

the following new airworthiness directive (AD):

McDonnell Douglas: Docket No. FAA-2006-24585; Directorate Identifier 2004-NM-275-AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 15, 2006.

Affected ADs

(b) This AD supersedes AD 2003-03-08.

Applicability

(c) This AD applies to the McDonnell Douglas airplanes identified in Table 1 of this AD, certificated in any category, as identified in Boeing Alert Service Bulletin DC9-24A190, Revision 2, dated October 12, 2004.

TABLE 1.—AFFECTED AIRPLANES

Model
(1) DC-9-14, DC-9-15, and -15F airplanes.
(2) DC-9-21 airplanes.
(3) DC-9-31, DC-9-32, DC-9-32 (VC-9C), DC-9-32F, DC-9-32F (C-9A, C-9B), DC-9-33F, DC-9-34, and DC-9-34F airplanes.
(4) DC-9-41 airplanes.
(5) DC-9-51 airplanes.

Unsafe Condition

(d) This AD results from a report of electrical arcing that resulted in a fire. We are issuing this AD to prevent contamination of certain electrical connectors, which could cause electrical arcing and consequent fire on the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Requirements of AD 2003-03-08

One-Time Inspection and Corrective Actions

(f) For airplanes equipped with forward lavatories, as listed Boeing Alert Service Bulletin DC9-24A190, Revision 01, dated November 21, 2001: Within 18 months after March 7, 2003 (the effective date AD 2003-03-08), perform a one-time general visual inspection of the disconnect panel at station Y=237.000 in the left forward cargo compartment to find evidence of contamination (e.g., staining or corrosion) of electrical connectors by blue water, and to determine if a dripshield is installed over the disconnect panel. Do this inspection according to the Accomplishment Instructions of Boeing Alert Service Bulletin DC9-24A190, Revision 01, excluding Evaluation Form, dated November 21, 2001.

(1) If no evidence of contamination of electrical connectors is found, and a dripshield is installed, no further action is required by this AD.

(2) If any evidence of contamination of any electrical connector is found: Before further flight, remove each affected connector, and install a new or serviceable connector according to the service bulletin.

(3) If no dripshield is installed over the disconnect panel: Before further flight, install a dripshield according to the service bulletin.

Previously Accomplished Inspections and Corrective Actions

(g) Inspections and corrective actions accomplished before March 7, 2003, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC9-24A190, dated July 31, 2001, are considered acceptable for compliance with the corresponding action specified in paragraph (f) of this AD.

New Requirements of this AD

One-Time Inspection and Corrective Actions

(h) For airplanes other than those identified in paragraph (f) of this AD: Within 18 months after the effective date of this AD, do the one-time general visual inspection and applicable corrective actions specified in paragraph (f) of this AD, in accordance with Boeing Alert Service Bulletin DC9-24A190, Revision 2, dated October 12, 2004. The applicable corrective actions must be done before further flight.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on April 20, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-6497 Filed 4-28-06; 8:45 am]

BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Part 310

RIN 3084-0098

Telemarketing Sales Rule Fees

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission (the "Commission" or "FTC") is issuing a Notice of Proposed Rulemaking ("NPRM") to amend the Telemarketing Sales Rule ("TSR") to revise the fees charged to entities accessing the National Do Not Call Registry, and invites written comments on the issues raised by the proposed changes.

DATES: Written comments must be received on or before June 1, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "TSR Fee Rule, Project No. P034305," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Moreover, because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. Comments containing confidential material, however, must be filed in paper form, must be clearly labeled "Confidential," and must comply with Commission Rule 4.9(c).¹

Comments filed in electronic form should be submitted by clicking on the following weblink: <https://secure.commentworks.com/ftc-dncfees2006> and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the <https://secure.commentworks.com/ftc-dncfees2006> weblink. If this notice appears at <http://www.regulations.gov>, you may also file an electronic comment through that Web site. The Commission will consider all comments that www.ftc.gov forwards to it. You may also visit the FTC Web site at <http://www.ftc.gov/opa/2006/04/dncfees2006.htm> to read the Notice of Proposed Rulemaking and the news release describing this proposed Rule.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC

¹ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

Web site, to the extent practicable, at <http://www.ftc.gov/os/publiccomments.htm>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

FOR FURTHER INFORMATION CONTACT: John A. Krebs, (202) 326-3747, Division of Planning & Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

