Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Channel 229A, Hague, and 273A, Westport.

3. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by adding Channel 244A at Vergennes.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91-13847 Filed 6-11-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-27; RM-7549]

Radio Broadcasting Services; Castle Rock, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Cowlitz Broadcasting Company, allots Channel 296C3 to Castle Rock, Washington, as the community's first local FM transmission service. See 56 FR 8313, February 28, 1991. Channel 296C3 can be allotted to Castle Rock in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.4 kilometers (6.5 miles) north to avoid short-spacing to the site specified in the construction permit for Station KMXI, Channel 294C, Lake Oswego, Oregon, as well as Station KSKD, Channel 296C1, Sweet Home, Oregon. The coordinates for Channel 296C3 at Castle Rock are North Latitude 46-22-10 and West Longitude 122-55-29. Canadian concurrence has been obtained since Castle Rock is located within 320 kilometers (220 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 22, 1991. The window period for filing applications will open on July 23, 1991, and close on August 22, 1991.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-27, adopted May 22, 1991, and released June 7, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the table of FM Allotments under Washington, is amended by adding channel 296C3, Castle Rock.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91-13992 Filed 6-11-91; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 519

[APD 2800.12A CHGE 24]

General Services Administration Acquisition Regulation; Subcontracting Program

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to revise § 519.705-4(d) to require that the contracting officer explain on GSA Form 3584, Checklist for Review of Subcontracting Plan, or attachment his/her determination that an option covered by the subcontracting plan offers no subcontracting opportunities; delete paragraph (e) of § 519.705-4 which repeats information in Federal Acquisition Regulation (FAR) 19.704(a)(3) and (6) and FAR 19.705-4(c); to redesignate paragraph (f) of section 519.705-4 as paragraph (e); to revise section 519.706-70 to reflect the change to section 519.705-4(e) and delete instructions that repeat FAR 19.705.5(a). GSA forms are not published in this document and do not appear in the Code of Federal Regulations. Copies may be obtained from the Director of the Office of GSA Acquisition Policy (VP), 18th and F Street NW., Washington, DC 20405. The intended effect is to improve the regulatory coverage and provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: June 14, 1991.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Office of GSA Acquisition Policy, (202) 501-1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the Federal Register for public comment because it primarily provides internal operating procedures to GSA contracting personnel regarding subcontracting programs.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated September 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). GSA certifies that this rule will not have a significant impact on a substantial number of entities because it is intended to provide internal guidance to GSA contracting officers regarding options covered by the subcontracting plan and to delete language which is duplicative of the FAR.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Part 519

Government procurement.

1. The authority citation for 48 CFR part 519 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 519—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 519.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

2. Section 519.705-4 is amended by revising paragraph (d), removing paragraph (e) and redesignating and revising paragraphs (f)(1), (f)(2), and (f)(3) as (e)(1), (e)(2), and (e)(3) to read as follows:

519.705-4 Reviewing the subcontracting plan.

* * * * *

(d) The contracting officer's determination that an option offers no subcontracting opportunities must be explained either on GSA Form 3584 or as an attachment thereto, before it is forwarded to the SBTA and the SBA/PCR for review.

(e)(1) Before determining the responsibility of an offeror on a contract requiring a subcontracting plan, the contracting officer shall review the offeror's compliance with previous subcontracting plans, if any, approved by the GSA contracting activity, including the contractor's performance in submitting subcontracting reports in a timely manner. The findings must be documented on the GSA Form 3584, Checklist for Review of Subcontracting Plan, in the "Remarks" block or on an attachment to the GSA Form 3584 before forwarding it to the SBTA and the SBA/PCR for review.

(2) In addition to (e)(1) of this section, PBS contracting officers must check the quarterly list of PBS contracts with plans provided by AU and contact all other GSA contracting activities holding contracts with the same contractor concerning compliance with the previous year's plan.

(3) When an offeror has consistently failed to submit SF 294 and SF 295 reports in a timely manner or has failed to make a good faith effort to meet its subcontracting goals on previous contracts with plans, the contracting officer shall include on the GSA Form 3584 in the "Remarks" block or in an attachment to the GSA Form 3584 the basis for finding the offeror responsible including the steps the offeror proposes to take that were not included in previous subcontracting plans to ensure compliance with the subcontracting program requirements on the proposed contract.

3. Section 519.706–70 is amended by revising paragraph (e) to read as follows:

519.706–70 Monitoring contractor compliance with subcontracting plans.

* * * * *

(e) Before determining that a contractor's failure to achieve the subcontracting goals was occasioned by bad faith, the contracting officer shall analyze the explanations required by paragraph (b) above or provided pursuant to FAR 19.706.

* * * * *

Dated: May 23, 1991.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 91–13740 Filed 6–11–91; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–112, Amendment 195–45]

RIN 2137– AB72

Transportation of Carbon Dioxide by Pipeline

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule establishes new safety regulations governing the transportation by pipeline of carbon dioxide in a supercritical state. The regulations for carbon dioxide are similar to the regulations for hazardous liquids. Section. 211 of the Pipeline Safety Reauthorization Act of 1988 (Pub. L. 100–561) requires that the DOT regulate carbon dioxide which is transported by pipeline facilities.

EFFECTIVE DATE: The effective date of this final rule is July 12, 1991.

FOR FURTHER INFORMATION CONTACT: Cesar De Leon (202) 366–1640, regarding the contents of this final rule; or the Dockets Unit (202) 366–5046, regarding copies of this final rule or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

Federal regulations in 49 CFR part 195 prescribe safety standards and reporting requirements for pipeline facilities used in the transportation of hazardous liquids, which are defined to include petroleum, petroleum products, or anhydrous ammonia. Section 211 of the Pipeline Safety Reauthorization Act of 1988 (Pub. L. 100–561) enacted on October 31, 1988 (49 U.S.C. 2015) requires that the Department of Transportation regulate carbon dioxide (CO_2) which is transported by pipeline facilities. On March 16, 1989, the American Petroleum Institute (API) petitioned the Department to amend part 195 to include the regulation of pipelines that transport CO_2. The recommendations contained in the petition are the product of a task force consisting of representatives of nine companies that own or operate CO_2 pipelines. The API recommended that OPS amend existing part 195 rather than write a new part for CO_2 pipelines only, and RSPA adopted this approach. On October 12, 1989, the RSPA published a notice of proposed rulemaking (NPRM) (54 FR 41912) proposing to amend these regulations to also apply to the transportation of CO_2 in the supercritical phase.

The NPRM described the physical properties of CO_2. At normal temperatures and atmospheric pressure, CO_2 is an odorless and colorless gas, not flammable, with a density 1.5 times the density of air. It will not support combustion nor will it sustain life if inhaled. Carbon dioxide may exist simultaneously as a gas, liquid, and solid at its triple point which is −69°F and 60.43 psig. Below the triple point, it may be either a solid or gas depending on temperature and pressure. Dry ice for refrigeration is a common use of CO_2 in solid form. Dry ice at a temperature of −109°F and atmospheric pressure will sublime, that is, pass to the gas phase without going through the liquid state. The critical temperature of CO_2 is 87.8°F. When pressure reaches 1200 psig, CO_2 enters what is called the supercritical phase (also referred to as a dense vapor phase).

