final conditional approval action), of a new District rule that would add new limits or other requirements if an RFP milestone is not met or if Western Nevada County fails to attain the 2008 ozone NAAQS by the applicable attainment date.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve, or conditionally approve, state plans as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does 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);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 21, 2020.

John Busterud,

Regional Administrator, Region IX.

[FR Doc. 2020–28885 Filed 1–11–21; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 95

[ET Docket No. 20–382; FCC 20–180; FRS 17351]

Allowing Earlier Equipment Marketing and Importation Opportunities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to update its radiofrequency (RF) device marketing and importation rules in order to allow equipment manufacturers to better gauge consumer interest and prepare for new product launches. In particular, the Commission proposes limited exceptions to its requirement that RF devices receive equipment authorization prior to marketing in or importation to the United States and it seeks comment on the conditions necessary to ensure that parties who utilize such exceptions ultimately bring such devices into full compliance with the Commission's equipment authorization rules.

DATES: Comments are due February 11, 2021. Reply comments are due February 26, 2021.

FOR FURTHER INFORMATION CONTACT: Brian Butler, Office of Engineering and Technology, 202–418–2702, *Brian.Butler@fcc.gov,* or Thomas Struble at 202–418–2470 or *Thomas.Struble@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*), FCC 20–180, ET Docket No. 20–382, adopted December 10, 2020, and released December 10, 2020. The full text of this document is available for public inspection and can be downloaded at: *https://www.fcc.gov/document/fcc-proposes-rules-expedite-release-new-devices-and-technologies-0* or by using the search function for ET Docket No. 20–382 on the Commission's ECFS web page at *www.fcc.gov/ecfs.*

Synopsis

1. *Discussion.* In June 2020 CTA filed a petition seeking modification of the equipment authorization rules pertaining to the marketing and importation of radiofrequency devices. An FCC-issued Public Notice seeking comment on CTA's petition yielded eight comments and two reply comments. The Commission took this record into consideration when it issued this rulemaking proposal. The Commission observed that the existing rules often limit the ability of device manufacturers to market and import radiofrequency devices in the most efficient and cost-effective manner and proposed specific rule changes that would allow device manufacturers to take full advantage of modern marketing and importation practices. Specifically, the proposals relate to the marketing and importation of radiofrequency devices. Although CTA also asked the Commission to grant a rule waiver to permit conditional sales to consumers during the pendency of the rulemaking proceeding and other parties asked for similar action, the Commission determined that an interim waiver was not warranted in this case. The Commission notes that it would need to consider several complex issues before allowing conditional sales of radiofrequency devices, or additional imports of radiofrequency devices, prior to the receipt of equipment authorization.

2. The Commission's equipment authorization rules are based on Section 302 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 302a, which gives the Commission authority to make reasonable regulations governing the interference potential of devices that emit radiofrequency energy and can cause harm to consumers or

other radio operations. The Commission uses the equipment authorization program, codified in Part 2 of its rules, 47 CFR part 2, to ensure that radiofrequency devices comply with its technical and equipment authorization requirements before they can be marketed in or imported to the United States. There are two different approval procedures for equipment authorization—Certification and Supplier's Declaration of Conformity (SDoC). Certification, the most rigorous approval process for radiofrequency devices, results in an equipment authorization issued by an FCC-recognized Telecommunication Certification Body (TCB) based on an evaluation of the supporting documentation and test data submitted to the TCB. SDoC is a procedure that requires the party responsible for compliance (who must be located in the United States) to ensure that the equipment complies with the appropriate technical standards. Unlike with Certification, equipment authorized under the SDoC procedure is not listed in a Commission database.

3. Subpart I of part 2 of the Commission's rules sets out the conditions under which radiofrequency devices that are capable of causing harm to consumers or other radio operations may be marketed in the United States. Marketing is broadly defined to include ''sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.'' 47 CFR 2.803(a). In general, parties may not market radiofrequency devices unless the devices have been properly authorized or otherwise comply with all applicable technical, labeling, identification, and administrative requirements. 47 CFR 2.803(b). An existing limited exception permits conditional sales contracts—that is, sales whereby the actual delivery of the product to the buyer is postponed—to wholesalers and retailers. The Commission proposes to modernize its rules to also allow conditional sales, but not delivery, of radiofrequency devices to consumers prior to authorization.

