

audio format), send an email to fcc504@fcc.gov <<mailto:fcc504@fcc.gov>> or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on April 9, 2014, for the revised information collection requirements contained in the information collection 3060-1039.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-1039.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-1039.

OMB Approval Date: April 9, 2014.

OMB Expiration Date: October 31, 2014.

Title: Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, WT Docket No. 03-128.

Form No.: FCC Forms 620 and 621; TCNS E-Filing.

Respondents: Business or Other For-Profit Entities; Not-For-Profit Institutions; State, Local or Tribal Governments.

Number of Respondents and Responses: 13,500 respondents and 13,500 responses.

Estimated Time per Response: 5 to 20 hours.

Frequency of Response: On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 1, 4(i), 303(q), 303(r), 309(a), 309(j) and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(q), 303(r), 309(a), 309(j) and 319, sections 101(d)(6) and 106 of the National Historic Preservation Act (NHPA) of 1966, 16 U.S.C. 470a(d)(6) and 470f, 47 CFR 800.14(b) of the Advisory Council on Historic Preservation.

Total Annual Burden: 97,929 hours.
Total Annual Cost: \$13,087,425.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The data is used by FCC staff, State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO) and the Advisory Council of Historic Preservation (ACHP) to take such action as may be necessary to ascertain whether a proposed action may affect sites of cultural significance to Tribal Nations and historic properties that are listed or eligible for listing on the National Register as directed by Section 106 of the National Historic Preservation Act (NHPA) and the Commission's rules.

FCC Form 620, New Tower (NT) Submission Packet is to be completed by or on behalf of applicants to construct new antenna support structures by or for the use of licensees of the FCC. The form is to be submitted to the State Historic Preservation Office ("SHPO") or to the Tribal Historic Preservation Office ("THPO"), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under Section 106 of the NHPA prior to beginning construction may violate Section 110(k) of the NHPA and the Commission's rules.

FCC Form 621, Collocation (CO) Submission Packet is to be completed by or on behalf of applicants who wish to collocate an antenna or antennas on an existing communications tower or non-tower structure by or for the use of licensees of the FCC. The form is to be submitted to the State historic Preservation Office ("SHPO") or to the Tribal Historic Preservation Office ("THPO"), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under Section 106 of the NHPA prior to beginning construction or other installation activities may violate Section 110(k) of the NHPA and the Commission's rules.

The Tower Construction Notification System (TCNS) is used by or on behalf of Applicants proposing to construct new antenna support structures, and

some collocations, to ensure that Tribal Nations have the requisite opportunity to participate in review prior to construction. To facilitate this coordination, Tribal Nations have designated areas of geographic preference, and they receive automated notifications based on the site coordinates provided in the filing. Applicants complete TCNS before filing a 620 or 621 and all the relevant data is pre-populated on the 620 and 621 when the forms are filed electronically.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014-10768 Filed 5-9-14; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[**IB Docket No. 12-376; FCC 14-45**]

Commission's Rules Governing the Use of Earth Stations Aboard Aircraft Communicating With Fixed-Satellite Service Geostationary-Orbit Space Stations Operating in the Ku-Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) promotes regulatory parity for Earth Stations Aboard Aircraft (ESAA) by adopting a primary allocation for ESAA in the 14.0-14.5 GHz band. The Commission also provides regulatory certainty by clarifying some of the ESAA rules.

DATES: Effective June 11, 2014.

FOR FURTHER INFORMATION CONTACT: Jennifer Balatan or Howard Griboff, Policy Division, International Bureau, (202) 418-1460.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order and Order on Reconsideration (*Second R&O and Recon Order*), FCC 14-45, adopted on April 17, 2014, and released on April 18, 2014. The full text of this document is available for inspection and copying during normal business hours in the Commission Reference Center, 445 12th Street SW., Washington, DC 20554. The document is also available for download over the Internet at http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0418/FCC-14-45A1.pdf. The complete text may also be purchased from the Commission's

copy contractor, Best Copy and Printing, in person at 445 12th Street SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via email at Commission@bcpiweb.com.

