

Proposed Rules

Federal Register

Vol. 63, No. 81

Tuesday, April 28, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Ch. XIII

Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider bylaw amendments, issues relating to the Commission's upcoming rulemaking procedure and matters relating to administration.

DATES: The meeting is scheduled for Thursday, May 7, 1998 commencing at 1:30 PM to adjournment.

ADDRESSES: The meeting will be held at the Cat 'n Fiddle Restaurant, 118 Manchester Street, Concord, New Hampshire (exit 13 off Interstate 93).

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229-1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Northeast Dairy Compact Commission will hold its regularly scheduled monthly meeting. The Commission will consider certain bylaw amendments including the separate promulgation as a rule of the provisions relating to the referendum procedure, administration matters and issues relating to the Commission's upcoming rulemaking procedure.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147, of the Federal Agriculture Improvement and Reform Act (FAIR ACT), Pub. L. 104-127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress; Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, August 8, 1996 and March 20, 1997. (b) Bylaws of

the Northeast Dairy Compact Commission, adopted November 21, 1996.)

Daniel Smith,

Executive Director.

[FR Doc. 98-11184 Filed 4-27-98; 8:45 am]

BILLING CODE 1650-01-P

DEPARTMENT OF JUSTICE

28 CFR Part 100

RIN 1105-AA39

Implementation of Section 109 of the Communications Assistance for Law Enforcement Act: Proposed Definition of "Significant Upgrade or Major Modification"

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FBI proposes to amend the Communications Assistance for Law Enforcement Act (CALEA) Cost Recovery Regulations by adding a new section which defines the term "Significant Upgrade or Major Modification." This NPRM sets forth both the FBI's proposed section and the rationale behind the proposed definition. The addition of this section will clarify the applicability of the CALEA, Cost Recovery Regulations and assist the telecommunications industry in assessing its responsibilities under CALEA.

DATES: Comments must be received on or before June 29, 1998.

ADDRESSES: Comments should be submitted to the Telecommunications Contracts and Audit Unit, Federal Bureau of Investigation, P.O. Box 221286, Chantilly, VA 20153-0450, Attention: CALEA FR Representative. All comments will be available from the FBI Reading Room located at FBI Headquarters, 935 Pennsylvania Avenue, NW., Washington, DC 20535. To review the comments, interested parties should contact Ms. Mary Stuzman, FBI Reading Room, FBI Headquarters, telephone number (202) 324-2664, to schedule an appointment (48 hours advance notice required). See Section G of the Supplementary Information for further information on electronic submission of comments.

FOR FURTHER INFORMATION CONTACT: Walter V. Meslar, Unit Chief, Telecommunications Contracts and

Audit Unit, Federal Bureau of Investigation, P.O. Box 221286, Chantilly, VA 20153-0450, telephone number (703) 814-4900.

SUPPLEMENTARY INFORMATION:

A. General Background

Recent and continuing advances in telecommunications technology and the introduction of new digitally-based services and features have impaired the ability of federal, state, and local law enforcement agencies to fully and properly conduct various types of court-authorized electronic surveillance. Therefore, on October 25, 1994, the President signed into law the Communications Assistance for Law Enforcement Act (CALEA) (Public Law 103-414, 47 U.S.C. 1001 *et seq.*). This law requires telecommunications carriers, as defined in CALEA, to ensure that law enforcement agencies, acting pursuant to court order or other lawful authorization, are able to intercept communications regardless of advances in telecommunications technologies.

Under CALEA, certain implementation responsibilities are conferred upon the Attorney General; the Attorney General has, in turn, delegated responsibilities set forth in CALEA to the Director, FBI, or his designee, pursuant to 28 CFR 0.85(o). The Director, FBI, has designated the Telecommunications Industry Liaison Unit of the Information Resources Division and the Telecommunications Contracts and Audit Unit of the Finance Division to carry out these responsibilities.

One of the CALEA implementation responsibilities delegated to the FBI is the establishment, after notice and comment, of regulations necessary to effectuate timely and cost-efficient payment to telecommunications carriers for certain modifications made to equipment, facilities and services (hereafter referred to as "equipment") to make that "equipment" compliant with CALEA.¹ Section 109(b)(2) of CALEA authorizes the Attorney General, subject to the availability of appropriations, to agree to pay telecommunications carriers for additional reasonable costs directly associated with making the assistance capability requirements found in section 103 of CALEA reasonably achievable with respect to

¹ CALEA § 109(e).