On December 18, 2002, the Commission issued final amendments to the Telemarketing Sales Rule, which, *inter alia*, established the National Do Not Call Registry, permitting consumers to register, via either a toll-free telephone number or the Internet, their preference not to receive certain telemarketing calls ("Amended TSR").² Under the Amended TSR, most telemarketers are required to refrain from calling consumers who have placed their numbers on the registry.³ Telemarketers must periodically access the registry to remove from their telemarketing lists the telephone numbers of those consumers who have registered.⁴

Shortly after issuance of the Amended TSR, Congress passed The Do-Not-Call Implementation Act ("the Implementation Act").⁵ The Implementation Act gave the Commission the specific authority to "promulgate regulations establishing fees sufficient to implement and enforce the provisions relating to the 'do-not-call' registry of the [TSR] * * * No amounts shall be collected as fees pursuant to this section for such fiscal years except to the extent provided in advance in appropriations Acts. Such amounts shall be available * * * to offset the costs of activities and services related to the implementation and enforcement of the [TSR], and other activities resulting from such implementation and enforcement."⁶

On July 29, 2003, pursuant to the Implementation Act and the Consolidated Appropriations Resolution, 2003,⁷ the Commission issued a Final Rule further amending the TSR to impose fees on entities accessing the National Do Not Call Registry ("the Original Fee Rule").⁸ Those fees were based on the FTC's best estimate of the number of entities that would be required to pay for access to the National Registry, and the need to raise \$18.1 million in Fiscal Year 2003 to cover the costs associated with the implementation and enforcement of the "do-not-call" provisions of the Amended TSR. The Commission determined that the fee structure would be based on the number of different area codes of data that an entity wished to access annually. The Original Fee Rule established an annual fee of \$25 for each area code of data requested from the National Registry, with the first five area codes of data provided at no cost.⁹ The maximum annual fee was capped at \$7,375 for entities accessing 300 area codes of data or more.¹⁰ On July 30, 2004, pursuant to the Implementation Act and the Consolidated Appropriations Act, 2004,¹¹ the Commission issued a revised Final Rule further amending the TSR and increasing fees on entities accessing the National Do Not Call Registry ("the 2004 Fee Rule").¹² Those fees were based on the FTC's experience through June 1, 2004, its best estimate of the number of entities that would be required to pay for access to the National Registry, and the need to raise \$18 million in Fiscal Year 2004 to cover the costs associated with the implementation and enforcement of the "do-not-call" provisions of the Amended TSR. The Commission determined that the fee structure would continue to be based on the number of different area codes of

data that an entity wished to access annually. The 2004 Fee Rule established an annual fee of \$40 for each area code of data requested from the National Registry, with the first five area codes of data provided at no cost.¹³ The maximum annual fee was capped at \$11,000 for entities accessing 280 area codes of data or more.¹⁴

On July 27, 2005, pursuant to the Implementation Act and the Consolidated Appropriations Act, 2005,¹⁵ the Commission issued a revised Final Rule further amending the TSR and increasing fees on entities accessing the National Do Not Call Registry ("the 2005 Fee Rule").¹⁶ These fees were based on the FTC's experience through June 1, 2005, its best estimate of the number of entities that would be required to pay for access to the National Registry, and the need to raise \$21.9 million in Fiscal Year 2005 to cover the costs associated with the implementation and enforcement of the "do-not-call" provisions of the Amended TSR. The Commission again determined that the fee structure would be based on the number of different area codes of data that an entity wished to access annually. The 2005 Fee Rule established an annual fee of \$56 for each area code of data requested from the National Registry, with the first five area codes of data provided at no cost.¹⁷ The maximum annual fee was capped at \$15,400 for entities accessing 280 area codes of data or more.¹⁸

In the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 ("the 2006 Appropriations Act"),¹⁹ Congress directed the FTC to collect offsetting fees in the amount of \$23 million in Fiscal Year 2006 to implement and enforce the TSR.²⁰ Pursuant to the 2006 Appropriations Act and the Implementation Act, as well as the Telemarketing Fraud and Abuse Prevention Act ("the Telemarketing Act"),²¹ the FTC is issuing this NPRM to amend the fees charged to entities

⁷ Pub. L. 108-7, 117 Stat. 11 (2003).

⁸ 68 FR 45134 (July 31, 2003).

