Moreover, new licensing of General Category channels will not occur for several months, when the Commission conducts an auction to award geographic area licenses. The transferee of this type of Goodman/Chan license thus acquires an expectancy of achieving exclusive channel use. The expectancy would be met provided that the assignee or transferee incorporates the channel into an aggregately loaded system, or demonstrates loading at the constructed site of seventy mobiles.

30. Although the *Goodman/Chan Order* does not extend relief to any licensee other than the Goodman/Chan Receivership, we conclude that similarly situated General Category SMR licensees should receive the same four-month construction period extension granted therein. In the *Goodman/Chan Order,* we based our limited grant of relief on the fact that during the pendency of the petition, we had replaced our eight-month construction requirement with a twelve-month construction requirement for SMR licensees licensed in the General Category. We granted the Goodman/Chan Receivership Licensees a four-month extension to their original eight-month construction period to place them in the same posture as other SMR licensees who had obtained twelve months to construct.

31. We believe the same relief should be extended to similarly situated non-Goodman/Chan General Category SMR licensees. However, in order to be granted this limited relief, these licensees must have originally been granted an eight-month construction period and must have a valid extension request on file with the Commission. Eligible licensees will receive the same four-month period to construct that we granted to the Goodman/Chan Receivership, which is a period of four months to begin upon publication of the *Goodman/Chan Order* in the **Federal Register**.

32. In this *Memorandum Opinion and Order,* we dismiss the Receiver's December 1 Petition. We find that the Receiver, Daniel R. Goodman, does not have standing to file the December 1 Petition. Individual licensees are therefore responsible to address the Bureau with individual licensing problems. We also conclude that both the Goodman/Chan Receivership and other similarly situated General Category Licensees shall have four months to construct and commence operation of their licensed facilities from the date that the *Goodman/Chan Order* is published in the **Federal Register**. We will not cancel any subsequently granted licenses on channels occupied by members of the Goodman/Chan Receivership who reported that they had not fully loaded their channels. We also decline to cancel properly granted co-channel licenses.

33. We direct the Bureau to reinstate the fourteen licenses reinstated by the *Goodman/Chan Order,* as well as thirty-two of the additional ninety-two licenses identified by the Receiver on February 3, 1998. We will allow the Goodman/Chan Receivership and other General Category licensees to transfer unconstructed licenses until ninety days after the release of this *Memorandum Opinion and Order and Order on Reconsideration.* Lastly, on our own motion, for those licensees whose license is scheduled to expire prior to the end of the four-month construction period, we will toll the license term to coincide with the last day of the four-month construction period, so long as the affected licensees previously timely filed a license renewal application. We deny the Receiver's February 3 Reinstatement Petition, to the extent provided in this *Memorandum Opinion and Order and Order on Reconsideration.* We also dismiss both the Brown and Schwaninger Petition and the Receiver's Motion for Clarification as untimely filed. In conjunction with the D.C. Circuit action holding in abeyance the stay request brought by the Receiver, our Office of General Counsel has stated to the Court that the *Goodman/Chan Order* will not be published in the **Federal Register** until the Court has an opportunity to consider the pending Motion for Stay. Accordingly, as a matter of courtesy, we instruct the Secretary not to submit this *Memorandum Opinion and Order and Order on Reconsideration* and the *Goodman/Chan Order* to the Office of the Federal Register for publication in the **Federal Register** until twenty days after the release date of this Order. This twenty-day deferral of submission will afford the Receiver an opportunity to advise the Court of its intention with respect to the stay request and, should the Receiver pursue that litigation, the Court will have an opportunity to rule.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–22947 Filed 8–26–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[FCC 95–211]

800 MHz SMR Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) addresses petitions for waiver which establishes the maximum period for Specialized Mobile Radio (SMR) licensees to construct their facilities and commence operation. The document grants certain licensees an additional four months to construct and commence operations of their licenses. The Commission partially granted the waiver petitions because during the pendency of the waiver petitions, it had changed the construction period for all new Commercial Mobile Radio Service (CMRS) licenses, including conventional SMR licenses, from eight months to twelve months. Thus, the basis for granting the additional four months to these licensees was to place them in the same posture as CMRS providers licenses after January 2, 1995, when the new rule took effect.