"equipment" installed or deployed after January 1, 1995, in accordance with the procedures established in section 109(b)(1) of CALEA.² Section 104(e) of CALEA authorizes the Attorney General, subject to the availability of appropriations, to agree to pay telecommunications carriers for reasonable costs directly associated with modifications of any of a carrier's systems or services, as identified in the Carrier Statement required by CALEA section 104(d), which do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the Capacity Notice(s) published in accordance with CALEA section 104. Finally, section 109(a) of CALEA authorizes the Attorney General, subject to the availability of appropriations, to agree to pay telecommunications carriers for all reasonable costs directly associated with the modifications performed by carriers in connection with "equipment" installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with the assistance capability requirements found in section 103 of CALEA. However, reimbursement under section 109(a) of CALEA is modified by the requirements of section 109(d), which states:

If a carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e) [Cost Control Regulations], and the Attorney General has not agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring any equipment, facility, or service deployed on or before January 1, 1995, into compliance with the assistance capability requirements of section 103, such equipment, facility, or service shall be considered to be in compliance with the assistance capability requirements of section 103 until the equipment, facility, or service is *replaced or significantly upgraded or otherwise undergoes major modification*. (emphasis added).

While this section deals specifically with a carrier's compliance with CALEA, the phrase "significantly upgraded or otherwise undergoes major modification" (hereafter referred to as "significant upgrade or major modification"), depending on a carrier's actions after January, 1995, also has a direct bearing on the eligibility for reimbursement of some "equipment"

installed or deployed on or before January 1, 1995.³

B. CALEA Cost Recovery Regulations

As required by CALEA § 109(e), the FBI, after notice and comment, promulgated the CALEA Cost Recovery Regulations (62 FR 13307, 28 CFR part 100), which establish the procedures which telecommunications carriers must follow in order to receive reimbursement under Sections 109(a), 109(b) and 104(e) of CALEA, as discussed above. Specifically, the Cost Recovery Regulations set forth the means of determining allowable costs, reasonable costs, and disallowed costs. Furthermore, they establish the threshold requirements carriers must meet in their submission of cost estimates and requests for payment to the Federal Government for the disbursement of CALEA funds. Additionally, they ensure the confidentiality of trade secrets and protect proprietary information from unnecessary disclosure. Finally, they set forth the means for alternative dispute resolution.

Of particular interest for the purposes of this proposed amendment to the Cost Recovery Regulations is § 100.11(a)(1) of 28 CFR part 100, which includes in the costs eligible for reimbursement under section 109(e) of CALEA:

All reasonable plant costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 103 of CALEA, *until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modifications*; (emphasis added).

At the proposed rule stage of the rulemaking process establishing the Cost Recovery Regulations, the FBI received comments from 16 representatives of the telecommunications industry, including wireline and wireless carriers and associations. Of the 16 sets of comments received on the proposed rule, half requested that the FBI define "significant upgrade or major modification" as used in § 100.11(a)(1) of the proposed cost recovery rules.

Given the dynamic nature of the telecommunications industry and the potential impact on eligibility for reimbursement, the FBI acknowledged that "significant upgrade or major modification" must be defined. Therefore, on November 19, 1996, the

FBI published an Advanced Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (61 FR 58799), which solicited the submission of potential definitions of "significant upgrade or major modification" from the telecommunications industry and the general public. This ANPRM was also sent to a large number of associations representing the interests of the various telecommunications carriers, both wireless and wireline.

In response to the ANPRM, the FBI received comments from 13 representatives of the telecommunications industry, including wireless and wireline carriers and associations. All comments received have been fully considered in preparing this proposed definition of "significant upgrade or major modification." Significant comments received in response to the ANPRM are also summarized in Section D, below. Additionally, in developing this proposed definition, the FBI has relied on the input of other governmental agencies and telecommunications industry experts.

C. Definition Development

1. Introduction

Committed to the consultative process and to maintaining an on-going dialogue with the telecommunications industry, the FBI published its ANPRM in order to draw on the expertise of that industry so that the FBI could gain an understanding of the range of options available with regard to "significant and upgrade or major modification." Therefore, the FBI requested that telecommunications carriers and other interested parties submit potential definitions of "significant upgrade or major modification" in response to the ANPRM. However, the FBI did not leave off working on a definition of "significant upgrade or major modification" in the interim. Rather, the FBI, in addition to considering the potential definitions submitted by the industry, also explored a number of means of defining this term. Specifically, the FBI has examined three definitional approaches: Accounting, Technical, and Public Safety. Each of these approaches, along with relevant public comments received and the results of the Bureau's research, is discussed in detail below.

2. Accounting Approaches

In order to define "significant upgrade or major modification" in accounting terms, the FBI first sought to determine at what point expenditures would be considered significant in either dollar or

² CALEA Section 109(b)(1) sets forth the procedures and the criteria the Federal Communications Commission (FCC) will use to determine if the modifications are "reasonably achievable".

³ "Significant upgrade or major modification" also appears in CALEA § 108(c)(3)(B) with regard to the limitations placed upon the issuance of enforcement orders under 18 U.S.C. 2522.

percentage terms. It became immediately apparent that a specific dollar figure could not be determined in light of the differences between wireline and wireless switching equipment and the dearth of available information on wireless carrier expenditures.