4. The Commission expresses belief that the marketplace and the consumer experience have changed such that there is good reason to modify the rules to allow for some conditional sales. These reasons include that such sales would allow manufacturers to better gauge consumer interest and demand, would improve supply-chain management and thus reduce waste, and would support the highly competitive communications market where the development and life cycles of new devices are short. The Commission further recognizes that the its proposal has the potential to better align its processes with popular consumer expectations and noted CTA's claim that pre-ordering consumer goods has become commonplace. The Commission seeks comment on its observations and asks whether there are other benefits or risks associated with the proposed marketing rule that it had not identified. The Commission asks if expanding the scope of marketing to include conditional sales of radiofrequency devices directly to consumers would yield the anticipated benefits for industry and consumers and whether there are other actions the FCC could take that would more effectively meet its objective.

5. The Commission also recognizes the continuing importance of ensuring that unauthorized radiofrequency devices do not reach consumers where they could potentially cause harm. As a fundamental matter, the Commission proposes to prohibit the delivery of radiofrequency devices to consumers prior to authorization. The Commission notes that its rules are designed to prevent the sale and operation of non-compliant devices, and that manufacturers and vendors who market and deliver non-compliant devices to purchasers in the United States, as well as domestic consumers who operate non-compliant devices, can be held liable for violating these rules.

6. The Commission seeks comment on whether there are additional safeguards that it should implement. Are there certain types of devices for which conditional sales to consumers would not be appropriate? These could include devices designed to operate in particular frequency bands where extensive pre-operation coordination is required; equipment designed for commercial operation that could pose a greater risk of harmful interference or harm to persons if not installed properly; and medical or other equipment that require review or approval by other regulatory bodies. How can the Commission prevent devices that have no likelihood of being approved from being marketed? Should equipment that could only operate under a Commission waiver be prohibited from marketing prior to a waiver being granted? The Commission recognizes that certain types of devices are used to ensure the safety of life and property on board ships and aircraft. Should the Commission exclude those types of devices? If not, the Commission notes that certain rules in parts 80, 87, and 95 of the Commission's rules may need to be adjusted and proposed to revise these rules accordingly. To this end, the Commission identifies Section 95.391, 47 CFR 95.391, and seeks comment on whether other rules, such as those provided under Sections 80.1061, 87.147, and 95.2991, 47 CFR 80.1061, 87.147, and 95.2991, would also need to be revised or clarified. The Commission asks whether there are other specific devices subject to certain rules that might also need to be excluded and directed commenters to be specific in detailing which rules and what types of equipment would be implicated, and why these would need to be treated differently.

7. The Commission's proposed rule would require the prospective buyer to be advised at the time of marketing the conditional sale that the equipment is subject to the Commission's rules and delivery to the buyer is contingent upon compliance with the applicable equipment authorization and technical requirements. The Commission asks whether it should require the seller to make additional disclosures throughout the marketing and sales process, including up to the time of delivery, noting that TechFreedom had suggested that the Commission require any seller to display specific language warning potential customers that they are pre-ordering a device that is not yet certified under the Commission's rules, and it ultimately may never be delivered. The Commission proposes that sellers should be required to prominently display language clarifying the conditional nature of a sale at the time of offer, as set forth in the proposed rules.

8. The Commission asks whether there are other disclosures that sellers should make when marketing radiofrequency devices to consumers prior to equipment authorization. Should the Commission require sellers to provide information on how to seek a refund in the event the device does not receive authorization? If so, how should the seller provide this information? How would consumers be notified that authorization was not granted, and that the devices will not be delivered? What records of such notice are needed? Should the Commission require online marketplaces to ensure all advertisements of devices marketed through conditional sales include the required disclosures? If unique identifying information (*e.g.,* model numbers, expected FCC ID) is known at the time of marketing, should the Commission require that information to be disclosed in online advertisements?

9. The Commission asks if it should require manufacturers to include a label on device packaging noting that it shall not be delivered to consumers prior to

obtaining equipment authorization and, if so, how it should implement this requirement as any such label notice would only have temporary applicability. The Commission asks what information should be included on the label and whether there are other steps the Commission could take to ensure that all parties are fully aware that device delivery is prohibited prior to authorization.

10. The Commission asks if it should impose particular recordkeeping requirements on the manufacturer so that such equipment can be accounted for if equipment authorization is ultimately not granted or enforcement action needs to be taken. If so, the Commission proposes to require that the manufacturer retain these records and provide them to the Commission upon request; it further asks what time period would be appropriate. The Commission also asks if the seller should be required to provide the Commission with a monthly update on the number of units pre-ordered, and what requirements for maintaining a designated agent or point of contact based in the United States would be appropriate.

