In developing safe harbors for a criminal statute, the OIG is compelled to engage in a complete and thorough review of the range of factual circumstances that may fall within the proposed safe harbor subject area so as to uncover all potential opportunities for fraud and abuse. Only then can the OIG determine, in consultation with the Department of Justice, whether it can effectively develop regulatory limitations and controls that will permit beneficial and innocuous arrangements within a subject area while, at the same time, protecting the Federal health care programs and their beneficiaries from abusive practices.

II. Solicitation of Additional New Recommendations and Proposals

In accordance with the requirements of section 205 of Public Law 104–191, the OIG is continuing to study safe harbor and Special Fraud Alert proposals submitted in response to the annual solicitations concerning subject areas other than those to be addressed in the safe harbor rulemakings under development. In response to the 2 previously-issued **Federal Register** solicitation notices, the OIG received 32 timely-filed responses to the 1996 notice and 17 responses to the 1997 notice. A status report of these public comments for new and modified safe harbors is contained in Appendix G of the OIG's Semiannual Report for the period April 1, 1998 through September 30, 1998.[1] The OIG is currently taking these recommendations under advisement and is not seeking additional public comment on those proposals at this time. Rather, this notice seeks additional recommendations from affected provider, practitioner, supplier and beneficiary representatives regarding the development of proposed or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized in Appendix G of the OIG Semiannual Report.

Criteria for Modifying and Establishing Safe Harbor Provisions

In accordance with the statute, we will consider a number of factors in reviewing proposals for new or modified safe harbor provisions, such as the extent to which the proposals would effect an increase or decrease in—

- Access to health care services;
- The quality of care services;
- Patient freedom of choice among health care providers;
- Competition among health care providers;
- The cost to Federal health care programs;
- The potential overutilization of the health care services; and
- The ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

In addition, we will also take into consideration the existence (or nonexistence) of any potential financial benefit to health care professionals or providers that may vary based on their decisions whether to (1) order a health care item or service, or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

Criteria for Developing Special Fraud Alerts

In determining whether to issue additional Special Fraud Alerts, we will also consider whether, and to what extent, those practices that would be identified in new Special Fraud Alerts may result in any of the consequences set forth above, and the volume and frequency of the conduct that would be identified in these Special Fraud Alerts.

A detailed explanation of justifications or empirical data supporting the suggestion, and sent to the address indicated above, would prove helpful in our considering and drafting new or modified safe harbor regulations and Special Fraud Alerts.

Dated: December 4, 1998.

June Gibbs Brown,

Inspector General.

[FR Doc. 98–32806 Filed 12–6–98; 8:45 am]

BILLING CODE 4150–04–P

[1] The OIG Semiannual Report can be accessed through the OIG web site at http://www.dhhs.gov/progorg/oig/semann/index.htm.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 98–278]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Between September, 1997 and March, 1998, the Commission's Wireless Telecommunications Bureau and Common Carrier Bureau hosted a series of *ex parte* meetings with representatives of the wireless telecommunications industry. The Bureau's primary objective in hosting those meetings was to solicit proposals on methods by which wireless telecommunications providers might allocate between the intrastate and interstate jurisdictions their end-user telecommunications revenues for purposes of the universal service reporting requirements. In this document, the Commission seeks comment on what amount of local usage, if any, eligible telecommunications carriers should be required to provide.

DATES: Comments are due on or before January 11, 1999 and reply comments are due on or before January 25, 1999.

Written comments by the public on the proposed information collections are due January 11, 1999. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before February 8, 1999.

ADDRESSES: Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Lori Wright, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400. For additional information concerning the information collections contained in this Further Notice of Proposed Rulemaking contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on October 26, 1998. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., 20554.

Initial Paperwork Reduction Act Analysis

1. This Further Notice of Proposed Rulemaking (Further Notice) contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections

contained in this Further Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Further Notice; OMB notification of action is due February 8, 1999. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other form of information technology.

OMB Approval Number: None.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or Other for Profit.

Title: Data to Determine Percentage of Interstate Telecommunications Revenues from Wireless Carriers and Submission of Data to Determine Eligibility.

	Number of respondents	Estimate time per response (hours)	Total annual burden (hours)
Data to Determine Percentage of Interstate Telecommunications Revenue by Wireless Carriers	900	10	9000
Submission of Data to Determine Eligibility	3400	.25	850

Total Annual Burden: 9,850 hours.

Estimated costs per respondent: $0.

Needs and Uses: The Commission seeks comment on various mechanisms for allocating between the intrastate and interstate jurisdictions the end-user telecommunications revenues of universal service contributors that cannot derive this information readily from their books of account. The Commission seeks comment on its proposals for wireless carriers to conduct traffic studies and extrapolate from the data the percentage of their revenues that should be attributed to the interstate jurisdiction. This allocation will be used for purposes of calculating the federal universal service reporting and contribution obligations. The Commission also seeks comment on whether to require eligible telecommunications carriers to include some fixed number of minutes of use per month as part of the basic universal service package or whether we should require some number of calls. This information would be reported by the carriers to their state utility commission when they seek designation as an eligible telecommunications carriers.

I. Introduction

2. Between September, 1997 and March, 1998, the Commission's Wireless Telecommunications Bureau and Common Carrier Bureau hosted a series of *ex parte* meetings with representatives of the wireless telecommunications industry. The Bureau's primary objective in hosting those meeting was to solicit proposals on methods by which wireless telecommunications providers might allocate between the intrastate and interstate jurisdictions their end-user telecommunications revenues for purposes of the universal service reporting requirements. In this Further Notice, we propose and seek comment on various mechanisms for allocating between the intrastate and interstate jurisdictions the end-user telecommunications revenues of universal service contributions that cannot derive this information readily from their books of account. This allocation will be used for purposes of calculating the federal universal service reporting and contribution obligation. On March 8, 1996, the Commission adopted an initial *Notice of Proposed Rulemaking and Order Establishing Joint Board,* 61 FR 10499 (March 14, 1996) seeking comments on recommended changes to our regulations to implement the universal service directives of the Telecommunications Act of 1996.