In an effort to establish the threshold for significance in terms of a specific percentage, the FBI researched several accounting and procurement regulation sources. As a result of this research, the FBI identified two references which generally support 20% as being the threshold for significance. In the Accounting Principles Board Opinion-18 (APB-18) pronouncement concerning the equity method of accounting for investments in common stock, the term "significant" is used when it refers to influence over the operating and financial policies of the investee. APB-18, paragraph 17, reads: "Absent evidence to the contrary, an investment (directly or indirectly) of 20% or more in the voting stock of an investee is presumed to indicate the ability to exercise significant influence, and the equity method is required for fair presentation." There was also a presumption in APB-18 that "significant" influence does not exist in an investment of less than 20%.

The use of the 20% threshold for significance is also supported in the Communications Act of 1934, Section 310, which indicates that a station license shall not be granted to "any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens."⁴ This would seem to indicate that control of 20% of the capital stock imparts significant influence upon the stockholder.

In each of the above references it can be inferred that 20% was considered to be the threshold for significance. Translating this inference to the task of defining "significant upgrade or major modification," it could be argued that any telecommunications carrier that incurred expenditures equal to or exceeding 20% of the telecommunications plant in-service value of a switch has made a "significant upgrade or major modification" to that switch.

Based on this premise the FBI could define "significant upgrade or major modification" in financial terms as follows: "A significant upgrade or major modification is defined as any improvement to a carrier's existing equipment, facilities, or services for which the construction, installation, and acquisition costs of the project equal or exceed 20% of the

telecommunications plant in-service value in switching equipment and switching assets used for stored program control."

However, this accounting definition ultimately proved untenable. First, it is possible for a carrier to make a modification or upgrade which could cross the 20% threshold, yet have no impact on law enforcement's ability to conduct lawfully authorized electronic surveillance. Such an occurrence would be inconsistent with the intent of CALEA. Additionally, given the wide variety of network-based systems in use today, it would be extremely difficult to determine precisely to what the 20% threshold should apply (e.g., the entire network, a specific switch, an available feature). In practice, applying such a percentage to a telecommunications network would ultimately create more confusion than it would resolve. Therefore, the FBI discarded this approach.

3. Technical Approaches

The FBI also considered a number of technical approaches to defining "significant upgrade or major modification." The term "significant" was used in relation to equipment upgrades by the Federal Communications Commission (FCC) in only one telecommunications proceeding during the past few years: FCC Docket Number 95-116, Telephone Number Portability ("Number Portability Proceeding"). The discussion of implementation costs in the Number Portability Proceeding states: "long-term, or database, number portability methods require significant network upgrades, including installation of number portability-specific switch software, implementation of Signaling System No. 7 and Intelligent Network or Advance Intelligent Network capability, and the construction of multiple number portability databases."⁵ This specific reference to "significant network upgrades" does not, however, provide a generic definition; rather, it provides only examples of upgrades which could be considered significant.

As the FBI worked through a number of technical definitions, some dealing with software generics, some dealing with switch architecture, it became apparent that every technical definition was open to question on some type of equipment. Furthermore, each technical definition proposed left ambiguities and called for constant definition of the

terms used. Therefore, the FBI discarded this approach for the long term.

4. Public Safety Approaches

The intent of CALEA is to ensure that law enforcement agencies, acting pursuant to court order or other lawful authorization, will continue to be able to interpret communications regardless of advances in telecommunications technologies. Therefore, the FBI began to look at defining "significant upgrade or major modification" from a public safety perspective. In doing so, the FBI determined that any new modification or upgrade which created an impediment to lawfully authorized electronic surveillance could be considered "significant" or "major" given the intent of CALEA in that it would endanger public safety and prevent law enforcement from carrying out its mission. Therefore, the FBI developed the following definition: "the term 'significant upgrade or major modification' means any change, whether through addition or other modification, to any equipment, facility or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance."

However, the FBI recognizes that events have overtaken the CALEA implementation process, specifically the enactment of the Telecommunication Act of 1996, and that carriers could not cease all activity on their systems until a definition of "significant upgrade or major modification" was promulgated. Therefore, in the interests of reasonableness, the FBI developed the following bipartite definition:

§ 100.22 Definition of "significant upgrade or major modification."

(a) For equipment, facilities or services for which an upgrade or modification has been completed on or before October 25, 1998, the term "significant upgrade or major modification" means any fundamental or substantial change in the network architecture or any change that fundamentally alters the nature or type of the existing telecommunications equipment, facility, or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute;

(b) For equipment, facilities or services for which an upgrade or modification is completed after October 25, 1998, the term "significant upgrade or major modification" means any change, whether through addition or other modification, to any equipment, facility or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute.

⁵ Telephone Number Portability, First Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 95-116 (1996), paragraph 122.

⁴ 47 U.S.C. 310(b)(3).

The technical terminology in proposed § 100.22(a) is derived from the comments submitted by the telecommunications industry in response to the ANPRM. Given that October 25, 1998 is the compliance date for CALEA capability, the FBI believes that this initial definition will give carriers the time they need to make appropriate business decisions about their "equipment" in light of CALEA's "significant upgrade or major modifications" clause and will not penalize carriers for most upgrades or modifications made to their "equipment" while both a definition of "significant upgrade or major modification" and a CALEA solution were unavailable. However, carriers who made upgrades or modifications about which no argument can be made regarding their "significance" (e.g. changing from analogue to digital switching) will still be required to comply with CALEA at their own expense.

