

regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities. The statute already requires providers of electronic communication services or remote computing services to the public to report incidents of child pornography to NCMEC. See 42 U.S.C. 13032 (2002). The Interim final rule sets forth the mechanism put in place by NCMEC to receive such reports. Specifically, the Interim final rule directs providers to notify NCMEC through the "Cyber Tipline." The provider will initially call NCMEC (800-THE-LOST) to receive an identification number and password that will enable it to log on to the "Cyber Tipline" to report all instances of apparent child pornography. The "Cyber Tipline" will have a specialized electronic reporting form requesting information from the provider about the suspected violation of child pornography laws. In this manner, the Interim final rule complies with the reporting statute, while limiting the service provider's costs as much as possible. The addition of the Postal Inspection Service and Secret Service as agencies to which NCMEC must forward reports will have no impact on providers.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. All providers, whether large or small, are already required by law to submit reports related to child pornography to NCMEC. This rule designates the Federal agencies to which NCMEC, in turn, will forward such reports. The additional designation

of the Postal Inspection Service and the Secret Service as agencies to which NCMEC must forward reports will have no impact on the providers, whether they are small or large.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a "significant regulatory action" under § 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly, this rule has been reviewed by the Office of Management and Budget (OMB).

The Department of Justice has assessed the costs and benefits of this rule and has determined that the benefits of this rule justify its costs. As noted, the costs of compliance for a provider of electronic communications services or remote computing services to the public will continue to be limited to the cost of one telephone call to obtain a password for the "Cyber Tipline" and the cost of completing online reports of child pornography, which is already required by statute. See 42 U.S.C. 13032 (2002). Permitting NCMEC to forward reports to two additional law enforcement agencies will not impose any additional costs on providers. The costs to NCMEC of making reports available to two additional agencies is negligible, as representatives of those agencies will be housed in NCMEC's offices and the reports will be available on-line.

By contrast, the benefits of this new Interim final rule will be appreciable. The availability of child pornography on the Internet is a growing problem in our Nation that perpetuates the molestation and exploitation of children. The addition of the Postal Inspection Service and Secret Service as recipients of reports will substantially enhance the scope of law enforcement investigative abilities with respect to reports of child pornography on the Internet, particularly where use of the United States mail is implicated in the distribution of child pornography.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications

to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 28 CFR Part 81

Child abuse, Child pornography, Electronic communication services, Federal buildings and facilities, Remote computing services.

■ By virtue of the authority vested in me as Attorney General, including 28 U.S.C. 509 and 510, 5 U.S.C. 301, 42 U.S.C. 13032, PL 105-314, 112 Stat. 2974, and PL 106-113, 113 Stat. 1501, part 81 of title 28, Code of Federal Regulations, is amended as follows:

PART 81—CHILD ABUSE AND CHILD PORNOGRAPHY REPORTING DESIGNATIONS AND PROCEDURES

- 1. The heading for part 81 is revised as set forth above.
- 2. The authority citation for part 81 is revised to read as follows:

Authority: 28 U.S.C. 509, 510; 42 U.S.C. 13031, 13032.

- 3. Sections 81.1 through 81.5 are designated as subpart A and a new subpart heading is added to read as follows:

Subpart A—Child Abuse Reporting Designations and Procedures

§ 81.1 [Amended]

- 4. Section 81.1 is amended by removing the words "this part" and inserting in their place "this subpart A".

PART 81—[AMENDED]

- 5. Part 81 is amended by adding at the end thereof the following new subpart B to read as follows:

Subpart B—Child Pornography Reporting Designations and Procedures

Sec.

81.11 Purpose.

81.12 Submission of reports to the "Cyber Tipline" at the National Center for Missing and Exploited Children.

81.13 Submission of reports by the National Center for Missing and Exploited Children to designated agencies; designation of agencies.

Subpart B—Child Pornography Reporting Designations and Procedures

§ 81.11 Purpose.

The regulations in this subpart B designate the agencies that are authorized to receive and investigate