A. Proposed Mechanisms for Separating Interstate and Intrastate Revenues

a. Good Faith Estimates

3. We tentatively conclude that we should provide specific guidance to wireless telecommunications providers in identifying their interstate revenues, as required on the Universal Service Worksheet (Worksheet). Certain parties initially proposed that we adopt on a permanent basis the revenue reporting approach relied upon for purposes of the Telecommunications Relay Services (TRS) Fund Worksheet. The Commission's TRS rules permit carriers that are not subject to the Uniform System of Accounts (USOA) in Part 32, such as CMRS providers, to rely on a special study to estimate their percentages of interstate and international traffic. Under this approach, contributors must document how they calculated their estimates and make such information available to the Commission or TRS Administrator upon request. Although the *NECA II Order,* 62 FR 47369 (September 9, 1997), permitted certain universal service contributors, on an interim basis, to make good faith estimates of their interstate revenues along the lines of the special study method used for TRS, we tentatively conclude that we should not adopt this approach on a permanent basis. Given the greater impact universal service contributions have on carriers, we tentatively agree with CTIA and Comcast that allowing carriers to rely on good faith estimates on a permanent basis as a means of distinguishing contributors' interstate and intrastate revenues will not provide contributors with sufficient certainty as to the appropriate amount of their payment obligations and may result in inequities in payment obligations. Comcast contends that the Commission should provide specific guidance on this issue to minimize the ''potential for systematic underreporting or underestimating of revenues, or, in some cases, overestimation of revenues.'' Specifically, Comcast suggests that, without establishing relevant markets according to which carriers report their percentage of interstate telecommunications revenues, larger wireless carriers will ''average down their interstate percentages by including [revenue information from] distant markets.'' We seek comment on the merits of our tentative conclusions and on how we might amend our rules in a manner that would provide certainty and avoid substantial inequities in payment obligations.

b. Percentage of Interstate Revenues Estimates

4. We tentatively conclude that, as proposed by Comcast, the Commission should establish a fixed percentage of interstate end-user wireless telecommunications revenues that a wireless telecommunications provider

must report on the Worksheet. It appears that such an approach would eliminate competitive inequities that may be associated with the use of differing allocation assumptions and methodologies. We invite parties to comment on the use of such an approach for determining the interstate wireless telecommunications revenues for wireless telecommunications providers.

5. Given that various categories of wireless providers may have substantially differing levels of interstate traffic, we also tentatively conclude that we should establish different percentages according to the type of provider (*e.g.*, cellular, broadband PCS, paging, and SMR). We adopt a similar approach for our interim guidelines for wireless providers' reporting on the Worksheet of their interstate wireless telecommunications revenues. Although this approach recognizes that interstate traffic levels may differ among differing classes of wireless providers, it assumes that such levels are generally similar among competing carriers with similar systems and operations. We seek comment on whether this is a reasonable assumption.

6. With regard to broadband PCS and cellular services, we seek comment on whether the fixed percentage of interstate telecommunications revenues that must be reported on the Worksheet should be based on the level of interstate traffic experienced by wireline providers. We seek comment on whether the similarities between broadband PCS, cellular, and traditional wireline services are sufficient to warrant such an outcome. For wireline services, current Commission statistics indicate that the nationwide average percentage of interstate wireline traffic reported for the DEM weighting program is approximately 15 percent. We seek comment on whether cellular and broadband PCS providers should report 15 percent of their cellular and PCS revenues as interstate. We note that members of the wireless telecommunications industry have suggested that 15 percent represents a reasonable approximation of the percentage of cellular and PCS traffic that is interstate. We are not aware of evidence that cellular and broadband PCS providers experience substantially more or less interstate traffic than wireline providers, nor do we have evidence before us to indicate that the level of interstate traffic for wireline carriers reporting under the DEM weighting program differs substantially from wireline carriers as a whole. At the same time, we are cognizant that, due to the difference in pricing structures between wireline service and wireless service, the level of interstate telecommunications revenues generated by each type of service may vary from one to another. Moreover, some cellular and PCS carriers have reported as much as 28 percent of their revenues as interstate, which may represent a more accurate accounting given that carriers have incentives to underreport their interstate revenues for universal service reporting purposes. We therefore invite parties to comment on the appropriateness of using data submitted for purposes of the DEM weighting program to approximate the percentage of interstate cellular and PCS revenues generated by wireless telecommunications providers.

7. We recognize that analog SMR and paging services do not as closely resemble broadband PCS, cellular, or traditional wireline services, and therefore seek comment on an appropriate estimation of these providers' interstate analog SMR and paging revenues. We adopt interim guidelines for paging and analog SMR providers, based on the average interstate revenues percentage reported by those carriers in 1998. Paging providers and analog SMR providers reported, on average, interstate paging and analog SMR revenue levels at approximately 12 percent and one percent, respectively. Unlike our estimate for the interstate portion of cellular and PCS revenues, however, the DEM weighting reports do not provide the Commission with an independent source for estimating the portion of paging and analog SMR revenues that is interstate. We also note that these carriers may have incentives to underreport their interstate revenues for universal service reporting purposes. We seek comment on whether the 12 percent average reported by paging carriers and one percent reported by analog SMR providers should form the basis for the final fixed percentages, and, if not, what would be an appropriate allocation. We are interested in knowing of any other mechanisms that, like DEM weighting, could provide an independent basis for a permanent rule for analog SMR and paging carriers. Parties are encouraged to provide alternative estimations of the percentage of interstate traffic experienced by analog SMR and paging providers and a detailed basis for the estimation.

