(c) *Water sanitation.* All vessels with marine toilets so constructed as to permit wastes to be discharged directly into the water shall have such facility sealed to prevent discharge. Chemical or other type marine toilets with approved holding tanks or storage containers shall be permitted but will be discharged or emptied only at designated sanitary pumping stations.

* * * * *

COLEMAN C. NEWMAN,
Superintendent,
Amistad Recreation Area.

[F.R. Doc. 69-11832; Filed, Oct. 2, 1969; 8:48 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—PREVENTION, CONTROL AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Hartford-New Haven-Springfield Interstate Region

On April 16, 1969, notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 6539) to amend Part 81 by designating the Hartford-Springfield Interstate Air Quality Control Region (Connecticut-Massachusetts), now referred to as the Hartford-New Haven-Springfield Interstate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on April 29, 1969. Due consideration has been given to all relevant material presented, with the result that eight cities, including the city of New Haven, and 24 towns, all in Connecticut, which were not in the original proposal, have been added to the region.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, section 81.26, as set forth below, designating the Hartford-New Haven-Springfield Interstate Air Quality Control Region, is adopted effective on publication.

§ 81.26 Hartford-New Haven-Springfield Interstate Air Quality Control Region.

The Hartford-New Haven-Springfield Interstate Air Quality Control Region (Connecticut-Massachusetts) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in sec. 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Connecticut:

CITIES

Ansonia.	Milford.
Bristol.	New Britain.
Derby.	New Haven.
Hartford.	Shelton.
Meriden.	Waterbury.
Middletown.	West Haven.

TOWNS

Andover.	Middlebury.
Avon.	Middlefield.
Beacon Falls.	Naugatuck.
Berlin.	Newington.
Bethany.	North Branford.
Bethlehem.	North Haven.
Bloomfield.	Orange.
Bolton.	Oxford.
Branford.	Plainville.
Burlington.	Plymouth.
Canton.	Portland.
Cheshire.	Prospect.
Cromwell.	Rocky Hill.
Durham.	Seymour.
East Granby	Simsbury.
East Haddam.	Somers.
East Hampton.	Southbury.
East Hartford.	Southington.
East Haven.	South Windsor.
East Windsor.	Suffield.
Ellington.	Thomaston.
Enfield.	Tolland.
Farmington.	Vernon.
Glastonbury.	Wallingford.
Granby.	Watertown.
Guilford.	West Hartford.
Haddam.	Wethersfield.
Hamden.	Windsor.
Hebron.	Windsor Locks.
Madison.	Wolcott.
Manchester.	Woodbridge.
Marlborough.	Woodbury.

In the State of Massachusetts:

CITIES

Chicopee.	Springfield.
Holyoke.	Westfield.
Northampton.	

TOWNS

Agawam.	Ludlow.
Amherst.	Middlefield.
Belchertown.	Monson.
Blandford.	Montgomery.
Brimfield.	Palmer.
Chester.	Pelham.
Chesterfield.	Plainfield.
Cummington.	Russell.
Easthampton.	Southampton.
East Longmeadow.	Southwick.
Goshen.	South Hadley.
Granby.	Tolland.
Granville.	Wales.
Hadley.	Ware.
Hampden.	Westhampton.
Hatfield.	West Springfield.
Holland.	Wilbraham.
Huntington.	Williamsburg.
Longmeadow.	Worthington.

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: September 29, 1969.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 69-11801; Filed, Oct. 2, 1969; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

[FCC 69-1039]

Delegations of Authority to the Chief, CATV Task Force

1. Both before and since the adoption of the notice of proposed rule making and notice of inquiry in Docket No. 18397, FCC 68-1176, 15 FCC 2d 417, a substantial number of petitions for waiver of § 74.1107 of the Commission's rules have been filed involving, in whole or part, an unopposed proposal to import distant educational television signals into a top-100 market. Despite the fact that these requests are unopposed, and that the interim procedures permit the processing of this kind of petition, e.g., Halifax Cable TV, Inc., FCC 69-974, ——— FCC 2d ———, under our present procedures, each of these petitions must be brought in chronological order to the Commission for action. We think this procedure results in avoidable delays and is wasteful of the Commission's time in light of the precedential body of opinion now established. E.g., Halifax Cable TV, Inc., *supra;* Clear Channel TV, Inc., FCC 69-724, 18 FCC 2d 490; and Florida TV Cable, Inc., FCC 69-723, ——— FCC 2d ———.

