control measures (BACM)[15] and a major source definition of 70 tons per year. The SIP must also, among other things, provide for attainment of the PM–10 NAAQS by December 31, 2001.[16] See CAA sections 188 (c) (2) and 189 (b). EPA has provided specific guidance on developing serious area PM–10 SIP revisions. See 59 FR 41998 (August 16, 1994).

Data from the most recent three year period (1998–2000) indicates the proposed Coso Junction and Indian Wells Valley NAs exceeded the PM–10 24-hour NAAQs. The proposed Coso Junction NA recorded two exceedance in March, 1998, and the proposed Indian Wells Valley NA recorded an exceedance March, 1998. In their May 4, 2001 letter[17] to EPA, CARB indicated that it is investigating whether the exceedance in Indian Wells Valley was caused by a natural event.[18] Because of these exceedances, the proposed Coso Junction and Indian Wells Valley NAs do not qualify for redesignation at this time. In order for a nonattainment area to be redesignated to attainment, the area must have three years of clean data and meet the redesignation requirements of section 107 (b) (3) (E) of the CAA.[19]

VI. Summary of Today's Proposals

In today's action, EPA is proposing to divide the Searles Valley NA into three, newly created NAs: Coso Junction, Indian Wells Valley, and Trona. EPA is also proposing to find that the proposed Coso Junction and Indian Wells Valley NAs did not attain the 24-hour and annual PM–10 NAAQS.

VII. Request for Public Comment

The EPA is requesting comment on any or all aspects of today's proposals. As indicated at the outset of this notice, EPA will consider any comments received by August 13, 2001.

[15] BACM must be implemented no later than four years from the date of reclassification.

[16] If certain conditions are met, EPA may extend this attainment deadline to no later than December 31, 2006. CAA section 188 (e).

[17] See footnote 5.

[18] EPA's policy for an exceedance caused by a natural event is explained in a memorandum entitled ''Areas Affected by PM–10 Natural Events'' from Mary Nichols, Assistant Administrator for Air and Radiation, to the EPA Regional offices, May 30, 1996. The State is responsible for establishing a clear casual relationship between the exceedance and the natural event and submitting the documentation to EPA within 180 days of the exceedance, and, at a minimum, developing a Natural Events Action Plan within 18 months of the exceedances.

[19] Memorandum from John Calcagni to Regional Office Air Directors, ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' September 4, 1992.

VIII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Under section 188(b)(2) of the CAA, findings of failure to attain are based solely upon air quality considerations and the subsequent nonattainment area reclassification must occur by operation of law in light of those air quality conditions. These actions do not, in and of themselves, impose any new requirements on any section of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because these requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities. The proposed splitting of the Searles Valley NA into three new, separate NAs with a moderate classification will not impose any new requirements on any sectors of the economy because the area is already classified as moderate.

Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

These proposed actions do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) for the following reasons: (1) The proposed finding of failure to attain is a factual determination based on air quality considerations; (2) the resulting reclassification must occur by operation of law and will not impose any federal intergovernmental mandate; and (3) the proposed splitting of the Searles Valley NA into three, new and separate NAs with a moderate classification will not impose any new requirements on any sectors of the economy. For the same reason, this proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). For these same reasons, these proposed actions will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). These proposed actions are also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997). because they are not economically significant. Finally, for these same reasons, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing these proposed actions, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. These proposed actions do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 5, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–14902 Filed 6–12–01; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; FCC 01–175]

Wireless E911 Compatibility; Call Back Capability

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document solicits comment regarding the Commission's options with respect to providing public safety answering points (PSAPs) with the ability to call back to obtain further information from 911 calls made from

non-service-initialized mobile wireless phones. The document is precipitated by a request for further consideration filed by several public safety entities and the Commission's recognition that the absence of call back capability is an important public safety issue. The document seeks comment on whether several possible solutions for wireless phones lacking call back capability, or some technical solution applicable to all non-initialized handsets, will further the goals of the Commission's 911 rules, are technically feasible, and cost-effective.

