under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this revised proposal under the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this revised proposal and has determined pursuant to section 2.B.2.a (CE #32(e)) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation. A categorical exclusion determination for this rulemaking is available in the public docket for inspection and copying.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.261 revised paragraphs (u), (v) and (w) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo.

* * * * *

(u) Flagler Memorial (SR A1A) bridge, mile 1021.9 at Palm Beach. The draw shall open on signal; except that from October 1 to May 31, Monday through Friday except Federal holidays, from 7:30 a.m. to 9:30 a.m. and from 4 p.m. to 5:45 p.m., the draw need open only at 8:30 a.m. and 4:45 p.m. From 9:30 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

(v) Royal Park (SR 704) bridge, mile 1022.6 at Palm Beach. The draw shall open on signal; except that from October 1 through May 31, Monday through Friday except Federal holidays, from 7:45 a.m. to 9:45 a.m. and from 3:30 p.m., to 5:45 p.m., the draw need open only at 8:45 a.m., 4:30 p.m., and 5:15 p.m. From 9:30 a.m. to 3:30 p.m., the draw need open only on the quarter-hour and three-quarter hour.

(w) Southern boulevard (SR 700/80) bridge, mile 1024.7 at Palm Beach. The draw shall open on signal; except that, from October 1 through May 31, Monday through Friday except Federal holidays, from 7:30 a.m. to 9:15 a.m. and from 4:30 p.m. to 6:30 p.m., the draw need open only at 8:15 a.m. and 5:30 p.m. From 9:15 a.m. to 4:30 p.m., the draw need open only on the quarter-hour and three-quarter hour.

* * * * *

Dated: June 23, 1998.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 98–17370 Filed 6–29–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration For Children and Families

45 CFR Part 1303

RIN: 0970–AB87

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Administration on Children, Youth and Families is issuing this Notice of Proposed Rulemaking to propose timelines for the conducting of administrative hearings on adverse actions taken against Head Start grantees and to make additional changes to the regulations designed to expedite the appeals process.

DATES: In order to be considered, comments on this proposed rule must be received on or before August 31, 1998.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration on Children, Youth and Families, PO Box 1182, Washington, DC 20013. Beginning 14 days after close of the comment period, comments will be available for public inspection in Room 2219, 330 C Street, SW., Washington, DC 20201, Monday through Friday between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jim S. Kolb (202) 205–8580.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

Head Start is authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*). It is a national program providing comprehensive developmental services primarily to low-income preschool children, primarily age three to the age of compulsory school attendance, and their families. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs. Parents also receive training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1996, Head Start served 752,000 children through a network of over 2,000 grantees and delegate agencies.

While Head Start is intended to serve primarily children whose families have incomes at or below the poverty line, or who receive public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low-income criteria. The Act also requires that a minimum of 10 percent of the enrollment opportunities in each program be made available to children with disabilities. Such children are expected to participate in the full range of Head Start services and activities with their non-disabled peers and to receive needed special education and related services.

II. Summary of the Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) is section 646 of the Head Start Act (42 U.S.C. 9841), as amended by Pub. L. 103–252, Title I of the Human Services Amendments of 1994. ACF proposes to make changes to the regulations designed to expedite the appeals process and as specifically required by section 646(c) to specify a timeline for administrative hearings on adverse actions taken against grantees, and a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing. The proposed rule implements these requirements.

Overall, this proposed rule on timelines, including the conforming changes to other affected sections of the appeals requirements in part 1303, will have the effect of saving time and expenses while continuing to allow due process to a grantee appealing a proposed termination or denial of refunding decision. In the past, a number of appeal proceedings have been protracted and costly partly because of the absence of statutory or regulatory timelines for holding a

hearing. Under the proposed timelines, decisions can be rendered in a shorter period of time thus allowing quicker removal of a deficient grantee. This will help ensure that children and their families receive high quality Head Start services from a qualified provider.