DATES: Licensees have four months from August 27, 1998 to construct and commence operation of their licenses.

FOR FURTHER INFORMATION CONTACT: Terry Fishel at (717) 338–2602 or Ramona Melson or David Judelsohn at (202) 418–7240.

SUPPLEMENTARY INFORMATION:

1. This order addresses petitions for waiver of Section 90.633(c) of the Commission's Rules, which establishes the maximum period for Specialized Mobile Radio (SMR) licensees to construct their facilities and commence operation. The petitions were filed on March 15, 1994 and March 21, 1994, respectively, by Dr. Robert Chan and Daniel R. Goodman. On April 6, 1994, the Private Radio Bureau released a *Public Notice* 59 FR 17547 (April 13, 1994) seeking comments on the Goodman and Chan petitions. Based on the facts set forth in the petitions and the comments filed in this matter, we conclude that the waivers requested by Chan and Goodman should be granted to the extent described below.

2. The Goodman and Chan petitions are brought by or on behalf of approximately 4,000 individuals who have obtained 800 MHz conventional SMR licenses on General Category channels by using the services of one of

several companies that are the subject of an enforcement action brought by the Federal Trade Commission. These companies have used TV infomercials and telemarketing solicitations to promote SMR licenses as ''investment opportunities'' for individuals. The typical service offered by these companies is to prepare SMR applications for a substantial fee (usually $7000 per application). The companies typically induce potential customers to purchase these services by representing that SMR licenses have great value that can be recouped through subsequent resale of these licenses, but do not emphasize the obligations to which each licensee is subject.

3. The Commission has taken steps to protect the public against deception and misinformation. In December 1992, the Commission issued a public ''Consumer Alert'' regarding SMR licensing. Among other things, the alert stated that SMR licenses could be obtained directly from the FCC for a $35 fee, that licensees would be required to construct facilities within eight months or lose their licenses, and that licenses could not be sold or transferred prior to construction. The Commission also developed a consumer information packet, which is sent to individuals who contact the Commission after being solicited by SMR application companies. The Commission also assisted the Federal Trade Commission (FTC) in preparing a consumer information pamphlet issued in January 1994.

4. The Commission has actively cooperated with the Federal Bureau of Investigation, the FTC and the Securities Exchange Commission in investigations of SMR application companies. In January 1994, one such investigation culminated in a lawsuit brought by the FTC in U.S. District Court against four companies, Metropolitan Communications Corp., Nationwide Digital Data Corp., Columbia Communications Services Corp., and Stephens Sinclair Ltd. (the ''Receivership Companies''). In its complaint, the FTC alleged that approximately 4,000 individuals who were assisted by the Receivership Companies in obtaining licenses for conventional SMR channels were defrauded and misled as to the FCC rules by the sales practices of these companies. The first phase of the scheme involved selling consumers application preparation services for FCC licenses at excessive cost. In the second phase of the scheme, certain defendants used misrepresentations to solicit the purchase of shares in partnerships that would purportedly construct and operate SMR systems in various cities. On January 14, 1994, the court issued a preliminary injunction freezing the assets of the Receivership Companies and their principal officers and appointed Daniel R. Goodman as Receiver of the Receivership Companies.