Pipeline transportation of CO_2 in the supercritical phase is more desirable than transportation in the gaseous phase. As a dense vapor in the supercritical state, CO_2 can be transported more economically and efficiently using smaller pipelines and pumps because greater volumes of fluid can be transported as a dense vapor than as a gas. In addition, CO_2 would be difficult to transport as a gas because it would enter into two-phase flow at a lower pressure than that required for the efficient pipeline transportation of the CO_2.

Carbon dioxide has been used for many years to aid in the production of crude oil. Because of its high degree of solubility in crude oil and abundance from natural sources, CO_2 became a natural candidate for use in enhanced oil recovery (EOR) projects. Under favorable conditions of pressure, temperature, and composition, the CO_2 mixes with the crude oil. The CO_2 that dissolves in the crude oil increases the volume and decreases the viscosity making the oil more mobile. It also exerts an acidic effect on some types of reservoir rocks and vaporizes some of the oil.

There are a number of sources of CO_2. It can be produced commercially in natural gas plants, ammonia plants, and recovered from power plant stack gas. A better source is from underground reservoirs where CO_2 under pressure occurs naturally.

There are various modes of transportation for CO_2, but for the large volumes required in EOR projects, pipeline transportation is the most reliable and economical. Generally

these pipelines originate in the reservoirs of the four corners area and terminate in the Permian Basin oil field in Texas where most of the EOR projects exist. An exception is the Choctow Pipeline which originates near Jackson, Mississippi, and terminates near McComb, Mississippi. A list of CO_2 pipelines was included in the NPRM.

Pipeline Safety Reauthorization Act of 1988

There have been Congressional concerns regarding the transportation of CO_2 by pipeline over a number of years. The report on the Pipelines Safety Reauthorization Act of 1988 from the House Committee on Energy and Commerce in the 1987 session of the100th Congress points out that "* * * The Committee has for sometime recommended the safety regulation and inspection of CO_2 pipelines." The Committee further notes that:

> * * * The CO_2 pipeline industry has a good safety record and performs an essential service for enhanced oil recovery, but it is a very new industry. It is not a question of its safety record that caused the requirement for safety regulation, but rather the unique potential for disaster if there were ever a break in a CO_2 pipeline * * *.
>
> * * * A recent event demonstrated just how lethal CO_2 can be. On August 21, 1986, a catastrophic release of gas dissolved in Lake Nyos in Cameroon, Africa, killed 1,700 people. At the time, the news media characterized the gas as 'toxic,' 'poisonous' and 'lethal.' Subsequent investigation proved the gas was carbon dioxide.
>
> * * * The Committee believes that since CO_2 is deadly, CO_2 pipelines should have appropriate Federal safety regulations. (H.R. Rep. No. 100–445; 100th Congress; 1st Session (1987).)

Consequently, the requirement to issue regulations for the pipeline transportation of carbon dioxide was included in section 211 of title II of the Pipeline Safety Reauthorization Act of 1988, 49 U.S.C. 2015.

Comments to the NPRM

Five commenters responded to the notice: The Railroad Commission of Texas, Exxon Company, U.S.A., American Petroleum Institute (API), the U.S. Department of the Interior (DOI), and the Public Utility Commission of Oregon. In addition, the NPRM was presented in draft to the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) in Washington, DC, on September 14, 1989. The THLPSSC voted unanimously that the draft proposed rules were technically feasible, reasonable, and practicable. A transcript and report of the THLPSSC meeting are in the docket.

Exxon stated that the list of existing CO_2 pipelines is incomplete in that it does not include Amoco's 20-mile pipeline from Bairoil to the Lost Soldier and Wertz fields. Exxon further stated that the La Barge, Wyoming, area is a major CO_2 supply source for Wyoming and has the potential to supply EOR projects as far north as the Williston Basin (North Dakota) and Canada. The RSPA appreciates this additional data and has made these corrections to its records.

The Public Utility Commission of Oregon commented that although Oregon has no CO_2 pipelines at the present, it supported the adoption of the proposed rules for CO_2 pipelines because it believed that pipelines operating at pressures in excess of 1200 psig present a potential public hazard.

The Railroad Commission of Texas commented on the proposal under § 195.1(b)(8) to exclude CO_2 distribution lines in oil production fields. The Railroad Commission disagreed with RSPA's assumption that the CO_2 facilities exempted under § 195.1(b)(8) are typically located in rural areas. Also, the Railroad Commission stated that in Texas, many of these lines operate up to 1400 psig, and they should be covered by the regulations when in populated areas.

RSPA did not propose to regulate CO_2 distribution facilities in oil production operations because those lines were thought to be so closely involved in production as to be production facilities which are generally considered as outside of the scope of the transportation of hazardous liquids. However, a closer scrutiny of the issue shows that CO_2 distribution lines should be regulated. Although CO_2 is used in the production of hazardous liquids, it is not itself produced at those sites. Thus CO_2 lines are not "production facilities" within the meaning of the Hazardous Liquid Pipeline Safety Act. Furthermore, RSPA agrees with the Railroad Commission that those lines are sometimes in populated areas and are operating at high pressures. Therefore, the definition has been revised to more narrowly limit the exception to transportation of CO_2 "downstream from a point in the vicinity of the well site at which carbon dioxide is delivered to a production facility," rather than a "production field distribution system." A production field distribution system is not currently defined in the regulations. The Manual of Oil and Gas Terms, Williams and Myers 7th Edition (1987), defines the term "field" very broadly to include a general area underlain by one or more pools of oil and gas. The Manual further states that the term has a meaning which is usually determined from the context in which it is used. It may refer to a certain geographical area from which oil is produced, or it may be restricted to a particular reservoir. Such a broad definition would result in many CO_2 distribution lines, which could encompass more than a county in Texas, being excepted from the rules. Instead the exception in § 195.1(b)(8) is limited to lines downstream of where carbon dioxide is delivered to a production facility in the vicinity of a well site, rather than excepting all the CO_2 lines in the broad expanses of a production field.

The DOI observed that while they are unaware of the occurrence of large volumes of CO_2 in the Outer Continental Shelf (OCS) that might be developed, it may be timely to include OCS pipelines in the CO_2 rules. RSPA agrees with DOI and, in fact, under § 195.1, the scope of the NPRM covered such offshore lines. Part 195 applies to pipeline facilities on the OCS. Nothing in proposed § 195.1(b) excepted the applicability of part 195 to carbon dioxide pipeline facilities on the OCS; therefore, the final rules apply to any offshore pipeline that carries CO_2 in a supercritical phase downstream from production.

