ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See supplementary information for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, (202) 418–2512 (voice), *Kelli.Farmer@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, CG Docket No. 02–278, DA 04–3837, released December 7, 2004. On July 3, 2003, the Commission released a *Report and Order (2003 TCPA Order), In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991,* adopted June 26, 2003, CG Docket No. 02–278, FCC 03–153; published at 68 FR 44144, July 25, 2003. In the *2003 TCPA Order,* the Commission stated its belief that any state regulation of interstate telemarketing calls that differed from our rules under section 227 almost certainly would conflict with and frustrate the federal scheme and would be preempted. The Commission will consider any alleged conflicts between state and federal requirements and the need for preemption on a case-by-case basis. Accordingly, any party that believes a state law is inconsistent with section 227 or our rules may seek a *Declaratory Ruling* from the Commission. When filing comments, please reference CG Docket No. 02–278. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. 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 e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of each filing. Filings can be sent by hand or messenger delivery, by electronic media, 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 or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 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. Commercial and electronic media sent by 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, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–B204, Washington, DC 20554.

This proceeding shall be treated as a ''permit but disclose'' proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclosed proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

The full text of this document and copies of 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, (202) 418–0270. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site: *www.bcpiweb.com* or by calling 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* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). This document can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/cgb/policy.*

Synopsis

On November 22, 2004, National City Mortgage Company (NCMC) filed a *Petition for Expedited Declaratory Ruling* asking the Commission to preempt Florida law prohibiting prerecorded messages without consent. According to Petitioner, NCMC has received a notice from the Florida Department of Agriculture & Consumer Services which indicates that a prerecorded message call initiated by NCMC violated section 501.059(7)(a) of the Florida statute. NCMC explains that the Florida statute prohibits such prerecorded calls and makes no exception to this restriction for calls that are placed to persons with whom the caller has an established business relationship. In addition, NCMC explains that its calls into Florida are interstate calls. NCMC contends that the Florida statute is inconsistent with the Commission's rules that permit calls using prerecorded voice messages to any person with whom the caller has an established business relationship at the time the call is made; therefore, NCMC argues that the Florida statute should be preempted as applied to interstate calls. In addition, NCMC indicates that it has been informed by the Florida Department of Agriculture & Consumer Services that the complaint is still pending and might become the basis for further enforcement proceedings against NCMC. NCMC maintains that ''the State of Florida's apparent intention to enforce th[e] prohibition as to interstate calls subjects NCMC to the 'multiple, conflicting regulations' that the Commission has declared its intention to avoid.''

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 04–28419 Filed 12–30–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 00–167; FCC 04–221]

Broadcast Services; Children's Television; Cable Operators; Satellite Service Providers

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission seeks comment on applying to Direct Broadcast Satellite (DBS) service providers its revised interpretation of the commercial time limits applicable to children's programming. Specifically, the Commission proposes to require that the display of Internet Web site addresses during DBS program material is permitted as within the time limits only if the Web site meets certain requirements, including the requirement that it offer a substantial amount of bona fide program-related or other noncommercial content and is not primarily intended for commercial purposes. In addition, the Commission proposes to apply to DBS its revised definition of ''commercial matter'' as including promotions of television programs or video programming services other than children's educational and informational programming. The Commission also seeks comment on how to tailor its rules to allow innovation in interactivity in children's television programming, while at the same time ensuring that parents can control what information their children can access.

DATES: Comments are due by March 1, 2005, and reply comments are due by April 1, 2005.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Further Notice of Proposed Rule Making* in MM Docket No. 00–167, FCC 04–221, adopted September 9, 2004, and released November 23, 2004. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* To request materials in accessible formats for people with disabilities (braille, large print, electronic file, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act: This document contains proposed and modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the modified and proposed information collection requirements contained in this proceeding.