DATES: Comments are due on or before July 9, 2001, and reply comments are due on or before August 8, 2001. Public comments on the information collections are due August 13, 2001, and comments by the Office of Management and Budget (OMB) are due October 11, 2001.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov*, and to Ed Springer, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW., Washington, DC 20503 or via the Internet to *Edward.Springer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Jane Phillips, 202–418–1310. For further information concerning the information collection contained in this Further Notice of Proposed Rulemaking, contact Judy Boley, Federal Communications Commission, 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 94–102; RM 8143; FCC 01–175, adopted May 23, 2001, and released May 25, 2001. The complete text of this FNPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC.

Synopsis of the FNPRM

1. This FNPRM originated in the Commission's earlier decision in this proceeding, which regards wireless enhanced 911 (E911) service, requiring wireless carriers to forward all 911 calls regardless of their service subscription status and limiting carriers obligations for 911 calls lacking call back capability to delivering the call to the PSAP. (*See* the Report and Order at 61 FR 40348, August 2, 1996, and Memorandum Opinion and Order at 63 FR 02631, January 16, 1998.) These calls include those from non-service initialized phones (noninitialized phones) issued through donor programs, and those from 911 only phones that limit usage to outgoing 911 calls and are incapable of receiving any incoming calls. PSAP call back capability can be critical in wireless E911 situations, where the location of a mobile phone may not be available and the caller may not know his or her precise location or may omit to provide location information to the PSAP.

2. The Commission recently invited comment on this issue in a Public Notice (65 FR 3560, June 5, 2000) in response to a request for further consideration filed by several public safety entities. Conflicting assertions regarding technological constraints on call back capability for noninitialized phones and the importance of the issue from a public safety perspective lead the Commission to conclude that additional information is necessary for an informed decision on this matter. The FNPRM, therefore, solicits comments on possible technical solutions and on several of the Commission's alternatives, including requirements that all carrier-donated handsets be initialized on a limited basis to enable call back by a PSAP and labeled accordingly, and that all 911-only handsets permit call back by the PSAP and be labeled accordingly.

3. A third category of phones exists: noninitialized phones for which the service subscription has lapsed that are retained by the owner or given to friends or family members for emergency use. The FNPRM tentatively concludes that nothing can be done to correct the call back problem for such phones in the absence of a general technical solution to the call back problem because the Commission has no authority to bar the use of such phones or to mandate public education with respect to their limitations. The FNPRM therefore concludes that carrier publicity concerning the problems inherent in the use of noninitialized phones, including those received from friends and family, is the best means of addressing this issues and should be encouraged.

Procedural Matters

4. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments in response to the FNPRM in CC Docket No. 94–102 and RM–8143 on or before July 9, 2001, and reply comments on or before August 8, 2001. Comments and reply comments should be filed in CC Docket No. 94–102 and should include a separate heading to identify the comments for the Docket Number. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 Twelfth Street, SW., Washington, DC 20554, with copies to Jane Phillips, Policy Division, Wireless Telecommunications Bureau at 445 Twelfth Street, SW., Washington, DC 20554.

5. Comments also may be filed using the Commission's Electronic Comment Filing System (ECFS). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-mail/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking numbers. Parties also may submit an electronic comment by Internet E-Mail. To obtain 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.

6. Comments and reply comments will be available for public inspection during regular business hours at the FCC Reference Center, Room CY–A257, at the Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. Copies of comments and reply comments are available through the Commission's duplicating contractor: International Transcription Service, Inc. (ITS, Inc.), 1231 20th Street, NW., Washington, DC 20037, (202) 857–3800.

Paperwork Reduction Act of 1995 Analysis

7. The actions contained in this FNPRM have been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose a new reporting requirement or burden on the public. Implementation of this new reporting requirement will be subject to approval by the Office of Management and Budget, as prescribed by the Act.

Initial Regulatory Flexibility Analysis—Further NPRM

8. As required by the Regulatory Flexibility Act (RFA) (*See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAA).) Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). 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 (FNPRM), CC Docket No. 94–102. 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 FNPRM. This is a summary of the IRFA. The full text of the IRFA may be found in Appendix B of the full text of the FNPRM.

