

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C.=Not Elsewhere Classified)	Size standards in number of employees or millions of dollars
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Dated: January 8, 2002.

Hector V. Barreto,

Administrator.

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DEPARTMENT OF JUSTICE

28 CFR Part 89

[AG ORDER No. 2570-2002]

RIN 1110-AA01

National Stolen Passenger Motor Vehicle Information System Regulations

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The United States Department of Justice (Department) is publishing a proposed rule to implement the National Stolen Passenger Motor Vehicle Information System (NSPMVIS or System) that will verify the theft status of salvage and junk motor vehicles and major parts marked with a Vehicle Identification Number (VIN) or a derivative of a VIN. Under specific conditions detailed in this proposed rule an insurance carrier selling comprehensive motor vehicle insurance coverage or a person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles must verify the theft status of salvage and junk motor vehicles or major parts. In addition, this proposed rule contains prescribed procedures under which an individual or entity, not engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles, intending to transfer a passenger motor vehicle or passenger motor vehicle part, may obtain information on whether the vehicle or part is listed in the System as stolen.

DATES: Comments must be submitted on or before June 10, 2002.

ADDRESSES: All comments concerning this proposed rule should be mailed to: Stephen A. Bucar, Supervisory Special Agent, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer

Hollow Road, Clarksburg, West Virginia, 26306.

FOR FURTHER INFORMATION CONTACT:

Supervisory Special Agent Stephen A. Bucar, telephone number (304) 625-2751.

SUPPLEMENTARY INFORMATION: Section 609 of the Anti Car Theft Act of 1992, Public Law Number 102-519 (codified at 49 U.S.C. 33109), directed the Attorney General to establish a National Stolen Auto Part Information System (NSAPIS) to track and monitor stolen parts. Further legislation renamed the system as the National Stolen Passenger Motor Vehicle Information System. See Public Law 103-272 (1994).

What is the nature of the problem that needs to be addressed?

The total cost of motor vehicle theft in the United States in 1994 was \$7.6 billion, according to the National Insurance Crime Bureau (NICB). This total compares to \$3.2 billion in 1970 (1994 dollars), an increase of 134 percent. A 1995 NICB study shows that criminals in the 1990s were utilizing more sophisticated methods in selling and disguising stolen vehicles and vehicle parts compared to thieves in previous years. The NICB study revealed that not only were stolen vehicles less likely to be recovered in 1995 as compared to 1970, but the condition of recovered vehicles also deteriorated.

What was the congressional response to the theft problem?

In response to the continuing problem of motor vehicle theft in the United States, Congress passed the Anti Car Theft Act of 1992 (the "Act"). Among other anti-theft measures, the Act mandates the establishment of a national computer system to verify the theft status of salvage and junk motor vehicles and covered major parts.

The Act affects salvage and junk motor vehicles and covered major parts. A salvage motor vehicle is a vehicle that has been damaged by collision, fire, flood, accident, trespass, or other incident to the extent that its fair salvage value plus the cost of repairing the vehicle for legal operation on roads or highways exceeds the fair market

value of the vehicle prior to the incident causing the damage. A salvage vehicle may be rebuilt, retitled, and allowed to operate legally on the road. A junk motor vehicle is a vehicle that is non-repairable, incapable of operation on roads or highways, and has no value except as a source of parts or scrap. The definitions for salvage and junk motor vehicles include any individual state and federally recognized tribe's definition for a vehicle that is declared a total loss or economically impractical to repair. The only parts affected by the Act ("covered major parts") are original major parts that are dismantled, recycled, salvaged, or otherwise removed from motor vehicles and that possess a parts marking label with the 17-character VIN or a derivative of the VIN.

The Act does not apply to the sale of new motor vehicles. Furthermore, the Act does not apply to the sale of manufacturer replacement parts or new after-market parts. These parts have unique labels that identify them as new replacement parts and are not required by the National Highway Traffic Safety Administration (NHTSA) to possess parts-marking labels with the 17-character VIN or a derivative of the VIN. For example, parts manufactured by parts manufacturers, that are distributed to replace or repair original parts, are not required to be inspected and checked against the NSPMVIS.

The Act allows for civil penalties of not more than \$1,000 for each violation of the regulations implementing the Act to a maximum of \$250,000 for a related series of violations. The Act also allows for enforcement of a civil penalty of not more than \$100,000 a day for each violation related to chop shop activity. This applies to any person who knowingly owns, operates, maintains, or controls a chop shop, conducts operations in a chop shop, or transports a passenger motor vehicle or passenger motor vehicle part to or from a chop shop.

Regarding the NSPMVIS, the Act requires that the Attorney General of the United States, in consultation with the Secretary of Transportation:

- (1) Establish and maintain an information system containing the

VIN of stolen passenger motor vehicles and the VIN or its derivative of stolen passenger motor vehicle parts;

(2) Prescribe by regulation procedures by which an individual or entity, not engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles, intending to transfer a passenger motor vehicle or passenger motor vehicle part may obtain information as to whether the vehicle or part is listed in the System as stolen;

(3) Prescribe by regulation procedures by which an insurance carrier selling comprehensive motor vehicle insurance coverage that obtains possession of and intends to transfer a junk motor vehicle or a salvage motor vehicle, can verify whether the vehicle is listed in the System as stolen; and

(4) Prescribe by regulation procedures by which a person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles can verify that a major passenger motor vehicle part has not been listed in the System as stolen.

The Act also directs that the parts marking program be expanded to cover all vehicles, with the exception of a limited number of lines for which waivers are granted, unless the Attorney General determines that parts marking does not substantially inhibit chop shop operations and vehicle theft.

What has the Department of Justice done to address the problem?

The Federal Bureau of Investigation (FBI), as directed by the Attorney General, has coordinated the policy and legislative efforts on the NSPMVIS since November 1993. Pursuant to 49 U.S.C. 33109(c), the Attorney General established the NSPMVIS Federal Advisory Committee (Committee) and charged it with providing recommendations and a final report to Congress and the Attorney General. The FBI conducted a pilot project and on January 31, 1996, published the "Final Report on the National Stolen Passenger Motor Vehicle Information System (NSPMVIS) Pilot Project and National Implementation Study" for the Attorney General and Congress. It also drafted immunity language providing limited civil immunity to system participants that was included in the Anti Car Theft Improvements Act of 1996. See Pub. L. No. 104-152 (1996). A formal Memorandum of Understanding (MOU) was developed between the FBI and the NICB in April 1997 establishing procedures for and limits on the

appropriate use by the NICB of the FBI's National Crime Information Center (NCIC) stolen vehicle and stolen vehicle part data (the NCIC Vehicle File) by the NICB.

