FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Irving Gastfreund, Kaye, Scholer, Fierman, Hays & Handler, LLP, The McPherson Building, 901 Fifteenth Street, NW., Suite 1100, Washington, DC 20005–2327 (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–18, adopted February 11, 1998, and released February 20, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–5435 Filed 3–2–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–19; RM–9219]

Radio Broadcasting Services; Smith Mills, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Henry G. Lackey proposing the allotment of Channel 233A at Smith Mills, Kentucky, as the community's first local aural transmission service. Channel 233A can be allotted to Smith Mills in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.2 kilometers (8.9 miles) west to avoid a short-spacing to the licensed site of Station WTRI-FM, Channel 235B, Mount Carmel, Illinois. The coordinates for Channel 233A at Smith Mills are North Latitude 37–47–26 and West Longitude 87–55–23.

DATES: Comments must be filed on or before April 13, 1998, and reply comments on or before April 28, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Patricia M. Chuh, Pepper & Corazzini, L.L.P., 1176 K Street, NW., Suite 200, Washington, DC 20006 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–19, adopted February 11, 1998, and released February 20, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–5434 Filed 3–2–98; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–97–3242; Notice 3]

RIN 2127–AF67

Federal Motor Vehicle Safety Standards; Seat Belt Assemblies; Child Restraint Systems

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

ACTION: Denial of petitions for reconsideration.

SUMMARY: This document denies three petitions for reconsideration of NHTSA's May 1996 final rule rescinding the colorfastness requirements for seat belt assemblies. The petitions are denied because the petitioners, the Automotive Occupant Restraints Council (AORC), Russell J. Neff and Narricot Industries (NI), have, with one exception, not raised any new issues or presented any new information that was not considered in issuing the final rule.

AORC and NI both raised a new issue, i.e., the potential for toxicity in non-colorfast dyes. However, neither petitioner submitted any information supporting their allegations that non-colorfast dyes might be toxic. NHTSA observes that regardless of colorfastness, there has never been a toxicity requirement incorporated in Standard No. 209. In the absence of any evidence that non-colorfast dyes for webbing are toxic or that such dyes would be more likely to be used if the colorfastness requirement is not reinstated, the agency is denying the petition.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

For non-legal issues:

Clarke Harper, Office of Vehicle Safety Standards, NPS–11, telephone (202) 366–4916, facsimile (202) 366–4329, electronic mail ''charper@nhtsa.dot.gov''.

For legal issues:

Otto Matheke, Office of the Chief Counsel, NCC–20, telephone (202)

366–5263, facsimile (202) 366–3820, electronic mail ''omatheke@nhtsa.dot.gov''.

I. Background

The colorfastness requirement was initially promulgated as part of initial Federal Motor Vehicle Safety Standards for both seat belt assemblies and child restraint systems. Pursuant to the March 4, 1995 directive, ''Regulatory Reinvention Initiative,'' from the President to the heads of departments and agencies, NHTSA undertook a review of all its regulations and directives. On June 19, 1995, the agency published a notice of proposed rulemaking (NPRM) proposing the rescission of the colorfastness requirements in Standard No. 209, ''Seat Belt Assemblies'' and Standard No. 213 ''Child Restraint Systems'' (60 FR 31946). After considering the comments received in response to the NPRM, NHTSA issued a final rule on May 6, 1996 (61 FR 20170) rescinding the colorfastness requirements.

II. Rescission of the Colorfastness Requirements

A. Notice of Proposed Rulemaking

In its June 19, 1995 NPRM proposing to rescind the colorfastness requirements, the agency stated its tentative conclusion that market forces would be sufficient to encourage seat belt manufacturers to use webbing that would not stain clothing. The agency also indicated that it was not aware of any basis for believing that eliminating the colorfastness requirements would reduce colorfastness or safety.

B. Final Rule and Response to Public Comments

On May 6, 1996, NHTSA issued a final rule rescinding the colorfastness requirements (61 FR 20170). The agency received 5 comments in response to the NPRM. The commenters were: the Industrial Fabrics Association International (IFAI), Chrysler, Volkswagen, the Automotive Occupant Restraints Council (AORC), and Ford.

Because the public comments bear directly on the issues raised in the petitions for reconsideration, NHTSA is discussing below the comments raised in opposition to the NPRM. Three commenters (IFAI, Chrysler, and Ford) supported the proposal, indicating that the colorfastness would be maintained voluntarily. Two commenters (Volkswagen and AORC) opposed rescinding the requirements. Volkswagen believed that rescission would not reduce the cost burden on manufacturers because they would have to ensure colorfastness notwithstanding the absence of a requirement. AORC opposed rescission more adamantly because it believed that, while major manufacturers would continue to comply, smaller, less experienced manufacturers might use non-colorfast webbing. It believed that this would result in increased consumer dissatisfaction, increased non-use of safety belts, and increased injuries.