III. Section by Section Discussion of the NPRM

Section 1303.14 Appeal by a Grantee from a Termination of Financial Assistance

The proposed rule makes several changes to this section. ACF is proposing to revise section 1303.14(c)(1) to state in greater detail the information which it must include in letters of termination. Under the proposed regulation the Agency will be required to state the legal basis for termination, the factual findings on which the termination is based, or reference to specific findings in another document that form the basis for the termination (such as reference to item numbers in an on-site review report or instrument), and citation to any statutory provisions, regulations or policy issuances on which the Agency is relying for its determination. This change will reduce the need for the Agency to supplement its initial notice with additional filings after the appeal is filed and thereby streamline and expedite the appeals process.

The Agency is also proposing to amend the regulation to increase the amount of time for a grantee to appeal a termination from 10 days to 30 days. The change is being made to give grantees more time in which to develop their initial appeal submission. More complete submissions will allow quicker resolutions of appeals. This increase in time to file appeals carries with it more responsibility for filing properly, as discussed below.

The last sentence in § 1303.14(c)(2) is being deleted because the standard for content of the request for a hearing will now appear in the revised § 1303.14(d).

The Agency is also proposing new language for § 1303.14(d) which requires the grantee to state in more detail the basis of its appeal of the termination. This change will reduce the need for the grantees to supplement their initial request for a hearing with additional filings and thereby streamline and expedite the appeals process. ACF is also proposing a change in § 1303.14(c)(5) to make it consistent with the new § 1303.14(d). A new § 1303.14(c)(6) is added to provide for two sanctions against ACF in the event that a notice of termination is deficient.

If in the judgment of the Departmental Appeals Board a grantee fails to comply with these requirements in a substantial manner its appeal must be rejected, with prejudice. The burden shall be on a grantee to show good cause for any failure to comply with these requirements. Workload difficulties shall not normally constitute good cause, unless the Departmental Appeals Board determines that adjustments cannot be made by the grantee and that the conflicting matters reasonably take precedence over the expeditious conduct of the appeal. Thus, for example, a grantee must show extenuating circumstances for its failure to provide documents in its possession at the time of its appeal and to raise arguments or objections that would logically be raised or made in light of the notice of termination. If the failure is not substantial, the appeal may proceed, but the omitted document must be excluded and the omitted argument or objection barred. These provisions flow from the purpose of these changes, which is to expedite appeals, and in light of the fact that grantees will have twenty more days to file their appeals than is the case under current regulations. The proposed regulation does provide relief from the sanctions under exceptional circumstances, as the Departmental Appeals Board may determine in accordance with the regulations. The new paragraph on sanctions is (e).

The current § 1303.14(e) is deleted and a portion of its contents revised and added as the last sentence in the new paragraph (d)(7) of this section. It would require the grantee to serve notice of the appeal and request for a hearing on any delegate agency which would be financially affected at the time the grantee files its appeal. However, failure to do so would be between the delegate and grantee and would not prevent the non-renewal or termination action from proceeding. Any remedy would be between the grantee and delegate agency.

The proposed revision of § 1303.14(g) to be redesignated as (i) includes a new requirement that delegate agencies, requesting an opportunity to participate in a hearing, must do so within 30 days of the grantee's request for a hearing. This new requirement is consistent with the overall thrust of the proposed provision which is to minimize delays and require the parties to eliminate possible sources of delay in the proceedings.

Section 1303.15 Appeal by a Grantee From a Denial of Refunding

ACF is proposing to revise paragraph (b)(2) of this provision to give grantees 30 instead of 10 days in which to appeal denial of refunding. This proposed change will make this provision consistent with revised § 1303.14(c)(2). The additional time will allow grantees to provide more complete submissions which will allow quicker resolutions of appeals. The proposed revision to paragraph (d) will require ACF to state in more detail the basis of the decision to deny refunding to a grantee. The additional information in the notice will reduce the need for the Agency to supplement its initial notice with filing after the appeal is filed and thereby streamline and expedite the appeals process. Paragraph (d) also provides for two sanctions against ACF in the event that a notice of denial of refunding is deficient. The Agency also is proposing to add paragraphs (f), (g) and (h) to 45 CFR 1303.15 to make the procedures for appeals of denials of refunding consistent with those for termination appeals in 45 CFR 1303.14.