This proposed rule is being published to further the implementation of the NSPMVIS. It has a direct impact on the following groups: motor vehicle owners and consumers; motor vehicle parts dealers (including motor vehicle dismantlers, recyclers, repairers, and salvagers); the insurance industry; motor vehicle auctioneers and salvager pools (these groups often act as an agent of insurers to sell or transfer salvage or junk motor vehicles); motor vehicle manufacturers; and the law enforcement community. Each of these groups has interests in and concerns regarding a national stolen motor vehicle parts system and we encourage all of these organizations to submit any comments, concerns, or ideas regarding the overall motor vehicle theft problem or any aspect of this proposed rule.

What will be the role of the NSPMVIS?

The NSPMVIS will operate as a large data exchange system for the purposes of establishing and verifying the theft status of salvage or junk motor vehicles and covered major parts by permitting the comparison of VINS with stolen and stolen parts data previously entered into the System. Participants will include motor vehicle insurers, dismantlers, recyclers, repairers, and salvagers. This proposed rule does not impose an obligation to use the System nor does it assess penalties for failure to use the System against individuals and entities not engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles (such as the ordinary consumer who purchases, sells, or transfers motor vehicles and parts for his or her own personal use) who intend to transfer a passenger motor vehicle or part without verifying its theft status. However, if these individuals or entities wish to inquire of the System, this proposed rule does prescribe procedures under which they may do so.

What is the Federal Advisory Committee and what were its Recommendations?

In order to solicit recommendations for establishing the NSPMVIS from those industries and organizations that are directly impacted by the System, the Act established the NSPMVIS Federal Advisory Committee for which the FBI provided oversight. The Committee membership included representatives of the insurance, dismantling, recycling, repairing, and salvaging industries, the

NHTSA, local law enforcement, and a consumer advocacy group.

The Committee convened on four separate occasions in the Washington, DC, area: November 18-19, 1993; April 19-20, 1994; June 14-15, 1994; and August 16-17, 1994. It developed a set of recommendations on the development of the stolen motor vehicles and parts information system.

The recommendations addressed System administration and design; the appointment of a System Administrator; law enforcement notification procedures should the System determine a part is stolen; and the documentation of inquiries in cases where no theft is indicated in the System. The Committee also recommended enactment of legislation providing a limited immunity clause for system participants. In addition, the Committee issued recommendations as to the level of security necessary to ensure the safety and reliability of the System and methods for ensuring the completeness, timeliness, and accuracy of the data entered and stored in the System. The Committee also proposed legislation for a uniform definition of salvage and junk motor vehicles. Furthermore, the Committee recommended how the theft status determination should occur and the methods for handling cases where the System cannot make a determination in a timely manner. Finally, the Committee recommended who should be responsible for (1) verifying whether covered major parts have been stolen, and (2) processing the checks and verifications of VINS through the System.

The Committee's recommendations were designed to provide the key development and implementation criteria to which Committee members believe the System needs to adhere in order to maximize its effectiveness. The Committee members drafted these recommendations after thoroughly considering all of the potential issues and effects of the System. The recommendations of the Committee, with some modifications and revisions based on the NSPMVIS pilot project and subsequent legal opinions, represent the core requirements of this proposed rule.

Through the FBI's Criminal Justice Information Services (CJIS) Advisory Policy Board process, the FBI initially recommended, in June 1993, that the NICB serve as the System Administrator of the NSPMVIS. The NSPMVIS Federal Advisory Committee included this recommendation in its Final Report published in November 1994. The Attorney General approved this recommendation in a memorandum to the FBI, dated January 18, 1995. In the

event that the NICB is not able to serve as the System Administrator, a successor will be recommended through the CJIS Advisory Process for the Attorney General to consider for approval.

The NICB was created through a 1992 merger of the National Automobile Theft Bureau (NATB) and the Insurance Crime Prevention Institute (ICPI). The NATB was involved primarily with the prevention of vehicle theft and the ICPI primarily handled suspicious or questionable property/casualty claims.

In order for the NICB to serve as the NSPMVIS System Administrator, it was necessary to create an on-line interface between the NCIC Vehicle File and the NICB. The CJIS Advisory Policy Board approved this interface and a "mirror image" system became operational in June 1994, providing the NICB with the capability to process VINs against the NCIC Vehicle File. The NICB already serves as a central repository of key vehicle theft data, including theft reports, export data, and titling information.

What Were the Results of the Pilot Project?

Following the completion of the work of the Committee and delivery of its final report in January 1995, the FBI and the NICB agreed to conduct a pilot project in order to test the concept and feasibility of the System. The pilot project began in March 1995 in Texas, and expanded to Illinois in July 1995. However, VINs from salvage motor vehicles and covered major parts were collected from all fifty states and checked against the NSPMVIS for the entire year. The theft rate during the pilot project for salvage motor vehicles and their covered major parts was .34 percent. This means that less than one-half of one percent of the salvage motor vehicles and covered major parts checked against the System were actually stolen.

There are several reasons for the low theft ratio, and they do not necessarily accurately indicate the potential effectiveness of the stolen parts information system. The primary reason for the low theft ratio is due to the inconsistency of the current parts marking regulations and the corresponding state laws for recording these VIN numbers. Most parts dealers throughout the country inventory a motor vehicle and its major parts based only on the master VIN of the motor vehicle. All parts removed from a specific motor vehicle were checked against our NCIC Vehicle File based on the master VIN of the vehicle. Thus, if there are no stolen vehicles in a given

inventory, which is likely because it is rare for legitimate parts dealers to purchase a stolen vehicle, then there will not be any identifiable stolen parts in that inventory.

It is clear, however, that there are covered major parts in motor vehicles that possess VINs different from the master VIN of the vehicle. This proposed rule takes into account the necessity of a parts verification process that ensures that any covered major part with a VIN different from the master VIN is checked against the System based on its unique VIN and not the master VIN.