8. According to the American Mobile Telecommunications Association (AMTA), SMR providers, with the possible exception of NEXTEL, generate relatively low levels of interstate traffic. We seek comment on this assertion and on whether any other categories of provider, such as paging providers, generate similarly low levels of interstate telecommunications traffic relative to other categories of providers. We also seek comment on how to treat providers, like NEXTEL, that may generate atypical levels of interstate traffic. Likewise, we seek comment on whether any category of provider experiences higher levels of interstate telecommunications traffic relative to other categories of providers.

9. We note that traffic studies may represent one possible mechanism wireless telecommunications carriers could use to determine their percentage of interstate telecommunications revenues. We believe that it would be reasonably simple for most wireless carriers to conduct traffic studies and extrapolate from the data the percentage of their revenues that should be attributed to the interstate jurisdiction. Some wireless carriers could conduct joint traffic studies, the results of which could be used by all similarly situated companies. We seek comment on these proposals. Furthermore, if the Commission elects not to use the data submitted for purposes of the DEM weighting program to estimate the percentage of broadband PCS and cellular revenues generated by broadband PCS and cellular providers (*i.e.*, 15 percent), as discussed above, one alternative would be to derive a fixed percentage for each category of provider based upon data reported on the 1997 TRS Fund Worksheets. Given the impact that universal service contributions have on carriers, however, we believe that we should establish a percentage of interstate wireless telecommunications revenues that is based on data more certain and accurate than what may be obtained from TRS worksheets. Therefore, we tentatively conclude that we should not use the allocations made for the TRS Fund Worksheet to determine the proper portion of revenues derived from interstate calls. We seek comment on this tentative conclusion.

10. We also seek comment on whether the Commission should establish different percentages within each category of provider, rather than establishing a single percentage for each category of provider. For example, because the service areas of some wireless telecommunications providers may consist of many smaller states (*i.e.*, in the northeastern part of the United States) and thus experience a higher level of interstate traffic than service areas in, for example, the midwestern and western parts of the United States, the Commission could establish various

percentages within each category of provider that take into consideration the area of the country being served. Comcast asserts that, in order to estimate accurately the percentage of broadband PCS providers' interstate broadband PCS revenues, the Commission must first establish an appropriate market size. Comcast recommends that the level of interstate telecommunications revenues reported by wireless telecommunications providers whose license territories are established on the basis of Major Trading Areas (MTAs) should be determined on an MTA-by-MTA basis. Comcast, which serves markets in the northeastern part of the United States where there may be a relatively high number of interstate calls, contends that reporting the level of interstate revenues on an MTA-by-MTA basis would ensure consistent reporting of interstate revenues among wireless telecommunications providers. Comcast contends that this approach would minimize the possibility that larger carriers, that are likely to have a relatively larger proportion of interstate traffic, would report their interstate revenues on the basis of an average that includes markets with relatively low levels of interstate traffic. Comcast maintains, therefore, that carriers in a single market would be less likely to impose widely varying charges on bills to recover their universal service contributions. We seek comment on Comcast's proposal. If the Commission elects to establish a market-by-market approach, we seek comment on the appropriate market size for wireless telecommunications providers that are not licensed on the basis of MTAs. We also seek comment on whether the Commission should establish different percentages within each category of provider according to other criteria.

11. We seek comment on whether wireless telecommunications providers should be given the option of using a Commission-established percentage of interstate wireless telecommunications revenues, as discussed above, or using their own data-collection procedures to demonstrate to the Commission the percentage of their wireless telecommunications revenues derived from interstate calls. Allowing carriers to choose between these two options, rather than requiring all wireless providers to use the Commission-established percentage, may be preferable for wireless providers that are able, without substantial difficulty, to distinguish their interstate revenues. We note that this approach may encourage providers that can derive accurate estimates of their revenues from their books of account nevertheless to use the Commission-established percentage if they determine that using the Commission established percentage provides a financial advantage. We seek comment on whether wireless telecommunications providers that wish to use their own data collection procedures to identify the percentage of their end-user wireless telecommunications revenues that is derived from interstate calls should be required to obtain a waiver from the Commission.

12. We also seek comment on whether we should adopt for wireless telecommunications providers a universal service contribution methodology that does not require these carriers to allocate their revenues as either interstate or intrastate. We seek comment on whether it would be competitively neutral, equitable, and economically efficient to require wireless telecommunications providers to contribute to the universal service support mechanisms on the basis of a flat fee per voice grade access line or voice grade equivalent, rather than as a percentage of their revenues. We note that parties have generally sought reconsideration of the Commission's decision to assess carriers based on a percentage of their telecommunications revenues, and we seek further comment on this issue with regard to wireless carriers. We seek comment on how we would determine the amount of such a flat charge. We are cognizant that the amount of a flat charge may need to vary according to the type of carrier on which it is assessed. If we were to assess different types of carriers differently, we seek comment on how to accomplish this in a fair and equitable manner. In connection with this issue, we seek comment on how to establish for paging carriers a voice grade equivalent on which to assess a flat charge, *e.g.*, capacity level. We also seek comment on whether we should assess wireless carriers different amounts for business and residential subscribers. We also seek comment on whether a flat charge would be consistent with our prior determination that contributions to the federal high cost and low-income support mechanisms should be assessed only on interstate revenues. We also invite parties to comment on other methodologies that the Commission could adopt to assess universal service contribution obligations on wireless providers or other providers that generally do not operate with regard to state boundaries.

