

§ 165.T09-006 Safety Zone; Swim the Bay Event, Presque Isle Bay, Erie, PA.

(a) **Location.** The following area is a temporary safety zone: all waters of Presque Isle Bay, Erie, PA starting in position 47°07'28" N, 080°07'50" W heading northwest to position 42°07'21" N, 080°08'44" W then south to 42°07'13" N, 080°08'46" W then east to 042°07'15" N, 080°08'06" W. The starting and finishing positions are the Erie Yacht Club.

(b) **Effective Period.** This regulation is effective from 9 a.m. to 11 a.m. on June 28, 2007.

(c) **Regulations.** (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) Commercial vessels may request permission from the Captain of the Port Buffalo to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Sector Buffalo on Channel 16, VHF-M.

Dated: April 14, 2008.

S.J. Ferguson,
Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E8-9814 Filed 5-2-08; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2008-01 16-200807b; FRL-8560-4]

Approval and Promulgation of Implementation Plans; Georgia: Enhanced Inspection and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Georgia State Implementation Plan (SIP), submitted by the Georgia Department of Natural Resources, through the Georgia

Environmental Protection Division, on December 28, 2007. The revisions include minor changes to Georgia's Air Quality Rules found at Chapter 391-3 20-17, pertaining to rules for Enhanced Inspection and Maintenance (I/M). Enhanced I/M was required for 1-hour ozone nonattainment areas classified as serious and above, under the Clean Air Act (CAA). The enhanced I/M program is not a required measure for Atlanta for the 8-hour ozone standard pursuant to the CAA because the area is classified as a moderate nonattainment area (73 FR 12013). However, the enhanced I/M program was approved into the SIP for the 1-hour ozone standard and will remain in the SIP until such time that the State removes the requirement. To remove the requirement from the SIP, the State would have to make a demonstration that removal of this program would not interfere with or delay attainment consistent with section 110(1) of the CAA. The I/M program is a way to ensure that vehicles are maintained properly and verify that the emission control system is operating correctly, in order to reduce vehicle-related emissions. Specifically, the changes update the amount of repair costs that may qualify for a waiver for 2008.

This action is being taken pursuant to section 110 of the CAA. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Written comments must be received on or before June 4, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2008-0116, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. *E-mail*: harder.stacy@epa.gov.
3. *Fax*: (404) 562-9019.
4. *Mail*: "EPA-R04-OAR-2008-0116," Regulatory Development Section,

Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. **Hand Delivery or Courier:** Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8965. Ms. Harder can also be reached via electronic mail at harder.stacy@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: April 17, 2008.

Russell L. Wright, Jr.,
Acting Regional Administrator, Region 4.
[FR Doc. E8-9732 Filed 5-2-08; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 00-96; FCC 08-86]

Carriage of Digital Television Broadcast Signals; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on the application of the statutory requirement for nondiscriminatory treatment in carriage of standard definition ("SD") and high definition ("HD") signals. Satellite

carriers should be required to carry the signals of all local broadcast stations in HD and SD if they carry the signals of any local station in the same market in both HD and SD so that subscribers without HD-capable equipment will be able to view all stations. That is, the Commission seeks comment on whether the Communications Act would prohibit satellite carriers from carrying some broadcast stations in both HD and SD but not others.

DATES: Comments for this proceeding are due on or before June 4, 2008; reply comments are due on or before June 19, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. You may submit comments, identified by CS Docket No. 00-96, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For more information on this proceeding, please contact Lyle Elder, Lyle.Elder@fcc.gov, or Eloise Gore, Eloise.Gore@fcc.gov, of the Media Bureau, Policy Division, (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking in CS Docket No. 00-96, FCC 08-86, adopted March 19, 2008, and released March 27, 2008. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this

document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Summary of the Notice of Proposed Rulemaking

I. Second Further Notice of Proposed Rulemaking

1. We seek comment on the scope of satellite carriers' carriage obligations under Section 338 of the Act as the HD carriage requirement becomes effective. In those markets, satellite carriers will be carrying the HD signals from all stations broadcasting in HD. But many subscribers in those markets may not have HD-capable set-top boxes on all sets connected to the DBS system. In such markets, carriage of only an HD signal would mean that those subscribers without HD-capable equipment would not be able to view the programming.