Proposed § 100.22(b) will then carry out the intent of CALEA by ensuring that law enforcement will continue to be able to carry out lawfully authorized electronic surveillance in cases where carriers made informed business decisions to modify or upgrade their equipment in such a way which impedes law enforcement. Carriers do not modify or upgrade equipment at random; such business decisions are made so that they will ultimately increase a carrier's revenue. With the promulgation of this definition, carriers will be able to factor the requirements and costs of CALEA compliance into their decisions, thereby being able to determine if upgrading or modification is the best decision at that time.

D. Industry Comments in Response to ANPRM

In response to the ANPRM, commenters raised a number of issues, many of which had little direct bearing on the issue of defining the term "significant upgrade or major modification" and have since been addressed in the final CALEA cost recovery rule (62 FR 13307). Therefore, the FBI has opted to address in this document only those comments which have a direct bearing on "significant upgrade or major modification" and which have not been previously addressed in print.

1. Definition of "Installed or Deployed"

The CALEA Cost Recovery Rules (28 CFR part 100) define "installed or deployed" as follows: "*Installed or deployed* means that, on a specific switching system, equipment, facilities,

or services are operable and available for use by the carrier's customers." (28 CFR 100.10). Several commenters responding to the ANPRM argues that "deployed" should mean "commercially available prior to January 1, 1995" and should, therefore, be defined separately from "installed."

The FBI believes that the commenters' proposed definition of "deployed" as it is used in CALEA is incorrect. CALEA section 109(e)(3), Submission of Claims, reads: "Such [Cost Control] regulations shall require any telecommunications carrier that the Attorney General has agreed to pay for modifications pursuant to [section 109] *and that has installed or deployed such modification to submit to the Attorney General a claim for payment * * **" (Emphasis added). It is unlikely that the Congress intended that carriers be able to submit claims for payment simply because a piece of equipment was commercially available. It is also unlikely that the Congress intended that the Attorney General agree to reimburse carriers for commercially available equipment sitting in their warehouses. Rather, it seems clear that the Congress intended that claims be submitted only for such equipment for which the CALEA solution was "operable and available for use," or "deployed." Therefore, no change to the definition of "installed or deployed" has been made.

2. Definition of "Replaced"

Some commenters requested that the FBI defined "replaced" as used in the phrase "replaced or significantly upgraded or otherwise undergoes major modification."⁶ These commenters advocated defining "replaced" as meaning the installation of equipment, facilities or services which became commercially available after January 1, 1995 and which are not upgrades or modifications to equipment, facilities or services commercially available prior to January 1, 1995. However, the plain language of CALEA never addresses the issue of commercial availability with regard to grandfathered equipment; rather, CALEA repeatedly refers to the date of installation or deployment as the relevant date for reimbursement eligibility. Additionally, unlike the potentially subjective or ambiguous nature of the term "significant upgrade or major modification," the meaning of the term "replaced" is both clear and common. Therefore, the FBI does not intend to define this term.

⁶ CALEA § 109(d).

3. Just Compensation

Some commenters asserted that an overly broad definition of "significant upgrade or major modification" would constitute a taking for which the carriers would be entitled to full compensation pursuant to the Just Compensation Clause of the Fifth Amendment of the Constitution of the United States. One commenter asserted that this was so regardless of whether Congress provides funding for CALEA cost reimbursement.

No set formula exists for identifying when Government regulatory action constitutes a "taking" under the Constitution; the Supreme Court has instead generally relied on an *ad hoc*, factual inquiry into the circumstances of each particular case. The Supreme court has, however, indicated that the following factors have particular significance: (1) The severity of the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the government action. See *Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for So. California*, 508 U.S. 602, 113 S.Ct. 2264, 124 L.Ed. 2d 539 (1993); *Connolly v. Pension Benefit Guaranty Corp.*, 475 U.S. 211, 106 S.Ct. 1018, 89 L.Ed.2d 166 (1986); see also *Lucas v. South Carolina Coastal Commission*, 505 U.S. 1003, 112 St.Ct. 2886, 120 L.Ed.2d 798 (1992).

In response to the comments received, the FBI has analyzed these factors and has concluded that the proposed definition of "significant upgrade or major modification" does not amount to a compensable taking. First, the FBI does not believe that the economic impact of this definition on carriers will rise to the level of a taking requiring compensation. The proposed definition will not significantly impair the economically beneficial use of the carriers' property, and the value of such property will not be substantially reduced. If any such reduction does occur, CALEA section 109(b) provides a mechanism whereby carriers may petition the FCC for relief through a determination that CALEA compliance is not reasonably achievable. Moreover, it has been held that "mere diminution in the value of property, however serious, is insufficient to demonstrate a taking." *Concrete Pipe*, 508 U.S. at 645. Second, this definition, and the regulations of which it is a part, will not interfere with investment-backed expectations of the carriers. Carriers have cooperated with the execution of court-ordered electronic surveillance for some time now. Carriers could,

