

*	*	*	*	*	*	*
Prosthetic implants:						
Ankle replacement						5056
Elbow replacement						5052
Hip, resurfacing or replacement						5054
Knee, resurfacing or replacement						5055
Shoulder replacement						5051
Wrist replacement						5053
*	*	*	*	*	*	*

[FR Doc. 2020-26907 Filed 12-28-20; 8:45 am]
 BILLING CODE 8320-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 13, 17 and 97

[WT Docket No. 19-212; FCC 20-126; FRS 17235]

Completing the Transition to Electronic Filing, Licenses and Authorizations, and Correspondence in the Wireless Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Report and Order, the Commission finalizes its transition to electronic interactions for licenses in the Wireless Radio Services. Specifically, the E-Licensing Report and Order: Eliminates existing exemptions to electronic filing in the FCC’s Universal Licensing System and require electronic filing in the Antenna Structure Registration system; requires electronic filing (and delivery of service) of pleadings related to these systems; requires applicants, licensees, and registrants to provide an email address on related FCC Forms; and shifts from paper to electronic delivery of Commission correspondence generated from these systems. Together, these changes will decrease costs for consumers and the Commission, enhance transparency of and public access to data, and save a substantial amount of paper annually.

DATES: Effective June 29, 2021.

FOR FURTHER INFORMATION CONTACT: Katherine Patsas Nevitt, Wireless Telecommunications Bureau, Mobility Division, (202) 418-0638 or katherine.nevitt@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the *Report and Order* in WT Docket No. 19-212, FCC 20-126, adopted September 16, 2020, and

released September 17, 2020. The full text of the *Report and Order* is available for public inspection at the following internet address: https://docs.fcc.gov/public/attachments/FCC-20-126A1_Rcd.pdf. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to FCC504@fcc.gov or calling the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this *Report and Order* on small entities. As required by the Regulatory Flexibility Act, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *notice of proposed rulemaking (NPRM)* (84 FR 51502, Sept. 30, 2019) released in September 2019 in this proceeding. The Commission sought written public comment on the proposals in the *NPRM*, including comments on the IRFA. No comments were filed addressing the IRFA. This FRFA conforms to the RFA. The Commission will send a copy of the *Report and Order, Order of Proposed Modification, and Orders*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Act

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any new or modified

information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission will send a copy of the *Report and Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Synopsis

I. Introduction

1. In the Report and Order, the Commission finalizes its transition to electronic interactions for licenses in the Wireless Radio Services. Specifically, the E-Licensing Report and Order: (1) Eliminates existing exemptions to electronic filing in the FCC’s Universal Licensing System and require electronic filing in the Antenna Structure Registration system; (2) requires electronic filing (and delivery of service) of pleadings related to these systems; (3) requires applicants, licensees, and registrants to provide an email address on related FCC Forms; and (4) shifts from paper to electronic delivery of Commission correspondence generated from these systems. Together, these changes will decrease costs for consumers and the Commission, enhance transparency of and public access to data, and save a substantial amount of paper annually.

II. Background

2. The Commission manages applications for all Wireless Radio Service licenses through ULS. Related systems accept filings and work in conjunction with or alongside of ULS: The Antenna Structure Registration (ASR) System, the Tower Construction Notification System (TCNS), and the Electronic Section 106 (E-106) System. To promote safety in aircraft navigation, the Commission requires the owners of antenna structures to register with the

ASR System if their structures are above 200 feet in height or are in close proximity to an airport's runway. TCNS and the E-106 System advance the goal of the National Historic Preservation Act to protect historic properties, including Tribal religious and cultural sites. Collectively, these systems provide an efficient and transparent means to accept, review, and take action on the Commission's Wireless Radio Service applications.

3. The majority of applications filed in ULS today are electronic, as required by rule. But exceptions to mandatory electronic filing remain for the following services: (i) Part 90 Private Land Mobile Radio services for shared spectrum, spectrum in the public safety pool below 746 MHz, and spectrum in the public safety allocation above 746 MHz, except those filed by FCC-certified frequency coordinators; (ii) part 97 Amateur Radio Service, except those filed by Volunteer Examination Coordinators; (iii) part 95 General Mobile Service and Personal Radio Service, excluding 218–219 MHz service; (iv) part 80 Maritime Services, excluding VHF 156–162 MHz Public Coast Stations; (v) part 87 Aviation Services; (vi) part 13 Commercial Radio Operators (individual applicants only); and (vii) certain part 101 licensees who also fall under the exempted groups.

4. Similarly, the overwhelming majority of ASR applications are filed electronically; however, applicants have the choice to file manually or electronically. Pleadings related to applications in ULS and ASR, such as petitions to deny, may be filed electronically through a pleadings portal in ULS, but there is no mandatory electronic filing requirement. TCNS is an electronic-only system, so all interactions with it are electronic by design. While communications facility notifiers generally use TCNS as the vehicle to fulfill their obligation to identify and contact Tribal Nations and Native Hawaiian Organizations, they are not required to use it if a Tribe or NHO expressed a preference for being contacted in another manner. In addition, while communications facility notifiers can provide information to State Historic Preservation Officers via certain FCC Forms, there is no requirement that they use the E-106 system to submit these forms or otherwise file them electronically.

III. Report and Order

A. Electronic Filing

1. Electronic Filing in ULS

5. We find it in the public interest to eliminate the exemptions in § 1.913 of

our rules that allow manual filings by applicants and licensees, and we instead mandate electronic filing for all Wireless Radio Services. This action furthers several longstanding Commission goals, including reducing regulatory burdens and environmental waste while streamlining our wireless services application process. It is also consistent with our Commission-wide efforts to digitize our systems and create efficient, user-friendly interactions with the agency.

6. ULS currently provides licensees and applicants electronic filing capability for the vast majority of applications in the Wireless Radio Services, but there are a few limited categories of submissions that ULS is unable to accept electronically. The Wireless Telecommunications Bureau recently has implemented a solution that allows all such applications to be filed in the Commission's Electronic Comment Filing System (ECFS). Thus, it is now possible for all applications in the Wireless Radio Services to be submitted electronically through one of the appropriate Commission e-filing systems.