The low theft ratio on salvage motor vehicles and parts is also indicative of the type of businesses that currently report salvage data to the NICB. The companies reporting salvage to the NICB are organizations that have a direct interest in reducing or eliminating the market for stolen parts. Thus, one would not expect to discover a large volume of stolen parts from processing the inventories of these organizations against the NCIC Vehicle File.

It is important to note that the NSPMVIS pilot project consistently found "bad VINs" being reported to the NICB by the participants. "Bad VINs" are those that do not correspond to an actual 17 character VIN assigned by a manufacturer. Almost four percent of all VINs reported to the NICB during 1995 were "bad VINs." The large number of "bad VINs" is due mainly to human error, including difficulty in reading the Mylar stickers that contain the VINs and misidentifying or transposing the numbers and letters during inventory or when they are reported to the NICB.

Following the completion of the pilot project, the FBI submitted to the Attorney General and Congress a report on the pilot along with a national implementation study. The study explained that the goal of the NSPMVIS is to reduce the market for stolen major component parts. Thus, processing the covered inventories of all insurers and parts dealers against the NSPMVIS is crucial to the overall success of the system. With the cooperation of major associations, such as the Automotive Recyclers Association, which estimates that it collects VIN data from approximately two-thirds to three-fourths of the parts industry, the NSPMVIS will be assured of receiving a high level of participation with a minimal impact on the affected businesses. Likewise, the NICB receives VIN data from approximately 60 percent of the insurance industry so that a high level of participation can also be assured from this industry by utilizing existing data transfer mechanisms. One

of the goals of the System is to make the electronic transfer of data from insurers and parts dealers to the NICB as simple as possible for the participants.

However, there are also thousands of non-automated parts dealers around the country who must be included in the process. Industry experts suggest that as many as 80 percent of parts dealers throughout the country purchase fewer than 50 vehicles per month and would be considered small. It is the intention of the NSPMVIS and integral to the success of the System that the inventories of smaller dealers be included in the part verification process. However, since many of these small dealers do not have computerized inventories that can be easily forwarded to the NICB, telephonic and facsimile inquiries of the NSPMVIS will be allowed.

How Will the NSPMVIS Be Implemented?

At this time, it is expected that the NICB will serve as the NSPMVIS System Administrator. As envisioned by the FBI and the NICB, the NSPMVIS will operate as a large data exchange system. Participants will conduct NSPMVIS inspections and all VIN data will be transmitted to the NICB by an electronic tape, E-mail, electronic file transfer, fax, or telephone. After automatically creating a file that retains all incoming VINs, the date and time of the verification request, the identity of the system participant from which the request was made, and the name and other information regarding the individual seeking verification of stolen passenger motor vehicle parts through a system participant under the NSPMVIS, the System will perform its primary function: checking the VINs against the mirror image of the NCIC Vehicle File maintained at NICB Headquarters. As a result of this process, any resulting theft confirmations based on the VIN inquiry would be identified prior to any sale or transfer of the vehicle or its covered major parts to the consumer.

The NSPMVIS System Administrator will query the NCIC Vehicle File to determine whether there is an active theft record for any of the specific VINs. Depending on the result of the query, the System will either (1) simultaneously send a theft notice to law enforcement and the inquiring entity (system participant) when there is an active theft record for a VIN in NCIC; or, (2) automatically send a unique authorization number to the system participant when there is no NCIC theft record, allowing for the sale or transfer of the vehicle or part. In the case of a System theft confirmation, the following

message will be sent to the system participant attempting to sell or transfer the vehicle, or sell, transfer, or install the covered major parts:

The vehicle or part queried has been reported stolen and the sale or transfer of this vehicle or the sale, transfer, or installation of this part must be terminated. Law enforcement has been provided the details regarding this inquiry.

As with the file created from the incoming VINs, the NSPMVIS also automatically creates a results file, which retains all of the theft hits generated by the System, and a response file, which retains all of the authorizations generated by the System. Each of these files has a date and time stamp associated with each theft hit or authorization. The actual theft notices or authorization numbers are sent to the system participant by the same means of communication in which the original requests were received by the NSPMVIS. System participants are responsible for notifying purchasers or transferees of the authorization number in any written form they deem appropriate, but consistent with the notification requirements set out in this proposed rule.

If the NSPMVIS cannot verify the VIN in a "timely manner," an interim authorization will be provided to the system participant. Any organization reporting "bad VINs" will be notified of the incorrect VINs and will be required to correct the VINs prior to receiving an authorization to sell or transfer the vehicle or sell, transfer, or install the part.

All information collected by the System Administrator as part of the verification request process under the NSPMVIS will be maintained by the System Administrator, as custodian for the FBI. The NCIC Privacy Act system of records notice will be modified to reflect the collection, maintenance, and use of this information. The records collected by the System Administrator will be provided to the FBI upon its request. In accord with the routine uses set forth in the NCIC Privacy Act system of records notice, the information collected by the System Administrator may be disclosed to criminal justice agencies to meet criminal justice objectives, and as otherwise provided for in routine uses.

What are NSPMVIS Inspections?

A. Background

The NSPMVIS Federal Advisory Committee concluded that—in order to meet the intent of the law and to reduce theft successfully—it would be desirable for all NSPMVIS participants (insurers,

salvagers, dismantlers, recyclers, and repairers) to inspect salvage and junk motor vehicles for the purpose of collecting both the master VIN of the vehicle and the part numbers for any covered major parts that possess the VIN or a derivative of the VIN. Participants would then enter this data into the System to verify the theft status of both vehicles and of covered major parts. The inspecting of major parts and the verifying of part theft status by all participants would be desirable because most salvage and junk motor vehicles enter the stream of commerce through an insurer or self-insured entity.