consequently, readily anticipate that such wiretapping would continue and that the mechanisms of such wiretapping would evolve as telecommunications technology advanced. These regulations do not expand law enforcement authority but merely maintain the ability of law enforcement to conduct court-ordered surveillance. Carriers had no reasonable expectation that they would not be required to continue to provide assistance to law enforcement. Finally, the character of the government action involved suggests that regulations do not involve a compensable taking. In carrying out CALEA, no law enforcement agency will physically invade any carriers' property or appropriate any carriers' assets for its own use. The FBI feels that the regulations of which this definition is a part substantially advance the Nation's legitimate interests in preserving public safety and national security. These interests would unquestionably be jeopardized without the ability to conduct court-ordered electronic surveillance. Such wiretaps are critical to saving lives and preventing and solving crimes. In sum, the FBI does not believe that the carriers are being forced to bear a burden "which, in all fairness and justice, should be borne by the public as a whole." *Armstrong v. United States*, 364 U.S. 40, 49, 80 S.Ct. 1563, 4 L.Ed.2d 1554 (1960).

4. FBI Authority To Define "Significant Upgrade or Major Modification"

Some commenters challenged the FBI's authority to define the term "significant upgrade or major modification," asserting that final authority rests with either the FCC or the courts. The FBI began this rulemaking proceeding regarding "significant upgrade or major modification" at the request of commenters on the proposed cost recovery rule. In fact, some of the same entities which requested in their comments on the proposed CALEA cost recovery rule that the FBI define "significant upgrade or major modification," are those who are now challenging the FBI's authority to do so.

There is no explicit language in CALEA placing the definition of "significant upgrade or major modification" under the FCC's authority.⁷ In fact, in light of the FCC's

⁷ See, however, the amendments to the Communications Act of 1934 contained in Title III of CALEA, specifically 47 U.S.C. 229(a): "In general—the Commission shall prescribe such rules as are necessary to implement the requirements of the Communications Assistance for Law Enforcement Act."

greater technical expertise, the FBI has consulted on several occasions with the FCC regarding the definition of "significant upgrade or major modification." The FBI offered to defer to the FCC in this area; however, the FCC determined that the definition of "significant upgrade or major modification" falls within the FBI's CALEA implementation responsibilities, specifically with regard to reimbursement.

With regard to the courts, CALEA section 108 does place the final authority regarding this issue with the courts in any enforcement order proceeding. However, that should not preclude the FBI from defining this term so that carriers will know whether their equipment, facilities and services are grandfathered under CALEA section 109(d), whether they may be eligible for compensation under CALEA section 109(a), and whether they may need to petition the FCC under the provisions of CALEA section 109(b). Therefore, the FBI is proceeding with this rulemaking.

5. Potential Burden on Small Carriers

Two associations representing the interests of carriers qualifying as "small entities" for regulatory purposes sought assurances that the proposed definition of "significant upgrade or major modification" would take into consideration the potential burdens imposed upon small carriers. The FBI is cognizant of the needs of small carriers and has taken these needs into consideration during the development of the proposed definition. This issue is addressed at length in Section F, Initial Regulatory Flexibility Analysis, below.

6. The Telecommunications Act of 1996

Several commenters were concerned that upgrades and modifications required by the Telecommunications Act of 1996, as well as other federal and state mandates, be exempt from consideration as "significant upgrades or major modifications" under CALEA. The FBI is persuaded by these comments and has worked such an exemption into the proposed definition.

7. Availability of a CALEA Standard

Several commenters asserted that a pre-condition for the occurrence of a "significant upgrade or major modification" was the availability of an industry-developed CALEA standard. However, the plain language of CALEA states that the absence of a standard shall not "relieve a carrier, manufacturer, or telecommunications support services provider of the obligations imposed by sections 103 [Assistance Capability Requirements] or

106 [Cooperation of Equipment Manufacturers and Providers of Telecommunications Support Services], as applicable."⁸ Therefore, the FBI does not accept this comment.

8. Availability of CALEA Compliant Technology

Several commenters asserted that a pre-condition for the occurrence of a "significant upgrade or major modification" was the availability of CALEA compliant technology. Carriers could not be expected to include the CALEA solution along with any "significant upgrade or major modification" if such a solution did not exist.

The FBI is cognizant of this issue and has taken steps to minimize the impact of the "significant upgrade or major modification" clause in these circumstances. To this end, the FBI has proposed the bipartite definition proposed above, which limits "significant upgrades or major modifications" prior to October 25, 1998 to "any fundamental or substantial change in the network architecture or any change that fundamentally alters the nature or type of the existing telecommunications equipment, facility, or service, that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute." Given that October 25, 1998 is the compliance date for CALEA capability, the FBI believes that this initial definition will give carriers the time they need to make appropriate business decisions about their "equipment" in light of CALEA's "significant upgrade or major modification" clause and will not penalize carriers for most upgrades or modifications made to their "equipment" while the CALEA solution is unavailable. However, carriers who made upgrades or modifications about which no argument can be made regarding their "significance" (e.g. changing from analogue to digital switching) will still be required to comply with CALEA at their own expense.

