

the fundamental emission or the frequency at which the highest emission level occurs.

(c) Measurement procedures:

(1) All emissions at and below 960 MHz are based on measurements employing a CISPR quasi-peak detector. Unless otherwise specified, all RMS average emission levels specified in this section are to be measured utilizing a 1 MHz resolution bandwidth with a one millisecond dwell over each 1 MHz segment. The frequency span of the analyzer should equal the number of sampling bins times 1 MHz and the sweep rate of the analyzer should equal the number of sampling bins times one millisecond. The provision in § 15.35(c) that allows emissions to be averaged over a 100 millisecond period does not apply to devices operating under this section. The video bandwidth of the measurement instrument shall not be less than the resolution bandwidth and trace averaging shall not be employed. The RMS average emission measurement is to be repeated over multiple sweeps with the analyzer set for maximum hold until the amplitude stabilizes.

(2) The peak emission measurement is to be repeated over multiple sweeps with the analyzer set for maximum hold until the amplitude stabilizes.

(3) For transmitters that employ frequency hopping, stepped frequency or similar modulation types, the peak emission level measurement, the measurement of the RMS average emission levels, the measurement to determine the center frequency, and the measurement to determine the frequency at which the highest level emission occurs shall be made with the frequency hop or step function active. Gated signals may be measured with the gating active. The provisions of § 15.31(c) continue to apply to transmitters that employ swept frequency modulation.

(4) The -10 dB bandwidth is based on measurement using a peak detector, a 1 MHz resolution bandwidth, and a video bandwidth greater than or equal to the resolution bandwidth.

(5) Alternative measurement procedures may be considered by the Commission.

■ 6. Section 15.515 is amended by adding a new paragraph (g) to read as follows:

**§ 15.515 Technical requirements for vehicular radar systems.**

\* \* \* \* \*

(g) The emission levels from devices operating under the provisions of this section that employ gated transmissions may be measured with the gating active.

Measurements made in this manner shall be repeated over multiple sweeps with the analyzer set for maximum hold until the amplitude stabilizes.

■ 7. Section 15.521 is amended by revising paragraph (d) to read as follows:

**§ 15.521 Technical requirements applicable to all UWB devices.**

\* \* \* \* \*

(d) Within the tables in §§ 15.509, 15.511, 15.513, 15.515, 15.517, and 15.519, the tighter emission limit applies at the band edges. Radiated emission levels at and below 960 MHz are based on measurements employing a CISPR quasi-peak detector. Radiated emission levels above 960 MHz are based on RMS average measurements over a 1 MHz resolution bandwidth. The RMS average measurement is based on the use of a spectrum analyzer with a resolution bandwidth of 1 MHz, an RMS detector, and a 1 millisecond or less averaging time. Unless otherwise stated, if pulse gating is employed where the transmitter is quiescent for intervals that are long compared to the nominal pulse repetition interval, measurements shall be made with the pulse train gated on. Alternative measurement procedures may be considered by the Commission.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Telecommunications and Information Administration**

**47 CFR Part 301**

**Docket No. 050201021-5021-01**

**RIN 0660-AA15**

**Repeal of Mandatory Reimbursement Rules for Frequency Band or Geographic Relocation of Federal Spectrum-Dependent Systems**

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce

**ACTION:** Final Rule.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) is repealing its regulations governing reimbursement to federal entities by the private sector as a result of reallocation of frequency spectrum. The agency is taking this action in accordance with the Commercial Spectrum Enhancement Act which repealed the provision in the NTIA Organization Act under which the agency promulgated these regulations.

The Commercial Spectrum Enhancement Act established a fund within the Department of Treasury through which money will be provided to federal agencies for the costs incurred in relocating their radio communications systems.

**DATES:** These rules become effective on February 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Milton Brown, Deputy Chief Counsel, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Room 4713, Washington, DC 20230; telephone: (202) 482-1816; facsimile: (202) 501-8013; or electronic mail: mbrown@ntia.doc.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On June 17, 2002, the National Telecommunications and Information Administration (NTIA) issued a final rule entitled "Mandatory Reimbursement Rules for Frequency Band or Geographic Relocation of Federal Spectrum-Dependent Systems" (Mandatory Reimbursement Rules).<sup>1</sup> These regulations implemented a provision of Pub. L. No. 105-261, which required private sector licensees to reimburse federal agencies for the costs associated with relocating from or modifying the radio frequencies used by agencies' communications systems to accommodate the private sector licensees' use of the radio spectrum.<sup>2</sup> That law also directed NTIA to issue regulations to implement its requirements.

**II. Repeal of the Mandatory Reimbursement Rules**

On December 23, 2004, the President signed into law Public Law No. 108-494, the Commercial Spectrum Enhancement Act.<sup>3</sup> Among other purposes, this Act struck the provision in the NTIA Organization Act requiring private sector licensees to reimburse federal agencies' relocation costs, and in its stead, created a new fund within the Department of Treasury through which federal agencies would be reimbursed for such costs and directed NTIA to take certain actions to implement the new reimbursement and relocation plan. Because the new law strikes the authorization underpinning the Mandatory Reimbursement Rules and eliminates any obligation on private

<sup>1</sup> See 67 Fed. Reg. 41,182 (2002) (The rules were codified at 47 C.F.R. Part 301.)