11. The Commission asks what effect its proposal might have on its enforcement activities. Acknowledging that its proposal could lead to situations that might upset consumers' expectations, the Commission asks what scenarios could cause problems and seeks comment on whether it should adopt specific rules to address any potential harms that may result from allowing conditional sales of radiofrequency devices to consumers. For example, if equipment authorization is not granted, what actions should be required of the manufacturer to ensure that unauthorized equipment is not made available to consumers? If an unauthorized device is delivered to a consumer prior to receipt of the equipment authorization, what are the appropriate sanctions? What should the base forfeiture be for such violations? Should the forfeiture be based on the number of unauthorized units that are delivered? Should the Commission deny future equipment authorization applications from grantees who deliver unauthorized devices to consumers, either directly or indirectly through a third-party retailer? Should the Commission require additional protections to prevent potential harm from online vendors or from overseas vendors? What would those protections look like? If a manufacturer delivers a device that has failed to receive authorization, should domestic consumers who operate the non-compliant device be liable for violating the Commission's rules? The Commission seeks comment on these questions as well as any other enforcement measures that may be appropriate.

12. The Commission seeks comment on the government's role when a conditionally sold radiofrequency device cannot be delivered and consumers may be entitled to a refund or similar remedy under the sales agreement. The Commission asks if there were actions it could take to set appropriate consumer expectations, direct consumers to appropriate resources, and avoid becoming overwhelmed with general questions and complaints for which other agencies or entities may be a more appropriate contact. Should sellers make additional product and contact information readily available—such as on their websites or that of a relevant industry trade group (such as CTA), or as a specific disclosure to the Commission—to make it easier to identify what a caller is talking about and where they should direct their concerns? The Commission asks about the role of the Federal Trade Commission, state attorneys general, or other enforcement entities outside of the Commission in providing consumer relief. Are these the best authorities for redressing potential consumer injuries from conditional sales of radiofrequency devices? How should the information about these authorities be provided to consumers? What role, if any, should the Commission have in providing this information to consumers? What role, if any, should the Commission have in assisting other official bodies in seeking redress for consumers? Should the Commission make contact information available on its website to identify where consumers should direct their concerns? The Commission tentatively concludes that adequate remedies exist for contractual and similar harms that are external to the Commission and seeks comment on this observation. The Commission asks if it should establish a memorandum of understanding with the Federal Trade Commission to share information on potential violations or best practices in this area, as it has done in the past to facilitate coordination on issues that span multiple jurisdictions.

13. The Commission notes that its proposed rule would retain the existing reference to ''manufacturers'' entering into conditional sales contracts, but seeks comment on CTA's request that, ''[t]o the extent entities become responsible for a device's FCC compliance, those 'responsible parties' also should be permitted to engage in conditional sales with consumers.'' The Commission recognizes that ''manufacturers'' may be too limiting for the wide range of creators and innovators who are likely to take advantage of conditional sales of radiofrequency devices to consumers, but was not sure that CTA's suggested addition of ''responsible parties, as defined in Section 2.909 [of the Commission's rules]'' was the most appropriate way to expand the scope of the exemption because that rule addresses the chain of responsibility for the equipment authorization process. For certain conditional sales situations, such as the beginning stages of a Kickstarter campaign, the seller may neither be a ''manufacturer'' nor a ''responsible party'' for purposes of the Commission's Part 2 rules; indeed, for equipment in the conceptual stage, the seller may not have even begun the equipment authorization process. The Commission asks how it should account for such sellers. Alternately, are there benefits or risks to retaining the existing limitation to manufacturers? Would doing so, for example, help ensure that unauthorized and non-compliant radiofrequency devices do not make their way to consumers and cause harm?

14. The Commission did not propose to change Section 2.803(c)(2)(ii), 47 CFR 2.803(c)(2)(ii), as CTA suggested in its petition. The Commission states that that this is a separate provision that allows limited marketing, in the form of sales, to a narrow class of specialized entities and that it explicitly prohibits the offering for sale to other parties or to end users located in a residential environment. The Commission states that it did not believe it would be necessary to change this portion of the rule to satisfy its discrete objective and that doing so might actually eliminate an important avenue for limited marketing that exists outside the conditional sales contract context. The Commission seeks comment on this conclusion. The Commission also notes that CTA proposed replacing this section with language that would allow manufacturers to enter into contracts for importation and preparatory activities prior to sale. The Commission states that it did not believe that such activities constitute ''marketing'' that would be prohibited if not explicitly permitted under the conditional sales contract rule, but seeks comment from parties that might hold a different view.