The Anti Car Theft Act, however, does not require insurers to verify the theft report status of a vehicle's major parts and does not impose any requirements on self-insured entities. In the absence of any statutory direction on these points, the proposed rule does not require insurers or self-insured entities to inspect or report on covered major parts. Nevertheless, it was clear to the Committee that the effectiveness of the proposed rules in successfully reducing the incidence of car theft would be greatly enhanced if the requirement to report on covered major parts extended to insurers in the same way that it does to other NSPMVIS participants, salvagers, dismantlers, recyclers, and repairers. The Committee concluded that the insurance industry and self-insured entities that deal in salvage and junk motor vehicles should share responsibility for verifying the theft status of covered major parts. In light of these considerations, and the clear intent of the Act to reduce vehicle theft through a comprehensive reporting scheme, the Department requests comments and suggestions on a legislative amendment to the Act extending mandatory inspection and reporting of major covered parts to trade organizations, insurers, self-insured entities, and/or other interested parties.

B. Requirements

This proposed rule requires insurance carriers to inspect only for the master VIN on salvage and junk motor vehicles that they have obtained through any means. Following inspection, insurers must report the master VIN to the System to determine whether or not the vehicle has been reported stolen. Once the theft report status is verified, the insurers are required to provide the transferee with a uniform verification document in a form approved by the Attorney General. As previously explained, this proposed rule does not require such entities to inspect or verify the theft status of covered major parts.

This proposed rule also requires salvagers, dismantlers, recyclers, and repairers, prior to selling, transferring, or installing covered major parts marked with an identification number, to inspect those major parts that they have obtained by any means unless the theft report status of a vehicle from which those parts were derived had been previously verified by an insurance carrier who provided a uniform verification document in a form approved by the Attorney General (the aforementioned uniform verification document provided by an insurance carrier exempts covered major parts derived from that vehicle from the NSPMVIS verification). This proposed rule also requires such entities then to verify the theft report status of covered major parts by using the VINs of those parts or their derivative vehicles as a basis for comparison with reported stolen vehicle or covered major part VINs on file in the NSPMVIS. The inspection and verification requirements will ensure that covered major parts are inspected prior to the repair or dismantling of a vehicle.

C. Voluntary inspection and reporting

The Department encourages insurers to voluntarily conduct inspections of covered major parts and then to report to the NSPMVIS any specific parts inspected. The Department also encourages such entities voluntarily to report to the purchaser or transferee of the vehicle the identification number of specific parts the entity inspected and reported.

D. Marginal Costs

The Department acknowledges that the Anti Car Theft Act's inspection requirement imposes some costs on the entities affected. Insurance carriers selling comprehensive motor vehicle insurance already verify the VINs of junk or salvage motor vehicles of which they obtain possession as a part of normal business practices. Whether or not a claim is honored is dependent in some cases on verifying that the vehicle in question is in fact the insured vehicle. The cost imposed on insurance carriers by the Act amounts to the administrative costs of conducting the theft status verification with the NSPMVIS.

Persons engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles already conduct some form of vehicle inspection and inventorying for their own business purposes when adding, among other items, the covered major parts to their inventories. As a result of that business function, they ordinarily

already have the equipment necessary to perform the NSPMVIS inspection. The costs imposed on these entities amount to the administrative costs of logging the VIN or its derivative of the covered major parts and conducting the theft status verification with the NSPMVIS.

As a result, the Department believes that the additional, marginal costs for a NSPMVIS inspection to the affected entities should be minimal. These regulations require only those inspections mandated by statute and the reporting of relevant information that is either statutorily mandated or already in the custody of the affected entity. Further, this proposed rule suggests allowing participants to contract out the inspection process in order to relieve some of the burden of initial cash outlays that would be required if they do not presently possess the necessary equipment to conduct inspections and/or verifications.

The FBI already operates and maintains a national information system, the NCIC, which includes information concerning stolen vehicles and vehicle parts. Currently, only the law enforcement and criminal justice communities may enter records into, or query, the NCIC database. Many people have been critical of the NCIC's effectiveness and law enforcement's ability to reduce thefts of stolen vehicle parts. Their concerns stem from the lack of stolen motor vehicle part information entered into the NCIC database. In the past, this data was scarce, in part, because the inspected parts did not contain a unique numerical identifier. The FBI believes that entry of such information into the NCIC will increase with the advent of mandatory parts marking, thus enabling law enforcement to be more effective in conducting these types of stolen motor vehicle and motor vehicle parts investigations.

The Department requests comments and suggestions on modifications to this proposed rule that will further enhance flexibility in participating in the program and reduce participant costs, while still complying with the Act.

E. Program Effectiveness Issues

In order to accurately measure the reduction in the theft of motor vehicle major parts as a result of the NSPMVIS, the System will need to be fully operational and in place for a significant period of time, possibly one to two years, in order to allow for full compliance and cooperation by all participants, especially parts dealers and law enforcement.

The national implementation study also raised several issues that may prevent the successful implementation

of the System. First, there is no provision in the Act for funding the NSPMVIS, system participants, or the states and federally recognized tribes for parts inspection, salvage reinspection, or law enforcement participation. In addition, there is no current funding for the operation of the System through either the FBI or the NICB. The NICB estimated that it will require \$850,000 to administer the System in the initial year of operation and \$400,000 in subsequent years. A second issue that might have an impact on the effectiveness of the System involves the lack of follow-up motor vehicle inspections to identify covered major parts and their VINs or the derivatives of their VINs. The Act specifies that insurance carriers need only verify the theft report status of a motor vehicle being transferred and provide that verification to the purchaser. If the vehicle is stolen, the transfer does not proceed; if the vehicle is not stolen, the purchaser can then rely on that verification to conduct additional transfers of either the vehicle itself or its major parts. Therefore, it is possible that an insurance carrier could unknowingly transfer a motor vehicle containing stolen parts and the transferee would, as a result, unknowingly possess and possibly transfer stolen parts contained within that vehicle. The fact that under certain circumstances the transfer of stolen items can occur as part of a regulated transaction designed to reduce such an occurrence undermines the credibility and effectiveness of the NSPMVIS.

F. Program Evaluation

The impact and effectiveness of the NSPMVIS as a tool for reducing auto theft is best assessed after the System has been in operation for a meaningful period of time. After a review of a timely evaluation of the NSPMVIS and additional information on the overall auto theft issue, the Attorney General will, as required by 49 U.S.C. 33103(d), undertake a "Long Range Review of Effectiveness" regarding the theft prevention standards that require marking of covered major parts installed on certain vehicle lines.