Summary of the Further Notice of Proposed Rule Making

1. In the final rule document in this proceeding, published elsewhere in the same issue of this **Federal Register**, we resolved a number of issues raised in the Notice of Proposed Rulemaking (65 FR 66951–01, November 8, 2000) regarding the obligation of television broadcasters to protect and serve children in their audience. In the final rule document, we concluded that, for the time being, we will not prohibit the appearance of direct, interactive, links to commercial Internet sites in children's programming, as this technology is currently not being used in children's programming. Nonetheless, we are aware that the inclusion of interactive technology in television programming is on the horizon. We encourage broadcasters to develop interactive services that enhance the educational value of children's programming. With the benefits of interactivity, however, come potential risks that children will be exposed to additional commercial influences. Accordingly, we seek comment on how to tailor our rules to allow innovation in interactivity in children's television programming, while at the same time ensuring that parents can control what information their children can access.

2. We tentatively conclude that we should prohibit interactivity during children's programming that connects viewers to commercial matter unless parents ''opt in'' to such services. We seek comment on how such a rule could be implemented technologically. We also seek comment on how we would implement such a rule in terms of the statutory limits on commercial time. In particular, we note that the time spent accessing the Internet or other interactive material during a program is not limited to the time that a link is displayed on the screen. For the same reason, we seek comment as to how such a rule would apply to commercials, given that interactive elements can cause a commercial to last much longer than a 30-second or 15-second spot. Finally, we seek comment on whether to change how we define commercial matter in this context.

3. We also concluded in the Report and Order in this proceeding that we will revise our definition of ''commercial matter'' to include promotions of television programs or video programming services other than children's educational and informational programming. We stated that we will apply this revised definition to television licensees and cable operators. We tentatively conclude that we should also amend Part 25 of the Commission's rules to apply this revised definition to Direct Broadcast Satellite (''DBS'') service providers, and seek comment on this tentative conclusion. In addition, in the Report and Order we interpreted the CTA commercial time limits to require that, with respect to programs directed to children ages 12 and under, the display of Internet Web site addresses during program material is permitted as within the CTA limitations only if the Web site: (1) Offers a substantial amount of bona fide program-related or other noncommercial content; (2) is not primarily intended for commercial purposes, including either e-commerce or advertising; (3) the Web site's home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and (4) the page of the Web site to which viewers are directed by the Web site address is not used for e-commerce, advertising, or other commercial purposes (*e.g.*, contains no links labeled ''store'' and no links to another page with commercial material). We propose to apply these restrictions on the displaying of commercial Web site information to DBS and require DBS providers to maintain records sufficient to verify compliance with the commercial limits requirements and to make such records available to the public. We believe that it is appropriate to require that children in DBS households receive the same protection from excessive commercialism on television as children in cable or over-the-air television households. We do not believe that compliance with these rules will be burdensome as many of the programming services carried by DBS providers are the same as are carried by cable systems around the country, which must comply with the revised commercial limits rules adopted in our decision today.

Administrative Matters

4. This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda

period, provided that they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

5. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before March 1, 2005, and reply comments on or before April 1, 2005. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). Documents filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers are referenced in the caption of the comments, 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 <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of the comment, commenters must submit two additional copies for each additional docket or rulemaking number. 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, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 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. 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.

6. This Further Notice of Proposed Rulemaking may contain either proposed or modified information collections subject to the Paperwork Reduction Act of 1995. As part of our continuing effort to reduce paperwork burdens, we invite OMB, the general public, and other Federal agencies to take this opportunity to comment on the information collections contained in this Further Notice, as required by the Paperwork Reduction Act of 1995. Public and agency comments are due at the same time as other comments on the Further Notice. 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) ways to enhance the quality, utility, and clarity of the information collected; and (c) 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 to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Cathy Williams, Federal Communications Commission, 445 Twelfth Street, SW., Room 1–C823, Washington, DC 20554, or via the Internet to *Cathy.Williams@fcc.gov* and to Kristy L. LaLonde, OMB Desk Officer, 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *Kristy L. LaLonde @omb.eop.gov,* or via fax at 202–395–5167.

7. As required by the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this Further Notice of Proposed Rulemaking. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the Further Notice, and they should have a separate and distinct heading designating them as responses to the IRFA.