Summary

1. On June 30, 2009, the Commission adopted the *ESAA Notice of Proposed Rulemaking and Report and Order* in IB Docket No. 07-101 (*ESAA NPRM & Order*), 78 FR 14920-01, March 8, 2013, (Final Rule), as amended at 78 FR 67309-01, November 12, 2013, and 78 FR 14952-01 (Notice), March 8, 2013, as amended at 78 FR 19172-01, March 29, 2013, establishing licensing and service rules for ESAA operating in the 14.0-14.5 GHz/11.7-12.2 GHz (Ku-band) frequencies. In the *Second R&O and Recon Order*, the Commission elevates ESAA from secondary status to primary status in the 14.0-14.5 GHz band and, as a result, modifies Non-governmental footnote NG55 in the U.S. Table of Frequency Allocations. The *Second R&O and Recon Order* also addresses several issues raised by a Petition for Reconsideration and Clarification filed by The Boeing Company (Boeing) with respect to discrete portions of the ESAA rules adopted in the *ESAA NPRM & Order*. First, the *Second R&O and Recon Order* clarifies the language in §§ 25.103 and 25.227(a)(14) to make clear that the Commission licenses ESAA terminals on all U.S.-registered civil aircraft regardless of whether that aircraft is operating within or outside of U.S. territory. The *Second R&O and Recon Order* also clarifies § 25.227(b)(3)(i) to more closely reflect the language in the *ESAA NPRM & Order* and in § 25.222(b)(3)(ii) of the rules for Earth Stations on Vessels. Further, the *Second R&O and Recon Order* clarifies the meaning of sigma in § 25.227(b)(1)(iii)(A), which sets forth the licensing requirement for demonstrating compliance with antenna pointing error limitations.

Final Regulatory Flexibility Analysis

2. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” 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 the Small Business Act. A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the U.S. Small Business Administration (SBA).

3. In light of the rules adopted in the *Second R&O and Recon Order*, we find that there are only two categories of licensees that would be affected by the new rules. These categories of licensees are Satellite Telecommunications and Fixed-Satellite Transmit/Receive Earth Stations. The SBA has determined that the small business size standard for Satellite Telecommunications is a business that has \$30 million or less in average annual receipts. Commission records reveal that there are 20 space station licensees and operators in the Ku-band. We do not request or collect annual revenue information concerning such licensees and operators, and thus are unable to estimate the number of geostationary space station licensees and operators that would constitute a small business under the SBA definition cited above, or apply any rules providing special consideration for geostationary space station licensees and operators that are small businesses. Currently there are approximately 2,879 operational fixed-satellite transmit/receive earth stations authorized for use in the Ku-band. The Commission does not request or collect annual revenue information, and thus is unable to estimate the number of earth stations that would constitute a small business under the SBA definition. Of the two classifications of licensees, we estimate that approximately six (6) entities will provide ESAA service. For the reasons described below, we certify that the clarification to the rules adopted in the *Second R&O and Recon Order* will not have a significant economic impact on a substantial number of small entities.

4. In the *ESAA NPRM & Order*, the Commission tentatively concluded that ESAA should be authorized on a primary basis in the 14.0-14.5 GHz uplink band, noting that several parties had argued that regulatory parity calls for ESAA to be primary, just like ESV and VMES are primary in that band. The Commission proposed to revise footnote NG55 which would grant primary status to ESAA in the 14.0-14.5 GHz band, and, as an administrative matter, combine ESV, VMES and ESAA into the same footnote as applications of the FSS with primary status in the 11.7-12.2 GHz and 14.0-14.5 GHz bands.

5. In the *Second R&O and Recon Order*, the Commission adopted its tentative conclusion to grant primary

status to ESAA operators in the 14.0-14.5 GHz band. The Commission also made a minor administrative change to § 25.227(b)(2)(i) of the Commission's rules by replacing the word “receive” with the word “create” in that rule, acknowledging that the term “receive” was incorrectly put into the rule originally. The Commission does not expect a substantial number of small entities to incur significant costs associated with the changes adopted in this *Second R&O and Recon Order*. The change from secondary status to primary status in the 14.0-14.5 GHz band will benefit both large and small entities by allowing greater regulatory certainty in providing ESAA service. In addition, the administrative change to § 25.227(b)(2)(i) is a “clean-up” change involving no substantive decision of significance to small business or the industry in general. Overall, we believe these changes do not impose a significant economic impact on small entities. Therefore, we certify that the requirements adopted in the *Second R&O and Recon Order* will not have a significant economic impact on a substantial number of small entities.

