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Expor. Facsimile	74.283
Developmental	74.383
Remote Pickup	74.482
Aural STL/Relays	74.582
TV Auxiliaries	74.682
LPTV/TV Translators	74.783
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[FR Doc. 83-26603 Filed 9-24-83; 8:45 am]	
BILLING CODE 6712-01-M	

FEDERAL COMMUNICATION COMMISSIONS

47 CFR Part 97

[PR Docket No. 82-624]

Definition and Measurement of Transmitting Power in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction

SUMMARY: The FCC adopted a Report and Order substituting an output power measurement standard for the previous input power standard in the Amateur Radio Service. This erratum corrects one of the accepted standards for output power from a "thru-line" wattmeter to an "in-line" wattmeter.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

Erratum

In the matter of definition of measurement of transmitting power in the Amateur Radio Service, PR Docket No. 82-624.
Released: September 21, 1983.

1. On July 22, 1983, the Commission released a *Report and Order*, 48 FR 34746 (August 1, 1983) in the above captioned proceeding. In the *Report and Order*, the Commission amended Parts 2 and 97 of its Rules in order to substitute an output power measurement standard for the old input power standard.

2. At paragraph 5 of the *Report and Order*, *supra*, the Commission chose to recognize two alternative valid measurement standards for output power. The first was the "reading of a thru-line peak radiofrequency (RF) wattmeter, properly matched". "Thru-line" is not accurate or as generic a term as the Commission intended to employ. The term intended in this context was "in-line."

3. Accordingly, that portion of paragraph 5 of the *Report and Order*, *supra*, which previously read:
(1) The reading of a thru-line peak reading radiofrequency (RF) wattmeter, properly matched, or . . . is corrected to read:

(1) The reading of an in-line peak reading radiofrequency (RF) wattmeter, properly matched, or . . .

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 83-26600 Filed 9-29-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 1, 7, and 25

[OST Docket No. 1; Amdt. 1-186]

Organization and Delegation of Powers and Duties; Corrections

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment corrects three errors in the Regulations of the Office of the Secretary; no substantive change in meaning is intended.

DATE: The effective date of this amendment is September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C-50, Department of Transportation, Washington, DC (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the *Federal Register*.

The three errors are:

1. In § 1.47(g), the reference to "49 CFR 87.7(d)" should read "40 CFR 87.7(d)".

2. In Appendix H to Part 7, references to the fee table as being in "Subpart H" should be to "Subpart I".

3. In § 25.199(b), the reference to "§ 5.202" should be "§ 25.202".

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

§ 1.47 [Amended]

1. In § 1.47(g), "49 CFR 87.7(d)" is amended to read "40 CFR 87.7(d)".

Part 7, Appendix H [Amended]

2. In Appendix H to Part 7, "Subpart H", wherever it appears, is amended to read "Subpart I".

§ 25.199 [Amended]

3. In § 25.199(b), "§ 5.202" is amended to read "§ 25.202".

Authority: 49 U.S.C. 32; 49 CFR 1.57(l).

Issued in Washington, DC, on September 24, 1983.

James H. Burnley IV,
General Counsel.

[FR Doc. 83-26761 Filed 9-29-83; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 4]

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

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

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This notice responds to petitions for reconsideration of the June 2, 1983 notice (48 FR 24690) amending Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, to allow use of a semi-sealed replaceable bulb headlamp system. Corrections are also made to errors appearing in the June notice.

In response to a petition from Ford Motor Company, the requirement that an adjustable aim adapter be supplied with vehicles equipped with the semi-sealed headlamp system is modified to specify that the aim adapter be a fixed type. The agency acknowledges that some time is required to modify the suction cup mount on existing mechanical aimers to allow use of the adjustable aim adapter. The requirement to assure performance on the headlamp connectors after the corrosion test is revised to eliminate an overly stringent requirement, in response to petitions from both Ford and Volkswagen. The requirement reverts to no loss of function as proposed originally. In addition, critical dimensional changes were made to the drawings on the replaceable light source. Also, in response to petitions from Volkswagen and Westfalische Metall Industries, the corrosion test for semi-sealed headlamps is amended to delete the requirement for testing with the bulb removed, and to adopt the test proposed on January 17, 1983 (48 FR 1992). The effect of all these changes is to allow manufacturers to commence manufacturing the new headlamps for their introduction before the end of the year.

Finally, the agency has deleted all dimensions of the standardized replaceable light source that were

originally specified only for reference purposes.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: On June 2, 1983, NHTSA published a notice amending 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* (48 FR 24690). The amendment adopted an optional motor vehicle headlighting system consisting of two semi-sealed replaceable bulb headlamps. Each headlamp consists of two discrete components, a lens bonded to a reflector, and a replaceable light source of standardized design. To insure the proper performance of the new headlamp design, certain environmental tests were adopted. Petitions for reconsideration of various aspects of the amendment were filed by Ford Motor Company ("Ford"), General Motors Corporation ("GM"), Sylvania, Volkswagen of America ("VW"), and Westfalische Metall Industries (manufacturer of Hella lighting equipment) ("Hella"). Because the headlamps may incorporate inclined lenses and most existing mechanical aimers are designed for headlamps with vertical lenses, the amendment required that each vehicle manufactured between July 1, 1983, and July 1, 1984, which has the new headlamps system, be furnished with an adjustable adapter to allow use of existing mechanical aiming equipment.

Discussion of Petitions

Corrosion Test (Paragraphs S4.1.1.36(d)(4) and S6.5).

In its notice of proposed rulemaking on January 17, 1983, (48 FR 1992) NHTSA proposed a corrosion test which would involve subjection of a test lamp to a salt spray test in accordance with ASTM B117-73 "Method of Salt Spray (Fog) Testing" for a period of 240 hours, consisting of ten successive 24-hour intervals. During each 24-hour interval, the test chamber salt spray would be activated for 23 hours and deactivated for 1 hour. At the end of the test period, there could not be evidence of internal or external corrosion more than an eight of an inch from sharp edge or any corrosion on the terminals or elsewhere, which would involve loss of function. Further, the lamp would be required to meet the minimum photometric requirements for headlamps at the end of the test.

As NHTSA stated in its June 2, 1983 notice, "One commenter noted that the proposed test would not achieve the objective of ensuring reflectors with good corrosion resistance because the test does not take into account a situation in which a bulb may be removed for an extended period of time." NHTSA adopted a corrosion test requiring removal of the bulb for the one hour of the interval in which the salt spray is deactivated to assure adequate corrosion resistance of reflector surfaces with an accelerated test. In recognition of the fact that the introduction of a salt atmosphere on the inside of the lamp might create a salt deposit on the lens not easily removed, the proposal for photometric performance at the end of the test was not adopted. The strictures against rust or corrosion on the lens and reflector were adopted as proposed. In summary, in adopting the corrosion test NHTSA believed that lens-reflector assemblies needed a corrosion requirement to prevent premature reflector degradation in cheaper parts which might become available.

NHTSA was petitioned by VW and Hella to reconsider the modified corrosion test. VW's objection, and the principal objection by Hella was the requirement that the bulb be removed during the final hour of each of the ten test cycles. Both petitioners object on the grounds that the test was not discussed in the proposal. In VW's opinion, only an all plastic lamp could meet the new corrosion requirements and it does not believe that the agency intended to be design restrictive. It therefore petitioned that the standard be amended to adopt the corrosion test as proposed. It was Hella's position that the requirements do not mirror real world conditions and afford the opportunity of water entry during bulb removal or insertion which could bias the test results.

The agency has considered these comments carefully. Although the test it proposed appeared adequate at the time to judge the performance of a semi-sealed lamp as a whole, the agency adopted a more component-oriented test to ensure adequate reflector performance with an accelerated test. It is evident, however, that at least some commenters believe the subject of corrosion testing should be more fully explored. Because the replacement market for the new headlamps will be minimal during the first year of the lamp's availability, NHTSA is granting the petitions of VW and Hella for reconsideration of the subject, and amending the standard to specify the corrosion test without bulb removal as

proposed. NHTSA is preparing a Notice of Proposed Rulemaking which will propose a bulb removal test for lamps. This NPRM will appear in the near future.

In addition, the agency originally proposed a prohibition against "loss of function" on lamp terminals. This was quantified in the final rule to allow corrosion on terminals "provided there is no voltage drop greater than 3 percent from that measured before the test when measured per paragraph 6.4 of SAE J580 August 1979."

Ford raised a question as to the appropriateness of the electrical test. VW also objected to the adoption of the three percent voltage drop, on the basis that it had not been described in the proposal, and that it was unreasonable. The reason for the objection is that the terminals are similar to those of sealed beam lamps and renewed at each burnout. In VW's opinion, no significant safety problem has occurred, and if some limit on corrosion of the terminals is necessary, the "loss of function" requirement should be sufficient.

NHTSA agrees that the requirements in the Federal Register should be reconsidered and is amending the standard to specify the requirement as proposed. The agency is preparing an NPRM which will propose a new test. This NPRM will appear in the near future.