8. To request materials in accessible formats for people with disabilities (braille, large print, electronic file, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: *http://www.fcc.gov.*

9. For additional information on this proceeding, please contact Kim Matthews, Policy Division, Media Bureau at (202) 418–2154.

Initial Regulatory Flexibility Analysis

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

I. Need for and Objectives of the Proposed Rules

Our goal in commencing this proceeding is to seek comment on two issues: (1) Whether and how we should limit the use of interactivity for commercial purposes in children's television programming; and (2) whether we should apply to Direct Broadcast Satellite service providers the same revised definition of ''commercial matter'' adopted in the Report and Order.

We seek comment in the Notice on the tentative conclusion that we should prohibit interactivity during children's programming that connects viewers to commercial matter unless parents ''opt in'' to such services. We seek comment on how such a rule could be implemented technologically. We also seek comment on how we would implement such a rule in terms of the statutory limits on commercial time.

We concluded in the Report and Order that we will revise our definition of ''commercial matter'' to include promotions of television programs or video programming services other than children's educational and informational programming. We stated that we will apply this revised definition to television licensees and cable operators. We tentatively conclude in the Notice that we should also amend

Part 25 of the Commission's rules to apply this revised definition to Direct Broadcast Satellite service providers, and seek comment on this tentative conclusion.

In addition, the Report and Order interprets the CTA commercial time limits to require that, with respect to programs directed to children ages 12 and under, the display of Internet Web site addresses during program material is permitted as within the CTA limitations only if the Web site: (1) Offers a substantial amount of bona fide program-related or other noncommercial content; (2) is not primarily intended for commercial purposes, including either e-commerce or advertising; (3) the Web site's home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and (4) the page of the Web site to which viewers are directed by the Web site address is not used for e-commerce, advertising, or other commercial purposes (*e.g.*, contains no links labeled ''store'' and no links to another page with commercial material). The Report and Order applies this restriction to broadcasters and cable operators. We propose in the NPRM to apply this restriction to DBS. In addition, we propose to require DBS providers to maintain records sufficient to verify compliance with the commercial limits in children's programming and to make such records available to the public.

II. Legal Basis

The authority for the action proposed in this rulemaking is contained in Sections 4(i) & (j), 303, 303a, 303b, 307, 309 and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) & (j), 303, 303a, 303b, 307, 309 and 336.

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

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

In this context, the application of the statutory definition to television stations is of concern. An element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimates that follow of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and therefore might be over-inclusive.

An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. It is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses might therefore be over inclusive.

Television Broadcasting. The Small Business Administration defines a television broadcasting station that has no more than $12 million in annual receipts as a small business. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States have revenues of $12 million or less. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

There are also 380 non-commercial TV stations in the BIA database. Since these stations do not receive advertising revenue, there are no revenue estimates for these stations. We believe that virtually all of these stations would be considered ''small businesses'' given that they are generally owned by non-commercial entities including local schools and governments and, for the most part, rely on public donations and funding.

Cable and Other Program Distribution. The SBA has developed a small business size standard for cable and other program distribution services, which includes all such companies generating $12.5 million or less in revenue annually. This category includes, among others, cable operators, direct broadcast satellite (''DBS'') services, home satellite dish (''HSD'') services, multipoint distribution services (''MDS''), multichannel multipoint distribution service (''MMDS''), Instructional Television Fixed Service (''ITFS''), local multipoint distribution service (''LMDS''), satellite master antenna television (''SMATV'') systems, and open video systems (''OVS''). According to Census Bureau data, there are 1,311 total cable and other pay television service firms that operate throughout the year of which 1,180 have less than $10 million in revenue. We address below each service individually to provide a more precise estimate of small entities.

Cable Operators. The SBA has developed a small business size standard for cable and other program distribution services, which includes all such companies generating $12.5 million or less in revenue annually. The Commission has developed, with SBA's approval, our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. We last estimated that there were 1,439 cable operators that qualified as small cable companies. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by the decisions and rules in this Report and Order.