The DOI further commented that the definition that carbon dioxide is "* * * a fluid consisting predominately of carbon dioxide molecules compressed to a supercritical state" is too limiting if the rule is to apply to all pipelines carrying CO_2. RSPA agrees with DOI's observation that the Department has authority under section 211 of the Reauthorization Act to regulate all pipeline transportation of CO_2. However, RSPA has chosen to limit the regulations in part 195 to CO_2 in a supercritical state. At present, for economic reasons, CO_2 is transported by pipeline in a supercritical state, i.e., dense vapor state. In the future, if CO_2 is transported other than as a dense vapor where the part 195 regulations are inappropriate for such transportation, RSPA will issue additional regulations for such transportation.

Exxon was concerned with the definition of "carbon dioxide" in another context. Exxon thought that because "predominant" means more than half and because of the difficulty in determining the super critical point on a mixture of gases, the definition should be changed as follows: "Carbon dioxide" means a fluid consisting of more than 90 percent carbon dioxide molecules, compressed to a supercritical state. The RSPA agrees with Exxon that the definition of "carbon dioxide" needs to be more precise than the proposed

definition in the NPRM. Exxon's definition is more precise and would preclude the problems identified by that company. Therefore, the definition of "carbon dioxide" has been revised to mean a fluid consisting of more than 90 percent carbon dioxide molecules.

The DOI also questioned the requirement in § 195.50(b) that requires an accident report for each failure in a pipeline system when there is a release of CO_2 that results in the loss of 50 or more barrels of CO_2. The DOI points out that carbon dioxide is conventionally measured in its gaseous form in which the unit of measure is thousand standard cubic feet. The DOI further points out that in the event of a pipeline rupture, the CO_2 released would flash to a solid or gaseous phase depending upon controlling conditions and an accurate estimation of the loss in barrels would be very difficult.

The DOI is correct that the throughput of CO_2 in pipelines is most often measured in thousand standard cubic feet. However, as petitioned by API, the loss of carbon dioxide due to a rupture is better reported in barrels because that results in consistent failure reporting criteria with other commodities regulated in part 195 and consistent failure statistics in the RSPA pipeline failure data base. An operator can make the conversion to barrels without difficulty knowing the characteristics of the CO_2 and the pressure and temperature of the CO_2 at the time of the failure. Therefore, RSPA did not adopt this recommendation.

Another DOI comment was that the final rule should exempt pipelines on the OCS from the "line marker" requirements in § 195.410(a) because it would be impractical to mark submerged offshore pipelines. An exemption is not required because section 195.410(b) exempts buried pipelines located offshore or at crossings of or under waterways or other bodies of water from having to place and maintain line markers. This exemption would include CO_2 lines.

Both the API and Exxon were concerned about the proposed change in § 195.102 "Design Temperature." Exxon commented that operating procedures can be implemented which avoid extremely low temperatures during filling and blowdown, making it unnecessary to consider low temperatures in selecting material for CO_2 lines. The API commented that the proposed revision to § 195.102 could be interpreted to mean that all portions of a carbon dioxide system must be made of materials suitable for low temperatures because any portion of a carbon dioxide system could develop a leak and the area around the leak would be subjected to a low temperature because of. the rapid reduction of pressure. RSPA intended § 195.102 in the NPRM to apply only to locations of the pipeline that are intended to be subjected to rapid reduction of pressure during normal operation. Therefore, RSPA has revised this section to limit the selection of pipeline materials for low temperatures to apply to components of CO_2 pipelines that are subject to low temperatures during normal operation because of rapid reduction of pressure such as during blow-down, or during the initial fill of the line.

The API commented that they think it is inappropriate to require valves on carbon dioxide pipeline systems at all water crossings greater than 100 feet in width as required by § 195.206. The API argued that carbon dioxide is not polluting and the potential for an asphyxiating cloud from a pipeline at a water crossing would not be any greater for an underwater pipeline than for a buried or aboveground pipeline as asserted by RSPA. The RSPA believes that valves are needed at water crossings greater than 100 feet because of the hazards of a large vapor cloud in case of a large catastrophic failure under a stream. While the release of CO_2 (from a volcanic source) under Lake Nyos in Africa was eight times larger than a release that can be expected from a pipeline rupture, it is significant to note that it resulted in a vapor cloud that caused 1,700 deaths. The characteristics of the release of a large quantity of CO_2 from under a body of water are not yet clearly understood. Therefore, RSPA has retained this requirement in the final rule.

The API also suggested that the definition of "production facility" include "other facilities where CO_2 is produced and prepared for transportation" in addition to facilities used in the process of extracting carbon dioxide from the ground. The RSPA agrees that CO_2 is sometimes obtained from industrial facilities in addition to being produced from the ground and has amended the definition of "production facility" in § 195.2 accordingly.

The API also suggested that the proposed definition of "production facility" include piping or equipment used in gathering of CO_2 thereby excluding the CO_2 gathering lines from these regulations pursuant to the proposed § 195.1(b)(6). The RSPA has not adopted this suggestion because the definition of "production facility" was intended to be limited to production functions and was not intended to include the piping or equipment used in the gathering of carbon dioxide or hazardous liquids. The proposed rules in the NPRM applied to gathering lines used to collect and transport CO_2 from CO_2 production facilities. RSPA was not persuaded by the comments to exclude these gathering lines in the final rule. It should be noted that the definition of "gathering line" is not applicable to carbon dioxide pipelines nor is there an exception for CO_2 gathering lines under § 195.1(b)(4).

Paperwork Reduction Act

The reporting requirements in subpart B and recordkeeping requirements under sections 195.5(c), 195.266, 195.310, 195.402 and 195.404 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The addition of CO_2 pipelines to part 195 results in approximately 2,000 miles, or about one percent of additional pipelines subject to the reporting and recordkeeping requirements in part 195. This will minimally increase current reporting and recordkeeping burdens and, therefore, RSPA has sought no further approval from OMB.

Impact Assessment

These regulations extend the part 195 pipeline safety regulations to pipelines that transport CO_2, which are few in number. Pipelines under construction before the effective date of the final rule are subject only to the accident and safety-related condition reporting and operation and maintenance requirements of these regulations. This final rule is consistent with industry safety practices; the fiscal impact of these rules is minimal. No commenters raised any cost implications. Therefore, this final rule is considered to be non-major under Executive Order 12291, and is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since the final rule requires minimal compliance expense, it does not warrant preparation of a Draft Regulatory Evaluation. Also, based on the facts available concerning the impact of this final rule, I certify under section 605 of the Regulatory Flexibility Act that it does not have a significant economic impact on a substantial number of small entities. This action has been analyzed under the criteria of Executive Order 12612 (52 FR 41685) and found not to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 195

Carbon dioxide, Pipe, Pipeline safety.

In consideration of the foregoing, RSPA amends 49 CFR part 195 as follows:

PART 195—[AMENDED]

1. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2001 *et seq.*; 49 CFR 1.53.

