

§ 76.401 Disapproval of an application—opportunity for a hearing.

(a) *State agency hearing before disapproval.* Under the following programs the State agency that administers the program shall provide an application with notice and an opportunity for a hearing before it may disapprove the application:

(b) *Other programs—hearings not required.* Under other programs covered by this part, a State agency—other than a State educational agency—is not required to provide an opportunity for a hearing regarding the agency's disapproval of an application.

§ 76.563 [Amended]

30. In § 76.563 introductory text, "listed in § 76.1" is removed.

31. The cross-reference following § 76.772 is removed.

PART 500—BILINGUAL EDUCATION: GENERAL PROVISIONS

32. The authority citation for Part 500 continues to read as follows:

Authority: 20 U.S.C. 3221-3262, unless otherwise noted.

33. A new center heading "OPEN MEETING CERTIFICATION" is added to Part 500 after the title for Subpart C.

34. A new § 500.15 is added after the new center heading to Subpart C, to read as follows:

§ 500.15 Open meeting certification.

(a) This section implements Section 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(b) Section 1006 requires a local educational agency [LEA] that submits an application under a program subject to this subpart to certify that the LEA has held an open meeting regarding the contents of the application.

(c) An LEA that must comply with this section shall—

(1) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application.

(2) Hold the open meeting;

(3) Consider comments obtained at the meeting in developing the final application; and

(4) Certify in the application submitted to the Secretary that the LEA has held an open meeting regarding the application, as required by this section.

(Authority: 20 U.S.C. 887e)

PART 745—WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

35. The authority citation for Part 745 is revised to read as follows:

Authority: 20 U.S.C. 3341-3348, unless otherwise noted.

36. A new § 745.12 is added to Subpart A to read as follows:

§ 745.12 Open meeting certification.

(a) This section implements Section 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(b) Section 1006 requires a local educational agency (LEA) that submits an application under a program subject to this part to certify that the LEA has held an open meeting regarding the contents of the application.

(c) An LEA that must comply with this section shall—

(1) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application;

(2) Hold the open meeting;

(3) Consider comments obtained at the meeting in developing the final application; and

(4) Certify in the application submitted to the Secretary that the LEA has held an open meeting regarding the application, as required by this section.

(Authority: 20 U.S.C. 887e)

[FR Doc. 87-16734 Filed 7-23-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Public Health Service****42 CFR Part 36****Indian Health; Preference in Employment**

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the definition of the term "Indian" for purposes of Indian preference in employment in the Indian Health Service (IHS) to continue the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry. The amendment extends the previous expiration date of October 4, 1985 to September 14, 1988 to permit the tribe to formally organize and to establish current membership standards.

EFFECTIVE DATE: October 4, 1985.

FOR FURTHER INFORMATION CONTACT:

Richard J. McCloskey, (301) 443-1116. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: As a result of the April 22, 1977, decision of the U.S. District Court for the District of Columbia in *Tyndall v U.S.*, the Department of Health and Human Services (HHS) is under continuing court order to apply the same definition of the term "Indian" for purposes of Indian preference in employment in the IHS as that adopted by the Department of the Interior (DOI) and to publish the definition as a regulation in the *Federal Register* within 30 days of the DOI's publication.

Rulemaking procedures under the Administrative Procedure Act (5 U.S.C. 8553) generally involve publication of a notice of proposed rulemaking, affording interested persons the opportunity to comment, and publication of the final rule after consideration of the comments received. However, the statute allows the agency to dispense with notice and comment procedures:

(b) When the Agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The Court's order in *Tyndall* provides good cause for dispensing with notice and comment procedures in this instance.

On July 11, 1978 (43 FR 29783), HHS published a final rule which brought the definition of Indian for purposes of Indian preference in employment in the IHS into conformance with the DOI's Bureau of Indian Affairs definition published January 17, 1978 (42 FR 2393). On July 17, 1981 (46 FR 37044, 45), on October 4, 1984 (49 FR 39157), and most recently on September 15, 1986 (51 FR 32631, 32) the DOI amended its definition to continue the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry. The HHS rule was revised on November 4, 1981 (45 FR 54743) and November 6, 1984 (49 FR 44288, 89) to conform to the DOI's 1981 and 1984 changes.

