significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it proposes to establish Class E airspace at Philippi, WV.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AEA WV E5 Philippi, WV [New]

Philippi/Barbour County Regional Airport, WV
(Lat. 39°09′58″ N., long. 80°03′45″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6.6-mile radius of Philippi/Barbour County Regional Airport.

* * * * *

Issued in College Park, Georgia, on February 25, 2008.

Mark D. Ward,

Manager, System Support Group Eastern Service Center.

[FR Doc. E8–5170 Filed 3–17–08; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA 2007–0082]

RIN 0960–AG67

Revised Medical Criteria for Evaluating HIV Infection

AGENCY: Social Security Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: In a separate notice in today's edition of the **Federal Register**, we are publishing final rules revising the criteria we use to evaluate immune system disorders, found in sections 14.00 and 114.00 of the Listing of Impairments in appendix 1 to subpart P of part 404 of our regulations (the listings). In those rules, we indicate that we will issue an Advance Notice of Proposed Rulemaking (ANPRM) inviting public comments on how we might update and revise listings 14.08 and 114.08, our listings for evaluating HIV infection. We are now requesting your comments and suggestions about possible revisions to those listings.

After we have considered your comments and suggestions, other information about advances in medical knowledge, treatment, and methods of evaluating HIV infection, and our program experience using the current listings, we will determine whether we should revise listings 14.08 and 114.08. If we propose specific revisions to the listings, we will publish a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**.

DATES: To be sure that your comments are considered, we must receive them no later than May 19, 2008.

ADDRESSES: You may submit comments by any of the following methods. Regardless of which method you choose, to ensure that we can associate your comments with the correct regulation for consideration, you must state that your comments refer to Docket No. SSA–2007–0082:

- Federal eRulemaking Portal at *http://www.regulations.gov.* (This is the preferred method for submitting your comments.) In the Search Documents section, select ''Social Security Administration'' from the agency drop-down menu, then click ''submit.'' In the Docket ID Column, locate SSA–2007–0082 and then click ''Add Comments'' in the ''Comments Add/Due By'' column.
- Telefax to (410) 966–2830.
- Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235–7703.
- Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on the Federal eRulemaking portal, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

FOR FURTHER INFORMATION CONTACT: Paul Scott, Office of Compassionate Allowances and Listings Improvement, Social Security Administration, 4422 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–1192, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

What is the purpose of this ANPRM?

The purpose of this ANPRM is to give you an opportunity to send us comments and suggestions on whether and how we might update and revise listings 14.08 and 114.08, our listings for evaluating HIV infection. In a separate notice in today's edition of the **Federal Register**, we are publishing final rules revising the criteria we use to evaluate immune system disorders, found in sections 14.00 and 114.00 of the listings. We proposed changes to listings 14.08 and 114.08 when we published our NPRM on August 4, 2006 (71 FR 44432 (2006)), and we received some public comments suggesting changes to those listings. Although the final rules that we are are publishing today include changes to listings 14.08 and 114.08, the criteria in these listings are not substantively different from the criteria in our proposed rules and our current rules. We have decided to publish this ANPRM partly because we need additional information and partly because we believe that some of the

changes suggested in the public comments were too extensive to include in a final rule without giving the public a chance to comment on them.

Which rules are we inviting comments about?

We are considering whether and how to update and revise listings 14.08 and 114.08. You can find the revised rules for listing sections 14.00 and 114.00 in a separate notice that we are publishing in today's edition of the **Federal Register**.

Who should send us comments and suggestions?

We invite comments and suggestions from anyone who has an interest in the rules we use to evaluate claims for benefits filed by persons who have HIV infection. We are interested in getting comments and suggestions from persons who apply for or receive benefits from us, members of the general public, advocates and organizations who represent people who have HIV infection, State agencies that make disability determinations for us, experts in the evaluation of HIV infection, and researchers.

What should you comment about?

We are specifically interested in any comments and suggestions you have on how we might update and revise listings 14.08 and 114.08. The issues we want your comments to address are:

- Should we add, change, or remove any of the criteria in listings 14.08 and 114.08?
- If so, what revisions do you think we should make?

Will we respond to your comments from this notice?

We will not respond directly to comments you send us in response to this notice. However, after we consider your comments along with other information, such as medical research and other information about advances in medical knowledge, treatment, and methods of evaluating HIV infection and our program experience, we will decide whether and how to revise listings 14.08 and 114.08. If we propose revisions to those listings, we will publish an NPRM in the **Federal Register**. In accordance with the usual rulemaking procedures we follow, if we publish an NPRM, you will have a chance to comment on any proposed revisions to listings 14.08 and 114.08, and we will summarize and respond to the significant comments on the NPRM in the preamble to any final rules.

Other Information

Who can get disability benefits?

Under title II of the Social Security Act (the Act), we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see § 404.336) of insured workers.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability if you are disabled and have limited income and resources.

How do we define disability?

Under both the title II and title XVI programs, disability must be the result of any medically determinable physical or mental impairment or combination of impairments that is expected to result in death or which has lasted or is expected to last for a continuous period of at least 12 months. Our definitions of disability are shown in the following table:

If you file a claim under . . .	And you are . . .	Disability means you have a medically determinable impairment(s) as described above that results in . . .
title II	An adult or child	the inability to do any substantial gainful activity (SGA).
title XVI	An individual age 18 or older	the inability to do any SGA.
title XVI	An individual under age 18	marked and severe functional limitations.