A. Need for, and Objectives of, the FNPRM

9. The FNPRM solicits additional comment regarding enhanced 911 (E911) service to wireless phones without call back capability, including non-service initialized phones issued through donor programs and 911-only phones that limit usage to outgoing 911 calls and are incapable of receiving any incoming calls. Conflicting assertions regarding technological constraints on call back capability for noninitialized phones and the importance of a responsive E911 system in general and of facilitating PSAP response to E911 calls leads the Commission to conclude that additional information is necessary for an informed decision on this matter.

B. Legal Basis for Proposed Rules

10. The proposed action is authorized under Sections 1, 4(i), 7, 10, 201, 202, 208, 214, 222(d)(4)(A)–(C), 222(f), 222(g), 222(h)(1)(A), 222(h)(4)–(5), 251(e)(3), 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 157, 160, 201, 202, 208, 214, 222(d)(4)(A)–(C), 222(f), 222(g), 222(h)(1)(A), 222(h)(4)–(5), 251(e)(3), 301, 303, 308, 309(j), 310.

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

11. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the 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 Section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a ''small business concern'' is one that: (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 small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations.

12. The definition of ''small governmental entity'' is one with populations of fewer than 50,000. Of the 85,006 governmental entities in the United States, the Commission estimates that ninety-six percent, or about 81,600, are small entities that may be affected by our rules.

13. This FNPRM could result in rule changes that, if adopted, would affect small entities that currently are or may become licensees in the cellular, broadband Personal Communications Services (PCS), or Specialized Mobile Radio Services.

14. Cellular Equipment Manufacturers. A labeling requirement, if adopted, would affect manufacturers of cellular equipment. The Commission does not know how many cellular equipment manufacturers are in the current market. The 1994 County Business Patterns Report of the Bureau of the Census estimates that there are 920 companies that make communications subscriber equipment. This category includes not only cellular equipment manufacturers, but television and AM/FM radio manufacturers as well. Thus, the number of cellular equipment manufacturers is considerably lower than 920. Under SBA regulations, a ''communications equipment manufacturer,'' which includes not only U.S. cellular equipment manufacturers but also firms that manufacture radio and television broadcasting and other communications equipment, must have a total of 750 or fewer employees in order to qualify as a small business concern. Census Bureau data from 1992 indicate that at that time there were an estimated 858 such U.S. manufacturers and that 778 (91%) of these firms had 750 or fewer employees and would therefore be classified as small entities. The Commission estimates that the current action may affect approximately 837 small cellular equipment manufacturers.

15. Cellular Radiotelephone Service. Neither the Commission nor the SBA has developed a definition of small entities specifically for cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone communications. This provides that a small entity is a radio telephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms, which operated during 1992, had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent Telecommunications Industry Revenue data, 808 carriers reported that they were engaged in the provision of either cellular service or PCS, which are combined in the data. The Commission estimates that there are no more than 808 small cellular service carriers that may be affected by these proposals, if adopted.

16. Broadband Personal Communications Service (PCS). The broadband 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 less than $40 million 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 their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. The Commission concludes that the number of small

broadband PCS licensees will include the 90 winning C Block bidders, the 93 qualifying bidders in the D, E, and F blocks, and the 48 winning bidders in the reauction, for a total of approximately 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. In addition, the Commission estimates that the number of additional C & F Block broadband PCS licensees that may ultimately be affected by these proposals could be as many as 422.

17. Specialized Mobile Radio (SMR). Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. The auction of the 1,020 SMR geographic area licenses for the 900 MHz SMR band began on December 5, 1995, and was completed on April 15, 1996. Sixty winning bidders for geographic area licenses in the 900 MHz band qualified as small businesses under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard.

18. The lower 230 channels in the 800 SMR band are divided between General Category channels (the upper 150 channels) and the lower 80 channels. The auction of the 1,053 800 MHz SMR geographic area licenses (1,050–800 MHz licenses for the General Category channels, and 3–800 MHz licenses for the upper 200 channels from a previous auction) for the General Category channels began on August 16, 2000, and was completed on September 2, 2000. At the close of the auction, 1,030 licenses were won by bidders. Eleven winning bidders for geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. The auction of the 2,800 800 MHz SMR geographic area licenses for the lower 80 channels in the 800 MHz SMR service began on November 1, 2000, and was completed on December 5, 2000. Nineteen winning bidders for geographic area licenses for the lower 80 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In addition, there are numerous incumbent site-by-site SMR licensees on the 800 and 900 MHz bands. The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years.