The membership rolls of the Osage Tribe of Oklahoma, like a number of other tribes, were closed by an act of Congress, and therefore, these tribes did not have current membership standards. The original regulation provided a 3-year period for such tribes to formally organize and establish membership standards and, in the interim, permitted persons of one quarter degree blood of

such tribes to qualify for Indian preference rather than having to meet the normal one half degree requirement. This was extended twice to give the Osage Tribe additional time to establish membership standards. The new DOI regulation and this HHS revision again extend the expired date. The quarter degree standard will remain applicable through September 14, 1988 or until the Osage tribe has formally organized and established membership standards, whichever comes first.

Under terms of the Court's order and our conforming regulations the IHS has been obligated to apply the revised DOI definition of Indian for purposes of employment uninterrupted since 1978.

The Department's definition varies slightly from that of the DOI in order to clarify that there is no gap in the application of the definition to people of Osage ancestry. People of Osage ancestry, who are employed by the IHS and who received preference in any previous appointment, will continue to be preference eligibles so long as they are employed in HHS positions governed by the Indian Preference Act.

The Department of Health and Human Services has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291.

The Department of Health and Human Services has determined that this document does not have a significant economic impact on a substantial number of small entities. This rule affects only persons of the Osage Tribe of Indians. No notice of proposed rulemaking (NPRM) is required because, as a result of the Court's order, the Department does not have discretion in this matter and, therefore, pursuant to 5 U.S.C. 553(b)(B) the Department is waving the proposed rulemaking requirements.

List of Subjects in 42 CFR Part 36

Alaska Natives, Employees, Eskimos, Government employees, Health, Indian preference, Indians.

Accordingly, the Department of Health and Human Services revises 42 CFR 36.41(e) as follows:

Dated: June 3, 1987.

Robert E. Windom,

Assistant Secretary for Health.

Approved: July 2, 1987.

Otis R. Bowen,

Secretary.

PART 36—[AMENDED]

Subpart E—Preference in Employment

1. The authority citation for Part 36, Subpart E continues to read as follows:

Authority: 25 U.S.C. 44, 45, 46 and 472; Pub. L. 83-568, 42 U.S.C. 2003.

2. Section 36.41(e) is revised as follows:

§ 36.41 Definitions.

(e) Until September 14, 1988 or until the Osage Tribe has formally organized, whichever comes first, a person of at least one-quarter degree Indian ancestry of the Osage Tribe of Indians, whose rolls were closed by an act of Congress.

[FR Doc. 87-16744 Filed 7-23-87; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 31 and 52

Federal Acquisition Regulation (FAR)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; correction.

SUMMARY: This document corrects final rules in Federal Acquisition Circular (FAC) 84-25 published in the *Federal Register* on Friday, March 20, 1987 (52 FR 9036).

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 87-6002 beginning on page 9036, make the following corrections:

31.109 [Corrected]

On page 9038, in the second column, the amendatory language in the second line, "paragraph (h)(15)" should read "paragraph (h)(14).

31.205-44 [Corrected]

On page 9039, in the first column, paragraph (h)(2), fifth line, "with 12 months" should read "within 12 months".

52.210-1 [Corrected]

On page 9039, in the second column, add the instruction to remove in the title of the provision the date "APR 1984" and insert in its place the date "JUL 1987" and remove the derivation line following "End of provision".

List of Subjects in 48 CFR Parts 31 and 52

Government procurement.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 87-16829 Filed 7-23-87; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 83-09; Notice 2]

Consumer Information Regulations; Vehicle Stopping Distance

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

SUMMARY: This rule amends the requirements of the Consumer Information Regulations by deleting the requirement that vehicle stopping distance information be provided to first purchasers of new passenger cars and motorcycles at the time the vehicle is delivered to the first purchaser. The agency has taken this action because the primary purpose of the consumer information is to permit prospective purchasers to obtain as much comparative information as possible before deciding which particular model to buy. Information provided after the consumer has purchased the vehicle cannot serve that purpose. Since NHTSA is unaware of any other value to the consumer being given stopping distance information after purchasing a new vehicle, this rule rescinds that requirement. Based on cost information provided by General Motors, the agency estimates that this action will save vehicle manufacturers over one million dollars annually.