6. The *ESAA NPRM & Order* established service and licensing rules for ESAA operations based on the rules adopted for VSAT networks as well as ESV and VMES networks, noting that authorizing ESAA operations in the FSS Ku-band presented many technical issues that are similar to authorizing the ESV and VMES operations in that band. ESAA terminals communicate with FSS GSO space stations operating in the extended Ku-band (10.95-11.2 GHz and 11.45-11.7 GHz bands) and conventional Ku-band (11.7-12.2 GHz and 14.0-14.5 GHz bands). As part of the ESAA service rules, the Commission adopted technical measures to protect other radio services in the Ku-band, including the FSS and FS (in the extended Ku-band), from harmful interference. The Commission also adopted a regulatory framework for ESAA systems on U.S.-registered aircraft operating in or near foreign nations and over international waters and non-U.S.-registered aircraft operating in U.S. airspace.

7. The Commission does not expect small entities to incur significant costs associated with the changes adopted in the *Second R&O and Recon Order*. The changes will benefit both large and small entities by allowing greater regulatory certainty in providing ESAA service. We believe these changes are nominal and do not impose a significant economic impact on small entities. Therefore, we certify that the requirements adopted in the *Second*

R&O and Recon Order will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995 Analysis

8. The *Second R&O and Recon Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Commission will send a copy of this *Second R&O and Recon Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

9. *It is ordered* that, pursuant to sections 4(i), 7, 302, 303(c), 303(e), 303(f) and 303(r) of the Communications

Act of 1934, as amended, 47 U.S.C. 154(i), 157, 302a, 303(c), 303(e), 303(f) and 303(r), the Second Report and Order and Order on Reconsideration *is adopted*. Part 25 of the Commission's rules *is amended* June 11, 2014.

10. *It is further ordered* that the Petition for Reconsideration filed by The Boeing Company *is granted in part* to the extent described above and *is denied* in all other respects.

11. *It is further ordered* that the Final Regulatory Flexibility Certifications, as required by section 604 of the Regulatory Flexibility Act, *are adopted*.

12. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Second Report and Order and Order on Reconsideration including the Final Regulatory Flexibility Certifications, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 25 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. Amend § 2.106, the Table of Frequency Allocations, as follows:

■ a. Revise pages 47 and 49.

■ b. In the list of “Non-Federal Government (NG) Footnotes,” revise footnote NG55 and remove footnotes NG54, NG183 and NG187.

The revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

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Table of Frequency Allocations		10-14 GHz (SHF)		United States Table		FCC Rule Part(s)
International Table		Region 3 Table		Federal Table	Non-Federal Table	
Region 1 Table	Region 2 Table	Region 3 Table	Region 3 Table	Federal Table	Non-Federal Table	
10-10.45 FIXED MOBILE RADIOLOCATION Amateur	10-10.45 RADIOLOCATION Amateur	10-10.45 FIXED MOBILE RADIOLOCATION Amateur	10-10.45 FIXED MOBILE RADIOLOCATION Amateur	10-10.5 RADIOLOCATION US108 G32	10-10.45 Amateur Radiolocation US108	Private Land Mobile (90) Amateur Radio (97)
5.479	5.479 5.480	5.479	5.479	5.479 US128	5.479 US128 NG50	
10.45-10.5 RADIOLOCATION Amateur Amateur-satellite				10.5-10.55 RADIOLOCATION US59	10.45-10.5 Amateur Amateur-satellite Radiolocation US108 US128 NG50	
5.481						
10.5-10.55 FIXED MOBILE RADIOLOCATION	10.5-10.55 FIXED MOBILE RADIOLOCATION			10.55-10.6	10.55-10.6 FIXED	Private Land Mobile (90)
10.55-10.6 FIXED MOBILE except aeronautical mobile Radiolocation						Fixed Microwave (101)
10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED				10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive)	10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED US265 SPACE RESEARCH (passive)	
MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) Radiolocation						
5.149 5.482 5.482A				US130 US131 US265	US130 US131	
10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive)				10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US131 US246		
5.340 5.483						
10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A (Earth-to-space) 5.484	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile		5.441 5.484A	10.7-11.7	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 US131 US211 NG52	Satellite Communications (25) Fixed Microwave (101)
MOBILE except aeronautical mobile				US131 US211		
11.7-12.5 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.492	11.7-12.1 FIXED 5.486 FIXED-SATELLITE (space-to-Earth) 5.484A 5.488 Mobile except aeronautical mobile 5.485	11.7-12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.492	11.7-12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.492	11.7-12.2	11.7-12.2 FIXED-SATELLITE (space-to-Earth) 5.485 5.488 NG55 NG143	Satellite Communications (25)
	11.7-12.2 FIXED-SATELLITE (space-to-Earth) 5.484A 5.488 5.485 5.489		5.487 5.487A			