19. 220 MHz Radio Service—Phase II Licensees. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. The Commission has adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. The Commission has defined 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 defined as 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 definitions. The Commission has held two auctions for Phase II licenses for the 220 MHz band. Fifty-three (53) winning bidders qualified as small or very small entities.

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

20. If certain options discussed in the FNPRM are adopted, all carrier-donated handsets would be required to be initialized on a limited basis to enable call back by a PSAP and labeled accordingly. Furthermore, all 911-only handsets could be required to permit call back by PSAPs and be labeled accordingly. In both instances, this would involve assigning the handsets a phone number and accompanying software upgrades. Details of these proposed requirements are discussed in paragraphs 7 through 19 of the full FNPRM, *supra.* As noted in the FNPRM, the compliance requirements for the various technical alternatives are not fully known. The FNPRM invites comments on alternatives to these options for addressing the call-back issue, and any possible compliance burdens associated with the alternatives.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

21. 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. *See* 5 U.S.C. 603(c).

22. The critical nature of the E911 proceeding in general and in particular of providing PSAPs with the flexibility to contact the caller in an emergency situation limits the Commission's ability to provide small carriers with a less burdensome set of E911 regulations than those placed on large entities. A delayed or less than adequate response to an E911 call can be disastrous regardless of whether a small carrier or a large carrier is involved. The importance of PSAP call back capability in wireless E911 situations is that, in the excitement of a crisis situation, the caller could easily forget to provide the PSAP with location information, and the PSAP might not be able to trace the location of a wireless phone because the individual could be moving from place to place, and may not be able to call the handset user back to verify a location. The PSAP would, at worst, be unable to respond, or would respond on a delayed basis.

23. PSAPs and the majority of wireless carriers who commented on the call-back issue represent two different perspectives on the issue. (*See* paragraph 5 of the FNPRM.) PSAPs, who initially asked that the Commission ''take additional comment and revisit the call back number issues to determine if any further Commission action is necessary or appropriate,'' express concern that noninitialized phones provide either no call back information or outdated or inaccurate information when used in areas where E911 services have been implemented. Comments filed by public service interests assert that a technical solution to the call back issue either exists or can be easily devised to allow PSAPs to identify noninitialized E911 calls and to return the calls if necessary. A majority of wireless service providers, on the other hand, disagree, noting that no viable technical solution has been identified or endorsed by the Wireless E911 Implementation Ad Hoc group.

24. As indicated in paragraph five of the FNPRM, suggestions of record for resolving the problem range from assigning a prescribed series of numbers

or letters to noninitialized phones to notify the PSAP that no call back is possible, to assigning a temporary call back number or emergency service routing key that permits call back. A majority of wireless carriers, in particular, advocate education and labeling requirements to alert consumers to the limitations of E911-only and other noninitialized handsets.

25. In the absence of sufficient information supporting a general technical solution, the Commission is considering several possible solutions to the call-back problem, including a requirement that all carrier-donated handsets be initialized on a limited basis to enable call back by a PSAP and be labeled as such, and a requirement that all 911-only handsets permit call back by a PSAP and bear a label apprising users of their limitations.

26. Paragraphs 9 through 12 of the FNPRM discuss options regarding carrier donated handsets. The most obvious alternative would be for the Commission to decline to adopt any regulation regarding their distribution. The Commission rejects this option as a preliminary matter because it would effectively nullify the benefits of E911 where the PSAP is unable to ascertain the location or needs of an E911 caller. Another alternative would be for the Commission to adopt a regulation merely requiring that donors label donated handsets and provide associated guidance to donees regarding their handset's lack of call back capability. The labeling option would focus the user on the urgency of the E911 caller's providing location information immediately upon contacting the PSAP, and would be easier and less expensive for carriers than a limited initialization solution. However, the Commission has concerns that a labeling requirement may be inadequate, by itself, to satisfy the needs of the populace in question. The final option, a limited initialization solution, could exacerbate the scarcity of phone numbering resources and could deter carriers from participating in donor programs. However, the public safety benefits offered by a limited initialization solution appear to outweigh the possible negative repercussions. Thus, the Commission solicits comment on a requirement that carrier-donors initialize service on a limited basis by assigning donated handsets a call back number for the limited purpose of permitting call back by PSAPs. The Commission seeks comment on the effects of such a requirement on small businesses, and on the extent of the burden of updating software to accommodate PSAP call back capability on donated handsets.

