or replacement may be needed and the impact this will have on nationwide implementation.

C. Implementation Issues

1. Integration of Existing One Call Center Numbers

16. The Pipeline Safety Act expressly mandates use of a three-digit toll-free number to access State One Call Centers. We seek comment on methods to ensure that calls to One Call Centers are ''toll-free.'' So that callers do not incur toll charges, the NANC recommends that each One Call Center provide a toll-free number, which can be an 8YY number or any number that is not an IntraLATA toll call from the area to be served. When a caller dials the abbreviated dialing code, the carriers would translate the abbreviated dialing code into the appropriate toll-free or local number. We seek comment on the NANC's recommendation. We also seek comment on whether the dialing sequence should be the same for all providers or whether existing abbreviated dialing sequences, *e.g.*, #344, should be allowed to continue.

2. Originating Switch Location

17. We also seek comment on whether the originating NPA–NXX should determine the One Call Center into which the number will be translated. For example, in establishing a framework for its evaluation of various abbreviated dialing arrangements to implement the Pipeline Safety Act, the NANC assumed that for wireline-originated calls, the originating NPA–NXX would determine the One Call Center to which the call is sent. For wireless-originated calls, the NANC assumed that the originating Mobile Switch Center would determine the One Call Center to which the call is sent.

3. Timeframe for Implementation

18. We seek comment on the timeframe for implementing each abbreviated dialing arrangement proposed in this Notice. In light of the various technical and operational issues, we ask parties to comment on all of the steps that carriers must undertake to prepare the network for use of the various abbreviated dialing arrangements to route properly such calls to the One Call Centers. We seek comment on the timeframe for proper transition if existing abbreviated dialing sequences, such as #344, are eliminated. We also seek comment on what timeframe should be given to carriers to vacate any existing uses, if an unassigned N11 code, such as 811, is selected to access One Call Centers. We ask parties to provide suggested timeframes that will allow carriers to complete those steps as expeditiously as possible. We also seek comment on the technical and operational issues that should be considered when adopting a time period for implementation that will allow carriers sufficient time to prepare the network for use of each proposed abbreviated dialing arrangement.

19. For example, if an N11 code is selected, existing uses of the selected N11 code need to be vacated. The NANC estimates that an individual carrier's implementation time for an N11 code, such as 811, ranges from a few months to one year. Further, the NANC estimates that all other alternatives such as 344 or #344 will require switch development by some vendors, which can take one to three years before the new parameters can be released and installed. According to the NANC, certain switches have limited or no switch development support and may require replacement. Thus, implementation of a three-digit solution for certain switches may not be possible until after the switch features are activated. We seek comment on the NANC's recommendation of approximately one to two years to prepare the network to support One Call notification to existing One Call Centers.

20. Further, we seek comment on whether the timeframes for implementation should be uniform or based on local conditions. If timeframes are based on local conditions, we seek comment on what the basis should be for establishing different timeframes. We also seek comment on whether, pursuant to section 251(e), we should delegate authority to the states to establish the timeframe for implementation. We seek comment on how best to engage states in the implementation process, *e.g.*, industry workshops or other public forums, to help address the technical and operational issues.

II. Procedural Matters

A. Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. section 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) for the Notice. Comments on the IRFA should be labeled as IRFA Comments, and should be submitted pursuant to the filing dates and procedures set forth in paragraphs 23–29, *infra*.

B. Paperwork Reduction Act Analysis

22. This Notice does not contain a proposed or modified information collection.

C. Filing Procedures

23. Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before July 8, 2004, and reply comments on or before July 23, 2004. In order to facilitate review of comments and reply comments, parties should include the name of the filing party and the date of the filing on all pleadings. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

24. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in reply. Or you may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at *http://www.fcc.gov/e-file/email.html*.

25. Parties that choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, DC. The address is 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location will be 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

26. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

If you are sending this type of document or using this delivery method . . .	It should be addressed for delivery to . . .
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary.	236 Massachusetts Avenue, NE., Suite 100, Washington, DC 20002 (8 to 7 p.m.)
Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail).	9300 East Hampton Drive, Capitol Heights, MD 20743 (8 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail	445 12th Street, SW., Washington, DC 20554.

27. Parties who choose to file by paper should also submit their comments on diskette. These diskettes, plus one paper copy, should be submitted to: Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications, at the filing window at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case WC Docket No. 02–60, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12st Street, SW., Room CYB–402, Washington, DC 20554 (see alternative addresses above for delivery by hand or messenger).

28. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC 20554 (see alternative addresses above for delivery by hand or messenger) (telephone 202–863–2893; facsimile 202–863–2898) or via e-mail at *qualexint@aol.com*.

29. The full text of this document is 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. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com*.

D. Further Information

30. Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 voice, (202) 418–7365 TTY, or *bmillin@fcc.gov*. This Notice can also be downloaded in Microsoft Word and ASCII formats at *http://www.fcc.gov/ccb/universalservice/highcost*.

Initial Regulatory Flexibility Analysis (Notice of Proposed Rulemaking)

31. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking*

(Notice). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided above in Section VI(C). The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

32. In this Notice, we seek comment on various abbreviated dialing arrangements that could be used by state ''One Call'' notification systems in compliance with the Pipeline Safety Improvement Act of 2002 (the Pipeline Safety Act). A One Call notification system is a communication system established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities. One Call Centers, which cover different geographic areas, are generally accessed by dialing a toll-free or local telephone number. Our objective in initiating this proceeding is to assess possible abbreviated dialing arrangements to use to access state One Call Centers, while at the same time, seeking to minimize any adverse impact on numbering resources. We seek comment on whether an N11 code, a code using a leading star or number sign, or another three-digit number should be assigned to comply with the Pipeline Safety Act. We also seek comment on implementation issues such as the integration of existing One Call Center numbers, an appropriate implementation timeframe for each proposed abbreviated dialing arrangement, and whether we should delegate authority to the state commissions to resolve implementation issues. We tentatively conclude that an abbreviated dialing code in the format of an Easily Recognizable Code or other area code would be inconsistent with our numbering resource optimization policies by potentially rendering eight million telephone numbers unusable.

2. Legal Basis

33. This Notice is adopted pursuant to sections 1, 4(i), 4(j), 201–205, 251, 252, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154(i), (j), 201–205, 251, 252, and 303.

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

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

a. Telecommunications Service Entities

(i) Wireline Carriers and Service Providers

35. We have 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. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

36. *Incumbent Local Exchange Carriers.* 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 that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,337 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 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 our action.

37. *Competitive Local Exchange Carriers, Competitive Access Providers, ''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 that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 609 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 carriers, an estimated 458 have 1,500 or fewer employees and 151 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, 35 carriers have reported that they are ''Other Local Service Providers.'' Of the 35, an estimated 34 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 our action.

38. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 133 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 127 have 1,500 or fewer employees and six have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by our action.

39. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 625 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 590 have 1,500 or fewer employees and 35 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll

resellers are small entities that may be affected by our action.

40. *Payphone Service Providers.* 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 that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 761 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 757 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 our action.

41. *Interexchange Carriers.* 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 that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 261 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our action.

42. *Operator Service Providers.* 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 that size standard, such 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 our action.

43. *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 that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 37 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by our action.

(ii) Wireless Telecommunications Service Providers

44. *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 1997 show that there were 1,320 firms in this category, total, that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 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 Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 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.

45. *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 this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category Cellular and Other Wireless Telecommunications firms, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 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. According to the most recent *Trends in Telephone Service* data, 719 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service, or Specialized Mobile Radio Telephony services, which are placed together in the data. We have estimated that 294 of these are small, under the SBA small business size standard.

46. *Common Carrier Paging.* The SBA has developed a small business size standard for wireless firms within the broad economic census categories of ''Cellular and Other Wireless Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the great majority of firms can be considered small. In the Paging *Third Report and Order,* 62 FR 16004, April 3, 1997, we developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million 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. According to the most recent *Trends in Telephone Service,* 433 carriers reported that they were engaged in the provision of paging and messaging services. Of those, we estimate that 423 are small, under the SBA approved small business size standard.

47. *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 auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding

years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the wireless communications services. In the auction, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity.

48. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted earlier, the SBA has developed a 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. According to the most recent *Trends in Telephone Service* data, 719 carriers reported that they were engaged in the provision of wireless telephony. We have estimated that 294 of these are small under the SBA small business size standard.

49. *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. 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.'' These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. 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. In addition, we note 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. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

50. *Narrowband Personal Communications Services.* To date, two auctions of narrowband 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. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order,* 65 FR 35875, June 6, 2000. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas 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 actions. 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.

51. *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. This category provides that a small business is a wireless company employing no more than 1,500 persons. According to the Census Bureau data for 1997, only 12 wireless firms out of a total of 1,238 such firms that operated for the entire year, had 1,000 or more employees. If 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.