DATES: This rule is effective July 24, 1987.

Any petitions for reconsideration of this rule must be received by NHTSA not later than August 24, 1987.

ADDRESS: Any petitions for reconsideration must be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Charles Gauthier, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-4805).

SUPPLEMENTARY INFORMATION: This rule amends the requirements of 49 CFR Part

575, *Consumer Information Regulations*, to delete the requirement that manufacturers of passenger cars and motorcycles provide stopping distance information to the first purchasers of their vehicles at the time of delivery of the new vehicle. The primary purpose underlying the requirement that vehicle manufacturers provide consumers with stopping distance information is to provide consumers with comparative information on different vehicles so that they can consider this information when deciding which new vehicle to purchase. Stopping distance information that is given to consumers after they have purchased a new vehicle does not serve this purpose.

Vehicle manufacturers have been required to provide stopping distance information to first purchasers of new vehicles at the time of delivery of the vehicle ever since the original consumer information regulations were published at 34 FR 1246, January 25, 1969. At this time, however, it is not clear what benefits the agency believed first purchasers would derive from information provided to them after they had purchased the vehicle. The preamble to the 1969 rule requiring manufacturers to provide such information explained only that, "This regulation is intended to be the initial part of a comprehensive program to supply the consumer with information concerning safety and other performance characteristics of motor vehicles." 34 FR 1247. No further explanation was set forth in the final rule or any other document of how or why the agency believed it would be helpful to consumers to obtain stopping distance information for vehicles after they had purchased the vehicle. The agency is not aware of any empirical or analytical evidence that stopping distance information is or could be useful to consumers after they have purchased a new vehicle. Therefore, the requirement to provide this information to first purchasers is deleted from Part 575 by this rule.

Under the requirements as they existed before today's amendment, stopping distance information was required to be disseminated to consumers via three separate sources. First, § 575.6(a) requires manufacturers to provide the first purchasers of new vehicles with stopping distance information at the time of delivery of the new vehicle. Second, § 575.6(c) requires stopping distance information to be provided by each vehicle manufacturer to each of its dealers, so that prospective purchasers can examine the information in the dealer's showroom at

no cost. Third, § 575.6(d) requires the stopping distance information to be provided by each vehicle manufacturer to NHTSA, so that it can be made available to the public in NHTSA's Technical Reference Library and upon request.

General Motors Corporation (GM) filed a petition for rulemaking with the agency, in which GM asked that the requirements for vehicle manufacturers to disseminate stopping distance information about their vehicles be deleted altogether. GM asserted that the stopping distance information was not actually used by consumers, that it was not a meaningful comparison between different vehicles, and that dissemination of the stopping distance information was an unnecessary economic burden on the vehicle manufacturers. In response to this petition, NHTSA carefully reexamined the requirements that stopping distance information be disseminated to consumers via the three separate sources identified above.

As a result of this reexamination, NHTSA published a notice of proposed rulemaking (NPRM) on June 30, 1983; 48 FR 30166. This NPRM proposed to delete the requirement that manufacturers provide stopping distance information to the first purchasers of new vehicles, since this information does not become available to the consumer soon enough to serve the primary purpose of these consumer information regulations. However, the agency did not propose to delete the requirements that vehicle manufacturer provide stopping distance information to their dealers and to this agency. The agency stated in the NPRM that it did not agree with GM's assertion that the stopping distance information was not meaningful to consumers. While some manufacturers report that their vehicles stop exactly at the maximum stopping distance allowed under Standard No. 105, *Hydraulic Brake Systems* (49 CFR 571.105), most manufacturers reported that their vehicles stop in a shorter distance. The differences in reported stopping distance could be used by consumers to make comparative evaluations of the vehicles. Further, the NPRM noted that 14 percent of the dealerships surveyed by that company reported that they had been asked by consumers for stopping distance information. The NPRM stated that these requests "indicate that the information is being used by the public and NHTSA is reluctant to curtail the amount of information available to the public when that information is reliable and can be provided at a reasonable cost." 48 FR 30167. Based on GM's

estimates of its own costs for providing stopping distance information to the three sources presently required by Part 575, NHTSA estimated total costs to vehicle manufacturers at \$266,000 if stopping distance information were required to be provided only to each dealer and this agency. This translates to less than 3 cents for each new car and motorcycle sold, and NHTSA tentatively adjudged this to be a reasonable cost for providing the information.

