

SUMMARY: The Commission requests comments on a petition filed by Citadel Communications, L.L.C. seeking the allotment of UHF Channel 20- to Kearney, NE, as the community's second local television service. Channel 20- can be allotted to Kearney in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 40-41-54 North Latitude and 99-05-00 West Longitude. The proposed allotment at Kearney is not affected by the Commission's temporary freeze on new television allotments in certain metropolitan areas.

DATES: Comments must be filed on or before June 17, 1996, and reply comments on or before July 2, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Eric L. Bernthal, Esq., Kevin C. Boyle, Esq., Steven H. Schulman, Esq., Latham & Watkins, 1001 Pennsylvania Avenue, NW., Suite 1300, Washington, DC 20004 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-79, adopted March 25, 1996, and released April 24, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-06; Notice 11]

RIN [2127-AG35]

Federal Motor Vehicle Safety Standards; Hydraulic Brake Systems; Light Vehicle Brake Systems

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to extend the requirements of Federal motor vehicle safety standard (FMVSS) No. 135, *Passenger Car Brake Systems*, to trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds (4,536 kilograms) or less. As a result, manufacturers of such vehicles have the option of complying with either FMVSS No. 105 or FMVSS No. 135 for an interim five year period, after which all light vehicles would have to comply with FMVSS No. 135. The agency believes that such an amendment would be consistent with the agency's policy of achieving international harmonization whenever possible, consistent with the statutory mandate to ensure motor vehicle safety.

DATES: *Comment Period:* Comments on this notice must be received by NHTSA no later than July 1, 1996.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, D.C. 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Mr. Robert M. Clarke, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 366-5278.

For legal issues: Mr. Marvin L. Shaw, NCC-20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 366-2992.

SUPPLEMENTARY INFORMATION:

I. Background

On February 2, 1995, the National Highway Traffic Safety Administration (NHTSA) published a final rule establishing a new Federal motor vehicle safety standard (FMVSS) No. 135, *Passenger Car Brake Systems* (60 FR 6411). This standard resulted from the agency's efforts to harmonize U.S. brake standards with international brake standards. FMVSS No. 135 applies only to passenger cars. Between March 6, 1995 and August 31, 2000, manufacturers of passenger cars have the option of complying with either FMVSS No. 105 or FMVSS No. 135. After September 1, 2000, all passenger cars must comply with the requirements of FMVSS No. 135, while all other vehicles with hydraulic brakes, including light vehicles¹ other than passenger cars, still must meet the requirements of FMVSS No. 105.

NHTSA is considering whether to extend the applicability of FMVSS No. 135 to all light vehicles. FMVSS No. 105 would continue to apply to vehicles with a GVWR greater than 10,000 pounds (i.e., medium and heavy hydraulically-braked vehicles). If this change is adopted, FMVSS No. 135 would be retitled *Light Vehicle Brake Systems*.

In comments submitted in response to the agency's July 3, 1991 supplemental proposed rulemaking (SNPRM) on this subject (56 FR 30528), Kelsey-Hayes asked whether the rule would apply to all purpose vehicles, mini-vans, and light trucks, as well as to passenger cars. In the final rule, NHTSA decided to apply FMVSS No. 135 only to passenger cars, but stated it might consider applying FMVSS No. 135 to all light vehicles at a later date.

In its petition for reconsideration to the final rule, General Motors (GM) requested, among other things, that the agency consider applying FMVSS No. 135 to all hydraulically-braked light vehicles. GM stated that the United Nations Economic Commission for Europe (ECE) Regulation R13-H was being developed with the intention of applying it to all light vehicles. That company further stated that "it would be desirable to have a single brake

¹ Those vehicles with a gross vehicle weight rating (GVWR) of 10,000 lbs. (4,536 kilograms) or less.

standard applicable to all hydraulically-braked vehicles, as has traditionally been the case with FMVSS No. 105." GM stated its belief that FMVSS No. 135 was superior to FMVSS No. 105 and that extending its applicability " * * * could lead to genuinely improved brake systems for MPV and LTV customers."