5. *Waiver Requests.* On March 15, 1994, Dr. Robert Chan filed a petition for waiver on his own behalf as licensee of five SMR stations acquired through two of the Receivership Companies. Dr. Chan requested an additional year in which to build and place his facilities in operation. On March 21, 1994, Daniel Goodman, the court-appointed Receiver, filed a petition for waiver on behalf of all SMR licensees who have received licenses through the Receivership Companies. Noting that virtually no construction had taken place under these licenses and that automatic license cancellation was imminent, Goodman requested an eight month extension of time for all such licensees to construct and commence operations, starting from the petition grant date. Goodman also requested a 120-day emergency stay of all automatic cancellations of licenses during the pendency of the petition. Goodman indicated that its request for waiver was limited to the Commission's eight month construction deadline, and no request was made to waive any of the other requirements that apply to General Category channels.

6. On April 21, 1994, Goodman filed a supplement to his initial waiver request asking that we waive the Commission's requirement of a separate waiver fee for each individual license covered by the petition. On April 29, 1994, Goodman filed another supplement requesting that the Commission (1) issue a stay (retroactively effective January 14, 1994) of any cancellation of the exclusive SMR authorizations during the pendency of the waiver request; (2) suspend the mailing of automatic cancellation notices to affected licensees; and, (3) if the request for waiver is denied, grant the licensees a 120-day period from the date of such denial in which to construct their facilities. In this supplemental request, Goodman stated that petitioners needed ''an additional eight month period to construct and load their licensed facilities,'' indicating that compliance with the Commission's mobile loading requirements for the General Category channels was contemplated.

7. *Public Notice and Comments on Petitions.* On April 6, 1994, the Private Radio Bureau issued a Public Notice seeking comments and replies on the Goodman and Chan petitions. Approximately 300 comments and five replies were received. Many comments in support of the Goodman petition were submitted by individual licensees who received their licenses through the services of the Receivership Companies. In addition, the FTC has submitted a letter to the Commission supporting the Goodman petition. Oppositions to the waiver requests have been filed by major SMR operators, frequency coordinators, and trade associations, including Nextel Communications, Inc., the American Mobile Telecommunications Association, the Association of Public-Safety Communications Officials-International, National Association of Business and Educational Radio, American Digital Communications, the Industrial Telecommunications Association and Council of Independent Communication Suppliers, Express Communications, TC3M, Inc., and Brown and Schwaninger.

A. Receiver's Standing as Party in Interest

8. *Background and Comments.* As a threshold issue, several commenters argue that Goodman lacks standing to bring a waiver petition on behalf of multiple SMR licensees. These commenters note the apparent lack of an express agreement between the licensees (individually or as a group) and the Receiver for the latter to represent them. In addition, commenters assert that Goodman's status as Receiver is insufficient to make him a real-party-in-interest with respect to the licenses at issue. The Receiver's duty is to receive monies due and owing to the Receivership Companies so that these funds can be used to satisfy the debts of these companies and their creditors. Because any monies received from the sale of the licenses would go directly to the licensees and not to the Receivership Companies, commenters argue, the Receiver has no interest that would be affected by the request.

9. In reply, Goodman argues that he is the proper entity to submit waiver requests on behalf of all the licensees. First, Goodman argues that he should be recognized as having standing for reasons of administrative convenience because requiring each licensee to file an individual waiver petition would be unduly burdensome. Goodman also contends that because many of the licensees entered into management agreements with the Receivership Companies, the licensees depend on the Receiver to take whatever actions are necessary to preserve the validity of their authorizations. Finally, Goodman

alleges that no licensee has objected to the Receiver's filing of a petition on behalf of all licensees.

10. *Decision.* We conclude on grounds of administrative convenience that Goodman should be deemed to have standing to file the instant petition. Although this case involves multiple licenses, weighing the merits of the waiver request for each licensee involves evaluating a common fact situation rather than a diverse set of facts for each licensee. Because the request for waiver for all of the licensees is based on common facts, it would be a waste of time and resources to require each licensee to file individually. There is also no evidence that any licensee has objected to the Receiver filing the waiver petition on his or her behalf. For purposes of the Goodman petition, therefore, we believe that it is in the public interest to consider the Receiver as representing the interests of all licensees whose interests are affected by the FTC's action against the Receivership Companies.