2. Electronic Filing in the ASR System

7. We also require mandatory electronic filing of all applications in the ASR system. We believe there are many benefits to relying exclusively on electronic filing in the ASR system. Electronic submission is faster and less burdensome for applicants, less prone to errors resulting from processing of paper submissions. We agree that electronic filing in ASR is efficient, cost-effective, and reduces waste by eliminating unnecessary paper processes. Combined with the fact that the Commission already receives an overwhelming majority of ASR submissions electronically today, it is evident that a paper filing option is unnecessary. Accordingly, we revise the Commission's rules to specify mandatory electronic filing in the ASR system.

3. Reducing Paper Created by TCNS and E-106

8. The Commission developed TCNS and E-106 as tools for meeting its obligations under the National Historic Preservation Act. The Commission delegates the responsibility to licensees and applicants for initiating the Section 106 review process for the proposed facilities and for identifying and assessing potential adverse effects on historic properties. This process requires the Commission to consult with the appropriate State Historic Preservation Officers and Tribal Nations

that have expressed an interest in the area of potential effect of a proposed project. Tribal Historic Preservation Officers may act in lieu of State Historic Preservation Officers for projects on Tribal lands. TCNS provides Tribes with preliminary electronic notification of proposed tower projects that potentially could impact historic properties of religious and cultural significance to Tribal Nations and Native Hawaiian Organizations. The E-106 System supports TCNS by allowing applicants to electronically submit the forms and cultural resources reports necessary for participating State Historic Preservation Officers, Tribal Historic Preservation Officers and consulting parties to complete the review process, as provided for in the Commission's Nationwide Programmatic Agreement.

9. We find that the existing TCNS and E-106 electronic filing systems, although voluntary, already automate and expedite the exchange of information and correspondence. In an effort to maximize the numerous benefits associated with electronic communications, however, we find that we can further reduce paperwork associated with these electronic systems. Accordingly, for State Historic Preservation Officers, we eliminate the paper mailing option for the Weekly Notice of Tower Construction Notification System Filings and will now deliver these courtesy notifications solely by email. With respect to E-106, we eliminate the courtesy paper mailing option of the Informational Notice of Section 106 Filings that summarizes proposed projects for applicants, consultants, and State Historic Preservation Officers that choose to use the E-106 system to review FCC Forms 620 and 621 electronically. This notice will now be delivered solely by email, except in instances where Tribes or Native Hawaiian Organizations have requested paper notification preferences.

B. E-Pleadings and E-Service for Wireless Radio Services Applications and Licenses

10. The Commission adopts rules mandating electronic filing for all pleadings related to ULS and ASR licenses and applications and requiring electronic service of those pleadings where service is mandated. We find that requiring electronic filing of pleadings will provide several benefits to wireless licensees, applicants, and stakeholders, including cost savings, convenience, and speed. Electronic filing reduces paper, printing, and delivery expenses. It also is more convenient: Users can file documents nearly 24 hours a day, 7

days a week through the non-docketed pleadings module on the ULS homepage. In addition, electronic filings are transmitted nearly instantaneously, which facilitates faster communications with the Commission and makes those pleadings simultaneously available to other interested parties. Electronic filing also allows users to create a digital record and establish proof of delivery.

11. Consistent with changes we make for electronic pleadings, we also require interested parties to submit electronically petitions, complaints, and requests for environmental review of proposed wireless communications facilities filed in accordance with the Commission's NEPA rules. While we are confident that the vast majority of participants in the NEPA review process will have the capability to participate electronically, we recognize that some members of the public may lack internet access. We believe that the Commission's waiver process is sufficient to provide relief from the requirement to electronically file such documents where parties are unable to file electronically or would be otherwise unreasonably burdened by such a requirement. Parties seeking such a waiver should include as part of their paper submission a request for waiver of the electronic filing requirement, and send that submission to the appropriate mailing address for the Commission Secretary. Parties should explain in their waiver requests why they are unable to file electronically or why it would be unreasonably burdensome for them to do so.

12. Consistent with our decision to mandate electronic filings of pleadings, the Commission adopts rules mandating electronic service, where service is required. Specifically, we require all petitions, pleadings, and other documents associated with licensing matters in the Wireless Radio Services to be served electronically upon a party, his attorney, or other duly constituted agent to the email address listed in ULS. Given that all parties will be required to provide valid email addresses, service by email to such an address may be considered complete upon sending. A party that has failed to provide a valid email address may not object to the adequacy of service. We revise various part 1 rules to effectuate these changes.

C. Email Address for Applications, Registrations, and Notifications

13. We find it in the public interest to require the inclusion of email addresses for all new ULS and ASR applicants and all existing ULS licensees and ASR registrants that modify, renew, or otherwise touch their existing licenses

and registrations. We encourage existing licensees and tower owners to update their licenses and registrations with an email address in order to receive electronically courtesy letters from the Commission going forward. This approach is consistent with the Commission's efforts to modernize its legacy filing, communications, and information retention systems and is necessary to effectuate the rules we adopt in this document requiring electronic delivery of all correspondence between the Commission and ULS and ASR applicants and registrants.

14. Having valid, up-to-date email addresses on file will ensure that the Commission can shift its current process of delivering correspondence generated by ULS and the ASR System from postal mail to email. We also find that requiring an email address is not unduly burdensome for applicants and licensees. Rather, this action reflects a practice already adopted by the vast majority of our system's users and would otherwise pose a minor change in practices for the few filers who have not yet adopted such practices. Once an email address is required on the relevant FCC Forms, the Commission may dismiss as defective an application if an email address is not included.

15. To increase the number of email addresses on file and expand the Commission's use of electronic correspondence, we encourage existing licensees and tower owners to complete administrative updates to existing licenses and registrations in order to receive courtesy letters from the Commission. With the rules adopted in this document, courtesy letters will only be sent electronically to licensees and tower owners with email addresses on file; those without email addresses on file will not receive any courtesy letters. Licensees and tower owners seeking to receive such courtesy letters should therefore complete administrative updates to their existing licenses and registrations to continue receiving such correspondence. Beyond courtesy letters, we also find that encouraging licensees and tower owners to update their existing licenses and registrations will facilitate the Commission's transition to electronic correspondence more broadly.