2. Section 195.0 is revised to read as follows:

§ 195.0 Scope.

This part prescribes safety standards and reporting requirements for pipeline facilities used in the transportation of hazardous liquids or carbon dioxide.

3. In § 195.1, paragraphs (a) and (b) (5), (6), and (7) are revised, and paragraph (b)(8) is added to read as follows:

§ 195.1 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide associated with those facilities in or affecting interstate or foreign commerce, including pipeline facilities on the Outer Continental Shelf.

(b) * * *

(5) Transportation of a hazardous liquid or carbon dioxide in offshore pipelines which are located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream;

(6) Transportation of a hazardous liquid or carbon dioxide through onshore production (including flow lines), refining, or manufacturing facilities, or storage or in plant piping systems associated with such facilities;

(7) Transportation of a hazardous liquid or carbon dioxide by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids or carbon dioxide between such modes of transportation.

(8) Transportation of carbon dioxide downstream from a point in the vicinity of the well site at which carbon dioxide is delivered to a production facility.

4. In § 195.2, a definition of "carbon dioxide" is added in alphabetical order and definitions of the following terms "interstate pipeline", "pipe or line pipe", "pipeline or pipeline system", "pipeline facility", "production facility" are revised to read as follows:

§ 195.2 Definition.

* * * * *

Carbon dioxide means a fluid consisting of more than 90 percent carbon dioxide molecules compressed to a supercritical state.

* * * * *

Interstate pipeline means a pipeline or that part of a pipeline that is used in the transportation of hazardous liquids or carbon dioxide in interstate or foreign commerce.

* * * * *

Pipe or *line pipe* means a tube, usually cylindrical, through which a hazardous liquid or carbon dioxide flows from one point to another.

Pipeline or *pipeline system* means all parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

Pipeline facility means new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.

Production facility means piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum or carbon dioxide, or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum or carbon dioxide from the ground or from facilities where CO_2 is produced, and preparing it for transportation by pipeline. This includes piping between treatment plants which extract carbon dioxide, and facilities utilized for the injection of carbon dioxide for recovery operations.)

* * * * *

5. Section 195.4 is revised to read as follows:

§ 195.4 Compatibility necessary for transportation of hazardous liquids or carbon dioxide.

No person may transport any hazardous liquid or carbon dioxide unless the hazardous liquid or carbon dioxide is chemically compatible with both the pipeline, including all components, and any other commodity that it may come into contact with while in the pipeline.

6. Section 195.8 is revised to read as follows:

§ 195.8 Transportation of hazardous liquid or carbon dioxide in pipelines constructed with other than steel pipe.

No person may transport any hazardous liquid or carbon dioxide through a pipe that is constructed after October 1, 1970, for hazardous liquids or after July 12, 1991 for carbon dioxide of material other than steel unless the person has notified the Secretary in writing at least 90 days before the transportation is to begin. The notice must state whether carbon dioxide or a hazardous liquid is to be transported and the chemical name, common name, properties and characteristics of the hazardous liquid to be transported and the material used in construction of the pipeline. If the Secretary determines that the transportation of the hazardous liquid or carbon dioxide in the manner proposed would be unduly hazardous, he will, within 90 days after receipt of the notice, order the person that gave the notice, in writing, not to transport the hazardous liquid or carbon dioxide in the proposed manner until further notice.

7. The introductory text and paragraph (b) of § 195.50 is revised to read as follows:

§ 195.50 Reporting accidents.

An accident report is required for each failure in a pipeline system subject to this part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

* * * * *

(b) Loss of 50 or more barrels of hazardous liquid or carbon dioxide.

* * * * *

8. The introductory text of § 195.52(a) is revised to read as follows:

§ 195.52 Telephonic notice of certain accidents.

(a) At the earliest practicable moment following discovery of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in paragraph 195.50, the operator of the system shall give notice, in accordance with paragraph (b) of this section, of any failure that:

* * * * *

9. Section 195.102 is revised to read as follows:

§ 195.102 Design temperature.

(a) Material for components of the system must be chosen for the temperature environment in which the components will be used so that the pipeline will maintain its structural integrity.

(b) Components of carbon dioxide pipelines that are subject to low temperatures during normal operation because of rapid pressure reduction or during the initial fill of the line must be made of materials that are suitable for those low temperatures.

10. A new § 195.111 is added to read as follows:

§ 195.111 Fracture propagation.

A carbon dioxide pipeline system must be designed to mitigate the effects of fracture propagation.

11. Section 195.116(c) is revised to read as follows:

§ 195.116 Valves.

* * * * *

(c) Each part of the valve that will be in contact with the carbon dioxide or hazardous liquid stream must be made of materials that are compatible with carbon dioxide or each hazardous liquid that it is anticipated will flow through the pipeline system.

* * * * *

12. In § 195.306, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 195.306 Test medium.

(a) Except as provided in paragraphs (b) and (c) of this section, water must be used as the test medium.

* * * * *

(c) Carbon dioxide pipelines may use inert gas or carbon dioxide as the test medium if—

(1) The entire pipeline section under test is outside of cities and other populated areas;

(2) Each building within 300 feet of the test section is unoccupied while the test pressure is equal to or greater than a pressure that produces a hoop stress of 50 percent of specified minimum yield strength;

(3) The maximum hoop stress during the test does not exceed 80 percent of specified minimum yield strength;

(4) Continuous communication is maintained along entire test section; and

(5) The pipe involved is new pipe having a longitudinal joint factor of 1.00.

13. Section 195.401(c) is revised to read as follows:

§ 195.401 General requirements.

* * * * *

(c) Except as provided by § 195.5, no operator may operate any part of any of the following pipelines unless it was designed and constructed as required by this part:

(1) An interstate pipeline, on which construction was begun after March 31, 1970, that transports hazardous liquid.

(2) An interstate offshore gathering line, on which construction was begun after July 31, 1977, that transports hazardous liquid.

(3) An intrastate pipeline, on which construction was begun after October 20, 1985, that transports hazardous liquid.

(4) A pipeline, on which construction was begun after July 11, 1991 that transports carbon dioxide.

14. In § 195.402, paragraphs (c) (7), (9), and (12) and. (e) (2), (4), (5), and (7) are revised to read as follows:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

* * * * *

(c) * * *

(7) Starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by paragraph 195.406, consider the hazardous liquid or carbon dioxide in transportation, variations in altitude along the pipeline, and pressure monitoring and control devices.

* * * * *

(9) In the case of facilities not equipped to fail safe that are identified under paragraph 195.402(c)(4) or that control receipt and delivery of the hazardous liquid or carbon dioxide, detecting abnormal operating conditions by monitoring pressure, temperature, flow or other appropriate operational data and transmitting this data to an attended location.

* * * * *

(12) Establishing and maintaining liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid or carbon dioxide pipeline emergency and acquaint the officials with the operator's ability in responding to a hazardous liquid or carbon dioxide pipeline emergency and means of communication.