15. Finally, the Commission asks about the relative costs and benefits of its proposal to modify the marketing rule. Can the benefits of allowing conditional sales of radiofrequency devices be quantified in terms of cost savings to equipment developers and manufacturers? How would this rule

change affect the development time for devices and how long it takes to get new innovative devices to market? How should conditional sales of goods and services pre-sold in other contexts inform the Commission's analysis of conditional sales for radiofrequency devices? The Commission encourages commenters to provide data on how common conditional sales are and, to the extent possible, quantify the benefits such conditional sales yield for both industry and consumers. What would be the costs and benefits of expanding conditional sales beyond manufacturers to include a broader class of responsible parties? What would be the costs and benefits of the proposals for record keeping of authorized and unauthorized equipment? How often do crowd-funding campaigns, like those on Kickstarter and other platforms, result in technology products being delivered to consumers? What are the average refund rates for unsuccessful crowd-funding or pre-sale events featuring a technology product that is ultimately not brought to market?

16. Subpart K of part 2 of the Commission's rules sets out the conditions under which radiofrequency devices may be imported into the United States. These rules are designed to provide assurance that radiofrequency devices brought into the United States comply with the technical standards that the Commission has developed to minimize the potential for harm to consumers or other radio operations. These rules also recognize narrowly defined conditions where equipment that has not completed the Commission's equipment authorization process nevertheless may be imported under controlled circumstances, such as for compliance testing, repair, or use by the Federal government. The Commission proposes to allow a limited number of radiofrequency devices subject to Certification to be imported into the United States prior to equipment authorization for pre-sale activities, including imaging, packaging, and delivery to retail locations, by adding a new condition under which limited quantities of radiofrequency devices are permitted to be imported. The Commission states that the proposal would allow device manufacturers to better prepare for new product launches while guarding against the proliferation of unauthorized and non-compliant devices that might increase the risk of causing harm to consumers or other radio operations.

17. The Commission states that it believes that its proposal could provide substantial benefits to device manufacturers and retailers that operate in a marketplace characterized by out-of-country production of many radiofrequency devices, shortened product cycles, and the importance of quickly familiarizing consumers with new electronic devices. The Commission says the proposed change would allow consumers to see and examine devices more quickly to allow them to make more timely purchase decisions and will assist sales associates who need to become familiar with the features associated with mobile 5G devices, Internet of Things devices, and augmented reality and virtual reality devices once those devices are Certified and may be operated. Facilitating an accelerated rollout of such devices, the Commission asserted, is an important way to maintain the United States' global leadership in these industries.

18. The Commission states that it must continue to protect against the possibility of unauthorized devices making their way to consumers and causing harm to consumers or other radio operations. The Commission says that it believes that the proposal would not fundamentally change the general importation practice, in which the overwhelming majority of radiofrequency devices that are imported will satisfy the condition that an equipment authorization has already been obtained, and seeks comment on this observation. The Commission also notes that the proposal would only apply to devices subject to Certification, under which devices are subject to an authorization process that involves rigorous review by a TCB and listing in a Commission database, which should make importers well equipped to satisfy the controls placed in the proposed importation condition. The Commission states that there is no compelling reason to provide for pre-authorization importation of devices that are approved under SDoC, which is a self-certification process that gives the manufacturer substantially greater control over the timing of the equipment authorization process. Because the proposed rule would only allow for specified pre-sale activities, which explicitly exclude marketing and operation, the Commission asks if its proposed definition of pre-sale activities is appropriate. Would this definition of pre-sale activities conflict with other rules, including the proposed rule discussed above to allow marketing of devices prior to authorization? Are there other pre-sale activities that should be included or excluded? Should operation by a limited class of parties (such as agents of the manufacturer) be allowed or prohibited, and if allowed, under what circumstances and how should those parties be defined?