D. Electronic Notices, Correspondence, and Alerts

16. In this Report and Order, the Commission adopts rules mandating electronic delivery for all ULS and ASR compulsory and courtesy correspondence and eliminating the ability to request the Commission to

mail hard copies of authorization and letters. We find it in the public interest to transition to electronic correspondence, which reduces regulatory burdens and environmental waste and makes interactions with the Commission more accessible and efficient. Mandating e-correspondence and eliminating the ability to request that Bureaus mail hard copies of authorizations produces several benefits with no offsetting costs, given that users can access and download their official authorizations, leases, registrations, and all related correspondence from the ULS and ASR System at any time.

17. The Commission's previous actions transitioning to e-correspondence produced several benefits, which we expand upon in this document by shifting from mail to electronic delivery of correspondence generated by ULS and the ASR system. We find that shifting to electronic correspondence is timely and reasonable, reduces costs and increases efficiency. Most businesses operate electronically, and electronic correspondence is an expedient and reliable form of communication and ensures a streamlined and efficient process. In addition, we find it in the public interest to replace our traditional physical mailing processes with less expensive electronic alternatives to reduce the Commission's expenses.

18. Substance of Email Delivery.—We find that including the actual substance of the correspondence in the email is the most efficient way to transmit critical Commission communications and will increase the accessibility and speed of communications with our systems' users. We find that including the actual substance of the communications in the email itself is more efficient than proposed alternatives, and is supported by the record. Therefore, all email correspondence will include the in the body of the message: (1) Applicant name(s), (2) FCC Registration Numbers, (3) any applicable file numbers, (4) a list of any applicable call signs, (5) the subject of the communication (e.g., application return, construction notification reminder, etc.), and (6) the disposition of the action. In other words, the Commission is taking the same correspondence that was previously in a mailed letter and shifting the content of that letter to the email message.

19. To ensure that an email is received by the appropriate recipient, users may list up to two email addresses associated with their license or application. Allowing up to two email addresses is consistent with the current

practice in ULS today; as the Commission continues to modernize its ULS platform going forward, it will consider the ability to allow more than two email addresses, as some commenters recommend. For the same reasons, we also will continue to allow users to designate a “primary” and “secondary” address for all or certain correspondence.

20. To reduce the risk that a message is mistaken as phishing or junk mail, the subject line of the email will include the description of the action and application type. We find that providing this information in the subject line, along with the Sender’s address ending in “*fcc.gov*,” will help assure recipients that the message is official Commission correspondence and reduce the risk that an email is mistaken as phishing or junk mail. We remind users that they may adjust their email settings to recognize Commission messages to ensure that Commission messages are not erroneously diverted to junk mail. The information contained in these emails can also be independently verified by logging into ULS, and consumers are familiar with these practices through dealings with all major banks and businesses. Copies of all such correspondence are contained in ULS or ASR under “Automated Letters” or “Letters” for the relevant application or license, which provides another way for users to verify their authenticity. Users responding to such Commission communication will do so by filing applications (or amending pending applications) in ULS and ASR, not via email.

21. The Commission’s longstanding practice of reviewing the message for errors and attempting to deliver the message a second time has proven successful when physical mail is returned as undeliverable, and we find that the same approach is appropriate for handling undeliverable emails. We are putting in place rules that will allow the Bureaus to offer enhanced capabilities in the future and will consider and weigh the benefits and costs of such an alerting system or other mechanisms going forward as we continue to modernize ULS.

E. Transition Deadline

22. As of the effective date of this Order, we will no longer print and mail paper authorizations. All notification preferences will be automatically set or reset to receive electronic licenses, and all licensees can download and print official copies of their licenses in ULS License Manager. We otherwise set a transition deadline for the decisions in this document regarding mandatory e-

filing, mandatory email address submission, and the Bureaus’ shift to electronic correspondence, of six months from the effective date of this Report and Order.

IV. Procedural Matters

23. Regulatory Flexibility Analysis. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to the possible impact of the rule changes contained in the Report and Order. The FRFA is set forth in Appendix C of the Report and Order.

24. Paperwork Reduction Analysis. This Report and Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

25. Congressional Review Act. The Commission will submit this draft Report & Order to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for concurrence as to whether this rule is “major” or “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

V. Ordering Clauses

26. Accordingly, *It Is Ordered* that, pursuant to the authority found in sections 1, 4(i), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, this Report and Order *Is Hereby Adopted*.

27. *It Is Further Ordered* that parts 1, 13, 17, and 97 of the Commission’s rules, 47 CFR parts 1, 13, 17, and 97, *Are Amended* as set forth in the Final Rules, and such rule amendments shall be effective six months after the date of publication in the **Federal Register**.

28. *It Is Further Ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *Shall Send* a copy

of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

29. *It Is Further Ordered* that the Commission *Shall Send* a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Parts 1, 13, 17, and 97

Administrative practice and procedure, Amateur radio service, Antenna structure registration, Commercial radio operators, Environmental impact statements, National Environmental Policy Act, Radio, Telecommunications, Wireless radio service applications.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 13, 17, and 97 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461, unless otherwise noted.

Subpart A—General Rules of Practice and Procedure

■ 2. Amend § 1.5 by revising paragraph (a) to read as follows:

§ 1.5 Mailing address furnished by licensee.

(a) Each licensee shall furnish the Commission with an address to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee’s most recent application will be used by the Commission for purposes of this paragraph (a). For licensees in the Wireless Radio Services, each licensee shall also furnish the Commission with an email address to be used by Commission for serving documents or directing correspondence to that licensee; correspondence sent to such email address is deemed to have been served on the licensee.

* * * * *

■ 3. Revise § 1.12 to read as follows:

§ 1.12 Notice to attorneys of Commission documents.

In any matter pending before the Commission in which an attorney has appeared for, submitted a document on behalf of or been otherwise designated by a person, any notice or other written communication pertaining to that matter issued by the Commission and which is required or permitted to be furnished to the person will be communicated to the attorney, or to one of such attorneys if more than one is designated. If direct communication with the party is appropriate, a copy of such communication will be mailed to the attorney; or for matters involving Wireless Radio Services, emailed to the attorney instead of mailed.