Accurate Rated Bulb. In its comments on the proposal, GM stated its assumption that NHTSA would use "accurate rated bulbs" in its compliance testing of the new headlamps. In its petition for reconsideration it asked that the photometry specified in paragraph S4.1.1.36(b)(1) be conducted according to paragraph S4.1.1.20 of Standard No. 108 as well as the already-specified paragraph 6.4 of SAE J575 June 80. Paragraph S4.1.1.20 states: "Except for a lamp having a sealed-in bulb, a lamp . . . shall meet the applicable requirements of the standard when tested with a bulb whose filament is positioned within $\pm .010$ inch of the nominal design position specified in SAE Standard J573d, 'Lamp Bulbs and Sealed Units,' December 1968, or specified by the bulb manufacturer." GM argues that use of such bulbs provides a common basis for evaluating other components, and that in this manner compliance testing on lighting devices made by other laboratories can be repeated and compared.

The bulbs specified in J573d and defined as "accurate rated" have the trade numbers 1156, 1157, and 1157A, and are intended for applications other than headlamps. Sealed beam headlamps are tested "as is" without

reference to filament tolerance and must meet the minimum photometric requirements regardless of filament placement. NHTSA believes that this concept has met the need for headlamp safety, and that there is no need to prescribe a filament tolerance of $\pm .010$ for the standardized replaceable light source. The tolerance specified on low beam is $\pm .015$ " with the centerline of the high beam to be located within $\pm .035$ " of the centerline of the low beam. The semi-sealed headlamp with replaceable light source should be tested photometrically in a manner identical to its fully sealed counterparts. GM's petition is denied.

Replaceable Light Source Dimensions. GM commented that the specifications of the filament are not sufficiently rigorous to define the exact placement of the filament within the bulb assembly, which could present a problem because the headlamp manufacturer may have to certify a lamp using aftermarket bulbs. It requested additional specifications on rotation, slant and snake of the filament, and it also stated that the tolerance of Dimension G in Figure 3-5 (sic) was in error.

The agency is amending the dimensions of Figure 3-6. But GM's petition to adopt additional dimensions is denied; in the agency's view, a minimum standard does not require the additional dimensions suggested. Any vehicle manufacturer, however, may specify that its supplier provide bulbs meeting additional specifications if it wishes.

Sylvania and Ford pointed out various errors and minor changes needed in Figure 3 which specifies dimensions for the standardized replaceable light source. (Sylvania stated that a more accurate way to describe the cap was needed.) The petitions are granted on these points and all the requested changes are being made.

Change in Definition. GM petitioned that the word "bonded" be removed from the definition of replaceable bulb headlamp so that a lens alone could be replaced in the event of breakage. In the development of the final rule, NHTSA considered changing the definition in the manner requested but rejected it because removable lenses introduce additional opportunities for aiming problems due to alignment inaccuracy. Also, there is the opportunity for substitution of lenses designed for off-road vehicles and for other than U.S. beam patterns. Accordingly, GM's petition is denied.

Vibration Test. NHTSA proposed a vibration test with many of the characteristics of that contained in SAE

J575 June 80. There were very few comments on the proposal, but it was pointed out that the test differed from that of SAE J575e, already incorporated in Standard No. 108 for headlamps and other lighting devices. Accordingly, the final rule adopted the vibration test currently required for other items of lighting equipment, so as not to burden manufacturers with differing vibration tests requiring different test equipment.

Commenting that this is a "substantive and substantial change" GM claims that the J575e test has been "abandoned by the industry" as "obsolete" and "non-repeatable", and asked NHTSA to adopt the vibration test proposed, or the one specified in SAE J575 June 80.

NHTSA disagrees with GM's characterization of J575e. Although the test in the earlier version may use less modern equipment than the later one, NHTSA continues to regard J575e as more closely approaching on-road vibration characteristics. Further, in adopting the vibration test of J575e, NHTSA considered it a logical outgrowth of the preceding notice and comment period and not such a deviation from the course of the rulemaking as to warrant, in all fairness to the public, a new notice offering opportunity to comment. To impose the same SAE vibration test upon semi-sealed headlamps as is required for all other types of headlamps and lighting equipment, instead of the proposed test containing certain characteristics of a later version of that SAE standard cannot be said either to be unfair or outside the penumbra of the proposed rulemaking. GM's petition is denied.

Tolerance on Wattage and Spherical Candlepower. GM asked for an amendment of paragraph S4.1.1.38(b)(1) for a tolerance of ± 12 percent of bulb lumens. Sylvania asked for a $\pm 10\%$ tolerance on lumens, claiming that this is the current industry standard.

Sylvania's petition is granted, and the standard amended to allow a tolerance of $\pm 10\%$. This should allow industry to comply with reduced costs attributable to lesser bulb rejection. GM also asked for a tolerance of $\pm 7\frac{1}{2}\%$ on upper and lower beam wattages. The values given are maximum and therefore a tolerance is not appropriate. For this reason, the GM petition is denied.

Windshield Washer Fluid. The agency incorrectly spelled the washer fluid component in paragraph S6.4(b)(4) as "monethinalamine". It is corrected to read "monoethanolamine."

The percentage of this test fluid used in the chemical resistance test was given as 1.5. GM, the manufacturer of

the fluid, states that this is the correct percentage in bulk form, but that when the fluid is diluted with two parts water for normal recommended usage, the correct percentage is 0.5. GM's petition is granted, and an appropriate change is being made.

S4.1.1.38(b) and S6.7.2(c) Minor Amendments. Sylvania requested a clarification that a headlamp assembly in the life test be in the normal operating attitude. It further requested that the 12.8 and 14 volts noted in this section be specifically identified as design and rated voltage, respectively. The agency agrees and clarifying amendments are made.

The agency is also clarifying the heat test procedure to insure that the headlamp achieves maximum head dissipation by being operated on its highest wattage filament.

Paragraph S7 Bulb Deflection Test. Sylvania commented that to allow a permanent deflection of .005 inch after a 4 pound load is more severe than the bulb will experience in practice, and suggested that the requirement be amended to allow deflection of .010 inch after a 2 pound load, which "is more reasonable and economically practical."

The agency does not agree with this suggestion. The danger of misaim due to bulb deflection requires assurance that the bulb will not move in the base during handling and installation.

Paragraph S8 Aiming Adapters. Ford, the only manufacturer currently known to NHTSA who intends to use the new headlamp system during the 1984 model year, has called to NHTSA's attention that paragraph S8 specifies an adjustable adapter for use during the first year rather than a fixed adapter as discussed in the preamble.

NHTSA's specification of the adjustable adapter for the first year was in error, and Ford's petition for substitution of a fixed adapter is granted. The adapter will allow lamps to be aimed mechanically by a mechanical aimer conforming to SAE J602.

It remains the intention of NHTSA that adjustable adapters be available for use when mechanical aimers are modified to allow their use. Although Standard No. 108 is being amended to no longer require adjustable adapters, NHTSA is retaining the requirements for headlamp markings to assist in aiming with adjustable adapters conforming to the design specified in the June amendment (Figure 9) expected to become available by July 1, 1984. GM requested a change that would allow 45 degrees of adjustment. An extreme angle of a headlamp lens, such as 45 degrees, not only reduces light transmittance but also creates a

distortion in the beam pattern more likely to create glare. Therefore GM's petition is denied.

Four-lamp Headlamp System. VW asked for an amendment of paragraph S4.1.1.36 which would allow use of a four-lamp replaceable bulb headlamp system with only two bulbs illuminated on either high or low beam. GM, in a letter to the agency after the reconsideration period, inquired whether two bulbs could be used in a single headlamp cavity. The original petition from Ford was based on a two-lamp system and the standard as adopted allows only a two-lamp system with a single dual filament bulb in each headlamp. A number of issues would need to be resolved before allowing use of a dual-filament bulb in a four-lamp configuration, or two dual filament bulbs in a single cavity. These issues involve, in the case of the VW petition, whether only two lamps should be illuminated on high beam (four are presently required) and if so, whether it is important that the front corner of the vehicle be otherwise indicated. These issues also involve simultaneous actuation of light filaments in a headlamp system which could produce excessive illumination and uncertainties in the ability to insure correct simultaneous high beam or low beam aim if the bulb reflector systems are not separate high and low beam units. VW's petition and GM's request are denied.

Deletion of Certain Tests for Glass-Lensed Headlamps. VW petitioned for deletion of certain environmental tests on the basis that they were inappropriate for headlamps with glass lenses. These tests are those covering chemical resistance, temperature, internal heat, and impact.

NHTSA has decided to grant in part and deny in part this petition. The agency does not agree that temperature tests are unnecessary for glass lensed metal reflector lamps. This test checks the expansion and contraction of the seal of the lens to the reflector. As metal is a conductor and glass basically an insulator, a large temperature differential will occur on these lamps, and a test to verify the existence of a good seal is required. On the other hand, all glass lenses should easily pass the chemical and internal heat test and these requirements may be deleted for glass-lensed lamps without affecting the overall quality of the lamp. Accordingly, appropriate amendments are made to paragraph S4.1.1.36(c)(1).

Paragraph S6.8, Humidity test. VW petitioned for deletion of the requirement in the humidity test that the photometric test begin within 10 ± 1 minute after the humidity exposure.

Apparently VW's photometric test equipment is not located near the humidity chamber. The purpose of the time restriction is to insure that all photometric testing after a humidity test occur within 2 minutes of each other for repeatability of results. NHTSA is therefore denying VW's petition on this point.