9. Definition of "Significant Upgrade"

Most commenters proposed a definition of "significant upgrade or major modification" similar to the one proposed by the United States Telephone Association (USTA):

Significant upgrade or major modification includes only those upgrades or modifications which are generally available to the industry and installed/implemented in

⁸ CALEA § 107(a)(3)(B).

order to be consistent with industry-developed standards and/or FCC technical requirements associated with implementation of CALEA. Such upgrades or modifications pertain only to facilities, services, functions, etc. that affect compliance with the capabilities [sic] requirements of CALEA and represent changes in the network architecture or changes that fundamentally alter the nature or type of the existing telecommunications equipment, facility, or service. Such term does not include upgrades and/or modifications to networks mandated by state or Federal law where CALEA compliant technology is not available.

As discussed above, the FBI has taken this proposed definition under consideration and has incorporated parts of it into the FBI's own proposed definition regarding upgrades and modifications made between January 1, 1995 and the CALEA capability compliance date of October 25, 1998. The FBI has also included *in toto* the proposed exemption for upgrades or modifications required by state and federal mandates. However, the FBI believes that this definition will not satisfy the intent of CALEA in the long term. Therefore, the FBI has broadened the definition for modifications occurring after October 25, 1998 to include any upgrade or modification which impedes law enforcement's ability to carry out lawfully authorized electronic surveillance. Such impediments are clearly "significant" and "major" in that they endanger public safety and prevent law enforcement from carrying out its mission. Therefore, the FBI can accept the commenters proposed definition only in part.

E. Applicable Administrative Procedures and Executive Orders

1. Unfunded Mandates

The FBI has examined this proposed rule in light of the Unfunded Mandates Reform Act of 1995 and has tentatively concluded that this proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.

2. Executive Order 12866

The FBI examined this proposed rule in light of Executive Order 12866 and has found that it constitutes a significant regulatory action only under section 3(f)(4). In accordance with section 6 of Executive Order 12866, the FBI has submitted this proposed rule to the Office of Information and Regulatory Affairs, OMB, for review, and has met all of the requirements of this section.

3. Executive Order 12612

This final rule does not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

4. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

5. Paperwork Reduction Act of 1995

This proposed rule contains no information collection requirements and is not, therefore, subject to the Paperwork Reduction Act of 1995.

F. Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act ("RFA"),⁹ the FBI has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the expected significant economic impact on small entities of this proposed rule. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above on the first page, in the heading. The FBI shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA) in accordance with section 603(a).¹⁰

1. Need for and Objectives of the Proposed Rules

This NPRM responds both to the legislative mandate contained in Section 109 of the Communications Assistance for Law Enforcement Act, Pub. L. No. 103-414, 108 Stat. 4279 (1994) (codified as amended in scattered sections of 18 U.S.C. and 47 U.S.C.) and to public comments received in response to the proposed CALEA Cost Recovery Rules published in the **Federal Register** on May 10, 1996 (61 FR 21396).

⁹ U.S.C. 603.

¹⁰ The Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.* has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the "Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

2. Legal Basis

The proposed action is authorized under the Communications Assistance for Law Enforcement Act, Pub. L. No. 103-414, 108 Stat. 4279 (1994) (codified as amended in scattered sections of 18 U.S.C. and 47 U.S.C.).

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.

This proposed rule may have a significant economic impact on a substantial number of small telephone companies identified by the SBA. The FBI seeks comment on how small entities may be affected by the proposed definition of "significant upgrade or major modification."

The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction" and the same meaning as the term "small business concern" under the Small Business Act, unless an agency has developed one or more definitions that are appropriate to its activities.¹¹ Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).¹² The SBA has defined small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have fewer than 1,500 employees.¹³ This IRFA first discusses generally the total number of small telephone companies falling within both of those SIC categories. Then, the IRFA addresses the number of small businesses within the two subcategories, and attempts to refine further those estimates to correspond with the categories of telephone companies that are commonly used under the FCC's rules. It must be noted, however, that only small entities in operation on or

¹¹ 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the **Federal Register**."

¹² 15 U.S.C. 632. *See, e.g., Brown Transport Truckload, Inc. v. Southern Wipers, Inc.*, 176 B.R. 82 (Bankr. N.D.Ga. 1994).

¹³ 2 CFR 121.201.

before January 1 1995 are affected by this proposed rule.

Total Number of Telephone Companies (SIC 4813) Affected

This proposed rule may have a significant effect on a substantial number of the small telephone companies identified by SBA. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.¹⁴ This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not "independently owned and operated."¹⁵ For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone companies that may be affected by this proposed rule.

Wireline Carriers and Service Providers

SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.¹⁶ According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons.¹⁷ All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities. Although it seems certain that some of these carriers are not independently owned and operated, the

FBI is unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by this proposed rule.