c. Simplifying Assumptions

13. In this section, we seek comment on a number of proposed simplifying assumptions that either the Commission or wireless telecommunications providers could use to determine the appropriate percentage of interstate wireless telecommunications revenues that should be reported on the Worksheet. These simplifying assumptions could be used in the event that the Commission declines to establish the percentage of interstate wireless telecommunications revenues that some or all categories of wireless telecommunications providers should report on the Worksheet. Additionally, in the event that the Commission decides to provide wireless telecommunications providers with the option of using either a Commission-established percentage or their own data-collection procedures to determine their percentage of interstate wireless telecommunications revenues, wireless telecommunications providers selecting the latter option could use these simplifying assumptions.

14. We seek comment on whether it would be appropriate for the Commission to adopt the following assumptions in light of the manner and extent to which wireless telecommunications providers maintain revenue data. These simplifying assumptions are set forth below according to various categories of wireless telecommunications providers. We note that certain simplifying assumptions may be relevant to more than one category of wireless telecommunications provider. Therefore, we invite comment on these simplifying assumptions as they may apply to any category of wireless telecommunications provider.

i. Cellular and Broadband PCS Providers

15. *Originating point of a call.* CTIA proposes that, in determining the jurisdictional nature of a call, cellular and broadband PCS providers should consider the originating point of a call to be the location of the antenna that first receives the call. We understand that some wireless telecommunications providers use this approach for purposes of reporting their revenues on the TRS Fund Worksheet and recommend doing so for purposes of universal service reporting. We seek comment on this proposal. To account for the situation in which an antenna serves a region encompassing more than one state, a call would be considered to originate in the state in which the antenna that originally received the call is located, even though the customer

may be located in a different state than the antenna and even if, during the course of a call, the customer enters another cell area served by an antenna located in another state. We seek comment on whether this would systematically understate the amount of revenues derived from interstate wireless telecommunications. We also seek comment on whether wireless telecommunications providers experience difficulty in determining the jurisdictional nature of revenues derived from calls that originate as wireline and terminate as wireless.

16. An assumption that a call originates in the state in which the antenna that first receives the call is located would address CTIA's concern that the billing systems of CMRS providers generally do not record the location of the antenna to which the call is transferred when the mobile customer enters a new cell area. This proposed assumption also would address the situation described by CTIA in which calls originating and terminating in the same state are transported, during the course of the call, to a switch in another state. We note that, in the *Local Competition Order*, 61 FR 45476 (August 29, 1996), the Commission determined that, ''[f]or administrative convenience, the location of the initial cell cite when a call begins shall be used as the determinant of the geographic location of the mobile customer.'' We seek comment on whether the originating call assumption discussed above adequately addresses the concerns identified by CTIA.

17. *Terminating point of a call*. In addition to the originating point of a call, the terminating point of a call must be identified in order to determine the jurisdictional nature of the call. We seek comment on whether a cellular or broadband PCS provider should assume that a call terminates in the state that corresponds to the area code to which the call was placed. Because we have received no evidence indicating otherwise, we assume that this would be a reasonable approach for determining the terminating point of a call. We seek comment on our assumption that determining the terminating point of a cellular or broadband PCS call in this manner is reasonable and does not pose substantial difficulties for providers.

18. *Calls originating and terminating in a Major Trading Area*. Because many wireless telecommunications providers operate without regard to state boundaries, we seek comment on whether the Commission should consider using MTA boundaries as the basis on which CMRS providers might estimate the level of interstate wireless traffic for universal service reporting purposes. Specifically, we seek comment on whether CMRS traffic that originates and terminates within an MTA should be classified as intrastate and all other calls classified as interstate for purposes of the Worksheet. Because a single MTA can occupy more than one state, this approach would result in some calls that cross state boundaries being classified as intrastate. At the same time, because some states have more than one MTA, a call could be classified as interstate under this approach, even though the call originates and terminates in the same state. We seek comment on the significance of these observations. Because different types of wireless telecommunications providers use different Commission-authorized licensed territories, we also seek comment on whether we should use the boundaries of other types of wireless licensed territories (*e.g.*, Metropolitan Statistical Areas or Rural Service Areas) to differentiate between interstate and intrastate traffic.

19. *Roaming revenues*. We seek comment on how ''roaming'' revenues obtained by broadband PCS and cellular providers should be classified. ''Roaming'' occurs when customers located outside the scope of their provider's network use a different provider's network to place and receive calls. CTIA and AirTouch assert that when a customer is ''roaming'' on the system of another provider (the ''serving provider''), the customer's principal provider, which is responsible for billing the customer, receives limited information about the calls made by the customer. In determining how a principal provider should account for revenues generated while its customer ''roams'' on a serving provider's system, AirTouch suggests that the principal provider apply an established percentage to such revenues to approximate the level of interstate usage by ''roaming'' customers. We seek comment on AirTouch's proposal, and, assuming we adopt AirTouch's proposal, the appropriate fixed percentage that should be applied to such revenues. AirTouch explains that this option would eliminate the need for extensive information exchanges between the customer's principal provider and the serving provider. AirTouch further notes that this approach would address the situation in which, because CMRS providers price air-time usage differently, the identical levels of usage do not generate uniform levels of revenues. We seek comment on these assertions.