<sup>2</sup> See Pub.L.No. 105-261, 112 Stat. 1920, 2132 (1998), amending section 113(g) of the NTIA Organization Act (codified at 47 U.S.C. § 923(g)).

<sup>3</sup> Pub.L.No. 108-494, 118 Stat. 3896, 3992 (2004).

sector licensees with respect to reimbursement, NTIA is repealing its regulations.

To the extent that NTIA must take action to implement the new reimbursement and relocation plan with respect to federal agencies, it will do so in consultation with the Interdepartment Radio Advisory Committee (IRAC),<sup>4</sup> the Federal Communications Commission, and the Office of Management and Budget. Any procedures developed during that process will appear in the NTIA Manual of Regulations and Procedures for Federal Radio Frequency Management, which provides the rules governing federal agencies' use of the radio spectrum.<sup>5</sup>

### III. Other Information

The Commercial Spectrum Enhancement Act repeals the statutory authorization for the Mandatory Reimbursement Rules thereby eliminating NTIA's authority to implement these rules. Thus, NTIA must repeal these rules. Under these circumstances, providing prior notice and an opportunity for public comment on whether to repeal these rules would serve no useful purpose. As a result, under authority at 5 U.S.C. § 553(b)(B), NTIA finds good cause to waive such procedures. Moreover, the rules have not been utilized since their promulgation, and thus, no federal agency's or private sector entity's interest will be adversely affected by their repeal. Further, and for the same reason, NTIA finds good cause pursuant to 553(d)(3) to waive the requirement of a 30-day delay in effect for this rule. Thus, this rule is effective February 9, 2005.

#### *Executive Order 12866*

The repeal of the Mandatory Reimbursement Rules is not a significant regulatory action as defined by Executive Order 12866.

#### *Executive Order 13312*

The repeal of the Mandatory Reimbursement Rules do not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

<sup>4</sup> The IRAC is an advisory committee comprised of the federal agencies using the radio spectrum. The IRAC provides spectrum management advice and support to the Assistant Secretary for Communications and Information and NTIA Administrator.

<sup>5</sup> The NTIA Manual is available on NTIA's website at <http://www.ntia.doc.gov/osmhome/redbook/redbook.html>.

### *Regulatory Flexibility Act*

As prior notice and an opportunity for public comment are not required under 5 U.S.C. § 553 or any other law, the analytical requirements of the Regulatory Flexibility Act are inapplicable. Thus, no regulatory flexibility analysis is required and none has been prepared.

### *Paperwork Reduction Act*

This action contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

### *Lists of Subjects in 47 CFR Part 301*

Classified information, Communications common carriers, Communications equipment, Defense communications, Federal buildings and facilities, Radio, Satellites, Telecommunications.

### **PART 301—[REMOVED AND RESERVED]**

For the reasons stated above, 47 CFR Chapter III is amended by removing and reserving Part 301 pursuant to authority contained in Pub. L. No. 108-494.

Dated: February 4, 2005.

**Michael D. Gallagher,**

*Assistant Secretary for Communications and Information Administration.*

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## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

#### **49 CFR Part 571**

**[Docket No. NHTSA 2004-18905; Notice 2]**

### **Federal Motor Vehicle Safety Standards; Occupant Crash Protection**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Response to petitions for reconsideration.

**SUMMARY:** This notice denies petitions for reconsideration submitted by the Alliance of Automobile Manufacturers (Alliance) of the August 20, 2004, final rule on advanced air bag provisions in the occupant crash protection standard. We are denying the first petition because it references a test procedure that the agency has not yet proposed, for which an effective date will be proposed when a Lower Anchors and Tethers for Children (LATCH) seat installation procedure is published. We are denying

the second petition because we have previously responded to the same issue and no new data have been presented.

**FOR FURTHER INFORMATION CONTACT:** *For non-legal issues:* Louis Molino, Office of Crashworthiness Standards, at (202) 366-2264. Fax: (202) 493-2739. *For legal issues:* Christopher Calamita, Office of Chief Counsel, at (202) 366-2992. Fax: (202) 366-3820. You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

### **SUPPLEMENTARY INFORMATION:**

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#### **I. Background**

Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant crash protection, specifies performance requirements for the protection of vehicle occupants in crashes (49 CFR 571.208). On May 12, 2000, we published an interim final rule that amended FMVSS No. 208 to require advanced air bags (65 FR 30680; Docket No. NHTSA 00-7013; Notice 1) (Advanced Air Bag Rule). Among other things, the rule addressed the risk of serious air bag-induced injuries, particularly for small women and young children, and amended FMVSS No. 208 to require that future air bags be designed to minimize such risk. The Advanced Air Bag Rule established a rigid barrier crash test with a 5th percentile adult female test dummy, as well as several low risk deployment and out-of-position (OOP) tests using a range of dummy sizes and a number of specified child restraint systems (CRSs).

The agency received multiple petitions for reconsideration to the Advanced Air Bag Rule. Petitioners raised a large number of concerns about the various test procedures in their written submissions. To address these issues adequately, the agency held a technical workshop so that we could better understand the specific concerns and better determine if the test procedures needed refinement.<sup>1</sup> The

<sup>1</sup> The workshop was held on December 6, 2000, at NHTSA's Vehicle Research and Test Center in East Liberty, Ohio. Representatives of 18 vehicle manufacturers and 13 seat, sensor, and dummy manufacturers attended the workshop. Five different vehicles were used as test vehicles. Some of the five had been provided by manufacturers

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