B. Waiver of Application Fees

11. *Petition.* Section 1.1102 of the Commission's Rules requires waiver petitions to be accompanied by a $105 fee for each rule section that the petitioner seeks to waive multiplied by the number of stations to which the petition applies. Although the Goodman petition was filed on behalf of multiple licensees, Goodman has submitted only a single $105 waiver petition fee instead of a separate fee for each affected license. The Chan petition was not accompanied by any fee payment. Goodman has requested that the Commission waive the requirement of a separate fee for each license and accept the single payment as sufficient. Goodman argues that the public interest warrants waiving the fee requirement because the purpose of the underlying waiver petition is to allay potential financial hardship to defrauded licensees and a fee waiver would avoid a further depletion of the licensees' funds.

12. *Comments.* The Public Notice did not solicit comment on the Receiver's request for waiver of fees because it was filed subsequent to the release of the Public Notice. Nevertheless, a few comments on the issue of waiving filing fees were submitted. Express Communications in particular opposes waiving the fee requirement on the grounds that there is no provision in the rules to lump multiple requests together for a single fee.

13. *Decision.* Section 1.1115(a) of the Commission's rules permits the waiver of fees where good cause is shown and where waiver would promote the public interest. If we were to require a separate fee for each licensee that is covered by the Goodman petition, the total fees due (based on 4,000 licensees) would total $420,000. We believe that waiving this fee amount is in the public interest. The Goodman petition was filed in an attempt to limit the financial harm caused to licensees by the alleged fraudulent conduct of the Receivership Companies. The petition also raises substantive issues that we believe should be decided on the merits. We therefore conclude that good cause exists to waive the filing fee requirement. For the same reasons, we also waive the fee requirement with respect to the Chan petition on our own motion.

C. Waiver of Construction and Operation Deadline

14. *Petition.* In support of his waiver petition, Goodman contends that the individuals who obtained licenses through the Receivership Companies are threatened with an aggregate loss of $28,000,000 (calculated based on 4,000 licenses times the $7,000 application fee paid by each licensee) if their licenses are allowed to expire. Goodman states that neither the licensees nor the Receiver have the financial or technical resources to construct SMR facilities pursuant to their authorizations within the required eight-month period. Goodman states that he is in the process of negotiating and finalizing the sale and assignment of thousands of these licenses to large, legitimate, publicly-traded SMR companies. Because Commission rules do not allow the assignment or transfer of unconstructed SMR licenses, however, Goodman requests that the licensees be given additional time to construct so that they can then sell the stations and potentially recoup their investment. Without such an extension, Goodman contends, the number of licenses that may be transferred will be substantially diminished. The Receiver contends that if the licensees are granted additional time to construct, they will be able to place in operation and load their channels as required by our rules.

15. The Receiver acknowledges that many of the licensees on whose behalf the waiver is sought were unaware of their obligations under the Commission's Rules, including the intention to construct and operate and the eight month construction requirement. Goodman contends that their lack of knowledge should be excused, however, on the grounds that the licensees were defrauded by the Receivership Companies concerning their responsibilities as licensees. Goodman also notes that the Commission has granted extended construction periods for licensees of wide-area, multi-site SMR systems and urges us to treat the individual licensees in this case as similarly entitled to extended construction authority on a collective basis. Finally, Goodman argues that a waiver grant would not compromise efficient use of spectrum or otherwise be contrary to the public interest. If additional time for construction is allowed, he argues, the systems can be constructed and the Commission's policies fulfilled with only a brief delay.

16. The Chan petition raises essentially the same issues as the Goodman petition with respect to the five SMR licenses held by Dr. Chan. Dr. Chan states that he acquired licenses through two of the Receivership Companies and that one of the companies, Nationwide Digital, had undertaken to construct and operate Dr. Chan's SMR facilities. Because Nationwide does not have the capability to construct the stations in time, Dr. Chan requests a one-year extension so that he can employ other business entities to construct and operate his SMR stations.