Table of Frequency Allocations 14-17.7 GHz (SHF) Page 49

International Table		United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Non-Federal Table	
14-14.25 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504B 5.504C 5.506A Space research	5.504A 5.505 5.508 14.25-14.3 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.508A Space research	14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.506 5.506B Mobile-satellite (Earth-to-space) 5.506A Radionavigation-satellite 5.504A	14-14.2 FIXED-SATELLITE (Earth-to-space) NG55 Mobile-satellite (Earth-to-space) Space research US133	Satellite Communications (25)
5.504A 5.505 5.508 14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.506 5.506B MOBILE except aeronautical mobile 5.506A Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radionavigation-satellite 5.504A	14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.506 5.506B Mobile-satellite (Earth-to-space) 5.506A Radionavigation-satellite 5.504A	14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.506 5.506B MOBILE except aeronautical mobile 5.506A Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radionavigation-satellite 5.504A	14.2-14.4 FIXED-SATELLITE (Earth-to-space) NG55 Mobile-satellite (Earth-to-space)	
14.4-14.47 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile 5.504B 5.506A 5.509A Space research (space-to-Earth) 5.504A	5.504A	5.504A	14.4-14.47 Fixed Mobile	
14.47-14.5 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile 5.504B 5.506A 5.509A Space research (space-to-Earth) 5.504A	5.504A	5.504A	14.47-14.5 Fixed Mobile	14.47-14.5 FIXED-SATELLITE (Earth-to-space) NG55 Mobile-satellite (Earth-to-space)
5.149 5.504A 14.5-14.8 FIXED-SATELLITE (Earth-to-space) 5.510 MOBILE Space research	5.504A	5.504A	US133 US203 US342 14.5-14.7145 FIXED Mobile Space research	US133 US203 US342 14.5-14.8
14.8-15.35 FIXED MOBILE Space research	14.8-15.35	14.8-15.35	14.8-15.1365 MOBILE SPACE RESEARCH Fixed US310	14.8-15.1365 US310

NON-FEDERAL GOVERNMENT (NG) FOOTNOTES

NG55 In the bands 11.7–12.2 GHz (space-to-Earth) and 14.0–14.5 GHz (Earth-to-space), Earth Stations on Vessels (ESV), Vehicle-Mounted Earth Stations (VMES), and Earth Stations Aboard Aircraft (ESAA) as regulated under 47 CFR part 25 are applications of the fixed-satellite service and may be authorized to communicate with geostationary satellites in the fixed-satellite service on a primary basis.

PART 25—SATELLITE COMMUNICATIONS

■ 3. The authority citation for part 25 continues to read as follows:

Authority: Interprets or applies sections 4, 301, 302, 303, 307, 309, 319, 332, 705 and 721 of the Communications Act as amended, 47 U.S.C. 154, 301, 302, 303, 307, 309, 319, 332, 605 and 721, unless otherwise noted.

■ 4. Amend § 25.103 by revising the definition of “Earth Stations Aboard Aircraft (ESAA)” to read as follows:

§ 25.103 Definitions.

Earth Stations Aboard Aircraft (ESAA). Earth stations operating aboard aircraft that receive from and transmit to geostationary-orbit Fixed-Satellite Service space stations pursuant to the requirements in § 25.227.