G. Supplementary Solutions

It is equally important for the law enforcement community to increase the entry of information concerning stolen major parts into NCIC in order to assemble a comprehensive database of stolen vehicle parts. Once the final major parts marking regulations are in effect, the FBI will forward information concerning the new standards to federal, state, and local law enforcement in

order to educate those entities on how to identify the parts marking for missing major parts from a specific vehicle, as well as for recovered major parts found separate from the original vehicle. Once identified, those markings can be used to enter missing major parts into the NCIC, which provides the records that will populate the NSPMVIS, and to inquire as to the theft status of those recovered parts. Increasing the entry of stolen parts into the NCIC is an important goal that can be achieved quickly through a national cooperative effort directed at educating law enforcement.

H. Federally Recognized Tribes

The Department recognizes the fact that federally recognized tribes in some states are issuing motor vehicle registrations and titles. This proposed rule applies to any motor vehicle and its parts where the motor vehicle has been registered and titled in the jurisdiction of a federally recognized tribe. As a result, references to federally recognized tribes are included in the definitions section and other relevant parts of the proposed rule.

Procedural Matters:

Initial Regulatory Flexibility Analysis

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This proposed rule was drafted in a way designed to minimize the impact that it has on small business while meeting the Act's objectives.

The FBI solicited recommendations for establishing the NSPMVIS from those industries and organizations that are directly impacted by the System. A Federal Advisory Committee was formed that consisted of representatives of the industries and entities most likely to be affected by the NSPMVIS. Members of this committee included representatives of the motor vehicle industry, the law enforcement community, and the insurance, dismantling, repair, recycling, and salvage industries. The Committee developed a set of recommendations on the development of the stolen parts and motor vehicle system that served as the basic guideline under which the NSPMVIS will be implemented. The burden of motor vehicle inspections cannot be shared fully among the

affected industries as initially recommended because, as previously discussed, the Act does not require the insurance industry to inspect a motor vehicle's major component parts.

The NSPMVIS applies to salvage and junk motor vehicles and those covered major parts that are labeled with the master VIN or a derivative of that number. The only parts affected by the System are original major parts that are dismantled, recycled, salvaged, or otherwise removed from motor vehicles and that possess a parts marking label with the 17-character VIN or a derivative of the VIN.

The NSPMVIS does not apply to the sale of new vehicles, manufacturer replacement parts, or new after-market parts. These parts have unique labels that identify them as new replacement parts and are not required by NHTSA to possess parts-marking labels. For example, parts manufactured by a parts manufacturer, that are distributed to replace or repair original parts, are not required to be inspected and checked against the NSPMVIS.

Based on information from the NICB, which we anticipate will serve as the NSPMVIS System Administrator, it is estimated that there are approximately 3,000 insurance companies nationwide that transfer nearly 2.5 million salvage and junk motor vehicles annually. The NICB estimates that currently 60 percent, or 1.4 million, of these salvage and junk vehicles contain major parts marked with the VIN that would ultimately be required to be inspected through the NSPMVIS. Furthermore, based on 1996 insurance data reported to the NICB, over 50 percent of these motor vehicles will originate from the ten largest insurance groups transferring salvage and junk motor vehicles. The FBI also estimates that there are about 135 motor vehicle salvage pools that auction 2.5 million salvage and junk motor vehicles annually. In addition, there are an estimated 10,000 motor vehicle recyclers nationwide handling approximately 8 million salvage and junk vehicles annually.

Because the entities presently providing salvage and recycling services are primarily small businesses, this proposed rule was developed and reviewed, where possible, with the needs and circumstances of small businesses specifically in mind. The Department has included a number of significant alternatives in this proposed rule that would accomplish the objectives of the Act and minimize any significant economic impact on small entities, such as allowing the use of contractors for parts inspections. It has also sought to avoid burdens on outside

entities beyond those requirements needed to reduce the rate and number of motor vehicle and major motor vehicle part theft. Moreover, requirements have been drafted so as not to disrupt existing business practices. For example, inventories existing prior to the date of implementation are not required to be inspected, and covered major parts damaged to such an extent that the VIN markings are unreadable are also exempt from inspection. Therefore, we have determined under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The Department is not aware of any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

Executive Order 12866: Regulatory Planning and Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1 (b). The Department has determined that this rule is a "Significant Regulatory Action" under Executive Order 12866, Regulatory Planning and Review, section 3 (f), and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132: Federalism

This proposed rule will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism summary impact statement.

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in sections 3 (a) and 3 (b) of Executive Order 12988, Civil Justice Reform.

Unfunded Mandates Reform Act of 1995

The NICB estimates that approximately 1.5 to 3 million vehicles will be affected annually as a result of the NSPMVIS implementation. The cumulative cost per year of the System can be estimated to be only a small portion of the total cost of inspecting a vehicle. The FBI and the NICB have contacted a number of affected entities that estimate complete vehicle inspections to cost between \$10.00 to

\$50.00 per vehicle. Since affected industries already conduct thorough vehicle inspections and inventorying, the additional NSPMVIS inspection represents only a small portion of the total cost estimate. In addition, equipment required to perform NSPMVIS inspections already exists; therefore, start-up costs are negligible. Thus, this proposed rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The FBI has solicited recommendations for establishing the NSPMVIS from those industries and organizations that are directly impacted by the System. A NSPMVIS Federal Advisory Committee was formed, composed of members of the motor vehicle industry and the law enforcement community. Committee members from insurance, repair, recycling, and salvage associations represented the interests of the small businesses that will be affected by the NSPMVIS. The Committee developed a set of recommendations on the development of the System, which will serve as the basic guideline under which the NSPMVIS will be implemented. This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804, and it will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. This proposed rule has been forwarded to the Small Business Administration for its review.

Paperwork Reduction Act

The Department has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the procedures of the Paperwork Reduction Act of 1995, Public Law No. 104-13, 109 Stat. 163. The proposed information collection is published to obtain comments from the public and affected agencies.

Public comments are encouraged and will be accepted until June 10, 2002. We request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Stephen A. Bucar, Supervisory Special Agent, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer Hollow Road, Clarksburg, WV 26306, (304) 625-2751.