The NPRM also sought comments on the desirability of requiring vehicle manufacturers to permanently affix a label to the vehicle, setting forth the stopping distance information. Such labeling would ensure the continuing availability of stopping distance information to subsequent purchasers of the vehicle. The current practice of putting stopping distance information in the owner's manual or in a separate consumer information booklet can result in the stopping distance information not being available to the subsequent purchasers of the vehicle.

After publication of this NPRM, NHTSA undertook research to gain a better understanding of consumer awareness of and interest in NHTSA's consumer information programs, and to learn if there were ways in which the consumer information programs could be made more useful to consumers. The final report is entitled "Consumer Attitudes Toward Consumer Information Programs", and is available in the General Reference section of Docket No. 83-09. This report indicated that most consumers are satisfied with the information available to them when purchasing a vehicle. There is, however, a small segment of car buyers who actively seek information about vehicles when making a purchase and would prefer that more information be made available. This segment's interest in the subject of stopping distance increases when they are informed that stopping distances for comparable vehicles may vary.

The agency received 12 comments on the NPRM. Nine of these 12 comments were submitted by vehicle manufacturers. Each of these manufacturers supported the proposal to delete the requirement that stopping distance information be provided to first purchasers at the time of delivery of a new vehicle. However, all nine of the vehicle manufacturers disagreed with the agency's decision to continue requiring stopping distance information to be provided to each of their dealers and to NHTSA.

Along with its petition, GM submitted a survey of 162 of its dealers. Of these

162 dealers, 140 had not received a single request for stopping distance information, while 22 (14 percent) had received such requests. The 22 dealers that received requests for stopping distance information received an average of five such requests each. In the NPRM, the agency stated, "The fact that 14 percent of the dealerships surveyed by GM received requests for stopping distance information indicates that the information is being used by the public and NHTSA is reluctant to curtail the amount of information available to the public when that information is reliable and can be provided at a reasonable costs." 48 FR 30167.

All nine of the commenting vehicle manufacturers stated in their comments that the public had shown little or no interest in stopping distance information. Most of these commenters questioned the agency's interpretation of the GM dealer survey, and suggested that sales-weighting of the survey results would show that very few consumers requested the information. GM stated that by adjusting the requests received by the number of potential purchasers passing through each dealership, NHTSA would conclude that less than 1/10 of one percent of prospective purchasers had requested stopping distance information. Volkswagen raised the same point in its comments. Suzuki Motor Co., Ltd. (Suzuki) provided a survey of 50 of its dealerships in its comments. Suzuki's survey showed that 30 of 50 dealers had no requests for the information, 13 of 50 had one percent or fewer of their customers ask for stopping distance information, 4 dealers had five percent of their customers ask for the information, and 3 dealers said that ten percent of their customers asked for stopping distance information.

Admittedly, the GM and Suzuki surveys, as well as the agency's own research of this topic, show that most consumers do not request stopping distance information from dealers. However, NHTSA does not believe that consumer information requirements need to be justified by a majority vote of consumers. If majority use of information were the test, it seems likely that few, if any, consumer information requirements could pass this test. For instance, whether or not most consumers read the list of ingredients on processed food, the point of that consumer information requirement, as is the case for the stopping distance information requirements, is to permit those consumers that choose to do so to obtain useful comparative information on different products before deciding

which of the products to purchase. The surveys submitted by the commenters and the agency's own research indicate that some consumers do use the information in this manner. The agency believes this number is not insignificant. NHTSA believes it would be inappropriate to curtail the amount of information available to these consumers simply because other consumers do not use this information when making their purchase decisions.

American Motors Corporation commented that there was no evidence that stopping distance information was actually used by consumers in making the purchase decision. Mercedes-Benz commented that it was doubtful that stopping distance information would be a decisive criterion for a consumer in choosing a particular car. As noted above, the agency's consumer research indicated that a small minority of consumers are interested in stopping distance information. Some consumers asserted that stopping distance information could be used as an indicator for assessing the car as a whole, while other perceived stopping distance information as crucial information all by itself. These research findings do not directly contradict the assertions of either commenter. However, the findings do indicate that some consumers are interested in stopping distance information and that the information would be useful to those consumers when making their purchase decisions. Since this is the reason for requiring the information to be made available, NHTSA is not persuaded by the manufacturers' comments.