■ 4. Section 1.41 is revised to read as follows:

§ 1.41 Informal requests for Commission action.

Except where formal procedures are required under the provisions of this chapter, requests for action may be submitted informally. Requests should set forth clearly and concisely the facts relied upon, the relief sought, the statutory and/or regulatory provisions (if any) pursuant to which the request is filed and under which relief is sought, and the interest of the person submitting the request. In application and licensing matters pertaining to the Wireless Radio Services, as defined in § 1.904, such requests must be submitted electronically, via the ULS, and the request must include an email address for receiving electronic service. See § 1.47(d).

■ 5. Revise the introductory text of § 1.45 to read as follows:

§ 1.45 Pleadings; filing periods.

Except as otherwise provided in this chapter, pleadings in Commission proceedings shall be filed in accordance with the provisions of this section. Pleadings associated with licenses, applications, waivers, and other documents in the Wireless Radio Services must be filed via the ULS, and persons other than applicants or licensees filing pleadings in ULS must provide an email address to receive electronic service. See § 1.47(d).

* * * * *

■ 6. Amend § 1.47 by revising paragraphs (a) and (d) through (g) to read as follows:

§ 1.47 Service of documents and proof of service.

(a) Where the Commission or any person is required by statute or by the provisions of this chapter to serve any document upon any person, service

shall (in the absence of specific provisions in this chapter to the contrary) be made in accordance with the provisions of this section. Documents that are required to be served by the Commission in agency proceedings (*i.e.*, not in the context of judicial proceedings, Congressional investigations, or other proceedings outside the Commission) may be served in electronic form. Documents associated with licenses, applications, waivers, and other requests in the Wireless Radio Services that are required to be served by the Commission in agency proceedings must be served in electronic form. In proceedings involving a large number of parties, and unless otherwise provided by statute, the Commission may satisfy its service obligation by issuing a public notice that identifies the documents required to be served and that explains how parties can obtain copies of the documents.

Note 1 to paragraph (a): Paragraph (a) of this section grants staff the authority to decide upon the appropriate format for electronic notification in a particular proceeding, consistent with any applicable statutory requirements. The Commission expects that service by public notice will be used only in proceedings with 20 or more parties.

* * * * *

(d) Except in formal complaint proceedings against common carriers under §§ 1.720 through 1.740 and proceedings related to the Wireless Radio Services under subpart F of this part, documents may be served upon a party, his attorney, or other duly constituted agent by delivering a copy or by mailing a copy to the last known address. Documents that are required to be served must be served in paper form, even if documents are filed in electronic form with the Commission, unless the party to be served agrees to accept service in some other form. Petitions, pleadings, and other documents associated with licensing matters in the Wireless Radio Services must be served electronically upon a party, his attorney, or other duly constituted agent by delivering a copy by email to the email address listed in the Universal Licensing System (ULS). If a filer is not an applicant or licensee, the document must include an email address for receiving electronic service.

(e) Delivery of a copy pursuant to this section means handing it to the party, his attorney, or other duly constituted agent; or leaving it with the clerk or other person in charge of the office of the person being served; or, if there is no one in charge of such office, leaving

it in a conspicuous place therein; or, if such office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. For pleadings, petitions, and other documents associated with licensing matters in the Wireless Radio Services, delivery of a copy pursuant to this section is complete by sending it by email to the email addresses listed in the ULS, or to the email address of the applicant's or licensee's attorney provided in a pleading or other document served on the filer.

(f) Service by mail is complete upon mailing. Service by email is complete upon sending to the email address listed in the ULS for a particular license, application, or filing.

(g) Proof of service, as provided in this section, shall be filed before action is taken. The proof of service shall show the time and manner of service, and may be by written acknowledgement of service, by certificate of the person effecting the service, or by other proof satisfactory to the Commission. Failure to make proof of service will not affect the validity of the service. The Commission may allow the proof to be amended or supplied at any time, unless to do so would result in material prejudice to a party. Proof of electronic service shall show the email address of the person making the service, in addition to that person's residence or business address; the date and time of the electronic service; the name and email address of the person served; and that the document was served electronically.

* * * * *

■ 7. Amend § 1.49 by revising paragraph (e) to read as follows:

§ 1.49 Specifications as to pleadings and documents.

* * * * *

(e) Petitions, pleadings, and other documents associated with licensing matters in the Wireless Radio Services must be filed electronically in ULS. See § 22.6 of this chapter for specifications.

* * * * *

■ 8. Amend § 1.51 by revising paragraphs (f) and (h) to read as follows:

§ 1.51 Number of copies of pleadings, briefs, and other papers.

* * * * *

(f) For application and licensing matters involving the Wireless Radio Services, pleadings, briefs or other documents must be filed electronically in ULS.

* * * * *

(h) Pleadings, briefs or other documents filed electronically in ULS by a party represented by an attorney shall include the name, street address, email address, and telephone number of at least one attorney of record. Parties not represented by an attorney that files electronically in ULS shall provide their name, street address, email address, and telephone number.

■ 9. Section 1.52 is amended by adding a sentence after the first two sentences to read as follows:

§ 1.52 Subscription and verification.

* * * Pleadings, petitions, and other documents related to licensing matters in the Wireless Radio Services shall be signed by at least one attorney of record in his individual name or by the party who is not represented by an attorney and shall include his email and physical mailing address.

* * * * *

■ 10. Section 1.85 is revised to read as follows:

§ 1.85 Suspension of operator licenses.

Whenever grounds exist for suspension of an operator license, as provided in section 303(m) of the Communications Act, the Chief of the Wireless Telecommunications Bureau, with respect to amateur and commercial radio operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within the said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have 15 days in which to email the said application. In the event that conditions prevent emailing of the application before the expiration of the 15-day period, the application shall then be emailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing by the Chief, Wireless Telecommunications Bureau and said suspension shall be held in abeyance until the conclusion of the hearing. Upon the conclusion of said hearing, the Commission may affirm, modify, or revoke said order of suspension. If the license is ordered suspended, the operator shall send his operator license to the Mobility Division, Wireless Telecommunications

Bureau, in Washington, DC, on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

■ 11. Amend § 1.87 by revising paragraphs (a) and (b) to read as follows:

§ 1.87 Modification of license or construction permit on motion of the Commission.