Overview of This Information Collection:

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* NSPMVIS.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No form. CJIS Division, FBI, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit (Motor vehicle insurers, dismantlers, recyclers, repairers, and salvagers). Other: assorted motor vehicle parts dealers. *Brief Abstract:* The Department of Justice is implementing the NSPMVIS, 49 U.S.C. 33109, by issuing regulations to establish a national system for verifying the theft status of salvage and junk (non-repairable) motor vehicles and major parts marked with a VIN or a derivative of that number. Under specific conditions detailed in the regulations,

the following entities or persons must request such verification: an insurance carrier; a person lawfully selling or distributing vehicle parts in interstate commerce; or an individual or enterprise engaged in the business of repairing passenger motor vehicles.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 13,500 respondents at an average of one hour per week to respond.

(6) *An estimate of the annual total public burden (in hours) associated with the collection:* 702,000 total burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, Northwest, Suite 1220, Washington, DC 20530.

Plain Language

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The Presidential memorandum of June 2, 1998, requires that new regulations be written in plain language. The Department of Justice invites your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the proposed rule clearly stated?

(2) Does the proposed rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the proposed rule be easier to understand if it was divided into more (or shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading, for example § 89.1 Purpose and scope.)

(5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding it? How could this description be more helpful in making the proposed rule easier to understand?

Please send any comments you have on the clarity of the proposed rule to the address specified in the **ADDRESSES** section.

List of Subjects in 28 CFR Part 89

Administrative practice and procedure, Crime, Law Enforcement,

Motor Vehicles, and Organization and functions (Government agencies).

Accordingly, for the reasons set forth in the preamble and pursuant to 49 U.S.C. 33109, Title 28 of the Code of Federal Regulations is proposed to be amended by adding Part 89 to read as follows:

PART 89—NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM

Sec.

- 89.1 Purpose and scope.
- 89.2 Definitions.
- 89.3 The System Administrator.
- 89.4 Participation in the National Stolen Passenger Motor Vehicle Information System.
- 89.5 Responsibilities of insurers.
- 89.6 Responsibilities of persons engaged in salvaging, dismantling, recycling, or repairing passenger motor vehicles.
- 89.7 Requesting information from the National Stolen Passenger Motor Vehicle Information System.
- 89.8 Authorizations and notifications.
- 89.9 Certification in lieu of a system response.
- 89.10 Circumstances in which a verification is not required.
- 89.11 Contracting out the inspection process.
- 89.12 Notification of law enforcement.
- 89.13 Limited immunity.

Authority: 49 U.S.C. 33109.

§ 89.1 Purpose and scope.

(a) This part establishes the National Stolen Passenger Motor Vehicle Information System (NSPMVIS or System), pursuant to 49 U.S.C. 33109, which requires the Attorney General to implement a national system to verify the theft status of salvage and junk motor vehicles and covered major parts.

(b) This part applies to salvage and junk motor vehicles and those covered major parts on passenger motor vehicle lines designated by the National Highway Traffic Safety Administration (NHTSA). The inspection requirement does not apply to:

- (1) New vehicles;
- (2) Manufacturer replacement parts;
- (3) New after-market parts; or
- (4) Motor vehicles or major parts entered into the inventory of a system participant prior to the effective date of the System.

§ 89.2 Definitions.

In this part,

After-market Part means a vehicle component part built and distributed by a parts manufacturer to replace or repair a vehicle's original parts.

Authorization Number means a unique number provided by the System Administrator to the system participant

that allows for the sale or transfer of the vehicle or covered major part.

Chop Shop means a building, lot, facility, or other structure or premise at which at least one person engages in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing a passenger motor vehicle or passenger motor vehicle part that has been unlawfully obtained:

(1) To alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity of the vehicle or part, including the vehicle identification number or a derivative of that number; and

(2) To distribute, sell, or dispose of the vehicle or part in interstate or foreign commerce.

Covered Major Part means a major part marked with a vehicle identification number or its derivative.

Derivative of a Vehicle Identification Number (VIN) means a matching portion of the vehicle identification number, generally the last eight characters of that number.

Inspection means locating the master Vehicle Identification Number of salvage and junk motor vehicles and/or the vehicle identification number or its derivative of any covered major parts and verifying the theft status of those vehicles or parts with the System.

Junk Motor Vehicle means a vehicle that is non-repairable. This term indicates a vehicle that is incapable of operation on roads or highways and has no value except as a source of parts or scrap. This definition includes any individual state and federally recognized tribe's definition for a vehicle that is declared a total loss or economically impractical to repair.

Major Part means the engine; transmission; right front fender; left front fender; hood; right front door; left front door; right rear door; left rear door; sliding or cargo door(s); front bumper; rear bumper; right rear quarter panel (passenger cars); left rear quarter panel (passenger cars); right-side assembly (Multipurpose Passenger Vehicles (MPVs); left-side assembly (MPVs); pickup box, and/or cargo box (Light-Duty Trucks); rear door(s) (both doors in case of double doors); decklid, tailgate, or hatchback (whichever is present); grille; the trunk floor pan; frame; and any other part of a passenger motor vehicle that the Secretary of Transportation by regulation specifies as comparable in design or function to any of the parts previously listed.

Manufacturer Replacement Part means a vehicle component part built and distributed by a motor vehicle

manufacturer to replace or repair a vehicle's original part.

Manufacturer's Certificate of Origin means a document issued by the manufacturer of a vehicle that authenticates the vehicle's origin of manufacture and that is accepted by a state, federally recognized tribe, or country for titling application purposes.

New After-Market Part means a vehicle component part built and distributed by other than the manufacturer of the original vehicle but which is designed to replace or repair a vehicle's original part.

New Vehicle means any newly manufactured vehicle supported by a manufacturer's certificate of origin and that has not previously been titled in any state, federally recognized tribe, or country.

Salvage Motor Vehicle means a vehicle that has been damaged by collision, fire, flood, accident, trespass, or other incident to the extent that its fair salvage value plus the cost of repairing the vehicle for legal operation on roads or highways exceeds the fair market value of the vehicle prior to the incident causing the damage. A salvage vehicle may be rebuilt, retitled, and allowed to legally operate on the road. This definition includes any individual state or federally recognized tribe's definition for a vehicle that is declared a total loss or economically impractical to repair.

System means the National Stolen Passenger Motor Vehicle Information System.

System Administrator means an organization approved by the Attorney General to have custodial possession and provide system maintenance and operation of the System under Attorney General oversight through the Federal Bureau of Investigation.