Because the comments were split, the agency contacted four additional sources not represented by the commenters: a safety belt manufacturer (Indiana Mills and Manufacturing), a child seat manufacturer (Gerry Baby Products Company), a test laboratory (Dayton T. Brown Testing), and a webbing manufacturer (Narricot Industries). The first three sources agreed that colorfastness would be voluntarily maintained. Narricot Industries expressed concern that market pressures could require it to reduce colorfastness to remain cost competitive.

After reviewing this information, the agency decided to issue the final rule rescinding the colorfastness requirements. The majority of the manufacturers who commented or were contacted indicated that they would voluntarily maintain colorfastness, even if they had concerns that some others might not. NHTSA concluded that countervailing market forces would minimize the possibility and extent of any such lessening of colorfastness. The agency noted that if a problem with colorfastness were to occur, the affected consumers would complain to the responsible manufacturer and likely insist on having the belt replaced, instead of forgoing use of the belt. NHTSA also concluded that the proportion of the driving population likely to notice and complain about lack of colorfastness has grown substantially since the 1970's in parallel to the increase in seat belt use.

III. Petitions for Reconsideration

In separate submissions, the Automotive Occupant Restraint Council (AORC), Narricot Industries (NI) and Russell Neff petitioned NHTSA to reconsider the rescission of the colorfastness requirements. The NI petition, dated June 18, 1996, argued that the colorfastness requirement should not be rescinded because a neglect of colorfastness by smaller equipment and aftermarket manufacturers could cause increased consumer resistance to belt use. The NI petition also indicated that children may ingest dyes and chemicals exuded from webbing with poor colorfastness and thereby be exposed to toxic materials.

The petitions submitted by AORC and Russell Neff on June 20, 1996, repeated the concerns voiced by NI in regard to consumer resistance to belt use caused by poor colorfastness. AORC also indicated that it was concerned about the possible toxicity of dyes and chemicals from belts that were not colorfast.

NI and Russell Neff stated their concern that the market for seat belt webbing extends beyond supplying large vehicle and child seat manufacturers with webbing for installation in their products. In the view of these petitioners, the existence of other markets, such as webbing for installation in conversion vans, school buses, recreational vehicles, the automotive aftermarket, and others, creates an opportunity for manufacturers of lower quality webbing to sell non-colorfast products while certifying that these products meet Standards No. 209 and 213.

IV. Agency Response

The agency notes that with the exception of the concerns raised regarding the toxicity of dyes and chemicals from non-colorfast belts, that the arguments submitted by the petitioners had previously been considered by the agency before issuing the final rule. NHTSA's conclusion at that time was that market forces would be sufficient to compel manufacturers to use webbing that would remain colorfast. While reiterating their view that market forces may encourage the use of non-colorfast webbing by suppliers seeking to offer a product of minimal quality at the lowest possible price, the petitioners have not submitted any new information to support that conclusion. The petitioners have also failed to provide any information refuting the agency's conclusion that consumers would not accept non-colorfast belts. As outlined in the notice establishing the final rule, seat belt use has increased substantially and dramatically since the 1970's. Increased belt use indicates that consumers have an increased interest in safety and a greater understanding of the role that seat belt use plays in preventing injury. Also, all 50 states have some form of child restraint law and 49 states mandate seat belt use. Consumers who must use seat belts or who understand the vital role seat belts play in safety, are not likely to tolerate belts that stain their clothing.

NHTSA also observes that agency discussions with a test facility, U.S. Testing, that has performed compliance

testing for Standards No. 209 and 213 for over 20 years indicate that dyeing and coloring techniques for belt webbing have improved greatly since belt installation and use have become both required and more widespread.

Two of the petitioners, AORC and NI, also indicated that non-colorfast dyes may present an opportunity for toxic materials to come in contact with infants and children who may introduce belt webbing into their mouths. These petitioners have consistently argued that lower cost non-colorfast webbing may enter the marketplace if the colorfastness requirement is eliminated. In the view of the petitioners, non-colorfast dyes are more likely to be toxic than colorfast ones and that webbing made with toxic dyes is less expensive to produce than other webbing. However, the agency notes that neither petitioner provided any evidence that dyes used for webbing, regardless of cost, are toxic. Petitioners also did not offer any evidence that color transfer from non-colorfast webbing commonly used in webbing could cause injury. NHTSA further observes that neither Standard No. 209 or Standard No. 213 have ever required that webbing, whether colorfast or not, be non-toxic. Reinstatement of the colorfastness requirements would therefore do little to address this concern.

V. Denial of Petitions for Reconsideration

NHTSA has carefully considered the issues raised in the separate petitions for reconsideration filed by the Automotive Occupant Restraint Council (AORC), Narricot Industries (NI) and Russell Neff. As explained in this document, NHTSA concludes that petitioners' arguments for reinstating the colorfastness requirements of Standard No. 209 and Standard No. 213 are not sufficiently persuasive to warrant such reinstatement. Therefore, the petitions for reconsideration are denied.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: February 26, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–5455 Filed 3–2–98; 8:45 am]

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