2. The Commission has recognized that the public interest is served by the widest dissemination of educational material, that there is a national policy of encouraging the full development and expansion of educational television, and that CATV's proper role is to supplement, rather than to supplant, local educational broadcast service (Second Report and Order, paragraphs 87-96). If the importation of distant educational signals into a top-100 market poses a threat to the inception, viability, or growth of local educational stations, these facts may easily be brought to the Commission's attention through the filing of formal or informal objections pursuant to section 74.1109 of the rules. Absent such filings, we must assume that the proposed importations will further rather than hinder our policies.

3. For these reasons, the Commission believes that continuation of the present processing procedure, where the petitions for waiver are unopposed, is undesirable. We are, therefore, amending § 0.289 of the rules to delegate authority to the Chief, CATV Task Force to act on the matters described in paragraph 1, above. This amendment relates to internal Commission organization and practice; therefore, the prior notice provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply. For the same reason, the amendment will be made effective immediately. Authority for the promulgation of the amendment is contained in sections 4(i), 5 (b) and (d)

and 303(r) of the Comuunications Act of 1934, as amended.

4. We note that in the notice of proposed rule making in Docket No. 17597, FCC 67-835, 32 F.R. 10664, we initiated consideration of an amendment to § 74.1107 of the rules which would exclude distant educational television signals from § 74.1107's hearing requirement. The chief objections to that proposal were that if an objection to the proposed carriage were filed, the burden of proof on the question of adverse economic impact would be shifted by virtue of the amendment from the CATV system to the protesting local educational station, and that the public interest would not be adequately protected, since neither the Commission nor its staff would continue to scrutinize each proposal to import distant educational signals. The delegation of authority adopted today suffers from neither of these defects, and accomplishes the common purpose of simplifying and expediting consideration of unopposed petitions involving carriage of distant educational signals. We, therefore, think it appropriate to terminate Docket No. 17597 at this time. Simultaneously with the issuance of this order, we are issuing order (FCC 69-1040) to accomplish that end.

Accordingly, it is ordered, Effective October 3, 1969, that Part 0 of the rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Adopted: September 24, 1969.

Released: September 26, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

In Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, § 0.289 (c) (12) is added, to read as follows:

§ 0.289 Authority delegated.

(c) * * *

(12) To act on unopposed proposals to import distant educational television signals into the 100 largest television markets, as defined in § 74.1107(a) of this chapter.

[F.R. Doc. 69-11838; Filed, Oct. 2, 1969; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter II—Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER H—EASTERN PACIFIC TUNA FISHERIES

PART 280—YELLOWFIN TUNA

Amendment of Effective Date

An amendment to the yellowfin tuna regulations effective September 27, 1969 (34 F.R. 14893), prescribed certain restrictions and reporting requirements. The effective date described the manner in which tuna vessels which had fished within or outside the regulatory area and were in different stages of their fishing voyage were affected. Information gained since the effective date demonstrates that a small number of vessels which were at sea on the effective date and had fished inside but not outside the regulatory area had intended to fish outside the regulatory area before returning to port. The present regulations might, therefore, cause an economic hardship on such vessels. Therefore the stipulations set out under the effective date are amended as follows:

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER. Vessels which are fishing outside the regulatory area on the effective date or have fished outside previous to the effective date and are still at sea may land yellowfin taken outside the regulatory area in excess of the incidental catch limitation, provided they conformed to the reporting requirements as set out in the regulations (34 F.R. 7856). Vessels at sea which have fished only inside the regulatory area shall be restricted to the fifteen percent (15%) yellowfin incidental catch limitation unless they notify the Regional Director of their intent to fish outside the regulatory area within 48 hours of the effective date and are outside of the regulatory area by 0001 hours, October 7, 1969. Vessels which have left port since September 23, 1969, and have not fished during the present trip and had planned to fish exclusively outside the regulatory area may do so but must have reported their intent to the Regional Director and been outside the regulatory area by October 2, 1969, as set out in 34 F.R. 14893.

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of the Interior on August 26, 1966 (31 F.R. 11685), and dated September 30, 1969.