(a) Whenever it appears that a station license or construction permit should be modified, the Commission shall notify the licensee or permittee in writing of the proposed action and reasons therefor, and afford the licensee or permittee at least thirty days to protest such proposed order of modification, except that, where safety of life or property is involved, the Commission may by order provide a shorter period of time.

(b) The notification required in paragraph (a) of this section may be effectuated by a notice of proposed rulemaking in regard to a modification or addition of an FM or television channel to the Table of Allotments (§§ 73.202 and 73.504 of this chapter) or Table of Assignments (§ 73.606 of this chapter). The Commission shall send a copy of any such notice of proposed rulemaking to the affected licensee or permittee by email. For modifications involving Wireless Radio Services, the Commission shall notify the licensee or permittee by email of the proposed action and reasons therefor, and afford the licensee or permittee at least thirty days to protest such proposed order of modification, except that:

(1) Where safety of life or property is involved, the Commission may by order provide a shorter period of time; and

(2) Where the notification required in paragraph (a) of this section is effectuated by publication in the **Federal Register**, the Commission shall afford the licensee or permittee at least thirty days after publication in the **Federal Register** to protest such proposed order of modification.

* * * * *

■ 12. Amend § 1.106 by revising paragraphs (i) and (o) to read as follows:

§ 1.106 Petitions for reconsideration in non-rulemaking proceedings.

* * * * *

(i) Petitions for reconsideration, oppositions, and replies shall conform to the requirements of §§ 1.49, 1.51, and 1.52 and, except for those related to licensing matters in the Wireless Radio Service and addressed in paragraph (o) of this section, shall be submitted to the Secretary, Federal Communications Commission, Washington, DC 20554, by

mail, by commercial courier, by hand, or by electronic submission through the Commission's Electronic Comment Filing System or other electronic filing system (such as ULS). Petitions submitted only by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed. Parties filing in electronic form need only submit one copy.

* * * * *

(o) Petitions for reconsideration of licensing actions, as well as oppositions and replies thereto, that are filed with respect to the Wireless Radio Services, must be filed electronically via ULS.

* * * * *

Subpart F—Wireless Radio Services Applications and Proceedings

■ 13. Amend § 1.913 by removing and reserving paragraph (d) and revising paragraphs (e) and (f) to read as follows:

§ 1.913 Applications and notification forms; electronic filing.

* * * * *

(e) *Applications requiring prior coordination.* Parties filing applications that require frequency coordination shall, prior to filing, complete all applicable frequency coordination requirements in service-specific rules contained within this chapter. After appropriate frequency coordination, such applications must be electronically filed via ULS. Applications filed by the frequency coordinator on behalf of the applicant must be filed electronically.

(f) *Applications for amateur licenses.* Each candidate for an amateur radio operator license which requires the applicant to pass one or more examination elements must present the administering Volunteer Examiners (VE) with all information required by this section prior to the examination. The VEs may collect the information required by this section in any manner of their choosing, including creating their own forms. Upon completion of the examination, the administering VEs will immediately grade the test papers and will then issue a certificate for successful completion of an amateur radio operator examination (CSCE) if the applicant is successful. The VEs will send all necessary information regarding a candidate to the Volunteer-Examiner Coordinator (VEC) coordinating the examination session. Applications filed with the Commission by VECs and all other applications for amateur service licenses must be filed electronically via ULS. Feeable requests for vanity call signs must be filed in accordance with

§ 0.401 of this chapter or electronically filed via ULS.

* * * * *

■ 14. Amend § 1.917 by revising paragraph (d) to read as follows:

§ 1.917 Who may sign applications.

* * * * *

(d) "Signed," as used in this section, means, for manually filed applications only, an original hand-written signature or, for electronically filed applications only, an electronic signature. An electronic signature shall consist of the name of the applicant transmitted electronically via ULS or any other electronic filing interface the Commission may designate and entered on the application as a signature.

■ 15. Amend § 1.923 by revising paragraph (i) to read as follows:

§ 1.923 Content of applications.

* * * * *

(i) *Email address.* Unless an exception is set forth elsewhere in this chapter, each applicant must specify an email address where the applicant can receive electronic correspondence. This email address will be used by the Commission to serve documents or direct correspondence to the applicant. Any correspondence sent to the email address currently on file shall be deemed to have been served on the applicant. Each applicant should also provide a United States Postal Service address.

■ 16. Amend § 1.929 by revising paragraph (k)(3) to read as follows:

§ 1.929 Classification of filings as major or minor.

* * * * *

(k) * * *

(3) Any email or physical mailing address and/or telephone number changes;

* * * * *

■ 17. Amend § 1.939 by revising paragraph (b) to read as follows:

§ 1.939 Petitions to deny.

* * * * *

(b) *Filing of petitions.* Petitions to deny and related pleadings must be filed electronically via ULS. Petitions to deny and related pleadings must reference the file number of the pending application that is the subject of the petition.

* * * * *

■ 18. Amend § 1.947 by revising paragraph (b) to read as follows:

§ 1.947 Modification of licenses.

* * * * *

(b) Licensees may make minor modifications to station authorizations,

as defined in § 1.929 (other than pro forma transfers and assignments), as a matter of right without prior Commission approval. Where other rules in this part permit licensees to make permissive changes to technical parameters without notifying the Commission (e.g., adding, modifying, or deleting internal sites), no notification is required. For all other types of minor modifications (e.g., name, email or physical mailing address, point of contact changes), licensees must notify the Commission by filing FCC Form 601 within thirty (30) days of implementing any such changes.

* * * * *

Subpart I—Procedures Implementing the National Environmental Policy Act of 1969

■ 19. Section 1.1304 is revised to read as follows:

§ 1.1304 Information, assistance, and waiver of electronic filing and service requirements.

(a) For general information and assistance concerning the provisions of this subpart, the Office of General Counsel may be contacted, (202) 418–1700. For more specific information, the Bureau responsible for processing a specific application should be contacted.