II. Agency Proposal

After reviewing GM's petition, NHTSA has decided to propose applying FMVSS No. 135 to all light vehicles. As a result, manufacturers of such vehicles have the option of complying with either FMVSS No. 105 or FMVSS No. 135 for an interim five year period, after which all light vehicles would have to comply with FMVSS No. 135. The agency believes that such an amendment would be consistent with the agency's policy of achieving international harmonization whenever possible and appropriate, consistent with the statutory mandate to promote motor vehicle safety. In establishing FMVSS No. 135, NHTSA stated that the new standard would differ from the existing one (FMVSS No. 105) primarily in containing a revised test procedure based on harmonized international procedures developed during discussions held between NHTSA and the Meeting of Experts on Brakes and Running Gear (GRRF) of the ECE. NHTSA stated that the new FMVSS would ensure the same level of safety for the aspects of performance covered by FMVSS No. 105, while improving safety by addressing some additional safety issues.

At the agency's June 28, 1995 and September 22, 1995 quarterly public meetings addressing NHTSA's regulatory activities, agency personnel requested comments about whether the agency should apply FMVSS No. 135 to all light vehicles. The agency has received no comments, either in favor or in opposition to such an action. The agency further notes that in 1995, domestic light truck manufacturers were voluntarily equipping 56 percent of their annual production with 4-wheel antilock brake systems (ABS). The agency notes that a light vehicle equipped with ABS would more easily comply with FMVSS No. 135, particularly the adhesion utilization requirements. Market trends and manufacturers' public pronouncements indicate that a significant majority of light vehicles will be equipped with four-wheel ABS in the near future. Based on these considerations, NHTSA believes that vehicle manufacturers are already planning to voluntarily design and equip their products with brake systems that would comply with

FMVSS No. 135's requirements, including those dealing with adhesion utilization and variable proportioning functional failures.

Accordingly, the agency proposes to amend Section S3. *Application*, to apply FMVSS No. 135 to trucks, buses, and multipurpose passenger vehicles with a GVWR of 10,000 pounds (4,536 kilograms) or less. The agency notes that FMVSS No. 105 has some requirements that differ depending on the vehicle's GVWR. Nevertheless, the agency is aware of no reasons why the requirements of FMVSS No. 135 which relate to equipment, dynamic road test procedures and required stopping performance, system failures, and parking brake test procedures and performance should be different for these vehicles than they are for passenger cars. Nevertheless, the agency specifically invites comments, along with supporting data, that might alter that tentative conclusion.

III. Rulemaking Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impacts of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency believes that FMVSS No. 135 would ensure an equivalent level of safety for those aspects of performance covered by FMVSS No. 105 and that it would also address additional areas of brake performance which offer added safety benefits. The agency believes that manufacturers are already planning, prior to the date on which compliance with this standard would become mandatory, to voluntarily equip their light vehicles with brake systems that would meet the requirements of FMVSS No. 135. Thus, the application of this standard to those vehicles would not impose costs on manufacturers beyond those they otherwise voluntarily plan to incur. Applying this rule to all light vehicles would offer the possibility of reducing the production costs for these vehicles. Further, the agency believes that manufacturers' compliance verification costs, attributable to the full test procedure in the new standard, would be approximately the same as those attributable to the existing procedure under FMVSS No. 105. Based on the above considerations, NHTSA believes that the impacts are so minimal

as not to warrant preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of both this proposal under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a preliminary regulatory flexibility analysis.

NHTSA concluded that the February 1995 final rule had no significant impact on a substantial number of small entities. That conclusion is equally valid for this proposal to extend the application of this rule to include all light vehicles. Accordingly, the cost savings would be so small that they would not likely affect vehicle sales.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act of 1969. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment. No changes in existing production or disposal processes result.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this action under the principles and criteria in Executive Order 12612. The agency believes that this rulemaking action would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No State laws would be affected.

E. Civil Justice Reform

This rulemaking would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of rulemakings establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency proposes to amend Title 49 of the Code of Federal Regulations at Part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50

2. Section 571.105 would be amended by revising S3, to read as follows:

§ 571.105 Standard No. 105; Hydraulic Brake Systems.