Deletion of Reference Dimensions. Because reference dimensions are advisory and not mandatory, the agency is revising Figures 3-2, 3-6, and 3-8 to delete them, to clarify that manufacturers may choose dimensions that they deem appropriate. These deletions do not affect interchangeability of replacement light sources.

Correction of Errors. Several errors occurred in the rule concerning improper references to Figures and cross-references to test procedures. These are now corrected.

Impact Analyses

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291, "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, as its adoption does not require any person to change current practices under the standard. The original regulatory evaluation for the rule remains valid, and is available in the Docket for examination.

The agency has also considered the impacts of this rule under the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the rule, are generally not small businesses within the meaning of the Regulatory Flexibility Act.

Because motor vehicle manufacturers must make timely decisions with respect to product plans for the 1984-model year, it is hereby found that an effective date earlier than 180 days after issuance of the rule is in the public interest. The changes made by this rule also relieve restrictions, and the rule is effective upon publication in the Federal Register.

The engineer and lawyer primarily responsible for this rule are Jere Medlin and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

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

PART 571—[AMENDED]

§ 571.108 [Amended]

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, is amended as follows:

1. The definition of "standardized replaceable light source" contained in Section S3 Definitions is amended by changing "Figure 1" to "Figure 3".

2. In the second sentence of paragraph S4.1.1.36(a)(2), the words "the aiming device locating plate" are amended to read "an aiming device locating plate conforming to Figure 9."

3. Paragraph S4.1.1.36(b) is amended by changing the word "headlight" to "headlamp".

4. Paragraph S4.1.1.36(c) is revised to read:

(c) A headlamp with a glass lens need not meet the following tests of the sections specified: abrasion resistance (S6.2), chemical resistance (S6.4), and impact (S6.9). If, in addition to a glass lens, the headlamp uses a non-plastic reflector, it need not meet the internal heat test of section S6.7.2.

5. Paragraph S4.1.1.36(d)(4) is amended by revising the final sentence to read: "Corrosion may occur on terminals provided there is no loss of function."

6. Paragraph S4.1.1.36(d)(8) is

amended by changing "S6.11" to "S6.9".

7. Paragraph S4.1.1.38(b)(1) is revised as follows:

(1) The general specifications of the bulb shall be:

	Low beam	High beam
Maximum power, watts at 12.8 V (design voltage).	45	55
Lumens (without black cap) at 12.8 V design voltage.	1,067 ± 10%	1,738 ± 10%
Average life at 14.0 V rated voltage (life testing is conducted in a finished headlamp assembly placed in the normal operating attitude).	320 hrs.	150 hrs.

8. Paragraph S6.1 is amended by adding "S6.5" between "S6.4" and "S6.6".

9. Paragraph S6.2(c)(2) is revised to read:

(2) The abrading pad support shall be equal in size to the pad and the center of the support surface shall be within ±.08 in. (±2 mm) of parallel to the lens surface.

10. Paragraph S6.4(b)(4) is amended by changing "1.5% monethinalamine" to "0.5% monoethanolamine".

11. Paragraph S6.5 is amended by deleting the last sentence.

12. The second sentence of paragraph S6.7.2(c) is revised to read:

(c) . . . The headlamp shall be soaked for one hour at a temperature of 95°F

[35°C] and then its highest wattage filament shall be energized for one hour in a still air condition, allowing the temperature to rise from 95°F [35°C].

13. Paragraph S8 is revised to read:

S8. *Mechanical aiming fixed adapters for replaceable bulb headlamps.* Each motor vehicle manufactured on or after July 1, 1983, and before July 1, 1984, which is originally equipped with a replaceable bulb headlamp system, shall be furnished with a pair of fixed headlight aiming adapters for mechanical aimers. Each fixed adapter shall be provided with a lens to suction cup interface that allows the headlamp to be usable with a mechanical aimer. Each adapter when mounted on the headlamp in contact with the aiming pads prescribed by S4.1.1.36(a)(2), shall provide a surface perpendicular to the longitudinal axis of the vehicle so that the lamp may be mechanically aimed by a mechanical aimer conforming to SAE Standard J602, Oct 80, "Headlamps Aimable Sealed Beam Headlamp Units."

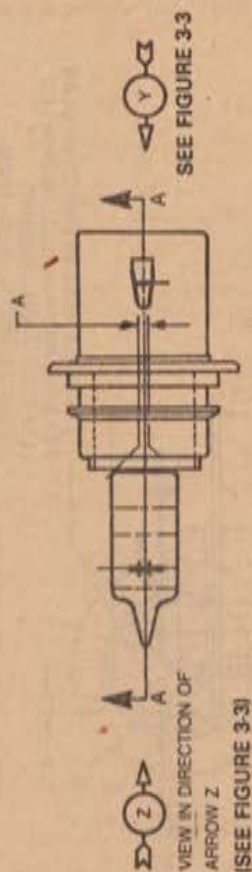
14. Figures 3-1 through 3-8, Figure 5, Figure 6, and Figure 9-2 are revised, and new Figures 3-10 and 3-11 are added as follows:

BILLING CODE 4910-59-M

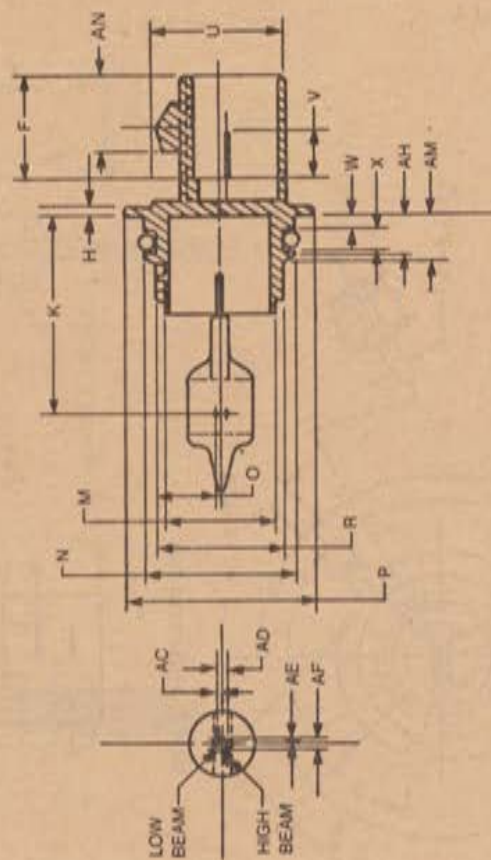
Figure 3

**SPECIFICATIONS FOR THE STANDARDIZED
REPLACEABLE LIGHT SOURCE
INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY**

Figure 3-1



PLAN VIEW OF BULB



FRONT END VIEW OF BULB

SIDE SECTIONAL VIEW OF BULB—(SECTION A)

Note: Unless otherwise specified, a general tolerance of $\pm .004$ in. (0.10 mm) shall apply to all linear dimensions and $\pm 1^\circ$ shall apply to all angular dimensions specified in Fig. 3.

Figure 3-2

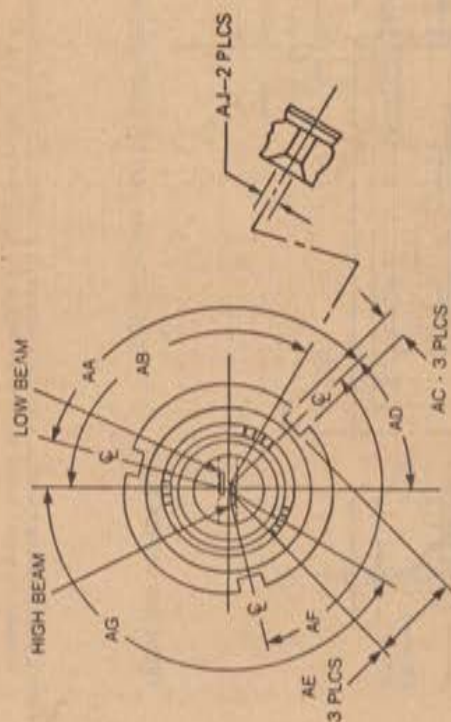
**INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY**

Dimensional Specifications
Figure 3-1

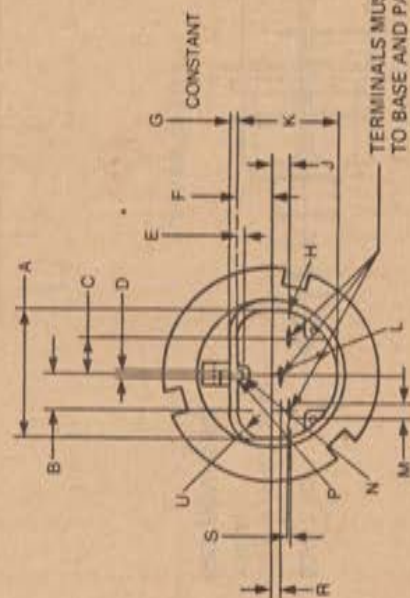
Dimension	Inches	Millimeters
A	.085 to .083 .002 Either Side CL	2.15 to 2.10 .05 Either Side CL
F	.906	23.00
H	.079	2.00
K	Low Beam - 1.752 $\pm$.015 High Beam - CL High Beam to be within $\pm$.035" of CL of low beam	44.50 $\pm$.38 .035" of CL of low beam
M	.974	24.75
N	(1.335 to 1.331) .002 Either Side CL	(33.90 to 33.80) .05 Either Side CL
O	.517 $\pm$ 0.020	13.13 $\pm$.50
P	1.673	42.50
R	(1.126 to 1.222) .002 Either Side CL	(28.60 to 28.50) .05 Either Side CL
U	1.181	30.00
V	.413	10.50
W	.128	3.25
X	.189	4.80
AC	.045 $\pm$.020	1.15 $\pm$.50
AD	.091 $\pm$.028	2.30 $\pm$.70
AE	.047 $\pm$.020	1.20 $\pm$.50
AF	.094 $\pm$.032	2.40 $\pm$.80
AH	.356	9.05
AM	.415	10.54
AN	.673	17.10