(b) All submissions relating to this subpart shall be made electronically. If an interested party is unable to submit or serve a filing electronically, or if it would be unreasonably burdensome to do so, such party may submit its filing on paper to the appropriate address for the Commission Secretary and serve the filing on other parties by mail. Such party should include as part of its paper submission a request for waiver of the electronic filing requirement. Such waiver request must contain an explanation addressing the requestor's inability to file electronically or why electronic filing would be unreasonably burdensome. Either showing will be sufficient to obtain a waiver under this section.

■ 20. Amend § 1.1307 by:

■ a. Revising paragraph (b) introductory text;

■ b. In paragraph (c), revising the first sentence, adding a sentence after the first sentence, and revising the parenthetical sentence; and

■ c. Revising the first sentence of paragraph (d).

The revisions read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) In addition to the actions listed in paragraph (a) of this section, Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities, require the preparation of an Environmental Assessment (EA) if the particular facility, operation, or transmitter would cause human exposure to levels of radiofrequency radiation in excess of the limits in §§ 1.1310 and 2.1093 of this chapter. Applications to the Commission for construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities must contain a statement confirming compliance with the limits unless the facility, operation, or transmitter is categorically excluded, as discussed in paragraphs (b)(1) through (3) of this section. Technical information showing the basis for this statement must be electronically submitted to the Commission upon request. Such compliance statements may be omitted from license applications for transceivers subject to the certification requirement in § 25.129 of this chapter.

* * * * *

(c) If an interested person alleges that a particular action, otherwise categorically excluded, will have a significant environmental effect, the person shall electronically submit to the Bureau responsible for processing that action a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process. If an interested person is unable to submit electronically or if filing electronically would be unreasonably burdensome, such person may submit the petition by mail, with a request for waiver under § 1.1304(b). (See § 1.1313). * * *

(d) If the Bureau responsible for processing a particular action, otherwise categorically excluded, determines that the proposal may have a significant environmental impact, the Bureau, on its own motion, shall require the applicant to electronically submit an EA. * * *

* * * * *

■ 21. Section 1.1309 is revised to read as follows:

§ 1.1309 Application amendments.

Applicants are permitted to amend their applications to reduce, minimize,

or eliminate potential environmental problems. Amendments shall be made electronically. As a routine matter, an applicant will be permitted to amend its application within thirty (30) days after the Commission or the Bureau informs the applicant that the proposal will have a significant impact upon the quality of the human environment (see § 1.1308(c)). The period of thirty (30) days may be extended upon a showing of good cause.

■ 22. Amend § 1.1312 by revising paragraph (b) to read as follows:

§ 1.1312 Facilities for which no preconstruction authorization is required.

* * * * *

(b) If a facility covered by paragraph (a) of this section may have a significant environmental impact, the information required by § 1.1311 shall be submitted electronically by the licensee or applicant and ruled on by the Commission, and environmental processing (if invoked) shall be completed, see § 1.1308, prior to the initiation of construction of the facility.

* * * * *

■ 23. Section 1.1313 is revised to read as follows:

§ 1.1313 Objections.

(a) In the case of an application to which section 309(b) of the Communications Act applies, objections based on environmental considerations shall be filed electronically as petitions to deny. If the interested person is unable to file electronically or if filing electronically would be unreasonably burdensome, such person may submit the petition by mail, with a request for waiver under § 1.1304(b).

(b) Informal objections which are based on environmental considerations must be filed electronically prior to grant of the construction permit, or prior to authorization for facilities that do not require construction permits, or pursuant to the applicable rules governing services subject to lotteries. If the interested person is unable to file electronically or if filing electronically would be unreasonably burdensome, such person may submit the objection by mail, with a request for waiver under § 1.1304(b).

■ 24. Amend § 1.1314 by revising paragraph (f) to read as follows:

§ 1.1314 Environmental impact statements (EISs).

* * * * *

(f) The Application, the EA, the DEIS, and the FEIS and all related documents, including the comments filed by the public and any agency, shall be part of the administrative record and will be

routinely available for public inspection. All documents and comments shall be filed electronically.

* * * * *

■ 25. Amend § 1.1315 by revising paragraphs (b) through (e) to read as follows:

§ 1.1315 The Draft Environmental Impact Statement (DEIS); Comments.

* * * * *

(b) When a DEIS and supplements, if any, are prepared, the Commission shall file the Statement with the Office of Federal Activities, Environmental Protection Agency, consistent with its procedures. Public Notice of the availability of the DEIS will be published in the **Federal Register** by the Environmental Protection Agency.

(c) When copies or summaries of the DEIS are sent to the Environmental Protection Agency, the copies or summaries will be electronically mailed with a request for comment to Federal agencies having jurisdiction by law or special expertise, to the Council on Environmental Quality, to the applicant, to individuals, groups and state and local agencies known to have an interest in the environmental consequences of a grant, and to any other person who has requested a copy. If an interested person lacks access to electronic mail and requests a hard copy or summary of the DEIS, it must be provided by mail.

(d) Any person or agency may comment on the DEIS and the environmental effect of the proposal described therein within 45 days after notice of the availability of the statement is published in the **Federal Register**. A copy of those comments shall be electronically mailed to the applicant by the person who files them pursuant to § 1.47 and filed electronically with the Commission. If the interested person is unable to file electronically or mail the copy electronically, or if it would be unreasonably burdensome to do so, such person may submit the comments to the Commission and the applicant by mail, with a request for waiver under § 1.1304(b). If a person submitting comments is especially qualified in any way to comment on the environmental impact of the facilities, a statement of his or her qualifications shall be set out in the comments. In addition, comments submitted by an agency shall identify the person(s) who prepared them.

(e) The applicant may electronically file reply comments within 15 days after the time for filing comments has expired. Reply comments shall be filed with the Commission and served by the

applicant on persons or agencies which filed comments.

* * * * *

PART 13—COMMERCIAL RADIO OPERATORS

■ 26. The authority citation for part 13 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

■ 27. Amend § 13.9 by revising paragraph (c) to read as follows:

§ 13.9 Eligibility and application for new license or endorsement.