Several commenters stated that stopping distance information as currently reported is not useful to consumers. Volkswagen stated that the example offered in the NPRM of the differing reported stopping distances for the three largest U.S. automakers illustrated why the stopping distance information was not useful to consumers. The NPRM noted that the 1982 stopping distance reported by Ford and Chrysler showed that all of their domestically produced vehicles stop at exactly the maximum distance permitted by Standard No. 105, *Hydraulic Brake Systems* (49 CFR 571.105), while GM reported that its vehicles stopped on average in about 5 percent less than the maximum permissible distance.

First, Volkswagen stated its doubts that both Ford and Chrysler build all of their cars to stop exactly at the limit prescribed by Standard No. 105. Instead, Volkswagen stated that the reported stopping distances do not reflect the

actual performance of the vehicles, but are "very conservative estimates". Volkswagen stated that the companies have a very strong incentive to overstate the actual stopping distances, so as to minimize consumer complaints that the car does not perform up to expectations. By being "conservative", Volkswagen stated that the manufacturers avoid consumer complaints, but also dilute the usefulness of the stopping distance information for comparative purposes. Hence, Volkswagen concluded that the requirement to provide stopping distance information should be rescinded altogether.

NHTSA does not agree with Volkswagen's premise that most manufacturers will follow this practice of reporting conservative estimates. For 1986, Ford and Chrysler were the only manufacturers that reported that their vehicles stopped at the limit specified in Standard No. 105. The other 16 manufacturers reported some value under that limit. Additionally, two manufacturers have included stopping distance information in some of their television advertising during the past two years. This indicates either that those manufacturers believe that stopping distance information is an aspect of vehicle performance in which some consumers are interested or that stopping distance is indicative of the image they are trying to achieve for their vehicles. In either case, the advertising strategy of these manufacturers uses stopping distance information to distinguish the performance of one vehicle from another to try to influence consumers. Thus, no matter how plausible the Volkswagen premise sounds, it is simply not borne out by the facts.

Even if the premise were true, it is not clear to the agency why the commenter concluded that the requirement to report stopping distance information should be rescinded for all manufacturers, since some manufacturers have chosen not to report useful stopping distance information. To the contrary, it seems more responsible to conclude that some steps should be taken to encourage all manufacturers to report more representative stopping distance information. Indeed, it is possible that the marketplace itself will force manufacturers to report more representative stopping distance information, if the aforementioned advertising campaigns are effective. Alternatively, the agency could "market" the facts about stopping distance: stopping distance is an important safety attribute of a vehicle, not all comparable vehicles perform

equally, and good driving skills become better when combined with better braking performance. By trying to get all manufacturers to provide more representative stopping distance information to consumers, the agency would better achieve its goal of informing consumers of performance differences in cars. If the agency rescinded the stopping distance requirements altogether, it would have simply abandoned that goal.

The Automobile Club of Southern California (ACSC) also directed its comments towards the practice of some vehicle manufacturers just publishing the limits allowed under Standard No. 105 as the stopping distance for all of their vehicles. ACSC commented that disseminating such information is not useful to consumers, and recommended that Standard No. 105 be reevaluated by the agency to determine if the results obtained according to Standard No. 105's test procedures are sufficiently accurate and useful as probable indices of the braking performance for the vehicles tested. This comment was probably based on the erroneous assumption that vehicle manufacturers are required to report the actual stopping distances measured under Standard No. 105 as the stopping distance information under Part 575. Instead, Part 575 requires only that vehicle manufacturers report stopping distance values that can be *met or exceeded* by the group of vehicles in question. Those manufacturers that have chosen to report the Standard No. 105 stopping distance limit for all their vehicles have chosen a value that can be *exceeded* by the overwhelming majority of vehicles. If a regulatory change were chosen as the means for addressing this problem, it could be accomplished by amending Part 575 without changing the test procedures in Standard No. 105.