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Figure 3-3



VIEW Z - FROM BULB END



VIEW Y - FROM CONNECTOR END

TERMINALS MUST BE PERPENDICULAR
TO BASE AND PARALLEL WITHIN $\pm 1.5^\circ$
LEFT TERMINAL-HIGH BEAM
RIGHT TERMINAL-LOW BEAM
CENTER TERMINAL-LOW BEAM

Figure 3-4

Interchangeability Drawing
Headlamp Bulb Assembly

Dimensional Specifications
Figure 3-3

Letter	Inches	Millimeters
AA	120°	120°
AB	120°	120°
AC	.197	5.0
AD	44° 30'	44° 30'
AE	.722	18.35
AF	120°	120°
AG	150°	150°
AJ	.138	3.50
A	1.024	26.00
B	.289 $\pm$.010	7.35 $\pm$.25
C	.289 $\pm$.010	7.35 $\pm$.25
D	.055	1.40
E	.059	1.50
F	.278	7.05
G	.059	1.50
J	.142 $\pm$.010	3.60 $\pm$.25
K	.807	20.50
L	.531 R	13.50 R
M	.118	3.00
R	.075 $\pm$.010	1.90 $\pm$.25
S	.025 $\pm$.002	.63 $\pm$.25
U	.222 R	5.65 R

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
HALOGEN CAPSULE

Figure 3-5

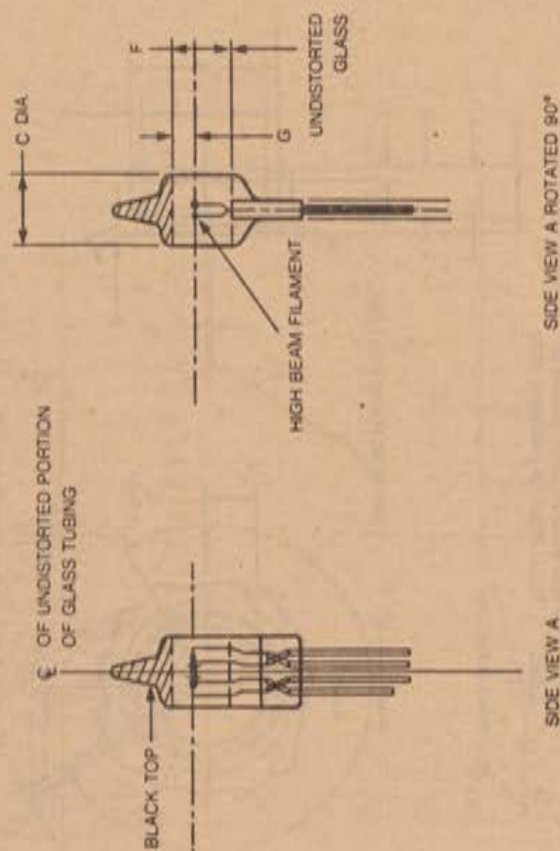


Figure 3-6

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
HALOGEN CAPSULE

Dimensional Specifications
Figure 3-5

Letter	Inches	Millimeters
C	.579 $\pm$.012	14.7 $\pm$.50
F	.472 min. undistorted glass	12.0 min. undistorted glass
G	.197 min. (maximum dimension to cover glass distortion line)	5.0 min. (maximum dimension to cover glass distortion line)

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
SOCKET (IN REFLECTOR)

Figure 3-7

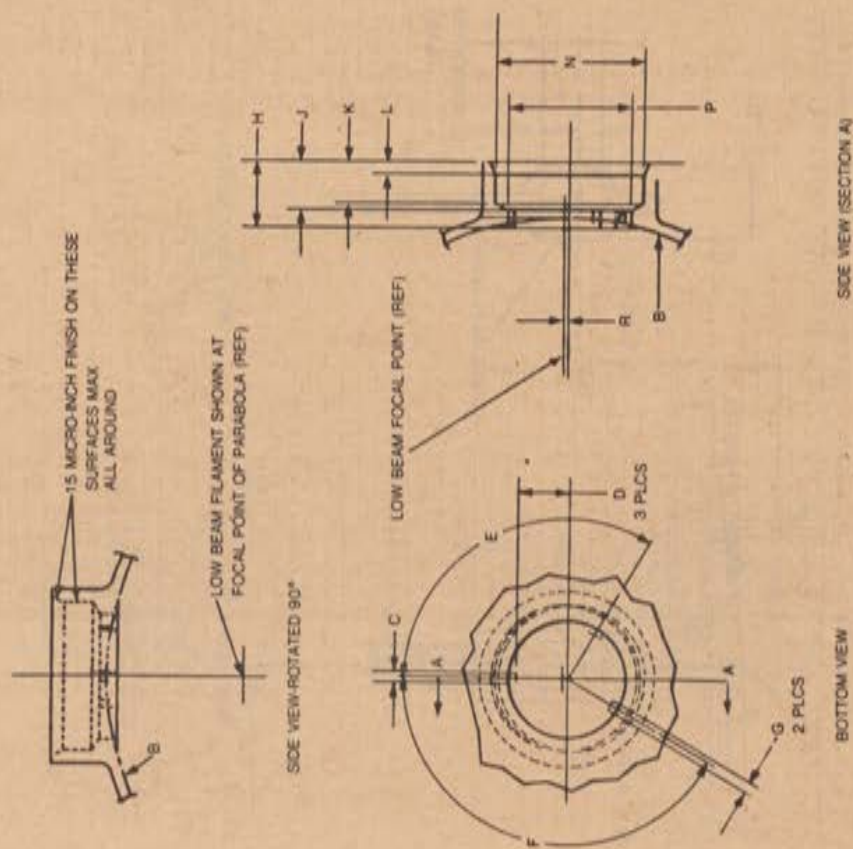


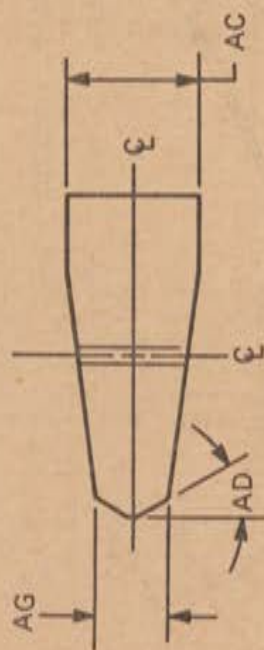
Figure 3-8

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
SOCKET (IN REFLECTOR)

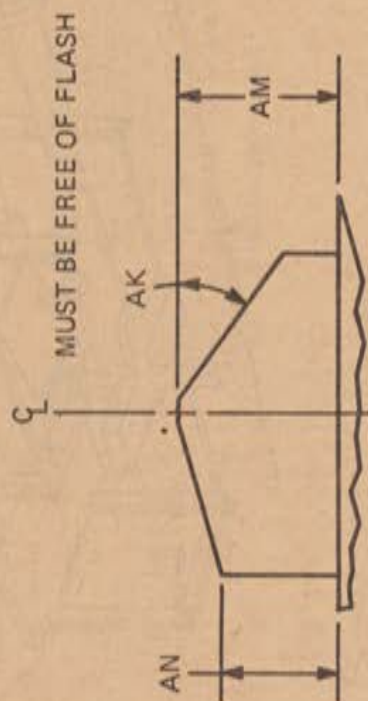
Dimensional Specifications
Figure 3-7

Letter	Inches		Millimeters	
	Ref Line	Lamp Parabola	Ref Line	Lamp Parabola
B				
C	$.079 \pm .002$	Either Side of CL	$2.00 \pm .05$	Either Side of CL
D	.502		12.75	
E	120°		120°	
F	150°		150°	
G	.079		2.00	
H	.596		15.15	
J	.433		11.00	
K	.374		9.50	
L	.108		2.75	
N	(1.350 to 1.346)	.002 Either Side of CL	(34.30 to 34.20)	.05 Either Side of CL
P	(1.132 to 1.128)	.002 Either Side of CL	(28.75 to 28.65)	.05 Either Side of CL
R	.045		1.15	

Figure 3-10
INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY



EXPLODED VIEW W FOUR TIMES SIZE



EXPLODED VIEW OF LOCKING FEATURE

Figure 3-11

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Dimensional Specifications
Figure 3-10

Letter	Inches	Millimeters
AC	.179	4.55
AD	30°	30°
AG	.098	2.50
AK	35°	35°
AM	.217	5.50
AN	.157	4.00