17. *Comments.* The FTC supports the Goodman petition on the grounds that an extension of the construction and operation deadline would help to alleviate the financial injury suffered by the 4,000 licensees. Licensees would directly benefit by a rule waiver, the FTC contends, because it would give the Receiver adequate time to negotiate arrangements with legitimate SMR operators to manage and/or construct the stations. The FTC further argues that these arrangements would indirectly benefit other investors who have been defrauded by the Receivership Companies because reducing the licensees' damages will preserve the assets of the Receivership Companies as a source of redress for other claims.

18. Many individual licensees have submitted comments in support of the Goodman petition. These commenters echo Goodman's argument that an extension of time is necessary to allow construction of their SMR stations because of the delay engendered by the Receivership Companies' fraudulent scheme.

19. Petition opponents argue that extending the construction and operation deadline is an inappropriate remedy for licensees who made speculative and ill-advised investments. The purpose of the waiver request, opponents contend, is not to promote development of SMR service, but to

protect the interests of a group of licensees who hope to make a profit from selling their licenses to established operators. Opponents assert that the Commission cannot act as the guarantor of the public's investment decisions. Opponents also argue that licensees are charged with knowing and fulfilling the responsibilities of holding a license. If these licensees were in fact victims of fraud, opponents argue, they have legal remedies other than an extension of the construction and operation deadline. Opponents assert that the Commission would better serve the public interest by allowing these licenses to lapse so that the Commission can relicense these frequencies directly to legitimate operators.

20. *Decision.* To obtain a waiver of our construction requirements, petitioners must demonstrate that their circumstances are unique, that there is no reasonable alternative solution within existing rules, and that good cause exists to justify the requested relief. The thrust of petitioners' argument is that they should be excused from the eight-month construction requirement because they were the victims of fraud by the Receivership Companies. As discussed more fully below, we will waive our rules to the extent necessary to put petitioners in the same posture as other part 90 CMRS providers now subject to a twelve-month construction period under our rules. Specifically, we will grant petitioners a four-month extension from the effective date of this Memorandum Opinion and Order to construct and commence operations. A four-month extension augments petitioners' original eight-month construction period to the degree necessary to give them the twelve months to build their systems that we allowed for all Part 90 CMRS licensees in the Third Report and Order in General Docket No. 93–252. We emphasize, however, that all other requirements in our rules continue to apply. In particular, as licensees on General Category channels, petitioners do not earn exclusive use of their channels unless they have achieved loading of 70 mobiles per channel. To the extent that petitioners have less than 70 mobiles operating on each of their channels, additional licensees may be licensed to use those channels. We believe our decision to grant petitioners limited relief in this manner in no way undermines our commitment to strict enforcement of our construction rules, which are intended to promote efficient use of SMR spectrum and the availability of service to the public.

21. Since the inception of the SMR service, our rules have required licensees to comply with strict time limits for constructing and loading their systems. These limits were viewed as essential to ensuring that SMR spectrum would be used efficiently, and to promote the rapid deployment of services to the public. We have enforced these rules strictly in order to recover unused spectrum for relicensing. We have particularly noted the importance of enforcing our construction requirements with respect to the General Category channels, on which the petitioners are licensed. In this regard, we have stated our intent ''to aggressively enforce Section 90.633 of our Rules requiring that conventional 800 MHz systems be placed in operation eight months after the date of the grant of the license for the system.''

22. Our policy of strict enforcement of our construction requirements has led us to deny extensions in a wide variety of circumstances in which the failure of SMR licensees to comply with our construction or loading requirements resulted from circumstances that were the result of the licensees' own business decisions or of risks commonly assumed by all licensees. For example, in P & R Temmer, an SMR licensee sought an extension of our construction and loading requirements because it had been required to change its transmitter site to eliminate technical problems and because of the equipment manufacturer's alleged reluctance to aggressively market the system to potential customers. In denying the waiver, we concluded that problems with site selection and marketing strategy were not beyond the licensee's control because they resulted from independent business judgments made by the licensee. We have applied this standard in other circumstances as well, denying extension requests by SMR licensees who have been delayed by such factors as interference from adjacent buildings, zoning difficulties, inability to obtain construction permits, and equipment delivery problems.