As stated earlier, Volkswagen commented on the NPRM's example that the 1982 stopping distance information reported by the the largest U.S. auto manufacturers showed that two of the three reported that all their vehicles stopped in the maximum distance allowed by Standard No. 105, while the other manufacturer reported that its vehicles generally stopped in a distance that was five percent less than the maximum allowed under Standard No. 105. According to Volkswagen, the five percent shorter stopping distance was "inconsequential" and "certainly not a good reason to purchase a vehicle". This comment misunderstands the purpose of the consumer information regulations. Under these regulations, manufacturers

of new vehicles are required to provide consumers with pertinent safety information about the particular vehicles they might purchase. Thus, whether or not a five percent stopping distance difference is a good reason to choose a particular vehicle, it is a decision to be made by consumers and making such information available to consumers is the underlying purpose of the consumer information regulations.

American Motors Corporation stated its opinion that a consumer information program is not needed for stopping distance, because Standard No. 105 already specifies performance requirements for vehicle stopping distance. What is omitted from this argument is that Standard No. 105, like all of the Federal motor vehicle safety standards, merely establishes minimum levels of performance necessary for safe operation of vehicles on the public roads. The amount by which a vehicle exceeds those minimum levels, if any, is still relevant and useful information for consumers contemplating the purchase of that vehicle. Therefore, NHTSA does not find this argument persuasive.

After considering all the comments received, this agency has decided to amend Part 575 to incorporate the proposed actions with respect to the dissemination of stopping distance information. Vehicle manufacturers are no longer required to provide stopping distance information to the first purchasers of new vehicles at the time of delivery of the vehicle. As noted in the NPRM, the purposes of requiring the dissemination of the stopping distance information is to provide consumers with relevant safety information on the different vehicle models they are considering purchasing. Requiring such information to be provided to consumers *after* they have just purchased a new vehicle does not serve this purpose. As explained at the beginning of this preamble, NHTSA is unaware of any other purpose that would be served by providing stopping distance information to consumers after they have purchased a new vehicle. No commenters, disagreed with this proposed determination, or suggested some purpose that would be served by providing stopping distance information after a consumer has purchased a new vehicle.

On the other hand, the agency believes that the requirements to disseminate stopping distance information to each dealer and to this agency could serve the above-described intended purpose. Moreover, this purpose can be served while imposing

minimal burden and cost on the vehicle manufacturers.

The National Automobile Dealers Association (NADA) indicated their support for the changes proposed in the NPRM. However, NADA asked that, in conjunction with the proposed amendments, the agency retain the requirements that manufacturers provide the stopping distance information to dealers free of charge and in sufficient quantity. NHTSA did not propose to amend those requirements, and has not changed them in this rule. Therefore, this rule will not result in any increase in burden for the dealers.

The NPRM asked for comments on the desirability of requiring the stopping distance information to be permanently labeled on vehicles, so as to ensure its availability for subsequent purchasers of the vehicles. One commenter, an individual, supported this idea, stating that it was "obvious that labels with stopping distance information would be best for consumers."

All of the other commenters that addressed this topic opposed the idea for a number of reasons. The motorcycle manufacturers stated that there is almost no place to put another label on a motorcycle. They believed that if stopping distance information requirements were to be retained for first purchasers, the manufacturers should be allowed to continue printing it in the owner's manuals. Several passenger car manufacturers stated that proper maintenance of the vehicle was a far more significant factor in a vehicle's braking performance for subsequent purchasers than was its braking performance when it was delivered to the first purchaser. GM commented that requiring permanent labels to disseminate stopping distance information would cost manufacturers twice as much as requiring the information to appear in owner's manuals.

The agency sought comments on this topic to learn if there was an effective and inexpensive way to make stopping distance information available to prospective purchasers of used vehicles, in the same way that such information is available to prospective purchasers of new vehicles. If the information could be used for comparative purposes by persons shopping for used car, NHTSA was considering proposing a requirement that stopping distance information be permanently affixed to new vehicles.