⁹ Once an entity requested access to area codes of data in the National Registry, it could access those area codes as often as it deemed appropriate for one year (defined as its "annual period"). If, during the course of its annual period, an entity needed to access data from more area codes than those initially selected, it would be required to pay for access to those additional area codes. For purposes of these additional payments, the annual period was divided into two semi-annual periods of six-months each. Obtaining additional data from the registry during the first semi-annual, six month period required a payment of \$25 for each new area code. During the second semi-annual, six-month period, the charge for obtaining data from each new area code requested during that six-month period was \$15. These payments would provide the entity access to those additional area codes of data for the remainder of its annual period.

¹⁰ 68 FR at 45141.

¹¹ Pub. L. 108-199, 118 Stat. 3 (2004).

¹² 69 FR 45580 (July 30, 2004).

¹³ *Id.* at 45584. The 2004 Fee Rule had the same fee structure as the Original Fee Rule. However, fees were increased from \$25 to \$40 per area code for the annual period and from \$15 to \$20 per area code for the second six-month period.

¹⁴ *Id.*

¹⁵ Pub. L. 108-447, 118 Stat. 2809 (2004).

¹⁶ 70 FR 43273 (July 27, 2005).

¹⁷ *Id.* at 43275. The 2005 Fee Rule had the same fee structure as the 2004 Fee Rule, except that the fees were increased from \$40 to \$56 per area code for the annual period and from \$20 to \$28 per area code for the second six-month period.

¹⁸ *Id.*

¹⁹ Pub. L. 109-108, 119 Stat. 2290 (2005).

²⁰ *Id.* at 2330.

²¹ 15 U.S.C. 6101-08.

² 68 FR 4580 (Jan. 29, 2003).

³ 16 CFR 310.4(b)(1)(iii)(B).

⁴ 16 CFR 310.4(b)(3)(iv). The Commission recently amended the TSR to require telemarketers to access the National Registry at least once every 31 days, effective January 1, 2005. See 69 FR 16368 (Mar. 29, 2004).

⁵ Pub. L. 108-10, 117 Stat. 557 (2003).

⁶ *Id.*

accessing the National Do Not Call Registry.

II. Calculation of Proposed Revised Fees

In the Original Fee Rule, the Commission estimated that 10,000 entities would be required to pay for access to the National Do Not Call Registry. The Commission based its estimate on the "best information available to the agency" at that time.²² It noted that this estimate was based on "a number of significant assumptions," about which the Commission had sought additional information during the comment period. The Commission noted, however, that it received virtually no comments providing information supporting or challenging these assumptions.²³ As a result, the Commission anticipated "that these fees may need to be reexamined periodically and adjusted, in future rulemaking proceedings, to reflect actual experience with operating the registry."²⁴

In the 2004 Fee Rule, the Commission reported that "[a]s of June 1, 2004, more than 65,000 entities had accessed the national registry. More than 57,000 of those entities had accessed five or fewer area codes of data at no charge, and 1,100 'exempt' entities also accessed the registry at no charge. Thus, more than 7,100 entities have paid for access to the registry, with over 1,200 entities paying for access to the entire registry."²⁵ The Commission based its calculation of revised fees on this experience, with the expectation that the number of entities accessing the registry in Fiscal Year 2004 would be substantially the same as in Fiscal Year 2003. As in the Original Fee Rule, the Commission based its estimate on the best information available at the time, with the continuing intent to periodically reexamine and adjust the fees to reflect actual experience with operating the registry.

In the 2005 Fee Rule, the Commission reported that from March 1, 2004 through February 28, 2005,²⁶ "more than 60,800 entities have accessed all or part of the information in the registry. Approximately 1,300 of these entities are 'exempt' and therefore have accessed the registry at no charge. An additional 52,700 entities have accessed five or fewer area codes of data, also at

no charge. As a result, approximately 6,700 entities have paid for access to the registry, with slightly less than 1,100 entities paying for access to the entire registry."²⁷

From March 1, 2005 to February 28, 2006, slightly less than 66,200 entities have accessed all or part of the information in the registry. Approximately 1,300 of these entities are "exempt" and therefore have accessed the registry at no charge.²⁸ An additional 58,300 entities have accessed five or fewer area codes of data, also at no charge. As a result, approximately 6,500 entities have paid for access to the registry, with slightly less than 1,000 entities paying for access to the entire registry.