Section 1303.16 Conduct of Hearing

The proposed revision would specifically require the parties to use prepared written direct testimony. ACF's experience with prepared written testimony has shown it is more efficient in terms of clear presentation of direct testimony and the reduction of hearing time and expense, including the absence of agency staff from their normal duties. Direct testimony is the testimony of witnesses in response to the questions of the attorney for the party which called them. After a witness's direct testimony is presented to the Board, the attorney for the opposing party has an opportunity to cross examine, and the attorney for the party which called the witness has another opportunity to ask additional questions, a process known as ''redirect examination.'' Prepared direct testimony by parties eliminates the need for live direct testimony at the hearing. However, cross examination and redirect examination will be live at the hearing. This permits the presiding member to assess witness credibility through direct observation. Use of prepared written direct testimony by the parties can result in a significant reduction in the amount of time needed for a hearing and the cost of compiling transcripts of hearings. Based on it own experience, ACF believes this approach will contribute to streamlining the Head Start appeals process. Changes also are proposed in the wording of 45 CFR 1303.16(e) to make it consistent with the

proposed changes in 45 CFR 1303.14(e) and (g).

Section 1303.17 Time for hearing and decision

This proposed rule implements section 646(c) of the Head Start Act, which directs the Secretary to specify timelines for commencing hearings and rendering decisions.

The Head Start Act and implementing regulations in 45 CFR part 1303 seek to strike a balance between the need to ensure that all Head Start programs are of high quality and are responsive to the families they serve, on the one hand, and protection of existing grantees from arbitrary or baseless adverse actions, on the other. Assuring that all Head Start programs provide quality services is a goal of the Department and the Congress, as reflected in the report of the Advisory Committee on Head Start Quality and Expansion and the amendments made to the Head Start Act by Title I of the Human Services Amendments of 1994. Those amendments added section 641A of the Act (42 U.S.C. 9836A) which, in subsection (d), sets out in detail the actions which must be taken with respect to a grantee which has been found, during an on-site review, to have quality deficiencies. This subsection directs the Secretary to require programs to correct all identified deficiencies either immediately or within one year of notification by the Department of the deficiencies under an approved Quality Improvement Plan. The Department must initiate proceedings to terminate the Head Start grant of any agency which does not correct all identified deficiencies within the prescribed time frames. Grantees which wish to appeal a proposed termination may do so to the Department of Health and Human Services Departmental Appeals Board.

The proposed rule requires that any hearing of an appeal by a grantee from a notice of suspension, termination or denial of refunding must be commenced no later than 120 days from the date the grantee's appeal is received by the Departmental Appeals Board. The final decision in an appeal, whether or not there is a hearing, must be rendered not later than 60 days after the close of the proceedings, including submission of the briefs and the holding of oral argument, if allowed or required by the Departmental Appeals Board.

Currently, there are no timelines for the hearings or the decisions on appeals by grantees. The proposed timelines will ensure an expeditious and more predictable review process, allow sufficient time for consideration of the case, and protect the grantees' statutory right to the opportunity for a full and fair hearing.

IV. Impact Analysis

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This Notice of Proposed Rulemaking implements the statutory requirement for Head Start grantee appeals to be heard and decided within certain, defined time frames.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. CH. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a ''significant economic impact on a substantial number of small entities'' an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. While these regulations would affect small entities, they would not affect a substantial number. For this reason, the Secretary certifies that this rule will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirement inherent in a proposed or final rule. This NPRM does not contain any information collection or record-keeping requirements.

List of Subjects in 45 CFR Part 1303

Administrative practice and procedure, Education of the disadvantaged, Grant—programs-social programs, Reporting and recordkeeping requirements.

(Catalog of Domestic Assistance Program Number 93.600, Project Head Start)

Dated: December 24, 1997.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: March 20, 1998.

Donna E. Shalala,

Secretary.