2. In such circumstances, satellite carriers may wish to provide separate SD broadcast feeds in addition to the mandated HD feeds. We seek comment on whether satellite carriers should be required to carry the signals of all local broadcast stations in HD and SD if they carry the signals of any local station in the same market in both HD and SD. That is, we seek comment on whether the Act would prohibit satellite carriers from carrying some broadcast stations in both HD and SD but not others—e.g., under the carry-one, carry-all provisions of section 338(a) of the Act or the nondiscrimination provisions of section 338(d) of the Act.

3. We also seek comment on the applicability of section 338(g)(2) of the Act, added in 2004, which provides that “[i]f the carrier retransmits signals in the digital television service, the carrier shall retransmit such digital signals in such market by means of a single reception antenna and associated equipment.” In local markets where a satellite carrier carries the signal of at least one local broadcaster in both HD and SD format, we seek comment on whether this provision requires that the operator do so for all broadcast stations in that market.

4. Finally, we seek comment on the petition for rulemaking filed by Rancho Palos Verdes (“RPV Petition”), which asks the Commission to adopt rules for satellite carriers that would be similar to the “viewability” provisions governing cable operators. The statutory bases for the cable viewability rules do not

appear to have express DBS equivalents. We seek comment on whether satellite carriers nonetheless have an obligation, under sections 338(a), (d), (g), or any other provision, to provide all subscribers in a local-into-local market with the ability to view all stations carried pursuant to carry-one, carry-all requirements. As a policy matter, should the Commission impose such a requirement in the interests of regulatory parity and for the benefit of consumers?

5. Requiring similar treatment among broadcast stations could help ensure that consumers in local-into-local markets continue to receive all of their local broadcast signals, regardless of their subscription package. On the other hand, we seek comment on the impact of such a requirement on satellite carriers' ability to add local-into-local markets or to meet the HD implementation schedule set forth in the Order (Adopted: 3/19/08, Released: 3/27/08). We seek comment on these and any other legal, factual, or policy issues raised by the above discussion.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

6. As required by the Regulatory Flexibility Act of 1980 (“RFA”), the Commission has prepared an Initial Regulatory Flexibility Analysis (“IRFA”) relating to this *Second Further Notice of Proposed Rulemaking*. The IRFA is set forth in Appendix B.

7. As required by the Regulatory Flexibility Act of 1980, as amended (“RFA”), the Commission has prepared this Initial Regulatory Flexibility Analysis (“IRFA”) of the possible economic impact on a substantial number of small entities by the policies and rules proposed in this *Second Further Notice of Proposed Rulemaking* (“Second Further NPRM”). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second Further NPRM* as indicated on the first page of the Order. The Commission will send a copy of the *Second Further NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (“SBA”). In addition, the *Second Further NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposals

8. This *Second Further NPRM* seeks comment on the scope of satellite carriers' carriage obligations under

section 338 of the Act as the HD carriage requirement becomes effective. It asks whether satellite carriers should be required to carry the signals of all local broadcast stations in HD and SD if they carry the signals of any local station in the same market in both HD and SD. It also asks whether satellite carriers have an obligation, under sections 338(a), (d), (g), or any other provision, to provide all subscribers in a local-into-local market with the ability to view all stations carried pursuant to carry-one, carry all requirements. It seeks comment on whether, as a policy matter, the Commission should impose such a requirement, and on the impact of such a requirement on satellite carriers' ability to add local-into-local markets or to meet the HD implementation schedule set forth in the Order. Finally, it seeks comment on any other legal, factual or policy issues raised by the discussion in the *Further Notice* itself.

2. Legal Basis

9. The authority for the action proposed in this rulemaking is contained in sections 4(i), 4(j), 303(r), 325, 336, 338, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 325, 336, 338, 534, and 535.