System Participant means any person, business, or organization mandated to submit vehicle identification number information as outlined in this part.

Theft Confirmation means that the master VIN of salvage and junk motor vehicles and/or the vehicle identification number or its derivative of any major parts have been checked against the System and the System has provided a notice of an active report that the vehicle or major part has been reported as stolen and not recovered, and that, as a result, it may not be sold, transferred, or installed.

Vehicle Identification Number (VIN) means a unique identification number assigned to a passenger motor vehicle by a manufacturer in compliance with applicable regulations; the master VIN, which applies to the entire vehicle, is predominantly located in the upper left

corner of the dashboard beneath the windshield.

Vehicle Line means the name that a manufacturer of motor vehicles applies to a group of motor vehicle models of the same make that have the same body or chassis, or otherwise are similar in construction or design. A "line" may, for example, include 2-door, 4-door, station wagon, and hatchback vehicles of the same make.

Verification means that the master VIN of salvage and junk motor vehicles and/or the vehicle identification number or its derivative of any major parts have been checked against the National Stolen Passenger Motor Vehicle Information System and the System Administrator has provided an authorization number to sell, transfer, or install the vehicle or major parts.

§ 89.3 The System Administrator.

The System Administrator is the entity designated by the Attorney General to have custodial possession and provide maintenance and operation of the System under Attorney General oversight through the Federal Bureau of Investigation.

§ 89.4 Participation in the National Stolen Passenger Motor Vehicle Information System.

The following individuals, businesses, or organizations, must participate in the System:

(a) Any insurance carrier selling comprehensive motor vehicle insurance that obtains possession of and transfers a junk or salvage motor vehicle; and,

(b) Any person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles.

§ 89.5 Responsibilities of insurers.

(a) Any insurance carrier selling comprehensive motor vehicle insurance that obtains possession of and transfers a junk or salvage motor vehicle is:

(1) Required to verify through the System whether the salvage or junk motor vehicle is reported as stolen and not recovered;

(2) Required to provide to the purchaser or transferee of the vehicle from the insurance carrier a written response identifying the master VIN and verifying that the vehicle has not been reported as stolen or, if reported as stolen, that the carrier has recovered the vehicle and has proper legal title to the vehicle;

(3) Encouraged to report to the System all major parts identified as missing from recovered salvage and junk motor vehicles, that an insurance carrier obtains possession of and transfers to a purchaser or transferee;

(4) Encouraged to report to the System the results of any specific major parts inspected; and,

(5) Encouraged to provide to the purchaser or transferee of the vehicle identification of the specific major parts that were inspected and reported to the System, and to advise the purchaser or transferee whether the parts were reported as stolen.

(b) Any insurance carrier selling comprehensive motor vehicle insurance who honors a request under § 89.7 must provide a written response pursuant to paragraph (b)(4) of that section verifying the theft status only of the vehicle or part. In addition to those requirements, the written form must also include the following notation as the first text at the top of the form: "This System verification was voluntarily conducted upon request by a system participant and does not qualify for the provisions under 49 U.S.C. 33110(b)(2)(A) & (B) and 49 U.S.C. 33111(b)(2), which allow for the transfer of a motor vehicle following an inquiry of the System where the theft status of the vehicle has not been established."

§ 89.6 Responsibilities of persons engaged in salvaging, dismantling, recycling, or repairing passenger motor vehicles.

(a) Any person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles may not knowingly sell in commerce or transfer or install a covered major part without:

(1) Verifying through the System that the major part has not been reported as stolen; and,

(2) Providing the purchaser or transferee with a written response identifying the VIN (or derivative of that number) of that major part and verifying that the major part has not been reported as stolen or, if reported as stolen in the System, that the participant has recovered that major part and has proper legal title to it; or,

(3) Providing the purchaser or transferee with a verification from an insurance carrier provided in accordance with 49 U.S.C. 33110, when the insurance carrier has verified with the System that the vehicle from which the major part was derived was not reported as stolen, or that the insurance carrier has not established whether that vehicle has been stolen.

(b) Any person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles who honors a request under § 89.7 must provide a written response pursuant to paragraph (b)(4) of that section. In addition to these

requirements, the written form must also include the following notation as the first text at the top of the form: "This System verification was voluntarily conducted upon request by a system participant and does not qualify for the provisions under 49 U.S.C. 33110(b)(2)(A) & (B) and 49 U.S.C.

33111(b)(2), which allow for the transfer of a motor vehicle following an inquiry of the System where the theft status of the vehicle has not been established."

§ 89.7 Requesting information from the National Stolen Passenger Motor Vehicle Information System.

(a) An individual or entity who is neither an insurance carrier nor engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles, who intends to transfer a passenger motor vehicle or passenger motor vehicle major part, may request from an insurance carrier or a person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles that a verification with the System voluntarily be performed to determine whether the vehicle or major part is reported as stolen.

(b) Any system participant may, but is not required to, respond to such a request pursuant to this section provided the following procedures are followed:

(1) Any requestor of a System verification must appear in person.

(2) Prior to any verification with the System of the theft status of a motor vehicle or part, the system participant must confirm the identity of the requestor by checking two forms of identification to be provided by the requestor. One form of identification must be a photographic identification.

(3) Prior to any verification with the System of the theft status of a motor vehicle or part, the system participant must record the identity of the requestor including full name, date of birth, current telephone number, and current address. This information must be communicated in full to the System Administrator as part of the verification request.

(4) Any system participant, including insurance carriers selling comprehensive motor vehicle insurance, who honor requests under this section must provide a written response that conforms to the requirements contained in §§ 89.5 and 89.6 as determined by the character of the subject item to be verified with the System.

(c) The provisions established by 49 U.S.C. 33110(b)(2)(A) & (B) and 49 U.S.C. 33111(b)(2) do not apply to

verifications conducted pursuant to this section.

§ 89.8 Authorizations and notifications.

(a) Any person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles must provide verification to whomever the participant transfers or sells any covered major part.

(b) Insurance carriers selling comprehensive motor vehicle insurance must provide verification to whomever they transfer or sell any salvage or junk motor vehicle.