Figure 5

ABRASION TEST FIXTURE

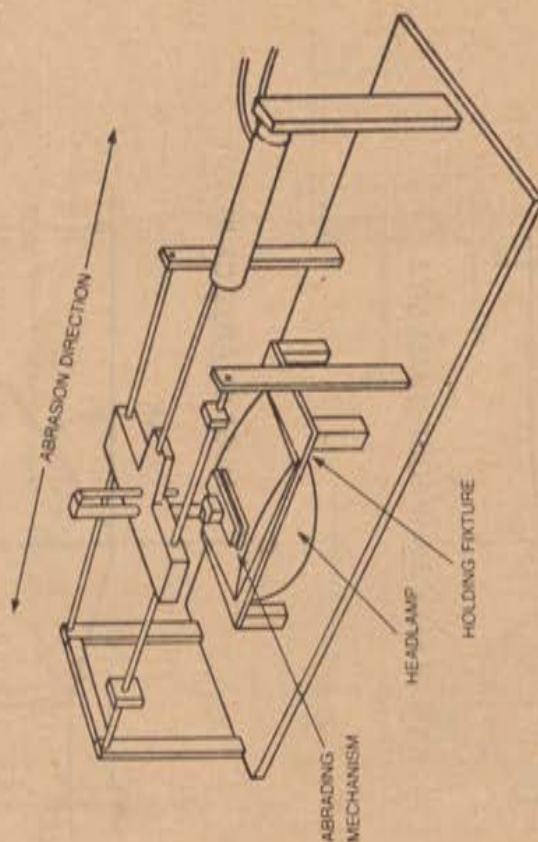


Figure 6

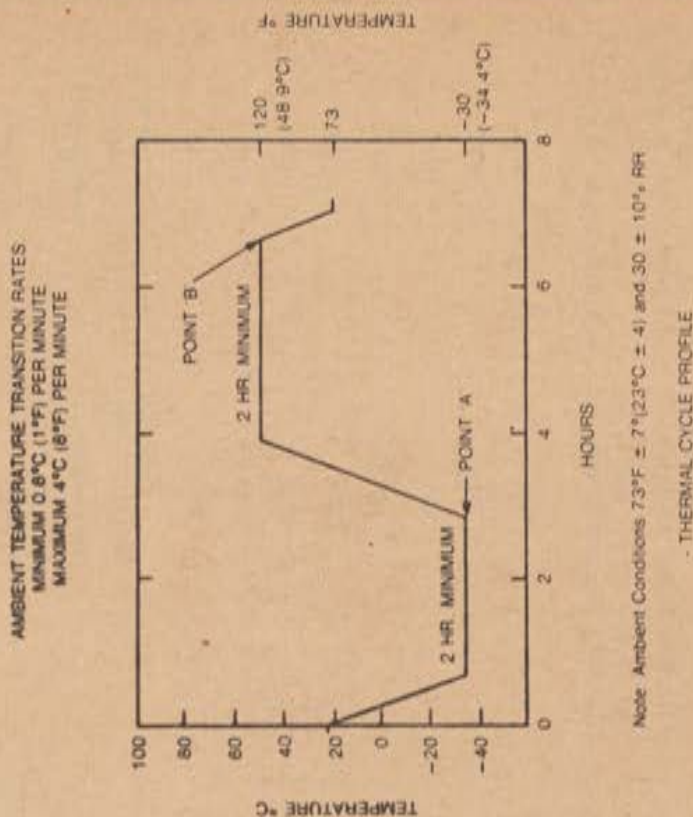


Figure 9-2

**DIMENSIONAL SPECIFICATIONS FOR
ADJUSTABLE LOCATING PLATES
FOR USE WITH A MECHANICAL HEADLAMP AIMING DEVICE**

(Group I and Group II Aiming Pad Locations)

Dimension	Locating Plate For Group I Aiming Pad Location		Locating Plate For Group II Aiming Pad Location	
	Millimeters	Inches	Millimeters	Inches
A	147.30 ± 0.75	5.80 ± .030	104.00 ± 0.75	4.09 ± .030
B	73.65 ± 0.75	2.90 ± .030	76.00 ± 0.75	2.99 ± .030
C	157.00 ± 0.75	6.18 ± .030	171.00 ± 0.75	6.73 ± .030
D	120.10 ± 0.75	4.73 ± .030	84.33 ± 0.75	3.32 ± .030
E	60.50 ± 0.50	2.38 ± .020	60.00 ± 0.50	2.36 ± .020
F	128.00 ± 0.75	5.04 ± .030	137.16 ± 0.75	5.40 ± .030
G	64.00 ± 0.50	2.52 ± .020	68.58 ± 0.50	2.70 ± .020
H	12.70 ± 0.50	0.50 ± .020	12.70 ± 0.50	0.50 ± .020
J	9.50 ± 0.50	0.37 ± .020	9.50 ± 0.50	0.37 ± .020

Note Concerning Adjustable Locating Plates:

Each of the two adjustable legs is capable of being extended, and locked in position, in increments of .10 in. (2.54 mm) with each increment measured from the '0' seating plane (perpendicular to the H-V axis of the lamp) with a maximum tolerance of ± .01 in. (± 0.25 mm). The incremental positions extending out from the '0' seating plane are identified by whole numbers, i.e., '0', '1', '2', '3', through a maximum of '37' for the vertical adjustable leg and a minimum of '20' for the horizontal adjustable leg.

BILLING CODE 4910-59-C

(Secs. 103, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1403, 1407); delegations of authority at 49 CFR 1.50 and 501.7)

Issued on September 26, 1983.

Diane K. Steed,
Deputy Administrator.

[FR Doc. 83-26674 Filed 9-27-83; 10:09 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1104, 1110, 1115, 1130,
1131, 1137, 1141, 1142, 1152 and 1160

[EX Parte No. 55; Sub-55]

Revision and Redesignation of the Rules of Practice

AGENCY: Interstate Commerce
Commission.

ACTION: Final rules.

SUMMARY: At 47 FR 49534, November 1, 1982, in Ex Parte 55 (Sub-No. 55), the Commission published rules revising and redesignating all its procedures and regulations governing the conduct of formal cases which come before it. This document contains technical amendments which correct certain minor errors in the text and revise statutory citations and Code of Federal Regulation references in various parts of 49 CFR Chapter X.

A more significant change is being made in Part 1141 *Procedures to Calculate Interest Rates* to conform that provision to the prior Commission rules.

We are also codifying Commission procedures with regard to the submission of confidential information in Commission proceedings. Since these amendments are only minor technical changes, public comment is not being requested.

DATES: September 30, 1983.

FOR FURTHER INFORMATION CONTACT:
James H. Bayne, 202-275-7429.

SUPPLEMENTARY INFORMATION: On November 1, 1982, at 47 FR 49534 the Commission published rules revising and redesignating all of its procedural regulations governing the conduct of formal cases which come before the Commission. The purpose of this decision is to make certain minor corrections to those rules. In this decision we also are correcting certain Code of Federal Regulation citations and updating statutory references to reflect the codification of the Interstate Commerce Act, as 49 U.S.C. Subtitle IV.

Several of the changes which require explanation are discussed below.

Part 1104—Pleadings; Generally

In § 1104.12 *Service of Pleadings and Papers* a portion of the fourth sentence in paragraph (a) was inadvertently omitted. The complete sentence should read "If service is made on the Commission in person, and personal service on other parties is not feasible, service should be made by first-class or express mail."

The Commission has recently experienced an increase in the number of filings in which a party has requested that certain of the materials submitted be kept confidential. For example, in several recent proceedings instituted by rail carriers seeking review of decisions of State regulatory authorities, the carriers have submitted copies of transportation contracts which, under Commission regulations, are confidential. These submissions have highlighted the need for a special procedure for dealing with them and with the accompanying requests for confidentiality. Physical segregation and clear labeling are essential for an agency which handles a large volume of material, most of which is of public record. Our clerical personnel need clear warning of sensitive documents and an easy manner of assuring that they are not inadvertently exposed to public scrutiny. In addition, segregation allows easy return of confidential material which is not essential to the decisional process.

In No. 39174, *Petition of Burlington Northern Railroad Company For Review of a Decision of the Railroad Commission of Texas Rail Rate Board Pursuant to 49 U.S.C. 11501* (not printed), served April 25, 1983, we asked parties to segregate material for which a protective order was being requested. We repeated that request more recently in Ex Parte No. 449, *Filing of Pleadings and Applications*, 48 FR 34474 (July 29, 1983). However, since we anticipate that the problem of identifying such submissions will be a continuing one, we have concluded that the segregation requirement should be the subject of a formal rule.

Since this is merely a codification of our existing procedure, we do not believe it is necessary to require notice and comment on this addition. The provision does not work any undue hardship on the public, since it provides the only reasonable way for parties to ensure that confidential material is treated properly.

Part 1110—Procedures Governing Informal Rulemaking Proceedings

It is necessary to amend § 1110.9 *Petition for exemption*. We are deleting the word "exemption" from the title and text of that section and inserting in lieu thereof the word "waiver." This change does not alter the substantive meaning of the rule. It merely clarifies that relief from any regulation developed by the Commission may be acquired through the waiver process in individual cases, where appropriate. This amendment also will distinguish petitions for waivers, which seek relief from our regulations from petitions for exemption which seek relief from portion of 49 U.S.C. Subtitle IV pursuant to 49 U.S.C. 10505 or 49 U.S.C. 11343(e).