W. M. TERRY,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 69-11810; Filed, Oct. 2, 1969; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER A—MOTOR VEHICLE SAFETY REGULATIONS

[Docket No. 69-10]

PART 371—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Appendix A—Interpretations

MINI-BIKES

A number of persons have asked the Federal Highway Administrator to reconsider his February 4, 1969, interpretation of the National Traffic and Motor Vehicle Safety Act of 1966 concerning mini-bikes (34 F.R. 1909). In that interpretation, the Administrator concluded that mini-bikes are "motor vehicles" within the meaning of section 102(3) of the Act, and are regarded as "motorcycles" or "motor-driven cycles" under the Federal Highway Administration regulations (34 F.R. 1909). Under those regulations, motorcycles, and motor-driven cycles must conform to Motor Vehicle Safety Standard No. 108, which imposes performance requirements relating to lamps, reflective devices, and associated equipment.

The primary basis for the conclusion of the February 4 interpretation, as stated therein, was that "[i]n the absence of clear evidence that as a practical matter a vehicle is not being, or will not be, used on the public streets, roads, or highways the operating capability of a vehicle is the most relevant fact in determining whether or not that vehicle is a motor vehicle under the Act * * *" It was stated that if examination of a vehicle's operating capability revealed that the vehicle is "physically capable (either as offered for sale or without major additions or modifications) of being operated on the public streets, roads, or highways, the vehicle will be considered as having been 'manufactured primarily for use on the public streets, roads, and highways'." It was also stated that a manufacurer would need to show substantially more than that it has advertised a vehicle as a recreational or private property vehicle or that use of the vehicle on a public roadway, as manufactured and sold, would be illegal in order to overcome a conclusion based on examination of the vehicle's operating capability.

Petitioners have urged the Administrator to abandon the operating capability test. They have argued that many vehicular types, such as self-propelled riding mowers, have an "operating capability" for use on the public roads and yet are obviously outside the class of vehicles which Congress subjected to safety regulation. True as that may be, the Administrator has decided to adhere to the view that the operating capability of a vehicle is an important criterion in determining whether it is a "motor vehicle" within the meaning of the statute. As the above-quoted portion of the February 4, 1969, interpretation states, however, the operating capability test is not reached if there is "clear evidence that as a practical matter the vehicle is not being used on the public streets, roads, or highways." In the case of self-propelled riding mowers, golf carts, and many other similar self-propelled vehicles, such clear evidence exists.

It is clear from the definition of "motor vehicle" in section 102(3) of the Act[1] that the purpose for which a vehicle is

[1] Commissioner H. Rex Lee absent.

[1] "'Motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails." 15 U.S.C. 1391(3).

manufactured is a basic factor in determining whether it was "manufactured primarily for use on the public streets, roads, and highways." However, this does not mean that the proper classification of a particular vehicle is wholly dependent on the manufacturer's subjective state of mind. Instead, the Administrator intends to invoke the familiar principle that the purpose for which an act, such as the production of a vehicle, is undertaken may be discerned from the actor's conduct in the light of the surrounding circumstances. Thus, if a vehicle is operationally capable of being used on public thoroughfares, and if in fact, a substantial proportion of the consuming public actually uses in that way, it is a "motor vehicle" without regard to the manufacturer's intent, however manifested. In such a case, it would be incumbent upon a manufacturer of such a vehicle either to alter the vehicle's design, configuration, and equipment to render it unsuitable for on-road use or, by compliance with applicable motor vehicle safety standards, to render the vehicle safe for use on public streets, roads, and highways.

In borderline cases, other factors must also be considered. Perhaps the most important of these is whether state and local laws permit the vehicle in question to be used and registered for use on public highways. The nature of the manufacturer's promotional and marketing activities is also evidence of the use for which the vehicle is manufactured. Some relevant aspects of those activities are: (1) Whether the vehicle is advertised for on-road use or whether the manufacturer represents to the public that the vehicle is not for use on public roads; (2) whether the vehicle is sold through retail outlets that also deal in conventional motor vehicles; and (3) whether the manufacturer affixes a label warning owners of the vehicle not to use it for travel over public roads.

In the first instance, each manufacturer must decide whether his vehicles are manufactured primarily for use on the public streets, roads, and highways. His decision cannot be conclusive, however. Under the law, the authority to determine whether vehicles are subject to the provisions of the National Traffic and Motor Vehicle Safety Act is vested in the Secretary. As delegee of the Secretary, the Administrator will exercise that power in the light of all of the relevant facts and circumstances (including the manufacturer's declaration of his intent) with the objective of reducing the toll of injuries and deaths on the public highways.