Local Exchange Carriers.

Neither the FCC nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with the Telecommunications Relay Service (TRS). According to the most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services.¹⁸ Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 1,347 small LECs that may be affected by this proposed rule.

Interexchange Carrier

Neither the FCC nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with TRS. According to the most recent data, 130 companies reported that they were engaged in the provision of interexchange services.¹⁹ Although it seems certain that some of

these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate, with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 130 small entity IXCs that may be affected by this proposed rule.

Competitive Access Providers

Neither the FCC nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of CAPs nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with the TRS. According to the most recent data, 57 companies reported that they were engaged in the provision of competitive access services.²⁰ Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 57 small entity CAPs that may be affected by this proposed rule.

Wireless (Radiotelephone) Carriers

SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.²¹ According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons.²² 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

¹⁴ United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) ("1992 Census").

¹⁵ 15 U.S.C. § 632(a)(1).

¹⁶ Census, *supra*, at Firm Size 1-123.

¹⁷ 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

¹⁸ Federal Communications Commission, CCB, Industry Analysis Division, *Telecommunications Industry Revenue: TRS Fund Worksheet Data*, Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier) (December, 1996) ("TRS Worksheet").

¹⁹ TRS Worksheet.

²⁰ 13 CFR 121.201, SIC 4813.

²¹ United States Department of Commerce, Bureau of the Census *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) ("1992 Census").

²² 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, the FBI is 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 SBA's definition. Consequently, the FBI estimates that there are fewer than 1,164 small entity radiotelephone companies that may be affected by this proposed rule.

Cellular and Mobile Service Carriers

In an effort to further refine the FBI's calculation of the number of radiotelephone carriers, Cellular Service Carriers and Mobile Service Carriers. Neither the FCC nor the SBA has developed a definition of small entities specifically applicable to Cellular Service Carriers and to Mobile Service Carriers. The closest applicable definition under SBA rules for both services is for telephone companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of Cellular Service Carriers and Mobile Service Carriers nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with the TRS. According to the most recent data, 792 companies reported that they are engaged in the provision of cellular services and 138 companies reported that they are engaged in the provision of mobile services.²³ Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate with greater precision the number of Cellular Service Carriers and Mobile Service Carriers that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 792 small entity Cellular Service Carriers and fewer than 138 small entity Mobile Service Carriers that might be affected by the actions and rules adopted in this NPRM.

Resellers

Neither the FCC nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies. The most reliable source of information regarding

the number of resellers nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with the TRS. According to the most recent data, 260 companies reported that they were engaged in the resale of telephone services.²⁴ Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 260 small entity resellers that may be affected by this proposed rule.

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

This proposed rule imposes no reporting or recordkeeping requirements on small entities. Additionally, this proposed rule does not impose any other direct compliance requirements on small entities. However, this proposed rule does, by defining "significant upgrade or major modification," clarify the threshold at which telecommunications equipment, facilities and services installed or deployed on or before January 1, 1995 cease to be grandfathered under CALEA section 109. Should a carrier make a "significant upgrade or major modification" to such grandfathered equipment, facility, or service, the carrier must then bring the equipment, facility or service in question into compliance with the assistance capability requirements of CALEA section 103 at the carrier's expense.

5. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

The development of the proposed definition of "significant upgrade or major modification" is discussed at length in Section C, Definition Development, of this NPRM, *supra*. The FBI considered and rejected as impractical both technical and accounting definitions. Having determined that CALEA's intent was best served by a definition focusing on public safety, the FBI then modified its definition to incorporate industry's suggestions submitted in response to the ANPRM.

Because this document proposes a definition which must be as clear and as

finite as possible, the FBI has tentatively concluded that it is not feasible to make special accommodations for small entities in this proceeding. The FBI arrived at this tentative conclusion knowing that CALEA itself makes ample provisions for the protection of small entities which make "significant upgrade[s] or major modification[s]" by allowing these carriers to petition the FCC for relief under CALEA section 109(b).

The FBI welcomes and encourages comments from concerned small entities on this issue.

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

The FBI is not aware of any overlapping, duplicating, or conflicting Federal Rules to the Federal Rule proposed in this document.

G. Electronic Submission of Comments

While printed comments are welcome, commenters are encouraged to submit their responses on electronic media. Electronic documents must be in WordPerfect 6.1 (or earlier version) or Microsoft Word 6.0 (or earlier) format. Comments must be the only file on the disk. In addition, all electronic submissions must be accompanied by a printed sheet listing the name, company or organization name, address, and telephone number of an individual who can replace the disk should it be damaged in transit. Comments under 10 pages in length can be faxed to the Telecommunications Contracts and Audit Unit, Attention: CALEA FR Representative, fax number (703) 814-4730.

[47 U.S.C. 1001-1010; 28 CFR 0.85(o)]

List of Subjects in 28 CFR Part 100

Accounting, Law enforcement, Reporting and recordkeeping requirements, Telecommunications, Wiretapping and electronic surveillance.