Part 1115—Appellate Procedures

It is necessary to make a minor change in § 1115.3 *Commission actions other than initial decisions*. Section 1115.3(f) presently provides that any rail proceeding will become effective 30 days after service, "unless the acting body provides for the action to become effective at an earlier date." The Commission regularly provides for decisions to become effective at various points in time longer than 30 days. Therefore, that portion of the section previously quoted will be changed to read "unless the acting body provides for the action to become effective at a different date."

Part 1141—Procedures To Calculate Interest Rates

In our previous decision we added a new part 1141 which was to reflect the procedure for calculating interest which was previously set forth in *Notice of Revised Procedure to Calculate Interest* (not printed), decided April 14, 1977. McCarthy, Sweeney, & Harkaway, the party, who requested the addition of this provision has brought to our attention the need to modify the provision to reflect the distinction between the date used to base interest levels for investigation proceedings and the date used for complaint proceedings and to specify which of the two treasury bill rates is applicable. We will modify the provision to reflect that the interest rate level for complaint cases shall be determined by the date the first unlawful charge is paid and for investigation cases it shall be the date the carrier submits its statement accounting for all amounts received under the increase. See 49 U.S.C.

10707(d)(1). The investment rate for Treasury bills is to be used. With the addition of these two statements, Part 1141 will now accurately reflect the procedure set forth in our 1977 decision.

The remaining changes are minor technical changes which require no discussion.

Notice and Comment requirements of the Administrative Procedure Act, 5 U.S.C. 553, do not apply because all of these amendments are either corrections or minor technical amendments. These changes are not controversial. It would be impractical, unnecessary and contrary to the public interest to request comments on such minor technical matters.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

We certify that this action will not have a significant economic impact on a substantial number of small entities because it only involves minor corrections and technical changes.

We adopt the revisions to 49 CFR Chapter X, set forth in the Appendix.

List of Subjects

49 CFR Parts 1104, 1110, 1115, 1130, 1131 and 1160

Administrative practice and procedure.

49 CFR Parts 1137, 1141 and 1152

Railroads.

49 CFR Part 1142

Buses.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

Dated: September 23, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1104—PLEADINGS; GENERALLY

(1) Section 1104.12 is amended by revising paragraph (a) to read as follows:

§ 1104.12 Service of pleadings and papers.

(a) *Generally.* Every document filed with the Commission should include a certificate showing simultaneous service upon all parties to the proceeding. Service on the parties should be by the same method and class of service used in serving the Commission, with charges, if any, prepaid. One copy

should be served on each party. If service is made on the Commission in person, and personal service on other parties is not feasible, service should be made by first-class or express mail. When a party is represented by a practitioner or attorney, service upon the practitioner is deemed to be service upon the party.

(2) A new § 1104.14 is added to read as follows:

§ 1104.14 Protective orders to maintain confidentiality.

(a) *Segregation of confidential material.* A party submitting materials which it believes are entitled to be kept confidential and not made part of the public docket should submit these materials as a separate package, clearly marked on the outside "Confidential materials subject to a request for a protective order."

(b) *Requests for protective orders.* A request that materials submitted to the Commission be kept confidential should be submitted as a separate pleading and clearly headed "Motion for protective order."

PART 1110—PROCEDURES GOVERNING INFORMAL RULEMAKING PROCEDURES

(3) Section 1110.9 is revised to read as follows:

§ 1110.9 Petition for waiver.

Any person may petition the Commission for a permanent or temporary waiver of any rule. Petitions should be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, and should identify the rule involved and the arguments in favor of granting the waiver.

PART 1115—APPELLATE PROCEDURES

(4) Section 1115.3 is amended by revising paragraph (f)(1) to read as follows:

§ 1115.3 Commission actions other than initial decisions.

(f) . . .

(1) In a rail proceeding, the action, if not stayed, will become effective 30 days after it is served, unless the acting body provides for the action to become effective at a different date. On the day the action is served parties may initiate judicial review.

PART 1130—INFORMAL COMPLAINTS

§ 1130.1 [Amended]

(5) In paragraph (a) of § 1130.1 the reference to "49 CFR 1131.3 and 49 CFR 1131.5" is revised to read "49 CFR 1131.1".

PART 1131—FORMAL RATE COMPLAINTS, RAIL INTRASTATE PETITIONS AND INVESTIGATIONS

§ 1131.2 [Amended]

(6) In paragraph (a) of § 1131.2 the reference to "[49 CFR 1130.3 (b) and (c)]" is revised to read "[49 CFR 1130.2 (b) and (c)]".

PART 1137—PROCEDURES RELATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

§ 1137.2 [Amended]

(7) In paragraph (i) of § 1137.2 the reference to "section 20, Part 1 of the Interstate Commerce Act" is revised to read "[49 U.S.C. 11145" and "section 15(18) of the Act" is revised to read "49 U.S.C. 10728".

PART 1141—PROCEDURES TO CALCULATE INTEREST RATES

(8) Section 1141.1 is revised to read as follows:

§ 1141.1 Procedures to calculate interest rates.

Interest rates to be computed following a Commission decision shall be the average yield (investment rate) of marketable securities of the United States Government having a duration of 90 days. The interest rate level shall be determined by:

(a) The date that statement is filed accounting for all amounts received under the new rates in investigation [See 49 U.S.C. 10707(d)(1)], or

(b) The date the first unlawful charge is paid, for all other proceedings.

PART 1142—SPECIAL RULES FOR FILING AND HANDLING COMPLAINTS AGAINST INTERSTATE BUS RATES AND FARES UNDER THE ZONE OF RATE FREEDOM [49 U.S.C. 10708 (D) (4) AND 10708 (D)(5), SECTION 11 OF THE BUS REGULATORY REFORM ACT OF 1982]

§ 1142.1 [Amended]

(9) In paragraph (a) of § 1141.1 the words "the General Rules of Practice" are revised to read "49 CFR Part 1131"

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

§ 1152.1 [Amended]

(10) In paragraph (a) of § 1152.1 the statutory reference in the first sentence "49 U.S.C. 10903" is revised to read "49 U.S.C. 10901".

§ 1152.2 [Amended]

(11) In paragraph (g) of § 1152.2 the reference to "section 5(j)(2) of the Department of Transportation Act (49 U.S.C. 1654)" is revised to read "49 U.S.C. 1654(5)(j)(2)".

§ 1152.22 [Amended]

(12) In paragraph (d)(3) of § 1152.22, the reference to "Exhibit I" is revised to read "Exhibit 1".

(13) In paragraph (f) of § 1152.22, the reference to "§ 1105.12 (b) and (c)" is revised to read "1105.7 (b) and (c)".

(14) In paragraph (g) of § 1152.22, the reference to "sections 13a (a) and (2) of the Act, as amended," is revised to read "49 U.S.C. 10908 and 10909".

§ 1152.24 [Amended]

(15) In paragraph (e)(4) of § 1152.24, the reference to "section 1a of the Act" is revised to read "49 U.S.C. 10904".

§ 1152.27 [Amended]

(16) In paragraph (f) of § 1152.27, the reference to "Exhibit I" is revised to read "Exhibit 1".

§ 1152.28 [Amended]

(17) In paragraph (d) of § 1152.28, the reference to "section 1a(6) of the Act" is revised to read "49 U.S.C. 10905".

(18) In paragraph (f) of § 1152.28, the reference to "section 1a of the Act" is revised to read "49 U.S.C. 10905".

PART 1160—HOW TO APPLY FOR OPERATING AUTHORITY

§ 1160.10 [Amended]

(19) Paragraph (c) of § 1160.10, is amended by revising the words "ICC's Section of Operating Rights" to read "Office of Proceedings, Motor Section".

§ 1160.66 [Amended]

(20) Paragraph (a) of § 1160.66 is amended by revising the words "Section of Operating Rights" to read "Office of Proceedings, Motor Section".

[FR Doc. 83-26749 Filed 9-29-83; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1142

[Ex Parte No. MC-162]

Procedures for Complaints Against Bus Carrier Rates and Fares

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: By decision served November 19, 1982, and published in the *Federal Register* on November 24, 1982 (47 FR 53282), this Commission issued final rules to implement subsection 11(c) of the Bus Regulatory Reform Act of 1982 (Bus Act). That subsection required the Commission to establish expedited procedures for filing and handling complaints against effective bus rates or fares established under the zone of rate freedom on the grounds that they are unreasonably high or low. This decision reopens the proceeding for the purpose of modifying the final rules contained at 49 CFR Part 1142. Modifications to the rules are adopted which provide that (1) applicant file its case-in-chief with the complaint; (2) the contents of the complaint conform to the requirements for formal complaints set forth in the Commission's Rules of Practice; (3) in view of statutory time constraints on such proceedings, the scope of discovery is limited to relevant information that is readily available so that defendant need not prepare cost, traffic, financial, economic or other data not previously prepared; and (4) the complainant's reply to the carrier may include evidence obtained in discovery. Further, the rules are modified to include an additional statutory citation in the caption at 49 CFR Part 1142 that was omitted inadvertently and to delete a term to make clear that the complaint process extends to all bus rates and fares governed by the zone of rate freedom and subject to Commission jurisdiction.

EFFECTIVE DATE: This decision is effective September 30, 1983.