23. In this respect, the facts of the present case bear a strong resemblance to the facts in Robert A. Baker, Receiver, a case involving individuals who were solicited by a company to prepare and file cellular applications on their behalf. Shortly before the filing deadline, the FTC brought a fraud action against the company and the court appointed a receiver to assist the victims of the alleged fraud. The receiver sought waiver of the deadline to enable the affected parties to submit applications and the request was supported by the FTC. In a decision affirmed by the Commission, the Common Carrier Bureau denied the waiver request. The Bureau concluded that the individual applicants were responsible for the consequences of their decision to use a mass application preparer, and that there was no evidence of compelling circumstances that would justify waiver of the filing deadline. If the applicants had been defrauded, the Bureau further stated, the appropriate remedy was to seek indemnification from the party that had committed the fraud, not belated insertion into the lottery. The Bureau concluded that the ''tribulations of a mass application preparer cannot excuse the individual applicants from their responsibilities.''

24. We also conclude that the principles set forth in Baker are relevant here. Each individual licensee who hired the Receivership Companies bears responsibility for the decision to rely on a third party to act on his or her behalf in meeting the obligations imposed by the Commission's rules. Assuming that these licensees were defrauded by the Receivership Companies, they have recourse to other legal remedies specifically designed to provide redress. The Commission's mandate, however, is to allocate and assign radio spectrum to serve the public interest.

25. Our decision to grant the petitions in part is motivated by our determination that granting the waiver is equitable in light of the fact that during the pendency of the Goodman and Chan requests, we changed our construction requirements for SMRs licensed in the General Category and all CMRS providers licensed under part 90 of our rules. In the Third Report and Order in the CMRS docket, we adopted a uniform twelve-month construction period for all CMRS providers licensed under part 90 of our rules. We indicated that such a rule change would eliminate the obvious disparity between Part 90 and Part 22 and would further the goal of comparable regulation for all substantially similar services. Recently, on grounds similar to our decision here, the Private Radio Bureau granted 220 MHz non-nationwide licensees a four-month extension to construct their stations. Petitioners and future applicants should not interpret our decision today as a sign of any diminution of our resolve to enforce the twelve-month construction period that applies to General Category and other part 90 CMRS licensees. Like the licensees in Baker, petitioners are fully responsible for the consequences of their decision to use a mass application preparer.

26. We nonetheless find that the request at hand are distinguishable from Baker and other cases in which we denied construction time extensions on

the grounds that we changed our rules while the Goodman and Chan petitions were pending before us. In the interests of fairness, we will grant petitioners the relief necessary to place them in the same posture as other SMR licensees that are subject to a twelve-month rule. We will not, however, permit petitioners who have not achieved loading of 70 mobiles to treat their channels as exclusive. Such relief was not requested and, indeed, was deemed by the Receiver to be unnecessary.

27. We are granting petitioners only limited relief, and for the reasons stated above. To grant this relief for the reasons stated by the petitioners would undermine the objectives of our construction requirements. As we have noted on numerous occasions, the purpose of the prohibition against assignment or transfer of unconstructed licenses is to deter speculation and trafficking in licenses. Even if we assume that many of the licensees at issue here were unaware of or misinformed about this rule, as appears likely, petitioners do not dispute that these licensees were primarily interested in acquiring SMR licenses as a form of investment that they could subsequently sell for a profit. We believe it would be incongruous to grant waivers to licensees on this basis when we have consistently denied them to licensees who had a bona fide intent to construct and operate SMR systems but were unable to construct because of adverse business decisions. The Commission has previously noted that frequencies in the 800 MHz band are extremely scarce in many areas, making it difficult for applicants to obtain channels. Moreover, the licenses at issue here are for General Category frequencies, which may be licensed not only to SMR operators but also to public safety entities and other categories of private radio users.