As previously stated, the 2006 Appropriations Act directs the Commission to collect offsetting fees in Fiscal Year 2006 to implement and enforce the Amended TSR.²⁹ The Commission is proposing a revised Fee Rule to raise \$23 million of fees to offset costs it expects to incur in this Fiscal Year for the following purposes related to implementing and enforcing the Amended TSR. First, funds are required to operate the National Registry. This includes items such as handling consumer registration and complaints, telemarketer access to the registry, state access to the registry, and the management and operation of law enforcement access to appropriate information.³⁰ Second, funds are

²⁷ 79 FR at 43279 n. 81.

²⁸ The 2005 Fee Rule, the 2004 Fee Rule, and the Original Fee Rule stated that "there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing the National Do Not Call Registry without being required to under this Rule, 47 CFR 64.1200, or any other federal law." 16 CFR 310.8(c). Such "exempt" organizations include entities that engage in outbound telephone calls to consumers to induce charitable contributions, for political fund raising, or to conduct surveys. They also include entities engaged solely in calls to persons with whom they have an established business relationship or from whom they have obtained express written agreement to call, pursuant to 16 CFR 310.4(b)(1)(iii)(B)(i) or (ii), and who do not access the National Registry for any other purpose. See 70 FR at 43275; 69 FR at 45585-6; and 68 FR at 45144.

²⁹ 2004 \$23.1 See 119 Stat. at 2330. This \$23.1 million includes collections of \$5.1 million from the Fiscal Year 2003 Original Fee Rule that were actually collected in Fiscal Year 2004 and \$18 million to be raised from this year's Amended Fee Rule.

³⁰ From March 2005 to February 2006, approximately 51 million phone numbers were added to the National Registry, with a total since inception of approximately 121 million registrations. Since inception, the registry has also handled many requests from organizations wishing to access the registry (e.g. telemarketers, states, and law enforcers), including hundreds of thousands of subscription requests, and millions of area code access requests (including downloads and interactive search requests).

required for law enforcement efforts, including identifying targets, coordinating domestic and international initiatives, challenging alleged violators, and consumer and business education efforts, which are critical to securing compliance with the Amended TSR. These law enforcement efforts are a significant component of the total costs, given the large number of ongoing investigations currently being conducted by the agency, and the substantial effort necessary to complete such investigations. Third, funds are required to cover ongoing agency infrastructure and administration costs associated with the operation and enforcement of the registry, including information technology structural supports and distributed mission overhead support costs for staff and non-personnel expenses such as office space, utilities, and supplies.

The Commission proposes to revise the fees charged for access to the National Registry based on the assumption that approximately the same number of entities will access similar amounts of data from the National Registry during their next annual period.³¹ Based on that assumption, and the continued allowance for free access to "exempt" organizations and for the first five area codes of data, the proposed revised fee would be \$62 per area code. The maximum amount that would be charged to any single entity would be \$17,050, which would be charged to any entity accessing 280 area codes of data or more. The fee charged to entities requesting access to additional area codes of data during the second six months of their annual period would be \$31.

The Commission proposes to continue allowing all entities accessing the National Registry to obtain the first five area codes of data for free.³² The

³¹ Telemarketers were first able to access the National Registry on September 2, 2003. As a result, the first year of operation did not conclude until August 31, 2004 and the second year of operation did not end until August 31, 2005. Similarly, the third year of operation will not end until August 31, 2006. The Commission realizes that a small number of additional entities may access the National Registry for the first time prior to September 1, 2006/2004, and should be considered in calculating the revised fees. In this regard, the Commission will adjust the assumptions to reflect the actual number of entities that have accessed the registry, and make the appropriate changes to the fees, at the time of issuance of the Final Rule.

³² If all entities accessing the National Registry were charged for the first five area codes of data, the cost per area code would be reduced to \$38\$32, while the maximum amount charged to access the entire National Registry would be \$10,640\$8960. These hypothetical fee rates are based on the assumption that the same number of entities would pay to access the same number of area codes they currently access for free.

²² 68 FR at 45140.

²³ *Id.*

²⁴ *Id.* at 45142.

²⁵ 69 FR at 45584.

²⁶ The Commission noted that "[a]s of June 1, 2005, there [had] been no significant or material changes in the number of entities that have accessed the registry since the Commission issued 2005 Fee Rule NPR." 70 FR at 43279.