How do we decide whether you are disabled?

If you are applying for benefits under title II of the Act, or if you are an adult applying for payments under title XVI of the Act, we use a five-step ''sequential evaluation process'' to decide whether you are disabled. We describe this five-step process in our regulations at §§ 404.1520 and 416.920. We follow the five steps in order and stop as soon as we can make a determination or decision. The steps are:

1. Are you working, and is the work you are doing SGA? If you are working and the work you are doing is SGA, we will find that you are not disabled, regardless of your medical condition or your age, education, and work experience. If you are not, we will go on to step 2.

2. Do you have a ''severe'' impairment? If you do not have an impairment or combination of impairments that significantly limits your physical or mental ability to do basic work activities, we will find that you are not disabled. If you do, we will go on to step 3.

3. Do you have an impairment(s) that meets or medically equals the severity of an impairment in the listings? If you do, and the impairment(s) meets the duration requirement, we will find that you are disabled. If you do not, we will go to step 4.

4. Do you have the residual functional capacity (RFC) to do your past relevant work? If you do, we will find that you are not disabled. If you do not, we will go on to step 5.

5. Does your impairment(s) prevent you from doing any other work that exists in significant numbers in the national economy, considering your RFC, age, education, and work experience? If it does, and it meets the duration requirement, we will find that you are disabled. If it does not, we will find that you are not disabled.

We use a different sequential evaluation process for children who apply for payments based on disability under SSI. If you are already receiving benefits, we also use a different sequential evaluation process when we decide whether your disability continues. See §§ 404.1594, 416.924, 416.994, and 416.994a of our regulations. However, all of these processes include steps at which we consider whether your impairment(s) meets or medically equals one of our listings.

What are the listings?

The listings are examples of impairments that we consider severe enough to prevent you as an adult from doing any gainful activity. If you are a child seeking SSI payments based on disability, the listings describe impairments that we consider severe enough to result in marked and severe functional limitations. Although the listings are contained only in appendix

1 to subpart P of part 404 of our regulations, we incorporate them by reference in the SSI program in § 416.925 of our regulations, and apply them to claims under both title II and title XVI of the Act.

How do we use the listings?

The listings are in two parts. There are listings for adults (part A) and for children (part B). If you are an individual age 18 or over, we apply the listings in part A when we assess your claim, and we do not use the listings in part B.

If you are an individual under age 18, we first use the criteria in part B of the listings. If the criteria in part B do not apply, we may use the criteria in part A when those criteria give appropriate consideration to the effects of the impairment(s) in children. (See §§ 404.1525 and 416.925.)

If your impairment(s) does not meet any listing, we will also consider whether it medically equals any listing, that is, whether it is as medically severe as an impairment in the listings. (See §§ 404.1526 and 416.926.)

What if you do not have an impairment(s) that meets or medically equals a listing?

We use the listings only to decide that you are disabled or that you are still disabled. We will not deny your claim or decide that you no longer qualify for benefits because your impairment(s) does not meet or medically equal a listing. If you have a severe impairment(s) that does not meet or medically equal any listing, we may still find you disabled based on other rules in the ''sequential evaluation process.'' Likewise, we will not decide that your disability has ended only because your impairment(s) no longer meets or medically equals a listing.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: January 15, 2008.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. E8–5022 Filed 3–17–08; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 516

[Docket No. 2008N–0011]

RIN 0910–AG03

Defining Small Number of Animals for Minor Use Designation

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The designation provision of the Minor Use and Minor Species Animal Health Act of 2004 (MUMS act) provides incentives to animal drug sponsors to encourage drug development and approval for minor species and for minor uses in major animal species. Congress provided a statutory definition of ''minor use'' that relied on the phrase ''small number of animals'' to characterize such use. At this time, FDA is proposing to amend the implementing regulations of the MUMS act. In response to Congress' charge to the agency to further define minor use, this amendment proposes a specific ''small number of animals'' for each of the seven major animal species to be used in determining whether any particular intended use in a major species is a minor use.

DATES: Submit written or electronic comments on the proposed rule by July 16, 2008. Submit comments regarding information collection by April 17, 2008 to OMB (see **ADDRESSES**).

ADDRESSES: You may submit comments, identified by Docket No. 2008N–0011 and RIN number 0910–AG03, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Information Collection Provisions: Submit written comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Margaret Oeller, Center for Veterinary Medicine (HFV–50), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9005, e-mail: *Margaret.Oeller@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Definition of Minor Use

The MUMS act (Public Law 108–282) amended the Federal Food, Drug, and Cosmetic Act (the act) to provide incentives for the development of new animal drugs for use in minor animal species and for minor uses in major animal species. The MUMS act defines ''minor use'' as ''the intended use of a drug in a major species for an indication that occurs infrequently and in only a small number of animals or in limited geographical areas and in only a small number of animals annually'' (section 201(pp) of the act (21 U.S.C. 321(pp)). The major species are cattle, horses, swine, chickens, turkeys, dogs, and cats (21 U.S.C. 321(nn)).

Prior to enactment of the MUMS act, FDA defined minor use by regulation to