* * * * *

(e) * * *

(2) Prompt and effective response to a notice of each type emergency, including fire or explosion occurring near or directly involving a pipeline facility, accidental release of hazardous liquid or carbon dioxide from a pipeline facility, operational failure causing a hazardous condition, and natural disaster affecting pipeline facilities.

* * * * *

(4) Taking necessary action, such as emergency shutdown or pressure reduction, to minimize the volume of hazardous liquid or carbon dioxide that is released from any section of a pipeline system in the event of a failure.

(5) Control of released hazardous liquid or carbon dioxide at an accident scene to minimize the hazards, including possible intentional ignition in the cases of flammable highly volatile liquid.

* * * * *

(7) Notifying fire, police, and other appropriate public officials of hazardous liquid or carbon dioxide pipeline emergencies and coordinating with them preplanned and actual responses during an emergency, including additional precautions necessary for an emergency involving a pipeline system transporting a highly volatile liquid.

* * * * *

15. In § 195.403, paragraphs (a) (2), (3), and (4) are revised to read as follows:

§ 195.403 Training.

(a) * * *

(2) Know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in the case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

(3) Recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquid or carbon dioxide spills, and to take appropriate corrective action;

(4) Take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage;

* * * * *

16. Section 195.410(a)(2) is revised to read as follows:

§ 195.410 Line markers.

(a) * * *

(2) The marker must state at least the following: "Warning" followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline" or "Carbon Dioxide Pipeline" (in lettering at least 1 inch high with an approximate stroke of one-quarter inch on a background of sharply contrasting color), the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

* * * * *

17. Section 195.414 is revised to read as follows:

§ 195.414 Cathodic protection.

(a) No operator may operate a hazardous liquid interstate pipeline after March 31, 1973, a hazardous liquid intrastate pipeline after October 19, 1988, or a carbon dioxide pipeline after

July 12, 1993 that has an effective external surface coating material, unless that pipeline is cathodically protected. This paragraph does not apply to breakout tank areas and buried pumping station piping. For the purposes of this subpart, a pipeline does not have an effective external coating, and shall be considered bare, if its cathodic protection current requirements are substantially the same as if it were bare.

(b) Each operator shall electrically inspect each bare hazardous liquid interstate pipeline before April 1, 1975, each bare hazardous liquid intrastate pipeline before October 20, 1990, and each bare carbon dioxide pipeline before July 12, 1994 to determine any areas in which active corrosion is taking place. The operator may not increase its established operating pressure on a section of bare pipeline until the section has been so electrically inspected. In any areas where active corrosion is found, the operator shall provide cathodic protection. Section 195.416 (f) and (g) apply to all corroded pipe that is found.

(c) Each operator shall electrically inspect all breakout tank areas and buried pumping station piping on hazardous liquid interstate pipelines before April 1, 1973, on hazardous liquid intrastate pipelines before October 20, 1988, and on carbon dioxide pipelines before July 12, 1994 as to the need for cathodic protection, and cathodic protection shall be provided where necessary.

18. Section 195.418(a) is revised to read as follows:

§ 195.418 Internal corrosion control.

(a) No operator may transport any hazardous liquid or carbon dioxide that would corrode the pipe or other components of its pipeline system, unless it has investigated the corrosive effect of the hazardous liquid or carbon dioxide on the system and has taken adequate steps to mitigate corrosion.

* * * * *

19. Section 195.440 is revised to read as follows:

§ 195.440 Public education.

Each operator shall establish a continuing educational program to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbpn dioxide pipeline emergency and to report it to the operator or the fire, police, or other appropriate public officials. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of non-English speaking population in the operator's operating areas.

Issued in Washington, DC, on June 7, 1991.

Douglas B. Ham,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 91–13930 Filed 6–11–91; 8:45 am]

BILLING CODE 4910–60–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87–04, Notice 7]

RIN 2127–AC 73

Federal Motor Vehicle Safety Standards; Air Brake Systems

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

ACTION: Final rule.

SUMMARY: This rule amends Standard No. 121, Air Brake Systems, to revise the timing requirements for parking brake systems, add new requirements concerning release performance and accumulation of actuation energy for parking brakes, and incorporate an earlier agency interpretation of the standard into the standard. These changes are intended to ensure the practicability and objectivity of the parking brake timing test, and clarify that a diaphragm is not considered a component of a brake chamber housing, as that term is used in Standard No. 121. The rule will make the testing procedure easier to perform and more objective, eliminate confusion about the application of the standard to single diaphragm brake systems, and improve the consistency of the regulatory language.

DATES: This amendment is effective December 9, 1991.

ADDRESSES: Petitions for reconsideration should be submitted to: Administrator, National Highway Traffic Safety Administration 400 Seventh St. SW., Washington, DC 20590. It is requested, but not required, that ten copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Shadle, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW. Washington, DC (202–366–5273).

SUPPLEMENTARY INFORMATION:

I. Background

A. March 1988 Final Rule

In a final rule published in the **Federal Register** (53 FR 7931) on March 11, 1988, NHTSA amended Standard No. 121, Air Brake Systems, to clarify the standard's parking brake requirements, particularly as they relate to air-applied, mechanically held parking brake systems. The amendments required actuation of a mechanical means for parking brake application at the requisite level of retardation within three seconds after operation of the parking brake control. (For trailers, such actuation was required within three seconds after venting to the atmosphere of the front supply line connection is initiated.) In addition, vehicles were required to be capable of meeting requirements related to parking brake retardation force within the three second period. The amendments also required that the grade holding test (or alternative drawbar test) be met with only the mechanical means for parking brake application in operation.

The primary rationale for the parking brake timing requirements is NHTSA's belief that a vehicle's parking brake system should generate retardation force in as short a time as is practicable, since the parking brake system is sometimes used as an emergency braking system. The approach of the March 1988 final rule was to require that vehicles be capable of meeting parking brake retardation force requirements, specified in terms of a grade holding or draw bar test, within a specified time. For trucks and buses, the amendments required minimum parking retardation force requirements to be met at all times after three seconds from the time of actuation of the parking brake control. For trailers, the amendments required minimum parking retardation force requirements to be met at all times after three seconds from the time that venting to the atmosphere of the front supply line connection is initiated.

In responding to commenter concerns that it is not possible to safely conduct the grade holding or draw bar tests within three seconds, NHTSA stated in the March 1988 final rule that it did not believe that manufacturers must, as a practical matter, determine their compliance with the timing requirement during their grade holding or draw bar testing. The agency stated that, instead, certification could be accomplished by using an engineering analysis of the vehicle's parking brake system or, if necessary, a test measuring the air pressure in the parking brake system to determine when the pressure reaches zero. The assumption underlying this statement is that if a vehicle could comply with the grade holding or draw bar test with zero air pressure in the brake chambers, and if the air pressure

in the brake chambers reached zero pressure within three seconds, then the vehicle would be able to comply with the trade holding or draw bar test within three seconds. It should be noted that a test to determine when the air pressure in the parking brake system reaches zero is only appropriate for vehicles equipped with spring brake parking brake systems. For an air-applied, mechanically held parking brake system, a comparable test would determine when the pressure in the parking brake chamber reaches full application pressure.