19. The Commission states that it will need to provide additional safeguards as part of any final rules it adopts. The Commission first seeks comment on specific safeguards based on what CTA had identified in its petition. The Commission asks if it should limit the number of radiofrequency devices that can be imported for pre-sale activities to 4,000, which would be a nationwide total as opposed to a limit on each shipment of devices imported into the United States. The Commission asks if specific controls are needed to ensure manufacturers cannot exceed this limit by, for example, making separate 4,000-unit shipments through multiple ports of entry. If so, what controls would be needed? The proposed rule would also codify a method to exceed this number by providing for written approval to be obtained from the Commission's Chief Engineer, which is consistent with the approach the Commission has taken in other situations. Should this written approval be made public? Would this numerical limitation, with a provision for allowing a greater number of devices, provide a suitable balance between meeting manufacturer and importer needs and limiting the number of unauthorized devices that may be imported under this condition? The Commission notes some commenters discussed the need for a larger number and asks, for these commenters, if 8,000 would be sufficient. The Commission also asks if, given that thousands of devices are granted Certification each year, a smaller limit would result in a meaningful reduction in the risk of unauthorized devices being imported. The Commission asks commenters addressing this matter to provide specific data to justify their suggested limit.

20. The Commission seeks comment on implementing a requirement that manufacturers using the proposed importation exception must have a reasonable basis to believe authorization will be granted within 30 days of importation. Is 30 days an appropriate length of time? Would a longer or shorter timeline for obtaining authorization be appropriate here? What does it mean for a manufacturer to have a reasonable basis to believe authorization will be obtained? Are there particular elements that must make up such determination? For example, would a belief that authorization will be obtained within 30 days be reasonable only if a manufacturer has filed an equipment authorization application with a TCB? Are achieving or performing other

milestones in the authorization process appropriate measures of reasonableness? Should the manufacturer be required to request permission in the context of the authorization application process to import devices under this proposed rule? Do existing Commission processes, like pre-approval guidance for TCBs or waiver requests, provide manufacturers with a sufficient general indication of timeframe to allow ascertainment of ''reasonable belief'' under this proposed rule? Should the novelty of a device or its features factor into whether an expectation of approval is reasonable? Should the Commission consider the past experience of the manufacturer in obtaining equipment Certifications as relevant to this determination? Would accounting for past experience, or lack thereof, discourage small businesses or new entrants from taking advantage of this new rule? The Commission also asks if it should require the manufacturer to document, and provide such documentation to the Commission upon request, the basis for its determination of reasonableness prior to importing the devices. If so, how long should the manufacturer be required to retain this documentation? To the extent that such documentation may be important for compliance and enforcement purposes, it proposed that manufacturers be required to maintain this information for five years and provide it to the Commission upon request. Would a longer or shorter timeframe be more appropriate for retaining this information? If so, how long should the information be retained and why? Finally, what consequences would be suitable for cases where the manufacturer's basis to believe authorization will be obtained cannot be considered ''reasonable,'' or if authorization is not obtained within 30 days (or another time period, if that would be more appropriate)?

21. The Commission seeks comment on the use of a temporary device label and asks how such a requirement would be implemented and the benefits it could provide. The Commission discusses CTA's suggestion that the temporary labels would provide notice of the Commission's rules—namely, that devices cannot be displayed, operated, or sold prior to FCC authorization. The Commission asks what information should be required on these labels. Should the Commission require use of the specific language CTA identifies? Would such information be appropriate and adequate in this case? Should other information be required here, such as the model numbers or expected FCC IDs associated with the devices? Should the temporary labels indicate the administrative, civil, and criminal penalties that can result from unauthorized operation of radiofrequency devices? Should the manufacturer or importer be required to have a designated point of contact indicated on the temporary labels and, if so, should the contact be required to be United States-based? The Commission seeks comment on whether the temporary label must plainly state all of the required information on its face or if the use of a URL or other ''pointer'' should be allowed (and, if so, whether all of the required information should be allowed to be conveyed in that manner). The Commission also seeks comment on whether a labeling requirement should be used to assist consumers and other parties in determining whether the device has become Certified. Should the label contain a URL or other machine-readable ''pointer'' that enables retailers and end-users to verify the status of a device's authorization? If so, would the label need to be temporary? Are other labels or import documentation necessary to allow third parties to identify whether there is a legitimate attempt to obtain authorization for the otherwise unauthorized devices? Should, for example, manufacturers be required to maintain a database or other public-facing way to confirm that an authorization is being sought for the device? Would a temporary label make it easier for bad actors to sell unauthorized devices by falsely claiming their devices have received or are in the process of receiving authorization? Finally, if temporary labels include a URL or other pointer to an online website or database where the equipment's authorization status can be verified, would that reduce the chances of bad actors using such labels for fraudulent purposes?