Analysis of the available data about mini-bikes, including the contents of petitions for reconsideration of the February 4, 1969, interpretation, has convinced the Administrator that, for the most part, mini-bikes should not be considered motor vehicles under the above criteria. Mini-bikes do have an operating capability for use on public roads. It now appears that incidents of their actual operation on public streets, roads, and highways, while undoubtedly extant, are comparatively rare. What is more important, their use and registration for use on public thoroughfares is precluded by the laws of virtually every jurisdiction, unless the mini-bike is equipped with lamps, reflective devices, and associated equipment of the sort that Safety Standard No. 108 requires. Most manufacturers of mini-bikes do not advertise or otherwise promote them as being suitable for use on public roads, and some actually attach a label to their vehicles, warning against on-road use. Those manufacturers do not furnish retail purchasers with the documentation needed to register, title, and license the vehicles for use on public roads under the relevant state laws. Finally, mini-bikes are commonly sold to the public through retail outlets that are not licensed dealers in motor vehicles.

Accordingly, so long as the great majority of the States do not permit the registration of mini-bikes for use on the public highways and streets and until such time as there is clear evidence that mini-bikes are being used on public streets to a significant extent, the Administrator is of the view that, at a minimum, persons who manufacture mini-bikes are not manufacturers of "motor vehicles" within the meaning of the National Traffic and Motor Vehicle Safety Act of 1966 if they (1) do not equip them with devices and accessories that render them lawful for use and registration for use on public highways under State and local laws; (2) do not otherwise participate or assist in making the vehicles lawful for operation on public roads (as by furnishing certificates of origin or other title documents, unless those documents contain a statement that the vehicles were not manufactured for use on public streets, roads, or highways); (3) do not advertise or promote them as vehicles suitable for use on public roads; (4) do not generally market them through retail dealers in motor vehicles; and (5) affix to the mini-bikes a notice stating in substance that the vehicles were not manufactured for use on public streets, roads, or highways and warning operators against such use. Cases of manufacturers who fulfill some, but not all, of the above criteria will be dealt with individually under those criteria and such others as may be relevant.

A manufacturer of mini-bikes is, of course, at liberty to design and construct his products so that they conform to the provisions of the motor vehicle safety standards that are applicable to motorcycles and thereby to manufacture motor vehicles within the meaning of the National Traffic and Motor Vehicle Safety Act.

In consideration of the foregoing, the petitions for reconsideration of the February 4, 1969, interpretation relating to mini-bikes are granted to the extent set forth above, and that interpretation is withdrawn.

(Secs. 103 and 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407, and 49 CFR 1.4(c))

Issued on September 30, 1969.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 69-11813; Filed, Oct. 2, 1969; 8:46 a.m.]

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-3; Notice No. 69-18]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Brakes

By a notice of proposed rule making issued on October 29, 1968, the Federal Highway Administrator announced that he was considering amendments to sections 293.40 and 293.41 of the Motor Carrier Safety Regulations (33 F.R. 16125). Those sections (now §§ 393.40 and 393.41) deal with general requirements for brakes and with parking brakes, respectively. The notice proposed to amend the regulations to make it clear that two separate brake systems are required on certain vehicles and to state more clearly that the regulations require parking brakes which are held in the applied position by means other than hydraulic pressure, air pressure, or electrical energy.

Interested persons were invited to file written comments on the proposals. In addition, a hearing was held on April 29, 1969, to provide an opportunity for the presentation of oral statements.

A large number of comments, and virtually all of the oral presentations, related to a parking brake manufactured by WIZ Corp. which uses captive air pressure in a self-contained cell to hold the brake in the applied position. By an order issued on October 29, 1968, the Administrator had denied WIZ Corp.'s petition for rule making which sought an amendment to § 293.41 to permit its device to comply with the parking brake requirements (33 F.R. 16128). WIZ Corp. renewed its request in this proceeding, and its position was supported by users of the captive air cell brake, sales outlets for that brake, and other persons with an interest in the WIZ device.

After careful consideration of the data and arguments submitted, the Administrator has decided to adhere to his earlier conclusion that devices utilizing air pressure, fluid pressure, or electrical energy to retain parking brakes in the applied position should not be permitted as the primary parking brake of commercial vehicles subject to the jurisdiction of the Federal Highway Administration. From the standpoint of safety, the parking brake is a critical component of a commercial vehicle. Accidental release of the parking brake of a heavy vehicle owing to failure of the mechanism which holds it in the applied position can have disastrous and tragic consequences. In these circumstances, parking brakes must be