For the reasons set out in the preamble, 28 CFR part 100 is proposed to be amended as set forth below:

PART 100—COST RECOVERY REGULATIONS, COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT OF 1994

1. The authority citation for 28 CFR part 100 continues to read as follows:

Authority: 47 U.S.C. 1001-1010; 28 CFR 0.85(o).

2. Section 100.22 is added to read as follows:

²³ TRS Worksheet, at Tbl. 1 (Number of Carriers Reporting by Type of Carrier and Type of Revenue).

²⁴ *Id.*

§ 100.22 Definition of "significant upgrade or major modification."

(a) For equipment, facilities or services for which an upgrade or modification has been completed after January 1, 1995 and on or before October 25, 1998, the term "significant upgrade or major modification" means any fundamental or substantial change in the network architecture or any change that fundamentally alters the nature or type of the existing telecommunications equipment, facility or service, that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute;

(b) For equipment, facilities or services for which an upgrade or modification is completed after October 25, 1998, the term "significant upgrade or major modification" means any change, whether through addition or other modification, to any equipment, facility or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal statute.

Dated: April 13, 1998.

Louis Freeh,

Director, Federal Bureau of Investigation, Department of Justice.

[FR Doc. 98-10928 Filed 4-27-98; 8:45 am]

BILLING CODE 4410-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI76-01-7305; FRL-6004-7]

Approval and Promulgation of State Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to disapprove a

site-specific volatile organic compound (VOC) reasonably available control technology (RACT) State Implementation Plan (SIP) revision for the Amron Corporation facility located at 525 Progress Avenue in Waukesha. The SIP revision was submitted by the Wisconsin Department of Natural Resources (WDNR) on February 21, 1997, and would exempt the facility from the emission limits applicable to miscellaneous metal coating operations.

DATES: Comments on this proposed rule must be received before May 28, 1998.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-1767.

SUPPLEMENTARY INFORMATION:

I. Background

On February 21, 1997, WDNR submitted a site-specific VOC RACT SIP revision for the Amron Corporation facility located at 525 Progress Avenue in Waukesha. Amron manufactures several different kinds of projectiles for a United States Department of Defense (DOD) contractor. Amron's work is exclusively DOD contracts.

The Amron facility is located in the Milwaukee severe nonattainment area and is subject to rule NR 422.15 of the Wisconsin Administrative code, which

regulates miscellaneous metal coating operations. NR 422.15 has been approved by the United States Environmental Protection Agency (USEPA) as meeting the RACT requirements of the Clean Air Act (Act).

Specifically, under NR 422.15(2)(a) and (b), when coating miscellaneous metal parts or products using a baked or specially cured coating technology, Amron may not exceed 4.3 pounds of VOC per gallon of coating as applied for clear coats and 3.5 pounds of VOC per gallon of coating as applied for extreme performance coatings. Under NR 422.15(3)(c), when coating miscellaneous metal parts or products using an air dried coating technology, Amron may not exceed 3.5 pounds of VOC per gallon for clear coatings.

II. Facility and Process Description

As noted above, Amron manufactures several different kinds of projectiles for the DOD. Process P01 at Amron is the paint operation which encompasses five different lines for coating numerous types and shapes of military items, including the 25mm cartridge case, the M430/M918TP, the M67/M69, the M56A4, and the M75 and M73 rockets. As a contractor to the DOD, Amron is required to use certain paints which are specified by the military. Each coating was specified by DOD for its unique characteristics.

Exterior projectile coatings must protect against corrosion, provide color identification and not chip, flake or rub off. Exterior cartridge case coatings must protect against corrosion, provide a low co-efficient of friction surface for feeding and extraction, as well as not chip or rub off. Interior and exterior cartridge or projectile coatings must protect against corrosion, provide a friction-free surface between the steel body and high explosives during loading, and be chemically compatible with the high explosives.

Below is a table listing the coatings used by Amron for the various projectiles.

Product	Description	Type	Military specification	VOC lb/gal
25MM	Olive Drab	Polyamide-Amide Teflon	12013517	6.4
M430/M918	Red Oxide Primer	Alkyd	MIL-P-22332	4.52
	Olive Drab Lacquer	Cellulose Nitrate	MIL-L-11195	4.94
M67	Blue Lacquer	Cellulose Nitrate	MIL-L-11195	4.94
	Red Oxide Primer	Alkyd	MIL-P-22332	4.52
	Off-White Primer	Epoxy	MIL-P-53022	4.229
M69	Green Zenthane	Polyurethane	MIL-C-53039	3.491
	Blue Lacquer	Cellulose Nitrate	MIL-L-11195	(¹)
M56A4	Asphalt Type I	Asphalt	MIL-C-450C	3.744
	Yellow Lacquer	Cellulose Nitrate	MIL-L-11195	4.89
	Red Lacquer	Cellulose Nitrate	MIL-L-11195	5.0
M73	Olive Drab Lacquer	Cellulose Nitrate	MIL-L-11195	4.94
	Yellow Lacquer	Cellulose Nitrate	MIL-L-11195	4.89