22. The Commission seeks comment on requiring manufacturers to maintain legal ownership of devices, even after transferring control of them to retailers. How would such a requirement operate in practice? The Commission asks whether the language contained in the proposed rule would be sufficient to implement this proposal. If manufacturers retain legal ownership of devices after they have left their direct control, would that provide them with adequate incentive and means to ensure that their devices do not cause harm to consumers or other radio operations? Would they be able to help remediate any harm that may occur? What are the primary benefits of codifying such a requirement? Would this make it easier for manufacturers to identify and recall radiofrequency devices from retailers in the event that equipment authorization is not obtained? Would this condition be more burdensome for small manufacturers than large manufacturers? How would this condition impact device retailers? Would it impact small retailers differently than large retailers? Should online retailers and brick-and-mortar retailers be treated differently? Should foreign-based manufacturers be treated differently? Are manufacturers the correct entity here or is there a larger universe of entities to which the ownership provision should apply, such as importers or sellers? Should manufacturers be required to maintain a public-facing database of imports made under this proposed rule? If so, what information should be included in such a database? Should manufacturers otherwise be responsible for unauthorized devices imported under this proposed rule that are operated illegally?

23. The Commission asks about requiring manufacturers to have processes in place to retrieve the equipment from retailers in the event that authorization is denied. How should such processes be structured? For example, should the Commission specify these processes or allow manufacturers to develop their own processes, provided they are effective in retrieving equipment from retailers in the event that authorization is denied? Should the Commission require manufacturers to maintain specific detailed records of which devices are supplied to which locations and/or prepare a formal plan prior to importation? If so, should the Commission require that these records be supplied to the Commission or posted to the manufacturer's website or the website of a relevant industry trade group (such as CTA)? How long should the Commission require these records to be maintained? As with other similar records, should the Commission require that such records be made available to it upon request (such as before devices may be imported for pre-sale activities or in the event that a device recall becomes necessary)? If the manufacturer is unable to obtain authorization for its equipment, should the Commission require the manufacturer to provide the Commission a report detailing its plan for retrieving equipment along with status reports updating the progress of that endeavor? If so, what information should be included in this report? Should the Commission require manufacturers to report the model and

serial numbers of all devices that are retrieved? When should a status report be required? How long should manufacturers have to complete the device retrieval process? Would 14 days be appropriate? Should manufacturers have more or less time to complete the retrieval process?

24. The Commission recognizes that there are additional conditions or approaches beyond those discussed above, which were based on safeguards suggested by CTA, that could be appropriate to meet its objectives of adding a new permissible import condition while minimizing the potential for unauthorized and non-compliant radiofrequency devices to cause harm to consumers or other radio operations. The Commission asks whether there are conditions it should adopt in addition to or instead of those CTA has identified and encouraged commenters to identify the specific requirements that would be the most effective while minimizing potential burdens. For example, in addition to or in lieu of a strict numerical importation limit, should the Commission differentiate based on the nature or type of device? Should it exempt certain classes of equipment or equipment that are intended to operate in certain bands due to greater risk of harmful interference or harm to persons, such as U–NII devices, medical devices, or devices designed to operate exclusively in public safety bands? If so, commenters should be specific as to what equipment or bands should be excluded. Further, the Commission recognizes that certain types of devices are used to ensure the safety of life and property on board ships and aircraft and seeks comment on whether there is any reason to exclude those types of devices from its proposal. The Commission also notes that certain rules in Parts 80, 87, and 95 of its rules may need to be adjusted for purposes of streamlining the proposed framework, proposed to revise Section 95.391, 47 CFR 95.391, to ensure that its rules are consistent with the proposed framework, and seeks comment on whether other rules, such as Sections 80.1061, 87.147, and 95.2991, 47 CFR 80.1061, 87.147, and 95.2991, should also be revised or clarified.

25. The Commission notes that some commenters have suggested that it could require a remote shutdown feature for all radiofrequency devices imported for pre-sale activities and observed that under its experimental licensing rules there are specific situations in which licensees must either recall or disable devices at the end of an experiment. The Commission asks if it should adopt such a requirement in its final rule and, if so, whether it should apply to all types of radiofrequency devices or only radiofrequency devices that operate in accordance with particular Commission rule parts.