However, the agency agrees with the comment stating that maintenance of a particular vehicle would have the

greatest impact on that particular vehicle's braking performance. This gives rise to the possibility that subsequent purchasers could be misled by the stopping distance information labeled on a vehicle. For instance, a vehicle with very good braking performance when it was new may subsequently exhibit very poor braking performance because of inadequate maintenance by the owner. A person purchasing the vehicle might be led to believe that the braking performance was still very good, because of the stopping distance label. NHTSA believes that any labeling requirement for stopping distance information would give rise to this potential misuse. Accordingly, the agency has no plans to propose adopting a stopping distance labeling requirement.

As explained above, the agency has concluded that no purpose was served by the requirement that vehicle manufacturers provide first purchasers with stopping distance information at the time of delivery of the new vehicle. The amendment made by this rule will relieve vehicle manufacturers of this unnecessary restriction, without lessening the information available to potential purchasers before they make a final purchase decision. Accordingly, the agency finds for good cause that this final rule should become effective immediately upon publication in the *Federal Register*, instead of 30 days after publication as is generally required by 5 U.S.C. 553(d).

NHTSA has analyzed the impacts of this final rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. Using the cost estimates provided in GM's petition for that company and extrapolating GM's costs over the entire industry, NHTSA estimates that the requirements for disseminating stopping distance information before publication of this rule imposed annual costs of \$1,384,000 on the vehicle manufacturers. This translates to about 18 cents per new vehicle, assuming an annual production of 8 million new passenger cars and motorcycles. Again using the GM cost estimates, the requirement to provide stopping distance information to first purchasers cost manufacturers \$1,118,000 per annum (about 15 cents per vehicle), while the requirement to provide stopping distance information to prospective purchasers cost about \$266,000 per annum (about 3 cents per vehicle). The total savings expected for vehicle manufacturers as a result of this

rule are \$1,118,000 per annum, which is well below the threshold for classifying a rule as major or significant. No impacts are anticipated for new vehicle dealers as a result of this rule. Interested consumers will still be able to obtain stopping distance information from dealers or this agency before they buy a new vehicle. Accordingly, a full regulatory evaluation of this rule has not been prepared.

The agency has also considered the impacts of this rule as required by the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. NHTSA believes that few, if any, of the passenger car and motorcycle manufacturers qualify as small entities. To the extent that some of those manufacturers are small entities, the savings they realize as a result of this rule will be minimal, as explained above in the discussion of costs and other impacts. Since the effects of this rule on new vehicle prices will be insignificant, small organizations and small governmental units will not be affected by this rule.

Finally, the agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act and determined that it will not significantly affect the human environment.

The requirements that vehicle manufacturers disseminate stopping distance information are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. OMB has approved the more extensive information dissemination requirements that existed prior to the publication of this rule (OMB No. 2127-0049), but has not approved the more limited requirements in this rule. Accordingly, the requirements in this rule are being submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). A notice will be published in the *Federal Register* when OMB makes its decision on this request.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR Part 575 is amended as follows:

PART 575—[AMENDED]

1. The authority citation for Part 575 is revised to read as set forth below and

the authority sections following §§ 575.6, 575.7, and 575.104 are removed.

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, and 1423; delegation of authority at 49 CFR 1.50.

2. 49 CFR 575.6(a) is amended by revising the first sentence to read as follows:

§ 575.6 Requirements.

(a) At the time a motor vehicle is delivered to the first purchaser for purposes other than resale, the manufacturer of that vehicle shall provide to the purchaser, in writing and in the English language, the information specified in §§ 575.103 and 575.104 of this part that is applicable to that vehicle and its tires. * * *

Issued on July 20, 1987.

Diane K. Steed,
Administrator.

[FR Doc. 87-16827 Filed 7-23-87; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1090

[Ex Parte No. 230 (Sub-No. 6)]

Intermodal Transportation Trailer or Flatcar and Container on Flatcar Service Improvement; Improvement of TOFC/COFC Regulations, (Railroad-Affiliated Motor Carriers and Other Motor Carriers)

AGENCY: Interstate Commerce Commission.

ACTION: Clarification and amendment of final rules.

SUMMARY: In response to a petition seeking clarification the Commission has adopted minor amendments to its new regulations (52 FR 23660, June 24, 1987) currently found in 49 CFR 1090.2 and 1090.3. The regulations concern exemption of the motor portion of joint-rail motor TOFC/COFC services.

EFFECTIVE DATE: July 24, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357 (DC Metropolitan area).