20. With regard to how ''roaming'' traffic should be treated for purposes of distinguishing interstate and intrastate revenues, CTIA notes that, some of its members have concluded that the principal provider should treat all roaming traffic as interstate. CTIA further states that some of its members have taken the position that calls forwarded from the customer's principal provider to a serving provider in the area where the customer is located should be treated as interstate calls. We seek comment on these proposed simplifying assumptions.

ii. Paging Providers

21. Due to the technical design of a paging system, AirTouch claims that the information necessary to assess the jurisdictional nature of a paging call is unavailable. AirTouch explains that a paging network terminates communications simultaneously at all locations in its service area, because the paging network cannot identify the location of the paging unit. Thus, the paging network cannot identify the area code of the location where the customer actually receives the page. In light of these difficulties, we seek comment on any simplifying assumptions that paging carriers may adopt in determining the percentage of interstate paging revenues that they should report on the Worksheet. For example, we seek comment on whether paging providers should estimate their level of interstate traffic based, at least in part, on the percentage of customers whose service package includes toll-free number capabilities (*e.g.*, 888–, 800–, and 877–numbers), with the assumption that these customers are more likely to receive interstate pages. If a paging provider is capable of distinguishing between the paging revenues derived from its customers who subscribe to local service and those who subscribe to nationwide service, we seek comment on whether paging carriers should assume that its nationwide customers generate more interstate traffic than the local customers. If we were to direct wireless carriers to use a Commission-established percentage of interstate wireless telecommunications revenues, we seek comment on whether we should establish two percentages, one for traffic to local paging customers and one for traffic to national paging customers.

iii. SMR Providers

22. Analog SMR service provides land mobile communications and consists of at least one base station transmitter and antenna, as well as a mobile radio unit. Analog SMR service may be

interconnected with the public switched telephone network, which allows mobile radio units to function essentially as a mobile telephone, or through a dispatch system, which allows two-way, over-the-air, voice communications only between two mobile radio units. We seek comment on an appropriate estimation of the percentage of interstate telecommunications revenues generated by analog SMR providers and on whether there are appropriate simplifying assumptions to estimate the percentage of analog SMR providers' interstate analog SMR revenues. AMTA states that some of the dispatch systems provide service exclusively within a state and others provide service across state boundaries. AMTA states that, in a recent survey of its members, 63 percent of the respondents reported that their coverage areas are intrastate, while the remaining 37 percent reported the use of systems crossing state boundaries. AMTA also reports that 90 percent of the survey respondents claimed to derive between zero and two percent of their revenues from interstate service. AMTA further notes that 97 percent of the respondents maintain that they are exempt under the *de minimis* standard from contributing to the universal service support mechanisms. AMTA contends that ''the survey results to date certainly indicate that SMR and related services bear little resemblance to mass-market mobile telephony such as broadband PCS and cellular.'' We seek comment on whether, and how, AMTA's survey results may be used to help determine an appropriate percentage of analog SMR providers' interstate analog SMR revenues. We also seek comment on other ways to arrive at such an estimation.

iv. Point-to-point Wireless Providers

23. Unlike mobile service, which transmits a signal that may be received by any of the mobile units within a certain area, the signal that is transmitted as part of fixed, point-to-point wireless service is sent directly to a fixed location. We seek comment on whether any point-to-point wireless providers experience difficulty in reporting their percentage of interstate telecommunications revenues. If so, we seek comment on ways to estimate such carriers' level of interstate telecommunications revenues derived from the provision of fixed, point-to-point service and on whether any simplifying assumptions should be applied to this type of provider. Because the service offered by entities that provide wireless telecommunications on a fixed, point-to-point basis is not mobile in nature, such entities' contribution compliance concerns may differ from those of broadband PCS and cellular providers.

d. AirTouch's Methodology

24. AirTouch states that its jurisdictional tracking system is able to determine, with a reasonable degree of accuracy, whether a particular cellular call is interstate or intrastate. AirTouch explains that its tracking system initially was developed for state tax purposes. According to AirTouch, this tracking system forwards data received from the originating switch to databases used for billing. The databases compiled from this data enable AirTouch to compare the originating switch location with the terminating area code. AirTouch uses this capability to estimate the percentage of interstate airtime usage and then applies this percentage to an estimated level of total end-user revenues, which yields the amount of interstate revenues. AirTouch explains that the total-revenues estimate includes charges for airtime revenues and monthly access charges, less non-telecommunications revenues. Revenues from long-distance resale, AirTouch further explains, are then included for purposes of determining the total interstate revenues figure reported on the Worksheet. We seek comment on the extent to which wireless telecommunications and other providers are capable of distinguishing their interstate and intrastate revenues using the method employed by AirTouch or could, without substantial difficulty, adopt such a method. We seek comment on whether wireless telecommunications carriers that use a method similar to that described by AirTouch to identify their interstate revenues should be allowed to do so, in the event that the Commission adopts, for universal service reporting purposes, a Commission-established percentage. In addition, we seek comment on whether, for purposes of assessing certain charges, such as state universal service charges or state taxes, wireless providers are already required to distinguish their revenues in a way that could be applied to their federal universal service reporting obligations.