■ 5. Amend § 25.227 by revising paragraphs (a)(14), (b)(1)(iii)(A), (b)(2)(i), and the second to last sentence of paragraph (b)(3)(i) to read as follows:

§ 25.227 Blanket Licensing provisions for Earth Stations Aboard Aircraft (ESAAs) receiving in the 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth), and 11.7–12.2 GHz (space-to-Earth) frequency bands and transmitting in the 14.0–14.5 GHz (Earth-to-space) frequency band, operating with Geostationary Satellites in the Fixed-Satellite Service.

(14) All ESAA terminals operated in U.S. airspace, whether on U.S.-registered civil aircraft or non-U.S.-registered civil aircraft, must be licensed by the Commission. All ESAA terminals on U.S.-registered civil aircraft operating outside of U.S. airspace must be licensed by the Commission, except as provided by section 303(t) of the Communications Act.

(iii) (A) Demonstrate that the total tracking error budget of their antenna is within 0.2° or less between the orbital location of the target satellite and the axis of the main lobe of the ESAA antenna. As part of the engineering analysis, the ESAA applicant must show that the antenna pointing error is within three sigma (6) from the mean value, i.e., that there is a 0.997 probability the antenna maintains a pointing error within 0.2°; and

(2) (i) A statement from the target satellite operator certifying that the proposed operation of the ESAA has the potential to create harmful interference to satellite networks adjacent to the target satellite(s) that may be unacceptable.

(3) (i) The ESAA applicant also shall provide a detailed showing that one or more transmitters are capable of automatically ceasing or reducing emissions within 100 milliseconds of receiving a command from the system’s network control and monitoring center that the aggregate off-axis EIRP spectral-densities of the transmitter or transmitters exceed the off-axis EIRP-density limits specified in paragraph (a)(3)(i) of this section.

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BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

Notice of Regulatory Guidance: Automatic On-Board Recording Devices

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

ACTION: Notice of regulatory guidance.

SUMMARY: FMCSA issues regulatory guidance on two issues involving roadside inspection of commercial motor vehicles (CMVs) equipped with automatic on-board recording devices (AOBRDs) to assist drivers with hours-of-service (HOS) recordkeeping and compliance. All prior Agency interpretations and regulatory guidance, including memoranda and letters, may no longer be relied upon to the extent they are inconsistent with this guidance.

DATES: This regulatory guidance is effective May 12, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, phone (202) 366–4325, email MCPSPD@dot.gov.

SUPPLEMENTARY INFORMATION:

Legal Basis

The Motor Carrier Safety Act of 1984 (Pub. L. 98–554, Title II, 98 Stat. 2832, October 30, 1984) (the 1984 Act) authorizes the Secretary of Transportation to regulate CMVs and equipment, and the drivers and motor carriers that operate them 49 U.S.C. 31136(a)]. Section 211 of the 1984 Act also gives the Secretary broad power to “prescribe recordkeeping and reporting requirements” and to “perform other acts the Secretary considers appropriate” (49 U.S.C. 31133(a)(8) and (10)). The Administrator of FMCSA has been delegated authority under 49 CFR 1.87(f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 311, subchapters I and III, relating to CMV programs and safety regulation.

Background

Motor carriers began to use automated HOS recording devices in the mid-1980s to replace paper records. The Federal Highway Administration, the agency at that time responsible for motor carrier safety regulations, published a final rule in 1988 that defined AOBRDs and set forth performance standards for their use (53 FR 38670, September 30, 1988).

AOBRD Display, Recording, and Printing Requirements

FMCSA has been informed that inspection officials sometimes request drivers to provide printouts from AOBRDs, or to email or fax records of duty status (RODS) to an enforcement official. The Agency has also been advised that, in some cases, inspection officials have issued citations to CMV drivers because their AOBRDs did not display certain information.

The Federal Motor Carrier Safety Regulations (FMCSRs) have never required AOBRDs to be capable of providing printed records at the roadside, although a driver may voluntarily do so if his/her AOBRD has that capability. Such printed information must meet the display requirements of § 395.15.

The AOBRD requirements for recording—but not displaying—information reflect mid-1980s information technology. These requirements were developed when small electronic displays were relatively