The Communications Act, as amended, also contains a size standard for a small cable system operator, which is ''a cable operator that, directly or

through an affiliate, serves in the aggregate fewer than 1% 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 there are 68,500,000 subscribers in the United States. Therefore, an operator serving fewer than 685,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 685,000 subscribers or less totals approximately 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

Direct Broadcast Satellite (''DBS'') Service. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of Cable and Other Program Distribution services. This definition provides that a small entity is one with $12.5 million or less in annual receipts. There are four licensees of DBS services under Part 100 of the Commission's Rules. Three of those licensees are currently operational. Two of the licensees that are operational have annual revenues that may be in excess of the threshold for a small business. The Commission, however, does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these proposed rules. DBS service requires a great investment of capital for operation, and we acknowledge, despite the absence of specific data on this point, that there are entrants in this field that may not yet have generated $12.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated. Therefore, we will assume all four licensees are small, for the purpose of this analysis.

Electronics Equipment Manufacturers. Rules adopted in this proceeding could apply to manufacturers of DTV receiving equipment and other types of consumer electronics equipment. The SBA has developed definitions of small entity for manufacturers of audio and video equipment as well as radio and television broadcasting and wireless communications equipment. These categories both include all such companies employing 750 or fewer employees. The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses. Therefore, we will utilize the SBA definitions applicable to manufacturers of audio and visual equipment and radio and television broadcasting and wireless communications equipment, since these are the two closest NAICS Codes applicable to the consumer electronics equipment manufacturing industry. However, these NAICS categories are broad and specific figures are not available as to how many of these establishments manufacture consumer equipment. According to the SBA's regulations, an audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 554 U.S. establishments that manufacture audio and visual equipment, and that 542 of these establishments have fewer than 500 employees and would be classified as small entities. The remaining 12 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. Under the SBA's regulations, a radio and television broadcasting and wireless communications equipment manufacturer must also have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there 1,215 U.S. establishments that manufacture radio and television broadcasting and wireless communications equipment, and that 1,150 of these establishments have fewer than 500 employees and would be classified as small entities. The remaining 65 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. We therefore conclude that there are no more than 542 small manufacturers of audio and visual electronics equipment and no more than 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment for consumer/household use.

Computer Manufacturers. The Commission has not developed a definition of small entities applicable to computer manufacturers. Therefore, we will utilize the SBA definition of electronic computers manufacturing. According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity. Census Bureau data indicates that there are 563 firms that manufacture electronic computers and of those, 544 have fewer than 1,000 employees and qualify as small entities. The remaining 19 firms have 1,000 or more employees. We conclude that there are approximately 544 small computer manufacturers.

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

At this time, we do not expect that the proposed rules would impose significant additional reporting or recordkeeping requirements. While the requirements proposed in the Notice would have an impact on Direct Broadcast Satellite providers and others, we do not expect the impact to be significant in terms of time or expense to comply. At this time, we expect the requirements to be the same for large and small entities. We seek comment on whether others perceive a need for less extensive recordkeeping or compliance requirements for small entities.

V. Steps Taken to Minimize Significant 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 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.

The proposals in the NPRM would apply equally to large and small entities. We welcome comment on modifications of the proposals if such modifications might assist small entities and especially if such are based on evidence of potential differential impact.

VI. Federal Rules Which Duplicate, Overlap, or Conflict With the Commission's Proposals

None.

List of Subjects

47 CFR Part 73

Television.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–28174 Filed 12–30–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 122304D]

RIN 0648–AN25

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery; Amendment 2 to the Monkfish Fishery Management Plan

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

ACTION: Notice of availability of a fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council (NEFMC) and the Mid-Atlantic Fishery Management Council (MAFMC) have submitted Amendment 2 to the Monkfish Fishery Management Plan (FMP) (Amendment 2) incorporating the draft Final Supplemental Environmental Impact Statement (FSEIS), Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), for Secretarial review and is requesting comments from the public. Amendment 2 was developed to address essential fish habitat (EFH) and bycatch issues, and to revise the FMP to address several issues raised during the public scoping process. The intent of this action is to provide efficient management of the monkfish fishery and to meet conservation objectives.