For the reasons set forth in the Preamble, 45 CFR part 1303 is proposed to be amended to read as follows:

PART 1303—APPEAL PROCEDURES FOR HEAD START GRANTEES AND CURRENT OR PROSPECTIVE DELEGATE AGENCIES

1. The authority citation for part 1303 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

2. Section 1303.14 is amended by revising paragraphs (c)(1), (2) and (5); removing paragraph (e); redesignating paragraphs (d) and (f) through (j) as paragraphs (f) through (r); adding new paragraphs (c)(6), (d) and (e); and revising the newly redesignated paragraph (i) to read as follows:

§ 1303.14 Appeal by a grantee from a termination of financial assistance.

* * * * *

(c) A notice of termination shall set forth:

(1) The legal basis for the termination under paragraph (b) of this section, the factual findings on which the termination is based or reference to specific findings in another document that form the basis for the termination (such as reference to item numbers in an on-site review report or instrument), and citation to any statutory provisions, regulations or policy issuances on which ACF is relying for its determination.

(2) The fact that the termination may be appealed within 30 days to the Departmental Appeals Board (with a copy of the appeal sent to the responsible HHS official and the Commissioner, ACYF) and that such appeal shall be governed by 45 CFR part 16, except as otherwise provided in the Head Start appeals regulations, and that any grantee that requests a hearing, shall be afforded one, as mandated by 42. U.S.C. 9841.

* * * * *

(5) That the grantee's notice of appeal and request for hearing must meet the requirements set forth in paragraph (d) of this section.

(6) That a failure by the responsible HHS official to meet the requirements of this paragraph may result in the dismissal of the termination action without prejudice, or the remand of that action for the purpose of reissuing it with the necessary corrections.

(d) A grantee's notice of appeal and request for hearing must:

(1) Be in writing;

(2) Specifically identify what factual findings are disputed;

(3) Identify any legal issues raised, including relevant citations;

(4) Include an original and two copies of each document the grantee believes is relevant and supportive of its position (unless the grantee has obtained permission from the Departmental Appeals Board to submit fewer copies);

(5) Include any request for specifically identified documents the grantee wishes to obtain from ACF, a statement of the relevance of the requested documents, and a statement that the grantee has attempted informally to obtain the documents from ACF and was unable to do so;

(6) Include a statement on whether the grantee is requesting a hearing; and

(7) Be filed with the Departmental Appeals Board and be served on the ACF official who issued the termination notice. The grantee must serve notice of the appeal and any request for a hearing on any delegate agency which would be financially affected at the time the grantee files its appeal.

(e) The Departmental Appeals Board sanctions with respect to a grantee's notice of appeal and request for hearing are as follows:

(1) If in the judgment of the Departmental Appeals Board a grantee has failed to substantially comply with the provisions of the preceding paragraphs of this section, its appeal must be dismissed with prejudice.

(2) If the Departmental Appeals Board concludes that the grantees's failures are not substantial, but are confined to a few specific instances, it shall bar the submittal of an omitted document, or preclude the raising of an argument or objection not timely raised in the appeal, or deny a request for a document or other ''discovery'' request not timely made.

(3) The sanctions set forth in paragraphs (e) (1) and (2) of this section shall not apply if the Departmental Appeals Board determines that a grantee has shown good cause for its failures to comply with the relevant requirements. Delays in obtaining representation shall not constitute good cause. Matters within the control of its agents and attorneys shall be deemed to be within the control of the grantee.

* * * * *

(i) If the responsible HHS official initiated termination proceedings because of the activities of a delegate agency, that delegate agency may participate in the hearing as a matter of right. Any other delegate agency, person, agency or organization that wishes to participate in the hearing may request permission to do so from the presiding officer of the hearing. Any request for participation, including a request by a delegate agency, must be filed within 30 days of the grantee's notice of appeal and request for hearing.

* * * * *

3. Section 1303.15 is amended by revising paragraphs (b)(2) and (d) (1) and adding new paragraphs (d)(4), (f), (g) and (h) to read as follows:

§ 1303.15 Appeal by a grantee from a denial of refunding.

* * * * *

(b) * * *

(2) Any such appeals must be filed within 30 days after the grantee receives notice of the decision to deny refunding.

