

Commission decided to establish a new band plan for the PLMR 450–470 MHz band. Likewise, to the extent the AAPC petition indirectly challenges earlier Commission decisions it is also procedurally flawed because it is an impermissible collateral attack on final Commission decisions.

2. Additionally, the Commission declined to conform rules applicable to part 90 and part 22 CMRS operations.

I. Procedural Matters

A. Paperwork Reduction Act

3. The Order does not contain any new or modified information collection.

B. Final Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act (“RFA”) of 1980, as amended, an Initial Regulatory Flexibility Analysis (“IRFA”) was incorporated in the *Notice of Proposed Rulemaking* (“NPRM”). The FCC sought written public comment on the proposals in the NPRM, including comment on the IRFA. The present Final Regulatory Flexibility Analysis (“FRFA”) conforms to the RFA.

II. Ordering Clauses

4. Accordingly, it is ordered that, pursuant to the authority of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and section 1.115 of the Commission’s Rules, 47 CFR 1.115, the petition for reconsideration filed by American Association of Paging Carriers is denied, and the proceeding is hereby terminated.

5. The Commission will not send a copy of this Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability. The Commission declined to change rules adopted in a previous proceeding.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[Docket OST-1999-6189]

RIN 9991-AA44

Definitions, Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule will implement the Services Acquisition Reform Act of 2003 (SARA), which amended the Office of Federal Procurement Policy Act to require each agency head to designate a Chief Acquisition Officer (CAO). The Secretary of Transportation designated the Deputy Secretary as CAO and also designated the Assistant Secretary of Administration as Deputy CAO. This rule will ensure proper accountability and responsibility of acquisition functions within the Department of Transportation (DOT).

EFFECTIVE DATE: October 12, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Wheeler, Office of the Senior Procurement Executive, M-60, (202) 366-4272, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 or e-mail to Elaine.wheeler@ost.dot.gov.

SUPPLEMENTARY INFORMATION: This rule updates the Code of Federal Regulations (CFR) section that sets forth authority delegated from the Secretary of Transportation to other Departmental officials, including the Assistant Secretary for Administration. This rule aligns 49 CFR Part 1 with the Office of Federal Procurement Policy Act (41 U.S.C. 414) (as amended by SARA, Pub. L. 108-136, Sect. 1421 (Nov. 24, 2003)).

The Federal Acquisition Regulation (48 CFR Part 2) defines the agency head as, among others, a “chief official or assistant chief official of an executive agency” and the “Senior Procurement Executive” as the individual responsible for the management direction of the acquisition system of the executive agency. Accordingly, this rule delegates to the Assistant Secretary for Administration the ability to carry out the duties and responsibilities of agency head for Departmental procurement and re-delegates this authority to DOT’s Senior Procurement Executive. This authority excludes duties, responsibilities, and powers expressly reserved by statute or regulation.

Section 1421 of SARA amended the Office of Federal Procurement Policy Act to require the designation of a Chief Acquisition Officer (CAO) by the head of each executive agency. This rule reflects the Secretary’s designation of the Deputy Secretary as DOT’s CAO and the Assistant Secretary for Administration as the Deputy CAO, with the authority to re-delegate any CAO function. This rule also reflects the re-delegation to the Senior Procurement Executive, who resides within the Office of the Assistant Secretary for Administration, the authority to carry

out the functions of agency head for departmental procurement, and the authority to carry out the functions of CAO, except for those expressly reserved for the Deputy Secretary in his role as CAO. Finally, this rule will reflect the issuance of DOT Order 1101.12B, dated May 17, 1999, which eliminated the Office of Acquisition and Grant Management, but retained the Senior Procurement Executive and some personnel.

This rule does not impose substantive requirements; it simply updates the CFR to accurately reflect the statutory and organizational posture of the Department. The rule is ministerial in nature and relates only to Departmental management, procedure, and practice as it relates to the acquisition function. Therefore, the Department has determined that notice and comment are unnecessary and that the rule is exempt from prior notice and comment requirements under 5 U.S.C. 553(b)(3)(A). These changes will not have substantive impact and the Department does not expect to receive substantive comments on the rule. Therefore, the Department finds that there is good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon publication pursuant to 5 U.S.C. 553(d)(2).

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

The final rule is not considered a significant regulatory action under Executive Order 12866 and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). There are no costs associated with this rule.

B. Executive Order 13132

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation and funding requirements do not apply.

C. Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (“Consultation and Coordination with Indian Tribal Governments”). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose

substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Paperwork Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

■ In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

■ 1. The authority citation for Part 1 is revised to read as follows:

Authority: 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub. L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597; Pub. L. 107–295, 116 Stat. 2064 (2002); Pub. L. 107–296, 116 Stat. 2135 (2002); 41 U.S.C. 414.