* * * * *

(c) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, Radiotelegraph Operator License, Ship Radar Endorsement, GMDSS Radio Operator's License, Restricted GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, or GMDSS Radio Operator/Maintainer License must be accompanied by the required fee, if any, and submitted in accordance with § 1.913 of this chapter. The application must include an electronic copy of the official PPC(s) from a COLEM(s) showing that the applicant has passed the necessary examination Element(s) within the previous 365 days when the applicant files the application. If a COLEM files the application on behalf of the applicant, an official copy of the PPC(s) is not required. However, the COLEM must keep the PPC(s) on file for a period of 1 year. When acting on behalf of qualified examinees, the COLEM must forward all required data to the FCC electronically.

* * * * *

■ 28. Section 13.10 is revised to read as follows:

§ 13.10 Licensee address.

In accordance with § 1.923 of this chapter, all applicants (except applicants for a Restricted Radiotelephone Operator Permit or a Restricted Radiotelephone Operator Permit-Limited Use) must specify an email address where the applicant can receive electronic correspondence. Suspension of the operator license may result when correspondence from the FCC is returned as undeliverable because the applicant failed to provide the correct email address.

PART 17—CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES

■ 29. The authority citation for part 17 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 303, 309.

■ 30. Amend § 17.4 by revising paragraphs (b), (c)(1)(ii) and (iv), (c)(5)(ii), (e), and (f) to read as follows:

§ 17.4 Antenna structure registration.

* * * * *

(b) Except as provided in paragraph (e) of this section, each owner of an antenna structure described in paragraph (a) of this section must electronically file FCC Form 854 with the Commission. Additionally, each owner of a proposed structure referred to in paragraph (a) of this section must submit a valid FAA determination of “no hazard.” In order to be considered valid by the Commission, the FAA determination of “no hazard” must not have expired prior to the date on which FCC Form 854 is received by the Commission. The height of the structure will be the highest point of the structure including any obstruction lighting or lightning arrester. If an antenna structure is not required to be registered under paragraph (a) of this section and it is voluntarily registered with the Commission after October 24, 2014, the registrant must note on FCC Form 854 that the registration is voluntary. Voluntarily registered antenna structures are not subject to the lighting and marking requirements contained in this part.

(c) * * *

(1) * * *

(ii) For a reduction in height of an antenna structure or an increase in height that does not constitute a substantial increase in size as defined in paragraph I(E)(1)–(3) of appendix B to part 1 of this chapter, provided that there is no construction or excavation more than 30 feet beyond the existing antenna structure property;

* * * * *

(iv) For replacement of an existing antenna structure at the same geographic location that does not require an Environmental Assessment (EA) under § 1.1307(a) through (d) of this chapter, provided the new structure will not use a less preferred lighting style, there will be no substantial increase in size as defined in paragraph I(E)(1)–(3) of appendix B to part 1 of this chapter, and there will be no construction or excavation more than 30 feet beyond the existing antenna structure property;

* * * * *

(5) * * *

(ii) *Content.* An Environmental Request must state why the interested person or entity believes that the proposed antenna structure or physical modification of an existing antenna

structure may have a significant impact on the quality of the human environment for which an Environmental Assessment must be considered by the Commission as required by § 1.1307 of this chapter, or why an Environmental Assessment submitted by the prospective Antenna Structure Registration (ASR) applicant does not adequately evaluate the potentially significant environmental effects of the proposal. The Request must be submitted as a written petition filed electronically, setting forth in detail the reasons supporting Requester’s contentions. If the filer is unable to submit electronically, or if filing electronically would be unreasonably burdensome, the Request may be submitted by mail, with a request for waiver under § 1.1304(b) of this chapter.

* * * * *

(e) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of Federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the first tenant licensee authorized to locate on the structure (excluding tenants that no longer occupy the structure) must register the structure electronically using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing to all tenant licensees and permittees notification that the structure has been registered, consistent with paragraph (f) of this section, and for posting the registration number as required by paragraph (g) of this section.

(f) The Commission shall issue to the registrant FCC Form 854R, Antenna Structure Registration, which assigns a unique Antenna Structure Registration Number. The antenna structure owner shall immediately provide to all tenant licensees and permittees notification that the structure has been registered, along with either a copy of Form 854R or the Antenna Structure Registration Number and a link to the FCC antenna structure website: <http://wireless.fcc.gov/antenna/>. This notification must be done electronically.

* * * * *

■ 31. Amend § 17.6 by revising paragraph (c) to read as follows:

§ 17.6 Responsibility for painting and lighting compliance.

* * * * *

(c) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of Federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the

first tenant licensee authorized to locate on the structure (excluding tenants that no longer occupy the structure) must electronically register the structure using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing to all tenant licensees and permittees notification that the structure has been registered, consistent with § 17.4(f), and for posting the registration number as required by § 17.4(g).

■ 32. Section 17.57 is revised to read as follows:

§ 17.57 Report of radio transmitting antenna construction, alteration, and/or removal.

The owner of an antenna structure for which an Antenna Structure Registration Number has been obtained must notify the Commission within 5 days of completion of construction by filing FCC Form 854–R and/or dismantlement by filing FCC Form 854. The owner must also notify the Commission within 5 days of any change in structure height or change in ownership information by filing FCC Form 854. FCC Forms 854 and 854–R, and all related amendments, modifications, and attachments, shall be filed electronically.

PART 97—AMATEUR RADIO SERVICE

■ 33. The authority citation for part 97 continues to read as follows:

Authority: 47 U.S.C. 151–155, 301–609, unless otherwise noted.

■ 34. Amend § 97.21 by revising paragraph (a)(1) to read as follows:

§ 97.21 Application for a modified or renewed license grant.

(a) * * *

(1) Must apply to the FCC for a modification of the license grant as necessary to show the correct mailing and email address, licensee name, club name, license trustee name, or license custodian name in accordance with § 1.913 of this chapter. For a club or military recreation station license grant, the application must be presented in document form to a Club Station Call Sign Administrator who must submit the information thereon to the FCC in an electronic batch file. The Club Station Call Sign Administrator must retain the collected information for at least 15 months and make it available to the FCC upon request. A Club Station Call Sign Administrator shall not file with the Commission any application to modify a club station license grant that was submitted by a person other than the trustee as shown on the license grant,

except an application to change the club station license trustee. An application to modify a club station license grant to change the license trustee name must be submitted to a Club Station Call Sign Administrator and must be signed by an officer of the club.