* * * * *

(d) * * *

(1) The legal basis for the denial of refunding under paragraph (a) of this section, the factual findings on which the denial of refunding is based or references to specific findings in another document that form the basis for the denial of refunding (such as reference to item numbers in an on-site review report or instrument), and citation to any statutory provisions, regulations or policy issuances on which ACF is relying for its determination.

* * * * *

(4) A statement that failure by the responsible HHS official to meet the requirements of this paragraph may result in the dismissal of the denial of refunding action without prejudice, or the remand of that action for the purpose of reissuing it with the necessary corrections.

* * * * *

(f) If the responsible HHS official has initiated denial of refunding proceedings because of the activities of a delegate agency, that delegate agency may participate in the hearing as a matter of right. Any other delegate agency, person, agency or organization that wishes to participate in the hearing may request permission to do so from the presiding officer of the hearing. Such participation shall not, without the consent of ACYF and the grantees, alter the time limitations for the delivery of papers or other procedures set forth in this section.

(g) Paragraphs (j), (k), and (l) of 45 CFR 1303.14 shall apply to appeals of denials of refunding.

(h) The Departmental Appeals Board sanctions with respect to a grantee's appeal of denial of refunding are as follows:

(1) If in the judgment of the Departmental Appeals Board a grantee has failed to substantially comply with the provisions of the preceding paragraphs of this section, its appeal must be dismissed with prejudice.

(2) If the Departmental Appeals Board concludes that the grantees's failures are not substantial, but are confined to a few specific instances, it shall bar the submittal of an omitted document, or preclude the raising of an argument or objection not timely raised in the appeal, or a document or other ''discovery'' request not timely made.

(3) The sanctions set forth in paragraphs (h) (1) and (2) of this section shall not apply if the Departmental Appeals Board determines that a grantee has shown good cause for its failures to comply with the relevant requirements. Delays in obtaining representation shall not constitute good cause. Matters within the control of its agents and attorneys shall be deemed to be within the control of the grantee.

4. Section 1303.16 is amended by redesignating paragraphs (d) through (g) as paragraphs (e) through (h); adding a new paragraph (d); and revising newly redesignated paragraph (f) to read as follows:

§ 1303.16 Conduct of hearing.

* * * * *

(d) Prepared written direct testimony will be used in appeals under this part in lieu of oral direct testimony. When prepared written direct testimony is submitted by the parties, witnesses must be available at the hearing for cross-examination and redirect examination. If a party can show substantial hardship in using prepared written direct testimony, the Departmental Appeals Board may exempt it from the requirement. However, such hardship must be more than difficulty in doing so, and it must be shown with respect to each witness.

* * * * *

(f) Any person or organization that wishes to participate in a proceeding may apply for permission to do so from the presiding officer. This application, which must be made within 30 days of the grantee's notice of appeal and request for hearing in the case of the appeal of termination or denial of refunding, and as soon as possible after the notice of suspension has been received by the grantee, shall state the applicant's interest in the proceeding, the evidence or arguments the applicant intends to contribute, and the necessity for the introduction of such evidence or arguments.

5. Section 1303.17 is added to read as follows:

§ 1303.17 Time for hearing and decision.

(a) Any hearing of an appeal by a grantee from a notice of suspension, termination or denial of refunding must be commenced no later than 120 days from the date the grantee's appeal is received by the Departmental Appeals Board. The final decision in an appeal whether or not there is a hearing must be rendered not later than 60 days after the close of the proceedings, including submission of the briefs and oral argument, if allowed or required by the Departmental Appeals Board, and completion of final transcripts and any other applicable corrections to them.

(b) All hearings will be conducted expeditiously and without undue delay or postponement.

(c) The time periods established in paragraph (a) of this section may be extended if:

(1) The parties jointly request a stay to engage in settlement negotiations;

(2) Either party requests summary disposition; or

(3) The Departmental Appeals Board determines that the Board is unable to hold a hearing or render its decision within the specified time period for reasons beyond the control of either party or the Board.