25. AirTouch notes that its tracking system may yield inaccurate information to the extent that the interstate portion of a call is not recorded when the call originates as intrastate but terminates as interstate due to the customer crossing a state boundary. Similarly, we note that a tracking system like the one employed by AirTouch also may yield inaccurate results when a call originates as interstate and terminates as intrastate due to the customer crossing a state boundary. We seek comment on whether the potential inaccuracies that may arise from these two scenarios would, when taken together, tend to cancel each other out and thus have no measurable effect.

e. Other Issues Surrounding Universal Service Reporting Requirements

26. We seek comment on whether wireless telecommunications providers experience difficulty in complying with any universal service reporting requirements other than identifying their interstate and intrastate revenues, as described above. We also seek comment on any other actions that the Commission might take to ensure that wireless telecommunications providers are treated in an equitable and nondiscriminatory manner with respect to the universal service reporting and contribution obligations.

f. Providers Other Than Wireless Telecommunications Providers

27. In the previous sections, we discuss possible mechanisms that wireless telecommunications providers could use in allocating their wireless telecommunications revenues between the interstate and intrastate jurisdictions for universal service reporting purposes. We also seek comment whether there are other types of providers, such as satellite providers, that may not be able to derive easily from their books of account their percentage of interstate and intrastate telecommunications revenues. Parties are invited to address whether the proposals discussed in this Further Notice, such as the simplifying assumptions discussed, might benefit other telecommunications providers that cannot readily distinguish their interstate and intrastate revenues for universal service reporting purposes.

B. Competitive Neutrality

28. In the *Universal Service Order*, 62 FR 32862 (June 17, 1997), the Commission sought to adopt rules that would facilitate the entry of new providers and promote competition in the context of universal service. The Commission also sought to establish universal service rules that are competitively and technologically neutral. We seek comment here on the success of that goal. Specifically, we seek comment on the extent to which our rules, in application, are accomplishing that goal. We seek comment on the extent to which our rules facilitate the provision of services eligible for universal service support by providers, such as wireless

telecommunications providers and cable operators, that historically have not supplied such services. We also seek comment on the extent to which such providers are supplying the services supported by the federal universal service support mechanisms to eligible beneficiaries. For example, we seek comment on the extent to which wireless service providers are supplying supported services to eligible schools and libraries. Similarly, we seek comment on the extent to which cable and other service providers are supplying supported services to entities eligible for universal service support.

29. We also seek comment on whether, in practice, any of our universal service rules discourage wireless service providers or cable service providers from offering supported services to low-income subscribers and rural, insular, and high cost subscribers. We also seek comment on whether, in practice, our universal service rules may favor unfairly one technology over another. If parties answer these statements affirmatively, we seek specific suggestions on how those rules could be amended, consistent with the Act, to facilitate the provision of services eligible for universal service support by all eligible providers.

C. Definition of Basic Service Packages To Be Provided by Eligible Telecommunications Carriers

30. We seek comment on whether some amount of minimum local usage should be included in the basic service packages, and if so, how to determine that local usage requirement. In light of the cost characteristics of mobile wireless service, we seek comment on how to define a basic service package with a local usage requirement that presents a realistic option to wireless customers. For example, the obligation to provide some local usage would be rendered meaningless if a wireless carrier could satisfy that obligation by offering, among other service options, a basic service package containing local usage that was priced hundreds of dollars higher than options offered by that wireless carrier or competing carriers, so that no one selected it. Thus we seek comment on how to ensure that a local usage requirement is included as part of an option that represents a viable choice for consumers. We seek comment on whether carriers should only be eligible to receive universal service support with respect to subscribers who select a basic service package that includes a certain amount of local usage without additional charge. Alternatively, we seek comment on whether carriers should only be eligible to receive universal service support if a certain percentage of their subscribers subscribe to a basic service package that includes a certain amount of flat-rated local usage, because that would indicate that such package presented a viable option to customers.

31. We also seek comment on whether we should require eligible telecommunications carriers to include some fixed number of minutes of use per month as part of the basic universal service package, or whether we should require some minimum number of calls. We note that the cost of a call for wireless carriers may vary depending on its duration and on whether it is made during peak calling hours. These factors may be less significant for wireline carriers. Therefore, we seek comment on whether we should establish different requirements for different types of carriers, and whether we should give carriers the option of offering either a minimum number of minutes or a minimum number of calls in their basic service package.

32. We seek comment on how much, if any, local usage to require carriers to offer in such a basic service package in order to be eligible for universal service support. According to the Statistics of Common Carriers, telephone customers make, on average, 135 local calls per month per access line. This average varies from 52 local calls per month in Maine to 210 local calls per month in Louisiana. Other sources report that cellular customers average 150 minutes of use per month, and broadband PCS customers average 250 minutes of use per month. The cellular and broadband PCS numbers are expected to increase in the future. We seek comment on whether we should base the amount of local usage that a carrier must offer, at least in part, on average usage rates. Commenters that argue that no level of local usage should be required should explain why such a requirement would not be necessary to meet the goals of universal service. We encourage such commenters to suggest alternative approaches that will promote universal service goals.

33. We also seek comment on how we should determine what constitutes local usage. We note that wireless and wireline carriers may treat different sets of calls as ''local.'' The boundaries of the local calling areas for wireline carriers and service areas for eligible telecommunications carriers are set by the states, and the value of a particular local usage requirement will depend in part on the size of the area encompassed by the local calling area, which may vary from state to state. We seek comment on whether, and how, to account for differences in the size of local calling areas. We seek comment on whether we should vary the amount of local usage that carriers must offer depending on the size of their local calling areas. We note that the California PUC suggested in the initial rulemaking that we include a minimum of three dollars worth of local usage. We seek guidance from the states on the level of local usage that we should require from eligible carriers serving their residents, given the size of the local calling areas and the basic service packages that they have established, recognizing that local calling areas may be different for customers of wireline and wireless carriers. We further seek comment on whether the local usage requirement we establish should be the same for business and residential users.

II. Procedural Matters and Ordering Clauses

A. Ex Parte Presentations

34. This is a permit-but-disclose notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.

B. Initial Regulatory Flexibility Analysis

35. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Further Notice. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this Further Notice, and should have a separate and distinct heading designating them as responses to the IRFA. The Commission will send a copy of this Further Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA) in accordance with the RFA. See 5 U.S.C. 603(a).