(c) A system participant may provide the verification required by this part in any written format it chooses, provided the verification:

(1) Identifies the vehicle's VIN or the applicable major part's VIN or its derivative; and,

(2) In the case of an insurance carrier selling comprehensive motor vehicle insurance, states that the System was checked and that the subject motor vehicle has not been reported as stolen or, if reported as stolen, that the carrier has recovered the vehicle or major parts and has proper legal title to the vehicle or major parts; or,

(3) In the case of a person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles, states that the System was checked and that the major part has not been reported as stolen.

§ 89.9 Certification in lieu of a System response.

System participants may transfer a motor vehicle or major part in those instances where the System cannot provide a response within a timely manner. A "timely manner" is defined to be a response by the end of the next federal business day for any inquirer (system participant) who has made a "reasonable effort" to verify the status of a vehicle or a major part. A "reasonable effort" is defined as attempting to gain access to the System during normal business hours and providing the correct vehicle or major part information. In those instances where the System cannot provide a verification in a timely manner, the System Administrator must provide a certificate to the system participant, or a designated contracting agent, which permits the transfer of the vehicle or major part.

§ 89.10 Circumstances in which a verification is not required.

(a) The verification requirement does not apply to:

- (1) The transfer of new vehicles;
- (2) The transfer of manufacturer replacement parts;

(3) The transfer of new after-market parts;

(4) The subsequent transfer of a motor vehicle, the transferor of which has received, within the previous 180 days, a verification in accordance with 49 U.S.C. 33110 from an insurance carrier selling comprehensive motor vehicle insurance that the vehicle has not been reported as stolen;

(5) The subsequent transfer of a major part removed from a motor vehicle, the transferor of which has received, within the previous 180 days, a verification in accordance with 49 U.S.C. 33110 from an insurance carrier selling comprehensive motor vehicle insurance that the vehicle has not been stolen; or,

(6) The subsequent transfer of a motor vehicle or major part, the transferor of which has received a certificate pursuant to § 89.9 stating that the system participant has not been able to establish whether that vehicle or major part has been stolen.

(b) System participants may sell or transfer a motor vehicle or major part in those instances in which the motor vehicle or major parts are damaged to such an extent that the VIN markings are inaccessible. VIN markings are “inaccessible” if the system participant has conducted a thorough examination of the salvage or junk motor vehicle and covered major parts and has not been able to locate the VIN markings. In this instance, the seller or transferee of the motor vehicle or major part must report the inaccessibility to the System and provide, in lieu of the authorization, a System-generated certificate to the purchaser or transferee that the inspection could not be completed.

§ 89.11 Contracting out the inspection process.

System participants will be allowed to contract out the inspection process, but any system participant that contracts out inspections must still be identified to the purchaser or transferee by the contracted entity. If a system participant contracts out the inspection tasks, then the contracted entity must perform verifications for the motor vehicle and all covered major parts as would be required of the contracting system participant. In addition, any regulatory obligations imposed on the system participant by this part extend to the contracted entity, including those under § 89.7, and their adherence thereto by the contracted entity becomes the responsibility of the system participant.

§ 89.12 Notification of law enforcement.

(a) The System will provide automatic notification on stolen vehicle and major part theft confirmations to:

(1) A law enforcement agency having investigative jurisdiction over the locality in which the inquiring system participant is located; and

(2) The law enforcement agency originally reporting the vehicle or major part theft.

(b) If the system participant receives a theft notification message from the NSPMVIS, the transaction involving that motor vehicle or major part must be terminated, unless the system participant is an insurance carrier that has recovered the vehicle and has proper legal title to the vehicle.

(c) Additional notifications may be needed, as provided in the Privacy Act systems notice for the National Crime Information Center.

§ 89.13 Limited immunity.

Any person performing any activity under this part in good faith and with the reasonable belief that such activity was in accordance with this part shall be immune from any civil action respecting such activity that is seeking money damages or equitable relief in any court of the United States or a State.

Dated: April 3, 2002.

John Ashcroft,
Attorney General.

[FR Doc. 02-8522 Filed 4-8-02; 8:45 am]

BILLING CODE 4410-02-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 61, and 69

[CC Docket No. 96-128; FCC 02-39]

Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (Commission) seeks comment in the Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 rulemaking docket to explore whether the current regulatory regime applicable to the provision of inmate calling services is responsive to the needs of correctional facilities, inmate calling service (ICS) providers, and inmates, and if not, whether and how the

Commission might address those unmet needs.

DATES: Comments are due on or before May 24, 2002, and reply comments are due on or before June 24, 2002.

ADDRESSES: Federal Communications Commission, William F. Caton, Office of the Secretary, 445—12th Street SW, TW-A325, Washington, DC 20554. *See SUPPLEMENTARY INFORMATION* for information on additional instructions for filing paper copies.

FOR FURTHER INFORMATION CONTACT: Joi Roberson Nolen, Wireline Competition Bureau, 202-418-1537.

SUPPLEMENTARY INFORMATION: The Commission released the Order on Reconsideration in CC Docket No. 96-128. *See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Order on Reconsideration, 11 FCC Rcd 21233 (1996), 61 FR 65341 (Dec. 12, 1996) (Order on Reconsideration) *aff'd in part and remanded in part*, *Illinois Pub. Tel. Ass'n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997), *cert. denied sub nom.*, *Virginia State Corp. Comm'n v. FCC*, 523 U.S. 1046 (1998). Subsequently, the Commission issued this Notice of Proposed Rulemaking (NPRM) to seek comment on issues related to the provision of inmate payphone service. Section 276 of the Communications Act directs the Commission to “establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone. *See* 47 U.S.C. 276(b)(1)(A). The statute specifically includes the provision of inmate telephone service in correctional institutions within the definition of payphone service. *See* 47 U.S.C. 276(d). The Commission seeks comment generally on costs associated with the provision of inmate calling service (ICS). Specifically, the Commission seeks comment on the commissions demanded by correctional institutions, whether and how any states have addressed the relationship between these commissions and inmate calling rates, and on any factors unique to the provision of inmate calling services that affect the profitability of ICS operations. The Commission seeks cost and revenue data related to local collect calls made from confinement facilities, separate from data related to other services offered by payphone providers. The Commission seeks comment from states on the use of rate ceilings. The Commission seeks comment on alternatives to collect calling in the