NHTSA stated in the March 1988 final rule that it believed all parking brakes currently being sold complied with the amendments being adopted. The agency also stated its belief that since any necessary certification could be accomplished by engineering analysis and simple tests, 180 days would provide sufficient leadtime for that purpose. The amendments therefore required compliance effective 180 days after publication of the final rule, while permitting manufacturers to comply prior to that time with either the new requirements or the requirements being superseded.

B. Petitions for Reconsideration

NHTSA received petitions for reconsideration from Navistar International Transportation Corporation (Navistar) and Volvo GM Heavy Truck Corporation (Volvo GM). Both of the petitions concerned the parking brake timing requirements. Navistar was concerned that their brake systems did not generate maximum torque since they required partial wheel rotation after the three seconds to reach full torque. (Most modern-day drum brakes are self-energizing and require a partial rotation to help the primary brake shoe wedge the secondary shoe against the brake drum with greater force.) Volvo GM asked that the agency rescind the application of the requirement to tandem trucks with spring brakes. The company stated that its test results indicated that some of its vehicles would not meet grade holding tests because the pressure drop in the brake system after three seconds still left a residual air pressure of less than five pounds per square inch (psi)—enough to lower the brake torque by a significant amount. Volvo GM also suggested that the 100 psi initial reservoir system pressure test condition be deleted because they claimed that use of a specific value was design restrictive. In partial response to the two petitions, NHTSA delayed the time that the amendments would become effective on a mandatory basis. See 43 FR 35075, September 9, 1988; 54 FR 25460, June 15, 1989. The purpose of the delay was to permit the agency to complete its analysis of the arguments made by the petitioners, and to provide a further response to the petitions.

C. Notice of Proposed Rulemaking and Response to Petitions for Reconsideration

In response to the above petitions for reconsideration, NHTSA published a notice of proposed rulemaking (NPRM) and response to petitions for reconsideration on February 8, 1990 (55 FR 4447). The NPRM proposed to amend Standard 121's parking brake timing requirements, add new requirements concerning release performance and accumulation of actuation energy for parking brakes, and incorporate an earlier agency interpretation of the standard in the language of the standard.

In the NPRM, NHTSA granted the Navistar petition and denied the Volvo GM petition. The agency proposed to revise the test requirements to require the vehicle to be capable of meeting the parking brake retardation force test with the amount of pressure available in the vehicle's parking brake chambers after a three second period. Any brake "wrap-up" (partial revolution of the braked wheels to enable the brake shoes to reach peak torque) time would not be required to occur during the three second test period. The agency believed that the proposed parking brake timing test would resolve Navistar's concern about "wrap-up." Volvo GM's petition to rescind the application of the requirement to tandem trucks was denied because the agency found nothing in the use or design of heavy tandem trucks that supported a need for such a rescission and determined that compliance with the requirements could be easily ensured by the addition of a quick release valve. The second Volvo GM request concerning test conditions was also denied. This request was denied because specification of an initial reservoir system pressure is necessary to insure objectivity of test results. In addition, a 100 psi pressure was selected because it is representative of the brake reservoir system pressure of actual vehicles. The request was also denied because Volvo GM did not suggest any other methods to ensure objective test results nor did it claim that the test condition is inappropriate or unrepresentative. Although the agency denied both requests, NHTSA believed that as a consequence of clarifying the agency's initial intent with respect to whether parking brake chamber air pressure must reach zero within three seconds, the proposed test would likely resolve some of Volvo GM's concerns.

The NPRM also proposed new requirements concerning release performance and accumulation of actuation energy for parking brakes. The first proposed change would add a requirement that a vehicle's parking brakes not be releasable unless adequate energy is available to make a subsequent application. The purpose of the proposed requirement was to prevent situations where parking brakes are released when the vehicle has no braking capability. The second proposed change would add a requirement that an accumulation of energy sufficient to apply the parking brakes at least once be available to the parking brake system. The two proposed requirements would together ensure that a parking brake system remains "fail-safe" in the event of a failure of another brake system on the vehicle. Thus, the parking brakes could not be released unless they were capable of being reapplied, and also under the same conditions, would be capable of at least one application.

The NPRM stated that the proposed amendments would become effective 30 days after the publication of the final rule, except for those amendments concerning release performance and accumulation of actuation energy. The NPRM proposed that mandatory compliance with the proposed new requirements would be required 180 days after publication. The proposed requirements concerning release performance and accumulation of actuation energy were also proposed to become effective 180 days after publication.

Finally, the NPRM proposed an amendment to Standard No. 121 that would incorporate a conclusion of a NHTSA letter interpreting the standard. Specifically, the amendment would make clear that a diaphragm is not a component of a brake chamber housing, as that term is used in Standard No. 121.

In response to the NPRM, 16 comments were submitted. All of these comments were considered in connection with this final rule, and the most significant are discussed below.

II. Response to Comments and Final Rule

A. Parking Brake Timing Requirements

The NPRM proposed that, instead of expressly requiring vehicles to be capable of meeting the grade holding or draw bar test within three seconds, vehicles would be required to be capable of meeting the parking brake

retardation force test with the amount of pressure in the vehicle's parking brake chambers after the three second period.

General Motors Corporation (GM) supported the proposed amendment and commented that, by separating the timing aspect from the performance requirement, NHTSA removed ambiguity from the testing requirements of Standard No. 121. MGM Brakes, a division of Indian Head Industries, Inc. (MGM), believed that compliance with the three second requirement might sacrifice brake torque application. As an example, the company noted that a pressure of five psi in the parking brake chamber reduces the brake chamber output force by approximately 150 pounds, or 900 inch-pounds with a six-inch slack adjuster.

NHTSA has decided to retain the three second requirement. The agency believes that the concerns of MGM do not provide a sufficient justification to increase beyond three seconds the time within which to exhaust air from the typical brake system. Any increase in the three second time would substantially increase the risk of a vehicle running free (i.e., without any brakes) before the emergency braking system became effective. Furthermore, MGM did not submit any information on system configuration that might explain why it needed more than three seconds to fully exhaust air from the braking chambers. Finally, MGM is a component supplier, and as such, does not have to certify any vehicles. The agency received no complaints from truck or trailer manufacturers, who do have to certify vehicles, that the three second requirement is unreasonable. The agency has determined, as noted above, that compliance can be easily ensured by use of a quick release valve.