28. We also want to be clear that by granting limited relief for the reasons stated, we do not intend to reward and encourage further speculative activity by entities like the Receivership Companies and possibly invite abuse of the Commission's processes. The problem of application mills is one that we have encountered and continue to encounter in a number of services. If we were to grant a waiver on the grounds that such action was needed to afford relief to the unwitting victims of a few such companies, the result almost inevitably would be to encourage numerous similar requests. Furthermore, we would be compelled in each case to ascertain whether the licensee in fact was a victim of fraud or was claiming fraud as a pretext.

Finally, the grant of a waiver for the reasons stated by petitioners could inadvertently become a tool used by the application mills themselves in their solicitation of new clients, resulting in more unsuitable applicants seeking Commission licenses. We do, however, affirm our commitment to pursue ongoing initiatives and explore new ways to deter the practices of application mills and alert the public regarding licensing fraud.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–22946 Filed 8–26–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 595

[NHTSA–98–4342]

RIN 2127–AH25

Air Bag On-Off Switches

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

ACTION: Final rule: response to petitions for reconsideration.

SUMMARY: This document responds to the petitions for reconsideration and letters seeking non-rulemaking action that NHTSA received in response to its final rule exempting motor vehicle dealers and repair businesses from the statutory prohibition against making Federally-required safety equipment inoperative so that they could install air bag on-off switches for vehicles owned or operated by individuals within discrete risk groups. This document denies the petitions for reconsideration. NHTSA will, however, change its current policy with regard to one of the three issues raised in the letters seeking agency action not requiring a rulemaking procedure.

FOR FURTHER INFORMATION CONTACT: For information about air bag on-off switches and related rulemaking, call the NHTSA Hotline at 1–800–424–9393; in the D.C. area, call 202–366–0123. In addition, visit the NHTSA Web site at http://www.nhtsa.dot.gov/airbags/. Among the available materials are descriptions of the procedures for requesting authorization to obtain an on-off switch and a list of questions and answers about air bags and on-off switches. There are also crash videos showing what happens in a crash to a belted, short-statured dummy whose driver air bag is turned off.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Letter from National Association of Independent Insurers
III. Letter from National Association of Pediatric Nurse Associates and Practitioners, Inc.
IV. Petition from Mitsubishi Motors R&D of America
V. Petition from American Car Rental Association
VI. Petitions from Members of the General Public

I. Background

On November 18, 1997, the National Highway Traffic Safety Administration, Department of Transportation, issued a final rule which allows for the installation of air bag on-off switches under limited conditions. (62 FR 62406) Effective January 19, 1998, the rule exempts motor vehicle dealers and repair businesses from the statutory prohibition against making federally-required safety equipment inoperative so that they may install, subject to certain conditions, retrofit manual on-off switches for the air bags of vehicle owners whose request is authorized by NHTSA. To obtain such authorization, vehicle owners must submit a request form to NHTSA on which they have certified that they have read an agency information brochure about air bag benefits and risks and that they or a user of their vehicle is a member of one of the risk groups specified by the agency. The agency began processing and granting requests December 18, 1997.

NHTSA received 20 petitions for reconsideration of the final rule. Sixteen of these petitions are from members of the general public, and the other four are from organizations. The content of two of the organizational petitions, those from the National Motorists Association and the National Motorists Association, New Jersey Chapter, is very similar to that of the petitions from the general public. Accordingly, they are discussed together with the general public petitions. All other organizational petitions are addressed separately. NHTSA also received two letters that were characterized as petitions for reconsideration but which did not seek any rulemaking action from the agency. Each of the letters are addressed separately.

II. Letter From National Association of Independent Insurers

In the preamble to the Final Rule, NHTSA stated that it would continue to