Commission allowed such free access in the Original Fee Rule, the 2004 Fee Rule, and the 2005 Fee Rule, “to limit the burden placed on small businesses that only require access to a small portion of the national registry.”³³ The Commission noted that such a fee structure was consistent with the mandate of the Regulatory Flexibility Act,³⁴ which requires that to the extent, if any, a rule is expected to have a significant economic impact on a substantial number of small entities, agencies should consider regulatory alternatives to minimize such impact. As stated in the prior fee rules, “the Commission continues to believe that providing access to five area codes of data for free is an appropriate compromise between the goals of equitably and adequately funding the national registry, on one hand, and providing appropriate relief for small businesses, on the other.”³⁵ In addition, requiring over 58,000 entities to pay a small fee for access to five or fewer area codes from the National Registry would place a significant burden on the registry, requiring the expenditure of even more resources to handle properly that additional traffic. Nonetheless, the Commission continues to seek comment on this issue.

The Commission also proposes to continue allowing “exempt” organizations, as discussed in footnote 28, above, to obtain free access to the National Registry. The Commission believes that any exempt entity, voluntarily accessing the National Registry to avoid calling consumers who do not wish to receive telemarketing calls, should not be charged for such access. Charging such entities access fees, when they are under no legal obligation to comply with the “do-not-call” requirements of the TSR, may make them less likely to obtain access to the National Registry in the future, resulting in an increase in unwanted calls to consumers. As with free access to five or fewer area codes, the Commission seeks comment on this issue as well.

III. Invitation to Comment

All persons are hereby given notice of the opportunity to submit written data, views, facts, and arguments addressing the issues raised by this NPRM. Written comments must be received on or before June 1, 2006. All comments should be

filed as prescribed in the **ADDRESSES** section above.

IV. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner’s advisor will be placed on the public record. See 16 CFR 1.26(b)(5).

V. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act,³⁶ the Office of Management and Budget (“OMB”) approved the information collection requirements in the TSR and assigned OMB Control Number 3084–0097.³⁷ The proposed rule amendment, as discussed above, provides for an increase in the fees that are charged for accessing the National Do Not Call Registry. Therefore, the proposed rule amendment does not create any new recordkeeping, reporting, or third-party disclosure requirements that would be subject to review and approval by OMB pursuant to the Paperwork Reduction Act.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act³⁸ requires an agency either to provide an Initial Regulatory Flexibility Analysis (“IRFA”) with a proposed rule, or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. The FTC does not expect that the rule concerning revised fees will have the threshold impact on small entities. As discussed in Section II, above, this NPRM specifically proposes charging no fee for access to one to five area codes of data included in the registry. As a result, the Commission anticipates that many small businesses will be able to access the National Registry without having to pay any annual fee. Thus, it is unlikely that there will be a significant burden on small businesses resulting from the adoption of the proposed revised fees. Nonetheless, the Commission has determined that it is appropriate to publish an IRFA in order to inquire into the impact of this proposed rule on small entities. Therefore, the Commission has prepared the following analysis.

³⁶ 44 U.S.C. 3501–3520.

³⁷ Commission staff is currently seeking an extension of the clearance for the information collection requirements associated with the TSR. See 71 FR 3302 (January 20, 2006).

³⁸ 5 U.S.C. 604(a).

A. Reasons for the Proposed Rule

As outlined in Section II, above, the Commission is proposing to amend the fees charged to entities accessing the National Registry in order to raise sufficient amounts to offset the current year costs to implement and enforce the Amended TSR.

B. Statement of Objectives and Legal Basis

The objective of the current proposed rule is to collect sufficient fees from entities that must access the National Do Not Call Registry. The legal authority for this NPRM is the 2006 Appropriations Act, the Implementation Act, and the Telemarketing Act.

C. Description of Small Entities to Which the Rule Will Apply

The Small Business Administration has determined that “telemarketing bureaus” with \$6.5 million or less in annual receipts qualify as small businesses.³⁹ Similar standards, i.e., \$6.5 million or less in annual receipts, apply for many retail businesses which may be “sellers” and subject to the proposed revised fee provisions outlined in this NPRM. In addition, there may be other types of businesses, other than retail establishments, that would be “sellers” subject to the proposed rule.

As described in Section II, above, over 58,000 entities have accessed five or fewer area codes of data from the National Registry at no charge. While not all of these entities may qualify as small businesses, and some small businesses may be required to purchase access to more than five area codes of data, the Commission believes that this is the best estimate of the number of small entities that would be subject to the proposed revised fee rule. The Commission invites comment on this issue, including information about the number and type of small business entities that may be subject to the revised fees.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The information collection activities at issue in this NPRM consist principally of the requirement that firms, regardless of size, that access the National Registry submit minimal identifying and payment information, which is necessary for the agency to collect the required fees. The cost impact of that requirement and the labor or professional expertise required for compliance with that requirement were discussed in section V of the 2004 Fee

³⁹ See 13 CFR 121.201.