3. Description and Estimate of the Number of Small Entities To Which the Proposals Will Apply

10. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under Section 3 of the Small Business Act. Under the Small Business Act, a small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The rules adopted herein will directly affect small television broadcast stations and small satellite carriers. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

11. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than \$13.0 million in annual receipts. Business concerns included in this industry are those "primarily engaged in broadcasting images together with sound." The Commission has estimated the number of licensed

commercial television stations to be 1,376. According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database (BIA) on March 30, 2007, about 986 of an estimated 1,374 commercial television stations (or approximately 72 percent) have revenues of \$13.0 million or less and thus qualify as small entities under the SBA definition. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 380. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

12. In addition, an element of the definition of "small business" is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of "small business" is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

13. *Satellite Carriers.* The term "satellite carrier" includes entities providing services as described in 17 U.S.C. 119(d)(6) using the facilities of a satellite or satellite service licensed under Part 25 of the Commission's rules to operate in Direct Broadcast Satellite ("DBS") or Fixed-Satellite Service ("FSS") frequencies. As a general practice, not mandated by any regulation, DBS licensees usually own and operate their own satellite facilities as well as package the programming they offer to their subscribers. In contrast, satellite carriers using FSS facilities often lease capacity from another entity that is licensed to operate

the satellite used to provide service to subscribers. These entities package their own programming and may or may not be Commission licensees themselves. In addition, a third situation may include an entity using a non-U.S. licensed satellite to provide programming to subscribers in the United States pursuant to a blanket earth station license. Since 2007, the SBA has recognized satellite television distribution services within the broad economic census category of Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. The most current Census Bureau data, however, are from the last economic census of 2002, and we will use those figures to gauge the prevalence of small businesses in this category. Those size standards are for the two census categories of "Satellite Telecommunications" and "Other Telecommunications." Under both prior categories, such a business was considered small if it had \$13.5 million or less in average annual receipts.

14. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of Wired Telecommunications Carriers. However, as discussed above, we rely on the previous size standard, Cable and Other Subscription Programming, which provides that a small entity is one with \$13.5 million or less in annual receipts. Currently, only two operators—DirecTV and EchoStar Communications Corporation ("EchoStar")—hold licenses to provide DBS service, which requires a great investment of capital for operation. Both currently offer subscription services and report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS licensee. Nevertheless, given the absence of specific data on this point, we acknowledge the possibility that there are entrants in this field that may not yet have generated \$13.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

15. *Fixed-Satellite Service ("FSS").* The FSS is a radiocommunication service between earth stations at a

specified fixed point or between any fixed point within specified areas and one or more satellites. The FSS, which utilizes many earth stations that communicate with one or more space stations, may be used to provide subscription video service. Therefore, to the extent FSS frequencies are used to provide subscription services, FSS falls within the SBA-recognized definition of Wired Telecommunications Carriers. However, as discussed above, we rely on the previous size standard, Cable and Other Subscription Programming, which provides that a small entity is one with \$13.5 million or less in annual receipts. Although a number of entities are licensed in the FSS, not all such licensees use FSS frequencies to provide subscription services. Both of the DBS licensees (EchoStar and DirecTV) have indicated interest in using FSS frequencies to broadcast signals to subscribers. It is possible that other entities could similarly use FSS frequencies, although we are not aware of any entities that might do so.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

16. The *Second Further NPRM* seeks comment on rules that would primarily impose requirements on satellite carriers, and as discussed above few if any satellite carriers qualify as small entities. Small satellite carriers currently have obligations with respect to carriage of local commercial and non-commercial broadcast stations. The obligations would be increased by the rules contemplated in the Further Notice of Proposed Rulemaking (*Further NPRM*), but would not change in kind. As with existing statutory and regulatory requirements, small satellite carriers will need engineering and legal services to comply with the proposed rules, but if the proposed rules are implemented we do not anticipate that this need will be any different for small carriers than for large carriers. Small broadcast stations would be affected by the proposed rules, although likely in a positive way, and could be affected by other proposals raised in response to the *Further NPRM*. Also, initially, broadcasters may need additional legal services.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

17. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of

differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. We seek comment on the applicability of any of these alternatives to affected small entities.

18. The requirements proposed in the *Second Further NPRM* would in most cases create minimal economic impact on small entities, and in some cases could provide positive economic impact. Station licensees and other parties are encouraged to submit comment on the proposals' impact on small television stations. Every effort will be made to minimize the impact of any adopted proposals on small satellite carriers. Finally, we are mindful of the potential concerns of small entities and will, therefore, continue to carefully scrutinize our policy determinations going forward. We invite small entities to submit comment on how the Commission could further minimize potential burdens on small entities if the proposals provided in the *Second Further NPRM*, or those submitted into the record, are ultimately adopted.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

19. None.

B. Initial Paperwork Reduction Act Analysis

20. This *Second Further Notice of Proposed Rulemaking* has been analyzed with respect to the PRA and does not contain proposed information collection requirements. 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.