[FR Doc. 98–17296 Filed 6–29–98; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[ET Docket No. 98–95; FCC 98–119]

Dedicated Short Range Communications of Intelligent Transportation Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to allocate 75 megahertz of spectrum for use by Dedicated Short Range Communications (''DSRC'') of Intelligent Transportation Systems (''ITS''). DSRC systems are being designed that require a short range, wireless link to transfer information between vehicles and roadside systems. ITS services are expected to improve traveler safety, decrease traffic congestion, and facilitate reduction of air pollution and conservation of fossil fuels. This action furthers the goals of the U.S. Congress, Department of Transportation and the ITS industry to improve the efficiency of the Nation's transportation infrastructure and to facilitate the growth of the ITS industry.

DATES: Comments are due September 14, 1998, reply comments are due October 13, 1998.

FOR FURTHER INFORMATION CONTACT: Tom Derenge, Office of Engineering and Technology, (202) 418–2451.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 98–95, FCC 98–119, adopted June 11, 1998, and released June 11, 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, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of the Notice of Proposed Rule Making

1. On May 19, 1997, the Intelligent Transportation Society of America (''ITS America'') filed a Petition for Rulemaking (''Petition'') requesting that the Commission allocate 75 megahertz of spectrum in the 5.850–5.925 GHz band on a co-primary basis for DSRC-based ITS services. The Petition states that DSRC links are needed for eleven ITS user services and places DSRC needs into three categories: current DSRC applications; emerging DSRC applications; and future DSRC applications.

2. The 5.850–5.925 GHz band is allocated internationally on a primary basis for Fixed Services, Fixed Satellite Service (''FSS'') Earth-to-space links (''uplinks''), and Mobile Services. Additionally, in Region 2, this band is allocated on a secondary basis to the Amateur Radio Service and the Radiolocation Service. Finally, the 5.850–5.875 GHz segment is designated internationally for industrial, scientific and medical (''ISM'') applications. Domestically, the entire band is currently allocated on a co-primary basis for the Government's Radiolocation Service (i.e., for use by high-powered military radar systems) and for non-Government FSS uplink operations. ISM devices and unlicensed part 15 devices are also permitted to operate in the 5.850–5.875 GHz segment. Finally, the Amateur Radio Service has a secondary domestic allocation in the entire band.

3. We propose to allocate 75 megahertz of spectrum, at 5.850–5.925 GHz, to the Mobile Service and to designate its use for DSRC operations. We tentatively conclude that this significant amount of proposed spectrum would further the goals of the National ITS program and encourage the development of advanced technologies to increase the safety and efficiency of the national transportation infrastructure well into the future. Additionally, a 75 megahertz allocation should enable avoidance of occupied frequencies in areas where incumbent use is heavy and should be sufficient to meet the spectrum demands of future DSRC operations, such as Automated Highway Systems, which could require several dedicated wideband channels to ensure reliability. We request comment on whether this proposed allocation is excessive given that efficient spectrum use techniques exist and our goal of promoting spectrum efficiency. We welcome alternative suggestions for an allocation for DSRC.

4. We believe that spectrum sharing between FSS and DSRC operations may be possible. However, we seek comment on the likely future needs for this spectrum for FSS earth stations. In this regard, we note that given the much higher power of FSS operations and the relatively low power of DSRC operations, individual DSRC operations are unlikely to cause harmful interference to incumbent FSS satellite operations. We also do not expect that DSRC devices in the aggregate would negatively impact existing or future FSS operations, particularly given that there are several other potentially significant contributors to the overall noise level in this band, such as government radars and ISM devices. We request comment on this preliminary assessment. We also seek comment on what, if any, effects the widespread deployment of DSRC devices could have on future development of FSS operations in this band. In this regard, we observe that widespread deployment of mobile devices, including devices with potential public safety uses, could make it more difficult to coordinate new FSS operations. We also seek comment on whether there are any instances in which DSRC services might be unacceptably impaired by FSS operations. We seek comment on whether terrain shielding, directional antennas, RF fencing and other techniques can be employed by DSRC operators to avoid receiving or causing interference. Alternatively, should interference situations arise where the two services are not compatible in a specific area or over a range of frequencies, we request comment on the feasibility of relocating the FSS operations to other geographic areas or frequency bands using the principles outlined in the Emerging Technologies