FOR FURTHER INFORMATION CONTACT:

Barbara Reiderer (202) 275-7982

or

Howell I. Sporn (202) 275-7691

SUPPLEMENTARY INFORMATION: On November 19, 1982, we adopted final rules in this proceeding to implement subsection 11(c) of the Bus Regulatory Reform Act of 1982. Subsection 11(c), 49 U.S.C. 10708(f), permits parties to file complaints challenging the reasonableness of effective bus rates or fares established under the zone of rate freedom (ZORF). The final rules were published in the *Federal Register* on

November 24, 1982 (47 FR 53282) and are set forth at 49 CFR Part 1142. The American Bus Association (ABA) appealed that decision and requested that we reopen the proceeding in order to modify the final rules.

Background

The Bus Act at Section 11 establishes a zone within which passenger carriers may raise or lower bus rates or fares without being subject to protest and investigation or suspension on the grounds that such rates are unreasonably high or low. The zone expands by specified percentages over a 3-year period. After three years, the zone becomes unlimited and the Commission may not suspend or investigate any proposed rate on the basis of reasonableness, unless the proposed rate is established collectively pursuant to an agreement approved by the Commission under 49 U.S.C. 10708(b). Protests may be filed seeking investigation or suspension of proposed rates on the grounds that such rates are discriminatory or predatory. Additionally, Congress provided at 49 U.S.C. 10708(f) that parties may also file complaints challenging the reasonableness of effective rates or fares established within the ZORF, and, after three years, of any effective rate or fare. The Bus Act provides that complaints are to be filed in accordance with the complaint provision at 49 U.S.C. 10701 and that they be decided by the Commission within 90 days.

On October 7, 1982, we proposed rules to govern the filing and disposition of complaints against effective ZORF rates. The rules were adopted with certain modifications at 47 FR November 19, 1982. The final rules provide that (1) opponents of ZORF rates must file a formal complaint and, within 20 days, submit a verified statement of supporting facts which constitutes the case-in-chief; (2) defendants must file their case-in-rebuttal within 20 days thereafter, and complainants may file replies within 10 days after that; (3) the Commission's discovery procedures are available to complainant, who must file any discovery request at the same time as the complaint; and (4) responses to discovery requests are due from defendant within five days, and must provide material, records, data and other information that is relevant and not privileged.

The Petition

The ABA argues that the final rules fail to implement properly the statutory complaint provision and effectively deny carriers the benefits of ZORF

pricing. It contends that the rules convert the complaint process, in which the complainant bears the burden of proving the unreasonableness of an assailed rate, into an investigation and suspension proceeding under 49 U.S.C. 10708(b), in which the carrier bears the burden of proof, by requiring the carrier to justify a challenged ZORF rate to the same extent and in essentially the same manner as it would justify a rate change subject to investigation or suspension. This, petitioner contends, stems from the fact that the rules establish an informal proceeding which gives opponents of ZORF rates an unqualified right of discovery that enables them to file "postcard" complaints containing only general allegations of unreasonableness and then permits them to justify the complaint solely on evidence adduced in discovery. The ABA fears that this will lead to fishing expeditions in which complainants may then "fish" through the carrier's files for such evidence. Further, the ABA contends that this process improperly encourages the filing of complaints.

Discussion and Conclusion

We find the ABA's concerns to be justified. We are reopening this proceeding to modify the final rules accordingly, as described fully below. We will also modify the rules to include certain minor and technical corrections. In our decision of November 19, 1982, we noted the difficulty in establishing final rules that reconcile the statutory goals of encouraging full use of the ZORF while at the same time preserving the complaint remedy and ensuring the prompt disposition of such complaints. In modifying the proposed rules, we did not intend to establish procedures which unduly burdened carriers seeking to take advantage of the ZORF or which could be used to subvert the complaint and discovery process.

First, the ABA requests that the filing procedures at 49 CFR 1142.1 be modified in order to identify specifically the contents of the formal complaint and to require complainant to file its case-in-chief with the complaint. The final rules provide at paragraph (a) of § 1142.1 for the filing of a formal complaint. The contents of a formal complaint are established at 49 CFR 1111.1(a) in the Commission's Rules of Practice. In keeping with the requirement of formality, we are modifying the rules at § 1142.1 to include at paragraph (b) a description of the contents of the complaint that is the same as is now applicable to other formal complaints under the Rules of Practice and which otherwise governs the contents of the complaints filed in these proceedings.

Further, we will amend § 1142.1 to include at paragraph (c) the requirement that complainant file its verified statement of facts and argument with the complaint rather than 20 days thereafter as now called for. Unlike other formal complaint proceedings governed by the Rules of Practice, these complaints must be decided in 90 days. It is for this reason that our rules provide for the filing of complainant's case-in-chief and of defendant's case-in-rebuttal in connection with the processing of the complaint itself and not under a subsequent order setting modified procedure or oral hearing. Regulations governing other Commission proceedings with 90-day statutory deadlines for disposition, however, require submission of the case-in-chief at the outset. The change which requires the filing of evidence at the same time as the complaint is filed not only eliminates the 20-day delay period and assures disposition within 90 days, but also makes clear that the complainant has the burden of proof, limits the possibility of fishing expeditions and harassment, and facilitates defendants' ability to respond to appropriate discovery requests. In reexamining our rules, we are forced to concur in the ABA's concern that our rules provided an invitation to parties to file complaints without having the evidence to back them up, and then using discovery to try to locate such evidence. While we are sympathetic to the difficulties complainants face in bringing such complaints, we must also try to accommodate Congress' desire for full use of the ZORF and its clear requirement that the burden of proof be on the complainant.

Our discovery procedures will still be available for legitimate information-gathering requests to back up the evidence submitted with the complaint. The final rules provide at 49 CFR 1142.4 for discovery by the complainant, so long as the request is filed at the same time as the complaint and is limited to information that is relevant and not privileged. But any discovery permitted in these proceedings must reflect the requirement that defendant respond within five days and must not have the effect of shifting the burden onto defendants to justify their rates. Accordingly, § 1142.4 also will be modified to limit the scope of the material that can be sought by a complainant in discovery to that which is reasonably available and would not require defendant carriers to prepare and produce cost, traffic, financial, economic, or other data not previously prepared.

The fundamental change being adopted is that a complainant must, with the complaint, submit a verified statement containing evidence in support of the complaint. This would generally include cost of service, rate or fare comparisons, or other information that is used to determine the reasonableness of a rate or fare. As we noted in our earlier decision, although Congress precluded the Commission from addressing the reasonableness of ZORF rates or fares in an investigation or suspension proceeding, it nonetheless intended that concerns about reasonableness be regulated through the complaint mechanism once the rate becomes effective. Thus, the scope of information used by a complainant and obtainable from a defendant carrier in discovery may involve the same type of data that the carrier used to justify the reasonableness of a rate proposal not filed within the ZORF. While a carrier may have gathered data and information before filing a ZORF rate or fare that reflects upon its reasonableness, one of the purposes of Section 11 of the Bus Act is to enable carriers to make rate adjustments without compiling the evidence required for rate justification in a suspension case. Thus, such data may not be readily or reasonably available for a 5-day response to a discovery request. We conclude that in creating the ZORF, and requiring rapid decisions on ZORF complaints, Congress intended that carriers not routinely gather such data and we would be thwarting Congress' intention in that regard if we effectively require collection of such data to satisfy discovery requests.

Obviously, the modified rules mean that information cannot be obtained in discovery in time to use with the complaint. We, therefore, adopt petitioner's further suggestion to modify the rule at 49 CFR 1142.3 to permit complainant to include in its reply to the carrier's answer whatever information is obtained in discovery. If a complainant thereby includes such new evidence in the record at this stage of the proceeding, we would waive our regular rule against replies to replies in order to permit defendant the opportunity to respond. Other minor modifications are included in the rules in order that they correctly reflect these changes.

Finally, we seek to clarify any misimpression as to whether the final rules permit automatic discovery or require the complainant to obtain an order first from the Commission. The final rules provide for discovery to be governed by our standard discovery rules at 49 CFR 1114.21, except to the

extent otherwise specified. As indicated at § 1114.21(b), written interrogatories and requests for admission may be used without complainant filing a petition and obtaining prior Commission approval. Any other discovery procedures may be used only if the Commission first enters a decision approving them. Because of the 90-day deadline, we adopted an expedited time frame for conducting discovery that varies from the standard discovery procedures. Complainant is required to file the request either directly with defendant or the Commission, as applicable, at the same time the complaint is filed. Defendant is allowed only five days to respond to complainant's request. Response deadlines to discovery under Commission order would be set in the order. In all other matters regarding discovery, the Commission's standard discovery rules prevail.

The ABA points out a technical problem in the regulations adopted, which is that the caption to the rules should include reference to 49 U.S.C. 10708(e) to take note of an additional statutory ZORF provision. In our decision, we stated that the Bus Act permits complaints challenging not only the reasonableness of rates established under the 3-year zone mechanism at 49 U.S.C. 10708(d)(4) and 10708(d)(5), but those established after the zone mechanism expires pursuant to 10708(e). Failure to include reference to that subsection in the final rules was inadvertent and the caption is modified accordingly at this time.