36. *Need for and Objectives of the Proposed Rules.* In light of the concerns raised by wireless telecommunications providers regarding the difficulties associated with distinguishing their interstate and intrastate revenues for universal service reporting purposes, the Commission tentatively concludes that it should provide such providers with specific guidance on how to separate their interstate and intrastate revenues. Therefore, the Commission seeks comment in this Further Notice on

how wireless telecommunications providers should separate their interstate and intrastate revenues for purposes of universal service reporting. The Commission sets forth and seeks comment on proposed methodologies and simplifying assumptions that could be used by wireless telecommunications providers to distinguish between their interstate and intrastate revenues. Until we issue final rules regarding the mechanisms that wireless telecommunications providers should use in allocating their revenues between the interstate and intrastate jurisdictions, we provide such providers with interim guidelines for reporting on the Worksheet their percentage of interstate telecommunications revenues. The Commission also seeks comment on whether, from the perspective of wireless providers, which historically have not supplied services eligible for universal service support, our universal service rules are competitively neutral, especially with regard to the schools and libraries program. Finally, we seek comment on the definition of the basic service packages that carriers must offer in order to be eligible to receive universal service support.

37. *Legal Basis.* The proposed action is supported by §§ 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 254, and 403.

38. *Description and Estimate of the Number of Small Entities to which the Further Notice will Apply.*

39. *Radiotelephone (Wireless) Carriers.* The SBA has developed a definition of small entities for radiotelephone (wireless) companies. According to the SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. We do not have information on the number of carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the proposals included in this Further Notice.

40. *Cellular Service Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of cellular services. The closest applicable definition under the SBA rules is for radiotelephone (wireless) companies (SIC 4812). The most reliable source of information regarding the number of cellular service carriers nationwide of which we are aware is the data that the Commission collects annually in connection with the *TRS Worksheet.* According to the most recent data, 792 companies reported that they were engaged in the provision of cellular services. We have no information on the number of carriers that are not independently owned and operated, nor on those that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 792 small entity cellular service carriers that may be affected by the proposals included in this Further Notice.

41. *Paging Providers.* The Commission has proposed a two-tier definition of small businesses in the context of auctioning geographic area paging licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Since the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to *Telecommunications Industry Revenue* data, there were 172 ''paging and other mobile'' carriers reporting that they engage in these services. Consequently, the Commission estimates that there are fewer than 172 small paging carriers. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

42. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F. The Commission has defined ''small entity'' in the auctions for Blocks C and F as a firm that had average gross revenues of less than $40 million in the three previous calendar years. This definition of ''small entity'' in the context of broadband PCS auctions has been approved by the SBA. The Commission has auctioned broadband PCS licenses in blocks A through F. Of the qualified bidders in the C and F block auctions, all were entrepreneurs. Entrepreneurs was defined for these auctions as entities, together with affiliates, having gross revenues of less than $125 million and total assets of less than $500 million at the time the FCC Form 175 application was filed. Ninety bidders, including C block reauction winners, won 493 C block licenses and 88 bidders won 491 F block licenses. For purposes of this IRFA, the Commission assumes that all of the 90 C block broadband PCS licensees and 88 F block broadband PCS licensees, a total of 178 licensees, are small entities.

43. *Narrowband PCS Licensees.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the MTA and BTA narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Given that nearly all radiotelephone companies have no more than 1,500 employees, and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

44. *220 MHz radio services.* Since the Commission has not yet defined a small business with respect to 220 MHz radio services, it will utilize the SBA definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. With respect to the 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) for Economic Area (EA) licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years; and (2) for regional and nationwide

licensees, a firm with average annual gross revenues of not more than $15 million for the preceding three years. Given that nearly all radiotelephone companies employ no more than 1,500 employees, for purposes of this IRFA the Commission will consider the approximately 3,800 incumbent licensees as small businesses under the SBA definition.

45. *Rural Radiotelephone Service*. The Commission has not adopted a definition of small business specific to the Rural Radiotelephone Service, which is defined in Section 22.99 of the Commission's Rules. A subset of the Rural Radiotelephone Service is BETRS, or Basic Exchange Telephone Radio Systems. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing fewer than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA's definition of a small business.

46. *Specialized Mobile Radio (SMR) Licensees*. Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. This definition of a ''small entity'' in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. The proposals included in this Further Notice may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million.

47. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the rule adopted includes these 60 small entities. In the 800 MHz SMR auction, there were 524 licenses won by winning bidders, of which 38 licenses were won by small or very small entities.

48. *Wireless Communications Services (WCS)*. WCS is a wireless service, which can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the WCS auction as an entity with average gross revenues of $40 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. There were seven winning bidders who qualified as very small business entities and one small business entity in the WCS auction. Based on this information, the Commission concludes that the number of geographic area WCS licensees affected include these eight entities.

49. *Description of Projected Reporting, Record keeping, and Other Compliance Requirements*. Section 254(d) states ''that all telecommunications carriers that provide interstate telecommunications services shall make equitable and nondiscriminatory contributions'' toward the preservation and advancement of universal service. Under the Commission's rules, all telecommunications carriers that provide interstate telecommunications services and some providers of interstate telecommunications are required to contribute to the universal service support mechanisms. Contributions for support for programs for high cost areas and low-income consumers are assessed on the basis of interstate and international end-user telecommunications revenues. Contributions for support for programs for schools, libraries, and rural health care providers are assessed on the basis of interstate, intrastate, and international end-user telecommunications revenues. Contributors are required to submit information on the Universal Service Worksheet regarding their end-user telecommunications revenues. Contributors are required to distinguish between their interstate and intrastate revenues.

50. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered*. Throughout this Further Notice, we seek comment on alternatives that will reduce the impact on entities affected by these proposals. We tentatively conclude that we should adopt a surrogate percentage that would represent the percentage of interstate telecommunications revenues reported by certain carriers. We believe that this tentative conclusion greatly minimizes the administrative burden on those small carriers that experience difficulty in identifying their interstate and intrastate revenues. We also seek comment on a number of other simplifying assumptions that certain carriers would apply in estimating their percentage of interstate telecommunications revenues. Some of these proposals may impose more administrative burdens on certain carriers than others. We therefore seek comment on the level of administrative burden that these proposals would impose and, in the event that such proposals were adopted, on ways in which to reduce the level of administrative burden that they may impose. We particularly encourage parties to submit proposals that will reduce the administrative burden on carriers in separating their interstate and intrastate revenues.

51. *Federal Rules That May Overlap, Duplicate or Conflict with the Proposed Rule*. None.

52. It is furthered ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Instructions for Filing Comments

53. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, 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 for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to : Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 2100 M St., NW., Room 8611, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the lead docket number in this case, Docket No. 96–45), type of

pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036.

D. Ordering Clauses

54. It is ordered, pursuant to sections 1, 4(i) and (j), 201–209, 218–222, 254, and 403 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 218–222, 254, and 403 that this Further Notice of Proposed Rulemaking is hereby adopted and comments are requested as described above.

55. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–32803 Filed 12–9–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 98–4813; Notice 1]

RIN 2127–AF75

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

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

ACTION: Supplementary notice of proposed rulemaking.

SUMMARY: This document proposes amendments to Standard No. 108, the Federal motor vehicle safety standard on lighting, which are intended to harmonize the geometric visibility requirements of the United States for signal lamps and reflectors with those of the Economic Commission for Europe (ECE). Harmonization of motor vehicle safety regulations worldwide, without reducing safety, would allow manufacturers to produce products in compliance with a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade.

The amendments proposed would adopt either the ECE geometric visibility specifications or those of the Society of Automotive Engineers (SAE), as an option to the present requirements. One of these specifications would be chosen for inclusion in the final rule. Mandatory compliance with the chosen specification would be required approximately five years after issuance of the final rule.

This action responds to comments to a notice of proposed rulemaking published on this subject in 1995, which implemented the grant of a petition for rulemaking submitted by the Groupe de Travail Bruxelles 1952.

DATES: Comments are due March 10, 1999.

ADDRESSES: Comments should refer to the docket number indicated above and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 10:00 a.m. to 5:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Rich Van Iderstine, Office of Safety Performance Standards, NHTSA (Phone: 202–366–5275; FAX: 202–366–4329).

SUPPLEMENTARY INFORMATION: This supplementary notice of proposed rulemaking is based upon a notice of proposed rulemaking (NPRM) published on October 26, 1995 (60 FR 54833, Docket No. 95–72; Notice 1). The reader is referred to that notice for further background on this rulemaking action.

Harmonization of Geometric Visibility Requirements

As the NPRM explained, the Groupe de Travail Bruxelles 1952 (''GTB'') is composed of vehicle and lamp manufacturers from Europe, Japan, and the United States. GTB is an advisory group for the two organizations operating under the United Nations' Economic Commission for Europe (ECE) that are involved in establishing motor vehicle lighting standards: the Meeting of Experts on Lighting and Light Signalling (GRE) and the Working Party on the Construction of Motor Vehicles (WP29).

GTB is seeking to ''harmonize'' the geometric visibility requirements of the United States and Europe through petitioning NHTSA for an amendment to Standard No. 108, and petitioning GRE and WP29 for amendments to ECE Regulation No. 48 *Uniform Provisions Concerning the Approval of Vehicles With Regard to the Installation of Lighting and Light-Signalling Devices* (''ECE R48''), specifically ECE R48.01. Under present lighting regulations, motor vehicle manufacturers must produce four different lighting packages for the same vehicle in order for it to be sold in the United States, the United Kingdom, continental Europe, and Japan. Harmonizing these lighting requirements, without reducing safety, would reduce costs to manufacturers and purchasers, and improve the flow of trade.

In its petition of June 15, 1994, GTB asked NHTSA to amend or introduce geometric visibility requirements for the following lamps and reflectors: backup lamps, front and rear turn signal lamps, stop lamps including the center high-mounted stop lamp, parking lamps, taillamps, rear fog lamps, reflectors (front, intermediate, side, and rear), marker lamps (front, intermediate, and side), and daytime running lamps. The petition noted that rear fog lamps are not presently included in Standard No. 108, and that many items of lighting equipment are not presently subject to geometric visibility requirements.

The NPRM explained that ''geometric visibility'' is not a defined term in Standard No. 108. It refers to the visibility of a lamp or reflector mounted on a vehicle through a range of viewing angles from left to right, and from up to down, with reference to the lens centerpoint (e.g., from 45 degrees left to 45 degrees right). With the exception of the center high-mounted stop lamp (S5.1.1.27), the geometric visibility requirements for motor vehicle lamps are not set out in full in the text of Standard No. 108, but are contained in related SAE Standards that have been incorporated by reference in Standard No. 108. SAE requirements are not uniform and were adopted on an ad hoc basis.

The changes that GTB requested would affect passenger cars only, and would expand the range of visibility requirements for many lamps, especially turn signal lamps and parking lamps. GTB believed that a majority of vehicles being sold in the United States in 1994 already met the requirements. For those that do not, the petitioner suggested that ''the necessary design changes should not be difficult to implement, assuming that adequate lead time is provided.''