* * * * *

S3. *Application.* This standard applies to hydraulically-braked vehicles with a GVWR greater than 10,000 pounds. This standard applies to hydraulically-braked passenger cars manufactured before September 1, 2000, and to hydraulically-braked multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds or less that are manufactured before September 1, 2002. At the option of the manufacturer, hydraulically-braked passenger cars manufactured before September 1, 2000, and hydraulically-braked multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds or less manufactured before September 1, 2002, may meet the requirements of Federal Motor Vehicle Safety Standard No. 135, *Light Vehicle Brake Systems* instead of this standard.

* * * * *

3. Section 571.135 would be amended by revising the heading and section S3, to read as follows:

§ 571.135 Standard No. 135; Light Vehicle Brake Systems

* * * * *

S3. *Application.* This standard applies to hydraulically-braked passenger cars manufactured on and after September 1, 2000, and to hydraulically-braked multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating (GVWR) of 10,000 pounds (4,536 kilograms) or less, manufactured on and after September 1, 2002. In addition, at the option of the manufacturer, passenger cars manufactured before September 1, 2000, and multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less (4,536 kilograms), manufactured before

September 1, 2002, may meet the requirements of this standard instead of Federal Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*.

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Issued on: April 25, 1996.

Barry Felrice,
Associate Administrator for Safety
Performance Standards.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 652**

[I.D. 041996D]

Mid-Atlantic Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearing; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public hearing to allow for input on Amendment 9 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery (FMP). **DATES:** Written comments will be accepted until May 10, 1996. The hearing will be held on Tuesday, May 14, 1996, at 6 p.m.

ADDRESSES: Send comments to David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790. The public hearing will be held at the Doubletree Inn, 4101 Island Avenue, Philadelphia, PA (1-800-222-TREE).

FOR FURTHER INFORMATION CONTACT: David R. Keifer, (302) 674-2331; fax (302) 674-5399.

SUPPLEMENTARY INFORMATION: The Council proposes to revise the overfishing definitions for surf clams and ocean quahogs under Amendment 9. The amendment is intended to bring the FMP into compliance with the guidelines in 50 CFR 602 that mandate a quantifiable definition of overfishing in all FMPs. Overfishing is currently defined as the catch of surf clams or ocean quahogs exceeding the annual quota for each species. The provisions of the FMP contain annual quotas, vessel allocations, and other provisions for cage identification, minimum size limits, closed areas, and reporting.

Overfishing of surf clams and ocean quahogs has not occurred, given the existing stock conditions during the past two decades of management. However, NMFS has concluded that a stronger biological basis is needed for the overfishing definitions for these species, in part due to the lack of strong recruitment in recent years.

The preferred alternative overfishing definition for surf clams is a fishing mortality rate of $F_{20\%}$ (20 percent of the maximum spawning potential (MSP), which equates to an annual exploitation rate of 15.3 percent. The preferred alternative overfishing definition for ocean quahogs is a fishing mortality rate of $F_{25\%}$ (25 percent of the MSP), which equates to an annual exploitation rate of 4.3 percent.

Alternative overfishing definitions for surf clams are:

1. A fishing mortality rate of F_{max} , which corresponds to an annual exploitation rate of 16.5 percent.

2. The Council's current optimum yield (OY) for surf clam ranges from 1,850,000 to 3,400,000 bushels. The Council policy is to set the quota within an OY range that will allow fishing to continue at that level for at least 10 years. Within the above constraint, the quota is set at a level that will meet estimated annual demand.

Alternative overfishing definitions for ocean quahogs are:

1. A fishing mortality rate of $F_{20\%}$, which corresponds to an annual exploitation rate of 5.8 percent.

2. A fishing mortality rate of $F_{30\%}$, which corresponds to an annual exploitation rate of 3.5 percent.

3. A fishing mortality rate of F_{max} , which corresponds to an annual exploitation rate of 6.8 percent.

4. The Council's current OY for ocean quahog ranges from 4,000,000 to 6,000,000 bushels. The Council policy is to set the quota within an OY range that will allow fishing to continue at that level for at least 30 years. Within the above constraint, the quota is set at a level that will meet estimated annual demand.

This hearing is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to David R. Keifer (see **ADDRESSES**) at least 5 days prior to the meeting date.

The hearing will be tape recorded with the tapes filed as the official transcript of the hearing.

Authority: 16 U.S.C. 1801 *et seq.*