Although not noted by the ABA, an additional minor correction to the final rules is required. Complaints under Section 11 of the Bus Act may be filed challenging the reasonableness of all ZORF rates or fares of a passenger carrier operating pursuant to a certificate issued by this Commission. Under the Bus Act, the Commission may issue certificates governing solely intrastate operations. Carriers are required, within 30 days of commencing such intrastate operations, to take all necessary action to establish rates under the laws of the State, but the initial rates are established with this Commission and remain in effect until permanent rates are established with the State. Consequently, such initial rates may be raised or lowered under the ZORF provisions and, therefore, may be subject to complaints under these rules. We are, therefore, eliminating the interstate limitation which appears in the caption of these rules and at § 1142.1(a).

This decision will not affect the quality of the human environment or conservation of energy resources.

The final notice in this proceeding concluded that the rules would have no significant economic impact on a substantial number of small entities. The purpose and effect of the modifications to the rules adopted here is to reduce regulation. They impose no new reporting or other requirements directly or indirectly on small entities. Thus, we reaffirm our finding in the final rules.

It is ordered:

The decision in this proceeding, served November 19, 1982, and the final rules contained there are modified as discussed above.

Title 49 of the Code of Federal Regulations is amended as set forth in the Appendix to this decision.

This decision is issued pursuant to 49 U.S.C. 10321, 10708(f), and 11701 and 5 U.S.C. 553.

List of Subjects in 49 CFR Part 1142

Administrative practice and procedure, Buses.

Decided: September 22, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

Appendix

Part 1142 of Chapter X, Title 49 of the Code of Federal Regulations is amended by revising Part 1142 to read as follows:

PART 1142—SPECIAL RULES FOR FILING AND HANDLING COMPLAINTS AGAINST BUS RATES AND FARES UNDER THE ZONE OF RATE FREEDOM [49 U.S.C. 10708(d)(4), 10708(d)(5), 10708(e), SECTION 11 OF THE BUS REGULATORY REFORM ACT OF 1982]

Sec.

- 1142.1 Filing of complaint.
- 1142.2 Answer by defendant.
- 1142.3 Reply by complainant.
- 1142.4 Discovery.
- 1142.5 Copies.

Authority: Section 11(c) of the Bus Regulatory Reform Act of 1982, Pub. L. 97-261, 96 Stat. 1102; 49 U.S.C. 10321, 10708(f), and 11701; and 5 U.S.C. 553.

§ 1142.1 Filing of complaint.

(a) A person seeking the cancellation of an effective rate or fare published by an intercity motor carrier of passengers under provisions of the zone of rate freedom shall file a formal complaint. The complaint may challenge only the reasonableness of the rate or fare under these special rules. Complaints on other grounds, such as discrimination or

predatory practices, shall be filed under other sections of the Rules of Practice.

(b) A formal complaint must contain the correct, unabbreviated names and addresses of each complainant and defendant. It should set forth briefly and in plain language the facts upon which it is based. It should include specific reference to pertinent statutory provisions and Commission regulations, and should advise the Commission and the defendant fully in what respects these provisions or regulations have been or are violated or will be violated. The complaint should contain a detailed statement of the relief requested. Relief in the alternative or of several different types may be demanded, but the issues raised should not be broader than those to which complainant's verified statement is directed.

(c) Complainant's verified statement of facts and argument shall be filed simultaneously with its complaint, and they shall constitute complainant's case-in-chief. Whatever evidence is relied upon shall be set forth in sufficient detail to support the complaint, such as cost of service, rate or fare comparisons, or other information which may be pertinent (such as type of service rendered, distance traveled, or patronage experienced).

(d) Complainant shall serve a copy of its complaint and a copy of its verified statement on defendant on the same day that these pleadings are filed with the Commission. Such service and filing shall comply with 49 CFR 1104.12.

§ 1142.2 Answer by defendant.

The answer to the complaint shall contain the entire case-in-rebuttal, consisting of defendant's verified statement of facts and argument. It shall be filed within 20 days of the filing by complainant of the complaint and the verified statement. Defendant shall serve a copy of its statement on complainant on the same day it is filed with the Commission. Such service and filing shall comply with 49 CFR 1104.12.

§ 1142.3 Reply by complainant.

Complainant may file a reply to defendant's answer within 10 days after the defendant's answer is due. The reply may include evidence obtained by the complainant in response to a request for discovery. Defendant may file a reply within 5 days after complainant's reply is due to such evidence obtained on discovery which is not contained in the complaint and which complainant seeks to include in the record at this time. A reply shall be served on the parties on the same day it is filed with the

Commission and comply with 49 CFR 1104.12.

§ 1142.4 Discovery.

Discovery procedures shall be available to the complainant pursuant to our rules at 49 CFR 1114.21, so long as the request is made at the same time the complaint is filed and seeks relevant information needed to support the complaint. Unless otherwise directed by the Commission, defendant (a) shall respond within 5 days, and (b) shall produce relevant information which is readily available. Defendant shall not be required to prepare and produce cost, traffic, financial, economic or other data not previously prepared. Defendant shall not be required to produce privileged information.

§ 1142.5 Copies.

An original and 10 copies of the complaint, statements, answer, replies, and discovery requests shall be furnished for the use of the Commission.

[FR Doc. 83-20750 Filed 9-29-83; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1300, 1303, and 1305

[Docket No. 37517]

Reduction of the Notice Period for Filing Railroad Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules.

SUMMARY: The Commission is adopting as final rules, with minor modifications, the proposed rules originally published at 46 FR 1324 (January 6, 1981). These rules implement the rail tariff notice provisions set forth at 49 U.S.C. 10762(c)(3) which permit rail carriers to file increased rates or new rates on 20 days' notice and to file reduced rates on 10 days' notice.

DATES: The final rules will become effective September 30, 1983.

FOR FURTHER INFORMATION CONTACT: William P. Geisenkotter (202) 275-7739.

SUPPLEMENTARY INFORMATION: The Commission instituted this rulemaking to implement section 216 of the Staggers Rail Act of 1980, Pub. L. No. 96-448 (Staggers Act), appearing at 49 U.S.C. 10762(c)(3). In a notice published at 46 FR 1324 (January 6, 1981), the Commission proposed revisions to the tariff publication regulations at 49 CFR 1300, 1301, 1303, and 1305. The notice gave a due date for comments and provided that "[u]nless otherwise modified by the Commission, [the proposed] rules will become effective

upon publication in the Federal Register."

The Association of American Railroads (AAR) and four shipper parties submitted comments.¹ These new rules, although now in effect by the terms of the original notice, never appeared as formal changes in the Code of Federal Regulations. The purpose of this notice and the accompanying Commission decision is to discuss the comments submitted in response to the original notice of proposed rules and to adopt the interim rules as final rules.

The tariff rules proposed in Docket No. 37321 (48 FR 31265, July 7, 1983) would replace those currently codified in parts 1300-1310. We have adopted the rules accompanying this decision rather than wait for the outcome of Docket No. 37321, however, because of the need to address the comments submitted in this proceeding, to remove any uncertainty surrounding these rules, and to publish these currently effective regulations in the Code of Federal Regulations.

These rules shall become effective without further notice upon publication in the Federal Register. Good cause exists for this action which will clarify the regulations in this area by removing the pre-Staggers Act regulations from the Code of Federal Regulations, [which have not been in effect since 1981], and providing for the publication of the interim rules. The Commission and carriers have used the interim rules since 1981 and no substantial modification of the interim rules has been made. Therefore, no adverse public impact will result.

Additional information is contained in the Commission's decision in this proceeding. To obtain a copy of the full decision write to: T.S. Infosystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call (202) 289-4357 or toll free (800) 424-5403.

The final rules will not have a significant economic impact on a substantial number of small entities. In accordance with section 604 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, a final regulatory flexibility analysis is provided in the Commission's decision.

The final rules will not significantly affect the quality of the human environment or the conservation of energy resources.

¹ Geo. A. Hormel & Co., Oscar Mayer & Co., and The Rath Packing Company (jointly, hereinafter referred to as "meatpackers"); Nevada Power Company; The Millers' National Federation (MNF); Sea-Land Service, Inc. and Sea-Land Freight Service, Inc. (Sea-Land).

List of Subjects in 49 CFR Parts 1300, 1303, 1305

Freight, Railroads.

Authority: 49 U.S.C. 10762 and 5 U.S.C. 553.

Dated: September 26, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

Appendix

Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

PART 1300—FREIGHT TARIFFS: RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

1. Paragraph (h) of § 1300.3 is revised to read as follows:

§ 1300.3 Contents of tariff title page.

(h) On every tariff or supplement in which rates, rules or regulations are made effective on less than statutory notice under authority of the Commission, notation that it is issued on — days' notice under the authority of — (here show the authority).

2. Paragraphs (d)(3), (e)(11) and (h) of § 1300.9 are revised to read as follows:

§ 1300.9 Amendments and supplements.

(d) * * *

(3) Matter brought forward without change from one supplement to another must be designated "Reissued" in distinctive type and, except as authorized in 1300.10(i), must show the original effective date and the number of the supplement or tariff from which it is reissued; or it must be uniformly indicated by the letter T in a square when reissued from another tariff or from a supplement to another tariff and by numerals commencing with 1 in squares when reissued from a prior supplement to the same tariff. Such symbols must be printed in distinctive type and shown in a conspicuous manner, and an explanation thereof must be made in the tariff or supplement in which the symbols are used. Examples: "1 Reissued from ICC No. —, (or Supplement No. — to ICC No. —), effective (date upon which item became effective in former tariff or supplement to another tariff —); "1 Reissued from Supplement No. 1, effective —, 19—," and