C. Ex Parte Rules

21. *Permit-But-Disclose*. This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under section 1.1206(b) of the Commission's Rules. *Ex parte* presentations are permissible if disclosed in accordance with Commission Rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded

that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

D. Filing Requirements

22. *Comments and Replies*. Pursuant to sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before June 4, 2008, and reply comments on or before June 19, 2008, using: (1) The Commission's Electronic Comment Filing System ('ECFS'), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

• *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

• For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

• *Paper Filers*: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the

Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

23. Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.

24. Accessibility Information. To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov>.

E. Additional Information

25. For more information on this *Second Further Notice of Proposed Rule Making*, please contact Lyle Elder, Lyle.Elder@fcc.gov, or Eloise Gore, Eloise.Gore@fcc.gov, of the Media Bureau, Policy Division, (202) 418-2120.

26. *It is further ordered* that the Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Second Further Notice of Proposed Rule Making*, including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable television, Digital television, Multichannel video programming distributors, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.
[FR Doc. E8-9747 Filed 5-2-08; 8:45 am]
BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 107

[Docket No. PHMSA-2008-0010 (HM-208G)]

RIN 2137-AE35

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This rule proposes to amend the statutorily-mandated registration and fee assessment program for persons who transport, or offer for transportation, certain categories and quantities of hazardous materials. For those registrants not qualifying as a small business or not-for-profit organization, we are proposing to increase the fee from \$975 (plus a \$25 administrative fee) to \$2,475 (plus a \$25 administrative fee) for registration year 2009-2010 and following years. The proposed fee increase is necessary to fund the national Hazardous Materials Emergency Preparedness (HMEP) grants program at approximately \$28,000,000 in accordance with the Administration's Fiscal Year 2008 budget.

DATES: Submit comments by July 14, 2008.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number PHMSA-2008-0010 by any of the following methods:

- *Fax:* 202-493-2251.
- *Mail:* Dockets Management System; U.S. Department of Transportation, Dockets Operations, M-30, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.
- *Hand Delivery:* U.S. Department of Transportation, Dockets Operations, M-30, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: Include the agency name and docket number PHMSA-2008-0010 (HM-208G) or Regulatory Identification Number (RIN) RIN 2137-AE35 for this rulemaking at the beginning of your comment. Note that all comments received will be posted, without change, to <http://www.regulations.gov> including any personal information provided. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Docket: You may review the public docket through the Internet at <http://www.regulations.gov> or in person at the Dockets Operations office at the above address (See **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Mr. David Donaldson, Office of Hazardous Materials Planning and Analysis, PHMSA, (202) 366-4484, or Ms. Deborah Boothe, Office of Hazardous Materials Standards, PHMSA, (202) 366-8553.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1992, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has conducted a national registration program under the mandate in 49 U.S.C. 5108 for persons who offer for transportation or transport certain hazardous materials in intrastate, interstate, or foreign commerce. The purposes of the registration program are to gather information about the transportation of hazardous materials, and fund the Hazardous Materials and Emergency Preparedness (HMEP) grants program. The HMEP grants program supports hazardous materials emergency response planning and training activities by States, local governments, and Indian tribes. See 49 U.S.C. 5108(b), 5116. PHMSA has discretion to require additional persons to register, beyond those offerors and transporters of the categories and quantities of hazardous materials listed in 49 U.S.C. 5108(a)(1), and to set the annual registration fee between the statutorily-mandated minimum and maximum amounts. See 49 U.S.C. 5108(a)(2), 5108(g)(2)(A).

To meet Congressionally-authorized funding of \$14.3 million for the HMEP grants program, in 2000, we expanded the base of registrants and adopted a two-tier fee schedule under which the registration fee was set at \$275 for persons qualifying as small businesses under Small Business Administration (SBA) criteria, and \$1,975 for other persons (plus a \$25 processing fee in all cases). (69 FR 7297) Due to a surplus, in 2003, we temporarily adjusted the