Bendix Heavy Vehicle Group, of Allied-Signal, Inc. (Bendix), suggested that section S5.6.3.4 be modified to state that the parking brake effort shall not decrease below the effort obtained within three seconds from actuation of the parking brake control. NHTSA is not persuaded that such an amendment is necessary. Section S5.6.3.3 clearly states that there should be no air pressure holding the parking brake system after three seconds. The agency has determined that if there is complete compliance with section S5.6.3.3 (which requires full mechanical actuation of the parking brakes), parking brake effort will not decrease from the effort obtained within three seconds of actuation. Thus, NHTSA has concluded that Bendix's suggested change is unnecessary.

B. Denial of Volvo GM's Petition for Reconsideration

No comments were received concerning NHTSA's denial of Volvo GM's petition to rescind application of the requirement to tandem trucks equipped with spring brakes or its suggestion that the 100 psi initial reservoir system pressure test condition be deleted.

C. Release Performance; Accumulation of Actuation Energy

The NPRM proposed a new requirement concerning release performance and accumulation of actuation energy for parking brakes. The first part of the proposed requirement was that a vehicle's parking brakes not be releasable unless adequate energy is available to make a subsequent application. The purpose of this part of the requirement was to prevent situations where parking brakes are released when the vehicle has no braking capability. The second part of the proposed requirement was that an accumulation of energy sufficient to apply the parking brakes at least once be available to the parking brake system. The proposed requirement was intended to ensure that a parking brake system remains "fail-safe" in the event of a failure of another brake system on the vehicle. Thus, as proposed, the parking brakes could not be released unless they were capable of being reapplied, and, under the same conditions, were capable of at least one reapplication.

GM commented that it did not oppose the new requirements and stated that its testing of its air-braked vehicles indicated that they meet the requirements.

International Transquip Industries (ITI) opposed the proposed requirement. ITI believed that, due to a design feature, its single diaphragm braking system could not comply with the proposed test sequence requirement of section S5.6.6, which requires actuation of the parking brake control, release actuation after thirty seconds, and then a final actuation. ITI stated that the safety-related design feature prevents release of the parking brake if even a small hole exists in the service diaphragm.

As originally proposed, the ITI system would not have been able to comply with the test sequence requirement of section S5.6.6.. However, in this final rule, the wording of section S5.6.6 has been revised from that proposed in the NPRM to be consistent with the test sequence requirement of section S5.6.3. Section S5.6.6 now requires that the supply line be vented, pressurized, and then again vented. Thus, as long as the manufacturer goes through the entire test procedure of S5.6.6 and the brake system complies with S5.6.5, full performance (final actuation with sufficient force) at the end of the testing will constitute compliance with the requirements. NHTSA believes that all current parking brake systems, including that of ITI, meet the requirements.

Bendix suggested that section S5.2.1.1, which requires a protected reservoir at 90 psi, be eliminated since the proposed sequence for trailers (S5.6.6.6) allows release of a trailer parking brake by 100 psi trailer supply line pressure. This comment concerns a section which is not within the scope of this final rule. NHTSA will consider the change suggested by this Bendix in another rulemaking which is now pending.

D. Effective Date

The NPRM stated that the proposed amendments would become effective 30 days after the publication of the final rule, except for those amendments concerning release performance and accumulation of actuation energy. From that time until 179 days after publication of the final rule, manufacturers would have been allowed to comply with either the new requirements or the pre-1988 requirements. Mandatory compliance with the proposed new requirements would have been required 180 days after publication. The NPRM also stated that the proposed requirements concerning release performance and accumulation of actuation energy would also become effective 180 days after publication.

GM stated that it was not opposed to the proposed effective date for mandatory compliance.

Volvo GM objected to the 180 day lead time, asserting that the proposal would require "significant redesign or elimination of parking brake systems that do not utilize 'conventional' spring brakes." The company said it needed 18 months to comply, including six months to "balance stocks on hand and process customer requests."

NHTSA has determined that a 180 day lead time for mandatory compliance is reasonable. As noted above, the agency believes that all current parking brake systems meet the new requirements. The agency believes, at most, that only a relatively simple and inexpensive design change (such as the inclusion of an additional quick release valve that costs $10–15) will be required for compliance if a few vehicles do not comply with the requirements.

E. Clarification that a Diaphragm is not a Brake Chamber Housing Component

The NPRM proposed an amendment to the regulation that would incorporate the conclusion of an interpretative letter to International Transquip Industries, Inc., dated April 9, 1986, that a diaphragm within a brake chamber is not a component of a brake chamber housing for the purposes of Standard No. 121. Under S5.6.3.1 and S5.6.3.5 of Standard No. 121, parking brake systems must be capable of meeting minimum parking brake retardation requirements "with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (except failure of a component of a brake chamber housing)." NHTSA notes that air-applied mechanically held parking brake systems may incorporate a single brake chamber that is common to both the service and parking brake systems. Since a failure in such a brake chamber is a failure of the service brake system (as well as the parking brake system), it is a failure "in any other brake system," in the context of S5.6.3.1 and S5.6.3.5.

Of the 12 responses by manufacturers, users, and brake system consultants, 10 were opposed to the agency's proposed amendment. Nine of the commenters expressly or implicitly stated that the amendment would eliminate from the market the ITI "Mini-Max" brake system (a single-diaphragm braking system) which is considered by those commenters to be reliable and effective. Those commenters included ITI, a vehicle user, a parts supplier, and several consultants. Bendix commented that the proposed amendment "will tend to deter the use and development of pressure applied parking systems such as the Bendix Dual Circuit Air Brake System." Midland Brake, Inc. supported the proposed amendment and GM stated that it did not oppose the new requirements.

ITI proposed that an exemption to the amendment's requirements be made for systems where the "common diaphragm is tested for proper operation on each system air charging or park brake application." Alternatively, ITI proposed that the reapplication requirements be limited to the "need not to be released unless a reapplication can be made."

NHTSA recognizes that the wording of the proposed regulatory text may have caused concern that the ITI "Mini-Max" braking system would not be allowed. This is not the case. NHTSA believes that the "Mini-Max" single diaphragm braking system made by ITI would have been allowed under the proposed amendment. ITI has submitted test results that demonstrate that, as currently designed, the system will sense a rapid pressure drop in the single chamber units and apply the mechanically held portion of the system at a fast enough rate to meet the brake force requirements. ITI has also said that, on a tandem axle vehicle with "Mini-Max" units at all four wheels, the retardation requirements can still be met with a diaphragm failure in one of the units. And as stated above, as along as the manufacturer goes through the entire test procedure of S5.6.6 and the brake system complies with S5.6.5, full performance (final actuation with sufficient force) at the end of the testing will constitute compliance with the requirements. Thus, ITI's proposal that the reapplication requirements be limited to the "need not to be released unless a reapplication can be made" have been addressed by the current language of section S5.6.6. NHTSA believes that all current parking brake systems meet the requirements.