DATES: Comments must be received on or before March 3, 2005.

ADDRESSES: Written comments on the proposed interim rule may be submitted by any of the following methods:

• E-mail: E-mail comments may be submitted to *http://monkamend2@noaa.gov*. Include in the subject line the following: ''Comments on the Monkfish Amendment 2.''

• Federal e-Rulemaking Portal: *http://www.regulations.gov*.

• Mail: Comments submitted by mail should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark the outside of the envelope ''Comments on the Monkfish Amendment 2.''

• Facsimile (fax): Comments submitted by fax should be faxed to (978) 281–9135.

Copies of Amendment 2, the FSEIS, RIR, and IRFA are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org*.

FOR FURTHER INFORMATION CONTACT: Allison R. Ferreira, Fishery Policy Analyst, (978) 281–9103; fax (978) 281–9135; e-mail: *allison.ferreira@noaa.gov*.

SUPPLEMENTARY INFORMATION: A notice of availability for the Draft Supplemental Environmental Impact Statement (DSEIS) for Amendment 2 was published in the **Federal Register** on April 30, 2004 (69 FR 23571), with public comment accepted through July 28, 2004. After considering all comments on the DSEIS, the NEFMC and MAFMC adopted the final measures to be included in Amendment 2 at their respective September 14–16, 2004, and October 4–6, 2004, meetings, and voted to submit the Amendment 2 document, including the FSEIS, to NMFS.

The NEFMC and MAFMC developed Amendment 2 to address a number of issues that arose out of the implementation of the original FMP, as well as issues that were identified during public scoping. Issues arising from the original FMP include: (1) The displacement of vessels from their established monkfish fisheries due to restrictive trip limits; (2) unattainable permit qualification criteria for vessels in the southern end of the range of the fishery; (3) discards (bycatch) of monkfish due to regulations (i.e., minimum size restrictions and incidental catch limits); and (4) deficiencies in meeting Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements pertaining to protection of EFH in accordance with the Joint Stipulation and Order resulting from the legal challenge American Oceans Campaign, et al. v. Daley. Issues arising from public scoping include: (1) Deficiencies in meeting Magnuson-Stevens Act requirements, including preventing overfishing and rebuilding overfished stocks; (2) a need to improve monkfish data collection and research; (3) the need to establish a North Atlantic Fisheries Organization (NAFO) exemption program for monkfish; multiple vessel baseline specifications for limited access monkfish vessels; (4) a need to update environmental documents describing the impact of the FMP; and, (5) a need to reduce FMP complexity where possible.

Amendment 2 evaluates and includes the following measures to minimize the adverse effects of fishing on EFH: A maximum disc diameter of 6 inches (15.2 cm) for trawl gear vessels fishing in the Southern Fishery Management Area (SFMA); and closure of two deep-sea canyon areas to all gears when fishing under the monkfish day-at-sea (DAS) program. Amendment 2 also proposes the following management measures: (1) A new limited access permit for qualified vessels fishing south of 38o 20' N. lat.; (2) an offshore trawl fishery in the SFMA; establishment of a research DAS set-aside program; (3) an exemption program for vessels fishing outside of the Exclusive Economic Zone; (4) adjustments to the incidental monkfish catch limits; a decrease in the minimum monkfish size in the SFMA; (5) removal of the 20–day block requirement; revisions to the monkfish baseline provisions; and (6) additions to the frameworable measures.

Public comments are being solicited on Amendment 2 and its incorporated documents through the end of the comment period stated in this notice of availability. A proposed rule that would implement Amendment 2 may be published in the **Federal Register** for public comment, following NMFS's evaluation of the proposed rule under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period provided in this notice of availability of Amendment 2 to be considered in the approval/disapproval decision on the amendment. All comments received by March 3, 2005, whether specifically directed to Amendment 2 or the proposed rule, will be considered in the approval/disapproval decision on Amendment 2. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 2. Therefore, to be considered, comments must be received by close of business on the last date of the comment period, March 3, 2005; that does not mean postmarked or otherwise transmitted by that date.