* * * * *

■ 35. Section 97.23 is revised to read as follows:

§ 97.23 Mailing and email addresses.

Each license grant must show the grantee's correct name, mailing address, and email address. The email address must be an address where the grantee can receive electronic correspondence. Revocation of the station license or suspension of the operator license may result when correspondence from the FCC is returned as undeliverable because the grantee failed to provide the correct email address.

[FR Doc. 2020-28779 Filed 12-28-20; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2020-0111]

RIN 2127-AM31

Federal Motor Vehicle Safety Standards; Side Impact Protection, Ejection Mitigation; Technical Corrections

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

ACTION: Final rule; technical corrections.

SUMMARY: This final rule corrects errors in Federal Motor Vehicle Safety Standard (FMVSS) No. 214, "Side impact protection," and in FMVSS No. 226, "Ejection mitigation." The error occurred in FMVSS No. 214 when an amendment to FMVSS No. 214 was transcribed into the Code of Federal Regulations. The error to FMVSS No. 226 arose as a result of a drafting error when NHTSA issued FMVSS No. 226. This final rule amends the standards to reflect the intent of the Agency when it issued the standards.

DATES: This rule is effective December 29, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent Wu or Mr. James Myers, NHTSA Office of Crashworthiness Standards, telephone 202-366-1740. Mailing address: 1200 New Jersey

Avenue SE, West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This document corrects minor errors in FMVSS No. 214, "Side impact protection," and FMVSS No. 226, "Ejection mitigation." The first error resulted when the **Federal Register** transcribed regulatory text for FMVSS No. 214. The second error occurred when the Agency drafted the regulatory text for FMVSS No. 226 in establishing the standard.

FMVSS No. 214

On September 11, 2007, NHTSA published a final rule that incorporated a vehicle-to-pole test in FMVSS No. 214, "Side impact protection."¹ In response to petitions for reconsideration of the rule,² NHTSA published a final rule on March 15, 2010 that, among other matters, corrected unit conversion errors in S6.1.2 and S6.1.3 of the standard.³ The March 15, 2010 final rule set forth the regulatory text for S6.1.3, "Peak crush resistance" as follows: "The peak crush resistance shall not be less than two times the curb weight of the vehicle or 31,138 N (7,000 lb), *whichever is less.*" 75 FR at 12140, col. 1 (emphasis added). Similar language was also included in the revised S6.2.3, which stated, "Peak crush resistance. The peak crush resistance shall not be less than three and one half times the curb weight of the vehicle or 53,378 N (12,000 lb), *whichever is less.*" *Id.* However, the phrase "whichever is less" was not included in S6.1.3 as published in the Code of Federal Regulations, though the phrase was included in S6.2.3 (49 CFR 571.214).

The door crush force requirements establish threshold protections for occupants from injury-causing intrusion into the occupant space that can occur during a side impact. The phrase "whichever is less" in S6.1.3 was meant to clarify which of the maximum door crush force levels applies to vehicles, depending upon the vehicle's curb weight.⁴ However, when the phrase was

¹ 72 FR 51908.

² March 15, 2010, 75 FR 12140. This was the second response to petitions for reconsideration of the 2007 final rule.

³ S6.1.2 and S6.1.3 relate to Standard No. 214's door crush resistance requirements.

⁴ Prior to the error, a vehicle with a curb weight less than 3,500 lb ("vehicle A") could have met a force requirement of 2 times the vehicle curb weight, which would be a load of less than 7,000 lb. Similarly, prior to the error, a vehicle with a curb weight greater than 3,500 lb ("vehicle B") could have met a force requirement of 7,000 lb. After the error, the option was removed, so under S6.1.3, vehicle A was also subject to a test with a load of 7,000 lb, and vehicle B was also subject to a load of two times its curb weight. NHTSA did not intend for the vehicles to have to be certified to

mistakenly eliminated, it created ambiguity and potentially implied that S6.1.3 required higher forces to be used than NHTSA had intended. Without the phrase, there is potential for manufacturer confusion and the possibility that some may certify to an overly stringent door crush force requirement than NHTSA intended. NHTSA (and, we believe, industry as a whole) has applied S6.1.3 with the understanding and effect that the "whichever is less" language was meant to be as it is in S6.2.3—see, e.g., NHTSA's test procedure (TP) manual for FMVSS No. 214 issued by NHTSA's Office of Vehicle Safety Compliance for testing vehicles to Standard No. 214. The TP has always aligned with the correct original regulatory text.⁵ That said, the absence of the phrase reduces the clarity of S6.1.3 and introduces an unintended ambiguity that NHTSA would like to correct. This technical amendment corrects the error by adding "whichever is less" back in S6.1.3.

FMVSS No. 226

On January 19, 2011, NHTSA published a final rule establishing FMVSS No. 226, "Ejection mitigation." The final rule intended to exclude from the applicability of the standard vehicles with no doors or with doors that are designed to be easily attached or removed so the vehicle can be operated without doors. In the notice of proposed rulemaking (NPRM) preceding the final rule, the Agency requested comment on whether "[v]ehicles that have no doors, or exclusively have doors that are designed to be easily attached or removed so that the vehicle can be operated without doors" were still being produced.⁶ NHTSA further explained that, "Assuming the vehicles are being manufactured, NHTSA proposes excluding the vehicles on practicability grounds," and requested comment on the issue.⁷ Subsequently, in the final rule, NHTSA proceeded to exclude the vehicles in the text of the preamble. The Agency made its intent to exclude the vehicles in the final rule clear, explaining in the preamble that: "Comments were requested but none were received on whether vehicles are still being manufactured that have no doors, or exclusively have doors that are designed to be easily attached or removed so that the vehicle can be operated without doors. NHTSA

both a force requirement of two times the curb weight and a 7,000 lb requirement.

⁵ <https://one.nhtsa.gov/DOT/NHTSA/Vehicle%20Safety/Test%20Procedures/Associated%20Files/TP-214-s05.pdf>.

⁶ 74 FR 63180, 63220; December 2, 2009.

⁷ *Id.*