27. Paragraphs 13 through 17 of the FNPRM consider alternative solutions to the call back problems of 911-only phones, which limit out-going calls to 911 and presently are incapable of receiving any incoming calls. Again, the option of taking no action is unacceptable. Alternatively, the Commission could require all manufacturers of 911-only phones to encode a standardized non-service initialized ''telephone number'' that would provide notice to PSAPs that the handset used for a E911 call lacks call back capability. On the positive side, this alternative would put the PSAP on notice that location information must be obtained quickly from the E911 caller as call back is impossible. On the other hand, this alternative would apply only prospectively and would not cover previously marketed handsets. It could also raise the price of 911-only handsets, providing only limited service to those who can afford them. A third alternative would require that manufacturers of 911-only phones label the handsets and educate consumers regarding the absence of call back capability. The Commission is concerned that, while a labeling and education requirement would be easier and less expensive to implement than a limited initialization requirement, the requirement would not cover handsets previously marketed by manufacturers and would be insufficient to reduce the threat to public safety that a lack of vital information concerning the caller's location or specific emergency needs represents.

28. The Commission is considering a requirement that these phones be modified to allow a return call by the PSAP. The requirement would apply only prospectively and would not cover previously marketed handsets. The disadvantages of this approach include the possibility that the additional costs of implementing such a solution could be a disincentive to the manufacturers of 911-only handsets, thus eventually removing them from the marketplace or driving the cost up. Additionally, the assignment of unique handset numbers to such phones could exacerbate the numbering shortage.

29. Finally, the Commission, as discussed in paragraphs 18 and 19 of the FNPRM, has identified a third category of noninitialized phones, *i.e.* noninitialized phones for which the service subscription has usually lapsed, which have been given to friends or family members. At least one comment advocates permitting a user's noninitialized handsets to be reprogrammed to the same ESN as the user's service-initialized handset. The Commission concludes that this option would not solve the call back problem for this category of users, and could, in fact, create new opportunities for delay and confusion for the PSAP trying to locate the caller. In such cases, the PSAP attempting to call back could easily reach a phone other than the one from which the E911 call was made, because several phones would have not only the same call back number but the same ESN, and the network would be unable to distinguish between them. It appears that the Commission has no means available to it to bar the use of such phones or to mandate public education with respect to their limitations and that carrier publicity concerning the disadvantages of relying on noninitialized phones, including those received from friends or family, would be most efficacious in alleviating the call-back problem with respect to these phones.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

30. None.

Paperwork Reduction Act

31. The FNPRM proposes a new paperwork collection. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this FNPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due August 13, 2001. OMB comments are due October 11, 2001. Comments should address (1) 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; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

OMB Approval Number: None.

Title: Transition to 911 Emergency Service: Notice of Proposed Rulemaking.

Form No.: None.

Type of Review: New information collection.

Respondents: Business or other for profit and non-profit.

Number of Respondents: 807.

Estimated Time Per Response: 30 minutes.

Total Annual Cost Burden: 0.

Total Annual Burden: 403½ hours.

Needs and Uses: The proposed labeling requirements would serve to educate consumers as to the capabilities and limitations of their handsets thus avoiding confusion resulting in delay in responding to E911 calls.

Ordering Clauses

32. Pursuant to sections 1, 4(i), 4(j), 7, 10, 201, 202, 208, 214, 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157, 160, 201, 202, 208, 214, 301, 303, 308, 309(j), and 310, this Further Notice of Proposed Rulemaking is adopted.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–14926 Filed 6–12–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2001–9816]

Federal Motor Vehicle Safety Standards; Child Restraint Anchorage Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for reconsideration.