52. *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,* 62 FR 16004, April 3, 1997, we adopted a small business size standard for ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. 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 Licenses, and 875 Economic Area 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.

53. *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. These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. 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, for purposes here, that all of 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. Consequently, the Commission estimates that there are 301 or fewer small entity SMR licensees in the 800 MHz and 900 MHz bands that may be affected by the rules and policies adopted herein.

54. *700 MHz Guard Band Licensees.* In the *700 MHz Guard Band Order*, 65 FR 17599, April 4, 2000, we adopted a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area 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.

55. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System. 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.

56. *Air-Ground Radiotelephone Service.* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. We 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.

57. *Fixed Microwave Services.* Fixed microwave services include common carrier, private operational-fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. 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. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. We noted, however, that the common carrier microwave fixed licensee category includes some large entities.

58. *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. We are 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.

59. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for ''very small business'' is: an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three 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. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and policies adopted herein.

60. *Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and ITFS.* Multichannel Multipoint Distribution Service systems, often referred to as ''wireless cable,'' transmit video programming to subscribers using the microwave frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS). In connection with the 1996 MDS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas. Of the 67 auction winners, 61 met the definition of a small business. MDS also includes licensees of stations

authorized prior to the auction. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more but less than $25 million. Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein. This SBA small business size standard also appears applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

61. *Local Multipoint Distribution Service.* Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. The auction of the 1,030 LMDS licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional small business size standard for ''very small business'' was added as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses 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.

62. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area 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, November 3, 1999, we established a small business size standard for a ''small business'' as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum.

63. *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. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small. These broader census data notwithstanding, we believe 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 our 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.

64. *24 GHz—Future Licensees.* With respect to new applicants in the 24 GHz band, the small business size standard for ''small business'' is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. ''Very small business'' in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these small business size standards. These size standards will apply to the future auction, if held.

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

65. Depending on which alternative is ultimately chosen to comply with the Pipeline Safety Act, there will be some cost associated with our action. We invite comment on any possible costs.

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

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

67. We will consider any proposals made to minimize any significant economic impact on small entities. The overall objective of this proceeding is to assess possible nationwide toll-free abbreviated dialing arrangements to use to access state One Call Centers as mandated by the Pipeline Safety Act. Depending on which alternative is ultimately chosen to comply with the Pipeline Safety Act, the establishment of a three-digit code for any purpose may eliminate use of those numbers as Numbering Plan Areas, rendering approximately eight million telephone numbers useless. Thus, such assignment of a toll-free abbreviated dialing arrangement to implement the Pipeline Safety Act may potentially impact three-digit numbering resources and the design and operation of the three-digit One Call system. We, therefore, seek comment on abbreviated dialing arrangements that comply with the requirements of the Pipeline Safety Act while at the same time minimize, to the extent possible, any adverse impact on numbering resources. In addition, we have discussed the possible costs of switch development, and encourage

comment on how we might reduce this carrier cost, including such costs for small entities.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

68. None.

III. Ordering Clauses

69. Pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, this Notice of Proposed Rulemaking is adopted.

70. Pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–12830 Filed 6–7–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Part 212

[DFARS Case 2003–D074]

Defense Federal Acquisition Regulation Supplement; Acquisition of Commercial Items

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to the acquisition of commercial items. This proposed rule is a result of an initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 9, 2004, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2003–D074, using any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web Site: *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* Follow the instructions for submitting comments.
- E-mail: *dfars@osd.mil.* Include DFARS Case 2003–D074 in the subject line of the message.
- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dpap/dfars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes—

- Delete unnecessary text pertaining to structuring of contracts at DFARS 212.303; and
- Update a FAR reference at DFARS 212.503(c)(ii).

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule deletes unnecessary text pertaining to structuring of contracts and updates reference information, but makes no significant change to contracting policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D074.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 212

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 212 as follows:

1. The authority citation for 48 CFR part 212 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.303 [Removed]

2. Section 212.303 is removed.

212.503 [Amended]

3. Section 212.503 is amended in paragraph (c)(ii) by revising the parenthetical to read ''(see FAR 15.403–1(b)(3))''.

[FR Doc. 04–12937 Filed 6–7–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 2004–D001]

Defense Federal Acquisition Regulation Supplement; Reporting Contract Performance Outside the United States

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify requirements for reporting of