26. The Commission notes that the proposed rule restricts devices from being displayed, offered for sale, or marketed to consumers, but places no limitations on where they may be sent after importation. The Commission asks if parties believe that this would present unwarranted risks for adequate control of the devices prior to authorization and, if so, whether the Commission should require that the devices be kept only at specific locations, such as distribution facilities, prior to authorization.

27. Because the proposed rule modification would allow radiofrequency devices that are not yet Certified to be imported, the Commission seeks comment on how manufacturers intend to ensure that these devices comply with the Commission's labeling and disclosure requirements once authorization is obtained. The proposed rule incorporates CTA's suggestion that devices imported pursuant to this Section ''may include the expected FCC ID if obscured by the temporary label.'' The Commission seeks comment on whether this would be an effective way to ensure that a device complies with the Commission's rules once it receives authorization. Would there be situations where manufacturers would have to physically recall devices to ensure that they comply with the labeling and disclosure requirements associated with the Commission's equipment authorization rules? How could the Commission be confident that manufacturers take all necessary steps to ensure that devices imported prior to equipment authorization comply with the Commission's labeling and disclosure rules? What impact would the use of electronic labeling have on this matter?

28. The Commission asks how enforcement of this rule should be structured. What penalties would be appropriate for violating any of the conditions attached to this rule? For example, should a manufacturer be barred from availing itself of this exception for future importations if it fails to obtain authorization for a radiofrequency device imported under this proposed rule? Or if it fails to comply with any of the labeling or reporting requirements the Commission might ultimately adopt? Should a manufacturer be barred from availing itself of this exception for future importations only if it fails to retrieve all devices after failing to obtain authorization for a radiofrequency device imported under this proposed rule? Should the manufacturer be subject to a penalty under Section 503 of the Act, and if so, what should be the base forfeiture for such violations? Are there other ways the Commission should structure enforcement where the manufacturer fails to retrieve equipment in the event an authorization is denied?

29. The Commission seeks comment on this importation proposal and the likely costs and benefits associated with expanding the provisions under which radiofrequency devices may be imported to support pre-sale activities. Can these benefits be quantified in terms of cost savings to device manufacturers? How would this rule affect the time it takes to get new innovative devices to market? Would importing devices for pre-sale activities generate any other benefits or risks for industry or consumers? The Commission encourages commenters to provide data to quantify these benefits and risks. In addition, what would be the costs to firms in following the safeguards discussed above, such as the use of temporary device labels and maintaining processes to retrieve equipment from retailers if authorization is denied? If commenters have alternative proposals to reform the importation rules, what would be the benefits and costs?

30. The Commission notes that its equipment authorization proceeding in ET Docket 15–170, which also asks questions about importation, remains open and active, it tentatively concluded that the marketing and importation changes proposed in this Notice of Proposed Rulemaking are sufficiently discrete that it could act on them independently, and seeks comment on how they might interrelate with any open equipment authorization matters the Commission has under consideration.

31. Finally, the Commission recognizes that other agencies play an important role in importation matters. The Commission asks if there are specific actions the Commission can take in working with Customs and Border Protection, with which the Commission has a longstanding cooperative relationship, to help ensure that radiofrequency devices imported for pre-sale activities prior to authorization comply with all applicable conditions. Are there other agencies the Commission should work with to ensure that its importation rules operate in an effective and efficient manner? Are there other agencies that

have addressed importation issues related to products subject to approval that would provide a model for achieving the Commission's objectives?

Procedural Matters

32. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

33. *Initial Regulatory Flexibility Analysis.* 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 Notice. The Full IRFA is found in Appendix B at *https://www.fcc.gov/document/fcc-proposes-rules-expedite-release-new-devices-and-technologies-0.* Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the NPRM, and they should have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

34. The Commission requests written public comment on the IRFA. Comments must be filed in accordance with the same filing deadlines as comments filed in response to the NPRM and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

35. *Ex Parte Presentations.* The proceeding this Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

36. *Filing Requirements.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

37. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Ordering Clauses

38. Accordingly, *it is ordered,* pursuant to Sections 4(i), 201, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 302a, 303, that this *Notice of Proposed Rulemaking* is hereby *adopted.*

39. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Notice of Proposed Rulemaking,* including the Initial and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

40. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Notice of Proposed Rulemaking,* including the Initial and Final Regulatory Flexibility Analyses, to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects

47 CFR Part 2

Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.