■ 2. Revise § 1.24, paragraph (a) to read as follows:

§ 1.24 Authority.

(a) The Deputy Secretary: (1) May exercise the authority of the Secretary, except where specifically limited by law, order, regulation, or instructions of the Secretary; and (2) serves as the Chief Acquisition Officer.

* * * * *

■ 3. Amend § 1.59 by adding paragraphs (a)(5) and (6) to read as follows:

§ 1.59 Delegations to the Assistant Secretary for Administration.

* * * * *

(5) Carry out the duties and responsibilities of agency head for departmental procurement within the meaning of the Federal Acquisition Regulation. This authority as agency head for departmental procurement excludes duties, responsibilities, and powers expressly reserved for the Secretary of Transportation.

(6) Serve as Deputy Chief Acquisition Officer.

■ 4. Amend § 1.59a by revising paragraph (a) to read as follows:

§ 1.59a Redesignations by the Assistant Secretary for Administration.

(a) The Assistant Secretary for Administration has re-delegated to the Director, Office of the Senior Procurement Executive the authority to:

(1) carry out the duties and responsibilities of agency head for departmental procurement within the meaning of the Federal Acquisition Regulation except for those duties expressly reserved for the Secretary of Transportation.

(2) carry out the functions of the Chief Acquisition Officer except for those functions specifically reserved for the Deputy Secretary.

(3) procure and authorize payment for property and services for the Office of the Secretary, with power to re-delegate and authorize successive re-delegations.

* * * * *

Issued this 26th day of September, 2004 at Washington, DC.

Norman Mineta,
Secretary.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2004–18793]

RIN 2127–AJ39

Federal Motor Vehicle Safety Standards; Child Restraint Anchorage Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; response to petition for reconsideration, correction.

SUMMARY: In August 2004, NHTSA denied a petition for reconsideration of a final rule amending Federal Motor Vehicle Safety Standard No. 225, *Child Restraint Anchorage Systems*. The denial made impermissible the installation of stowable anchorages on or after September 1, 2004. In response to a petition from Mercedes-Benz U.S.A., today's document provides manufacturers until March 1, 2005 to achieve non-stowability of the anchor system.

DATES: The amendments made in this rule are effective October 12, 2004.

ADDRESSES: If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket

number of this document and submit your petition to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 20590.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Michael Huntley, Office of Crashworthiness Standards, NHTSA (telephone 202–366–0029).

For legal issues: Deirdre R. Fujita, Office of the Chief Counsel, NHTSA (telephone 202–366–2992).

You can reach both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION: On August 11, 2004, NHTSA published a final rule (69 FR 48818; Docket No. 18793) that provided the last of a number of planned responses to petitions for reconsideration of final rules establishing and amending Federal Motor Vehicle Safety Standard (FMVSS) No. 225, “Child restraint anchorage systems” (FMVSS No. 225, 49 CFR 571.225).¹ FMVSS No. 225 requires new vehicles to be equipped with child restraint anchorage systems consisting of two lower anchorage bars and a top tether anchor. Among other matters, the August 11, 2004 document denied a petition for reconsideration from Keiper GmbH & Co. (Keiper) to allow the installation of stowable lower anchorage bars past August 31, 2004.

NHTSA denied the request to allow stowable anchorage bars on a permanent basis out of a concern that a general use of these anchorage systems might impede efforts to achieve maximum compatibility between child restraint systems and the vehicle anchorage system. NHTSA acknowledged that stowable anchorages were being used by DaimlerChrysler on limited models (69 FR 48821).²

On September 7, 2004, Mercedes-Benz U.S.A. (MBUSA) submitted a petition for reconsideration of the decision on the Keiper petition. MBUSA asked for an extension of time, to March 1, 2005, to comply with the agency's directive that lower anchorages cannot be stowable. MBUSA stated that its C-Class, CLK-Class and Maybach models are equipped with stowable anchorages and that the changes necessary to make

¹ The final rule establishing FMVSS No. 225 was published March 5, 1999 (64 FR 10786, docket 98–3390, notice 2). NHTSA responded to petitions for reconsideration of the final rule in documents published August 31, 1999 (64 FR 47566; Docket No. 6160), July 31, 2000 (65 FR 46628; Docket No. 7648), June 27, 2003 (68 FR 38208; Docket No. 15438; corrected 68 FR 54861), and August 11, 2004 (supra).

² DaimlerChrysler AG is the parent corporation of Mercedes-Benz U.S.A. LLC.