SUMMARY: The Federal motor vehicle safety standard on child restraint anchorage systems requires vehicle manufacturers to install child restraint anchorage systems in passenger motor vehicles. The standard specifies ''marking and conspicuity'' requirements for the lower bars of a child restraint anchorage system to help users locate and use the bars and to inform or remind them that the anchorage system is present. The standard was amended to permit manufacturers to meet these requirements, for a limited period, by installing at least one anchorage bar so that it is visible, or by installing a guidance fixture or one seat marking feature that is visible to a person installing a child restraint test fixture. Volkswagen AG and Volkswagen of America, Inc. (Volkswagen) petitioned for reconsideration of the rule. Volkswagen had been providing guidance fixtures on an ''as requested'' basis, rather than providing them with each new vehicle. The petitioner requested NHTSA to defer the effective date of the requirement for a guidance fixture until the manufacturer could obtain a supply of guidance fixtures from its supplier. For the reasons provided in this document, we have denied the petition.

FOR FURTHER INFORMATION CONTACT: *For nonlegal issues:* Mike Huntley, Office of Crashworthiness Standards, Special Vehicle and Systems Division (telephone 202–366–0029).

For legal issues: Deirdre Fujita, Office of the Chief Counsel (202–366–2992).

Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

NHTSA's March 1999 Final Rule

On March 5, 1999, NHTSA published a final rule establishing Federal Motor Vehicle Safety Standard No. 225, ''Child Restraint Anchorage Systems'' (49 CFR 571.225), to require motor vehicle manufacturers to install child restraint anchorage systems that are standardized and independent of the vehicle seat belts (64 FR 10786) (Docket No. 98–3390, notice 2). Each new system has two lower anchorages and one tether anchorage. Each lower anchorage is a rigid round rod or bar onto which the connector of a child restraint system can be snapped. The bars are located at the intersection of the vehicle seat cushion and seat back. The upper anchorage is a fixture to which the tether of a child restraint system can be hooked.

The final rule required vehicle manufacturers to begin phasing-in the tether anchorage of the child restraint anchorage system in the production year beginning September 1, 1999, with full implementation beginning September 1, 2000. Manufacturers were required to begin phasing-in the lower anchorages in the production year beginning on September 1, 2000, with full implementation beginning September 1, 2002.

The final rule was based on technical specifications set forth in November 1996 and June 1998 drafts of a child restraint anchorage system standard being developed by a working group of the International Organization for Standardization (ISO). The technical specifications covered matters such as the design and configuration of the anchorage system, and the strength of each component of the system. While many concepts and requirements of the draft ISO standard were incorporated into the final rule on Standard No. 225, the final rule highlighted differences between the rule and the draft ISO standard with regard to the strength required of the anchorages, and well as to the marking of the anchorages and other requirements.

NHTSA's August 1999 Response to Petitions for Reconsideration

There were a number of petitions for reconsideration suggesting revisions to the March 1999 final rule. Most of the petitioners were vehicle manufacturers concerned about their ability to meet the strength requirements of the final rule, particularly within the given leadtime. The vehicle manufacturers stated that they had been designing child restraint anchorage systems to meet the strength requirements that were under consideration by the ISO for the lower anchorages and by Transport Canada for the tether anchorage, and were prepared to meet those requirements by the compliance date of the rule, but not the strength requirements that the rule had specified. In response to this concern, NHTSA published a final rule that permitted vehicle manufacturers to meet alternative requirements during an initial several-year period (64 FR 47566, August 31, 1999) (Docket No. 99–6160). We specified in that document that, from September 1, 2000 until August 31, 2002,[1] manufacturers installing the lower anchorage bars would have the option of meeting the requirements set forth in the March 1999 final rule, or requirements that were very similar, but not identical, to the June 1998 draft ISO standard.

The March 1999 final rule had required a permanent mark on the vehicle seat back at the location of each lower bar location to help knowledgeable motorists locate and use the bars, and to inform or remind other motorists that the bars are present (S9.5). The mark would not be required, the rule had specified, if the lower bars were visible (S9.5(b)). In a April 16, 1999 petition for reconsideration of the rule, Volkswagen stated that a ''guide device installed onto the anchorage at the seat bight'' should be considered ''as a marking device or an anchorage locator.'' [2] In the August 31, 1999

[1] The date was later extended to September 1, 2004. 65 FR 46628.

[2] Volkswagen also stated in its petition that it supported the petition for reconsideration of the final rule submitted by the Alliance of Automobile

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