47 CFR Part 95

Personal Radio Services.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons set forth in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 2 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. In § 2.803 revise paragraph (c)(2)(i) to read as follows:

§ 2.803 Marketing of radio frequency devices prior to equipment authorization.

* * * * *

(c) * * *

(2) * * *

(i) Conditional sales contracts (including agreements to produce new devices manufactured in accordance with designated specifications), and advertisements for such sales, are permitted between manufacturers and potential customers provided that the prospective buyer is advised at the time of marketing, through a prominent disclosure, that the equipment is subject to the FCC rules and delivery to the buyer or to centers of distribution is conditional upon a determination that the equipment complies with the applicable equipment authorization and technical requirements. Delivery to customers of equipment subject to FCC rules prior to obtaining the applicable equipment authorization and complying with the applicable technical requirements is prohibited.

* * * * *

■ 3. Amend § 2.1204 by adding paragraph (a)(11) to read as follows:

§ 2.1204 Import Conditions.

(a) * * *

(11) The radio frequency device is subject to Certification and is being imported in quantities of 4,000 or fewer units for pre-sale activity. Pre-sale activity includes packaging and delivering devices to retails locations, as well as loading devices with specific software to demonstrate specific features of the devices when displayed at retail locations. The devices will not be displayed, operated, offered for sale, marketed to consumers, or sold until proper equipment authorization has been obtained.

(i) The Chief, Office of Engineering and Technology, may approve importation of a greater number of units in a manner otherwise consistent with this paragraph (11) in response to a specific request;

(ii) This exception is only available to manufacturers for radiofrequency devices who have a reasonable belief that authorization will be granted within 30 days of importation;

(iii) Each device imported under this exception must contain a temporary removable label stating: ''This device cannot be displayed, operated, offered for sale, marketed to consumers, or sold until FCC equipment authorization has been granted. Under penalty of law, this label may not be removed prior to the grant of FCC authorization.''

(iv) Notwithstanding § 2.926, radiofrequency devices imported pursuant to this paragraph (11) may include the expected FCC ID if obscured by the temporary label described in this section or, in the case of electronic displays, if it cannot be viewed prior to authorization.

(v) The radiofrequency devices remain under legal ownership of the device manufacturer, and only possession of the device is transferred prior to authorization. Manufacturers must have processes in place to retrieve the equipment in the event that authorization is not received.

(vi) Manufacturers must maintain, for a period of sixty (60) months, records identifying the recipient of devices imported for pre-sale activities. Such records must identify the device name and product identifier, the quantity shipped, the date on which the device authorization was sought, the expected FCC ID number, and the identity of the recipient, including address and telephone number. The manufacturer must provide records maintained under this paragraph (vi) upon the request of Commission personnel.

PART 95—PERSONAL RADIO SERVICES

■ 4. The authority citation for part 95 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307.

■ 5. Section 95.391 is revised to read as follows:

§ 95.391 Manufacturing, importation, and sales of non-certified equipment prohibited.

No person shall manufacture, import, sell or offer for sale non-certified equipment for the Personal Radio Services except as provided for in § 2.803(c)(2)(i) of this chapter. *See* § 302(b) of the Communications Act (47 U.S.C. 302a(b)). *See also* part 2, subpart I (§ 2.801 *et seq.*) of this chapter for rules governing marketing of radiofrequency devices.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 391

[Docket No. FMCSA–2019–0049]

RIN 2126–AC21

Qualifications of Drivers; Vision Standard

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: FMCSA proposes to amend its regulations to permit individuals who cannot meet either the current distant visual acuity or field of vision standard, or both, in one eye to be physically qualified to operate a commercial motor vehicle (CMV) in interstate commerce. Currently, such individuals are prohibited from driving CMVs in interstate commerce unless they obtain an exemption from FMCSA. The Agency proposes an alternative vision standard for physical qualification that, if adopted, would replace the current vision exemption program as a basis for establishing the physical qualification determination for these individuals.

DATES: You must submit comments on this notice of proposed rulemaking (NPRM) to FMCSA on or before March 15, 2021. Comments on the collection of information must be received on or before March 15, 2021.

ADDRESSES: You may submit comments on this NPRM identified by docket number FMCSA–2019–0049 using any one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.*
- *Fax:* (202) 493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Docket Operations, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.