³³ See 68 FR at 45140; 69 FR at 45582; and 70 FR at 43275.

³⁴ 5 U.S.C. 601.

³⁵ See 68 FR at 45141; 69 FR at 45584; and 70 FR at 43275–6.

Rule Notice of Proposed Rule Making, 69 FR 23701, 23704 (April 30, 2004).

As for compliance requirements, small and large entities subject to the revised fee rule will pay the same rates to obtain access to the National Do Not Call Registry in order to reconcile their calling lists with the phone numbers maintained in the National Registry. As noted earlier, however, compliance costs for small entities are not anticipated to have a significant impact on small entities, to the extent the Commission believes that compliance costs for those entities will be largely minimized by their ability to obtain data for up to five area codes at no charge.

E. Duplication With Other Federal Rules
None.

F. Discussion of Significant Alternatives

The Commission recognizes that alternatives to the proposed revised fee are possible. For example, instead of a fee based on the number of area codes that a telemarketer accesses from the National Registry, access could be provided on the basis of a flat fee regardless of the number of area codes accessed. The Commission believes, however, that these alternatives would likely impose greater costs on small businesses, to the extent they are more likely to access fewer area codes than larger entities.

Another alternative the Commission has considered entails providing small businesses with free access to the National Registry.⁴⁰ This alternative would require entities seeking an exemption from the fees to submit information regarding their annual revenues, to determine whether they meet the statutory threshold to be classified a small business and exempt from the fees. The Commission continues to believe, however, “an alternative approach that would provide small business with exemptive relief more directly tied to size status would not balance the private and public interests at stake any more equitably or reasonably than the approach currently proposed by the Commission.”⁴¹ The Commission also continues to believe that “such a system would present greater administrative, technical, and legal costs and complexities than the Commission’s current proposal which does not require any proof or verification of that status.”⁴²

Accordingly, the Commission believes its current proposal is likely to be the

least burdensome for small businesses, while achieving the goal of covering the necessary costs to implement and enforce the Amended TSR.

Despite these conclusions, the Commission welcomes comment on any significant alternatives that would further minimize the impact on small entities, consistent with the objectives of the Telemarketing Act, the 2006 Appropriations Act, and the Implementation Act.

List of Subjects in 16 CFR Part 310

Telemarketing, Trade practices.

VII. Proposed Rule

Accordingly, for the reasons stated in the preamble, the Federal Trade Commission proposes to amend part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108.

2. Revise § 310.8(c) and (d) to read as follows:

§ 310.8 Fee for access to the National Do Not Call Registry.

* * * * *

(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is \$62 per area code of data accessed, up to a maximum of \$17,050; *provided*, however, that there shall be no charge for the first five area codes of data accessed by any person, and *provided further*, that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing the National Do Not Call Registry without being required under this Rule, 47 CFR 64.1200, or any other federal law. Any person accessing the National Do Not Call Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.

(d) After a person, either directly or through another person, pays the fees set forth in § 310.8(c), the person will be provided a unique account number which will allow that person to access the registry data for the selected area codes at any time for twelve months following the first day of the month in which the person paid the fee (“the annual period”). To obtain access to

additional area codes of data during the first six months of the annual period, the person must first pay \$62 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, the person must first pay \$31 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E6–6507 Filed 4–28–06; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 657 and 658

[FHWA Docket No. FHWA–2006–24134]

RIN 2125–AF17

Size and Weight Enforcement and Regulations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: This action updates the regulations governing the enforcement of commercial vehicle size and weight to incorporate provisions enacted in the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: a Legacy for Users (SAFETEA–LU); the Energy Policy Act of 2005; and, the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act of 2006. This action would further add various definitions; correct obsolete references, definitions, and footnotes; eliminate redundant provisions; amend numerical route changes to the National Highway designations; and incorporate statutorily mandated weight and length limit provisions.

DATES: Comments must be received on or before June 30, 2006. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://>

⁴⁰ See 69 FR at 45583; see also 68 FR 16238, 16243 n.53 (April 3, 2003).

⁴¹ See 68 FR at 16243 n.53.

⁴² *Id.*