To avoid any confusion about whether brake systems that use only one diaphragm for both operational and parking brake systems are covered by the standard and have to comply, NHTSA has revised paragraphs 5.6.3.1, 5.6.3.3, 5.6.3.4, 5.6.3.5, 5.6.5.1, 5.6.5.3, 5.6.6.1, 5.6.6.3, 5.6.6.4, and 5.6.6.6 to avoid possible confusion. In each paragraph where the words "diaphragm of a brake chamber" appeared in the proposed rule, NHTSA has replaced them with the words "brake chamber diaphragm that is part of any other brake system including a diaphragm."

The agency has made another change in the wording of the regulatory text of the final rule as compared to the proposal. The wording of S5.6.6.6 (which addresses the test sequence for trailers) has been revised to be consistent with that of S5.6.6.3 (which addresses the test sequence for trucks and buses). This change is designed to improve test consistency.

III. Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The agency has analyzed the economic and other effects of this final rule and determined that they are neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The agency has determined that the economic effects of the amendments are so minimal that a full regulatory evaluation is not required. NHTSA believes that all parking brakes currently being sold comply with the amendments. If testing should show that a few vehicles do not comply with the timing requirements in this final rule, NHTSA believes that the only necessary change would be the inclusion of an additional quick-release valve, at a cost of about $5 to $10. If testing should show that a few vehicles do not comply with this final rule's requirements related to release performance and accumulation of actuation energy for parking brakes, the agency again believes that only relatively minor changes would be needed to ensure compliance.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendments will not have a significant economic impact on a substantial number of small entities. As indicated above, NHTSA believes that no parking brakes currently being sold are likely to be affected by these amendments. Thus, neither manufacturers of motor vehicles, nor small businesses, small organizations, and small governmental units which purchase motor vehicles, would be significantly affected by the amendments. Accordingly, no regulatory flexibility analysis has been prepared.

Executive Order 12612 (Federalism)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has also analyzed this rule for the purpose of the National Environmental Policy Act. The agency has determined that the final rule would not have any significant impact on the quality of the human environment.

List of Subjects in 49 CFR Part 571

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

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.121 [Amended]

2. S5.6 introductory text is revised to read as follows:

* * * * *

S5.6 *Parking brake system.* Each vehicle other than a trailer converter dolly shall have a parking brake system that under the conditions of S6.1 meets the requirements of S5.6.1 or S5.6.2, at the manufacturer's option, and the requirements of S5.6.3, S5.6.4, S5.6.5, and S5.6.6. However, the trailer portion of any agricultural commodity trailer, heavy hauler trailer, or pulpwood trailer, shall meet the requirements of this section, or, at the option of the manufacturer, the requirements of § 393.43 of this title.

* * * * *

3. S5.6.3 through S5.6.3.5 of § 571.121 are revised to read as follows:

S5.6.3 *Application and holding.* Each parking brake system shall meet the requirements of S5.6.3.1 through S5.6.3.4, except that, at the option of the manufacturer, the parking brake system in each vehicle manufactured before December 9, 1991 may meet either those requirements or the requirements specified in S5.6.3.5.

S5.6.3.1 The parking brake system shall be capable of achieving the minimum performance specified either in S5.6.1 or S5.6.2 with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system), when the pressures in the vehicle's parking brake chambers are at the levels determined in S5.6.3.4.

S5.6.3.2 A mechanical means shall be provided that, after a parking brake application is made with the pressures in the vehicle's parking brake chambers at the levels determined in S5.6.3.4, and all air and fluid pressures in the vehicle's braking systems are then bled down to zero, and without using electrical power, holds the parking brake application with sufficient parking retardation force to meet the minimum performance specified in S5.6.3.1 and in either S5.6.1 or S5.6.2.

S5.6.3.3 For trucks and buses, with an initial reservoir system pressure of 100 psi and, if designed to tow a vehicle equipped with air brakes, with a 50 cubic inch test reservoir connected to the supply line coupling, no later than three seconds from the time of actuation of the parking brake control, the mechanical means referred to in S5.6.3.2 shall be actuated. For trailers, with the supply line initially pressurized to 100 psi using the supply line portion of the trailer test rig (Figure 1) and, if designed to tow a vehicle equipped with air brakes, with a 50 cubic inch test reservoir connected to the rear supply line coupling, no later than three seconds from the time venting to the atmosphere of the front supply line coupling is initiated, the mechanical means referred to in S5.6.3.2 shall be actuated. This requirement shall be met for trucks, buses and trailers both with and without any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system).

S5.6.3.4 The parking brake chamber pressures for S5.6.3.1 and S5.6.3.2 are determined as follows. For trucks and buses, with an initial reservoir system pressure of 100 psi and, if designed to tow a vehicle equipped with air brakes, with a 50 cubic inch test reservoir connected to the supply line coupling, any single leakage type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system), is introduced in the brake system. The parking brake control is actuated and the pressures in the vehicle's parking brake chambers are measured three seconds after that actuation is initiated. For trailers, with the supply line initially pressurized to 100 psi using the supply line portion of the trailer test rig (Figure 1) and, if designed to tow a vehicle equipped with air brakes, with a 50 cubic inch test reservoir connected to the rear supply line coupling, any single leakage type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system), is introduced in the brake system. The front supply line coupling is vented to the atmosphere and the pressures in the vehicle's parking brake chambers are measured three seconds after that venting is initiated.

S5.6.3.5 *Optional requirement for vehicles manufactured before December 9, 1991.* The parking brake system shall be capable of achieving the minimum performance specified either in S5.6.1 or S5.6.2 with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system). Once applied, the parking brakes shall be held in the applied position solely by mechanical means.

4. S5.6.5 through S5.6.5.4 are added to § 571.121 to read as follows:

S5.6.5 Release Performance. Effective December 9, 1991, each parking brake system shall meet the requirements specified in S5.6.5.1 through S5.6.5.4.

S5.6.5.1 For trucks and buses, with initial conditions as specified in S5.6.5.2, at all times after an application actuation of the parking brake control, and with any subsequent level of pressure, or combination of levels of pressure, in the reservoirs of any of the vehicle's brake systems, no reduction in parking brake retardation force shall result from a release actuation of the parking brake control unless the parking brakes are capable, after such release, of being reapplied at a level meeting the minimum performance specified either in S5.6.1 or S5.6.2. This requirement shall be met both with and without the engine on, and with and without single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system).

S5.6.5.2 The initial conditions for S5.6.5.1 are as follows. The reservoir system pressure is 100 psi. If the vehicle is designed to tow a vehicle equipped with air brakes, a 50 cubic inch test reservoir is connected to the supply line coupling.

S5.6.5.3 For trailers, with initial conditions as specified in S5.6.5.4, at all times after actuation of the parking brakes by venting the front supply line coupling to the atmosphere, and with any subsequent level of pressure, or

combination of levels of pressure, in the reservoirs of any of the vehicle's brake systems, the parking brakes shall not be releasable by repressurizing the supply line using the supply line portion of the trailer test rig (Figure 1) to any pressure above 70 psi, unless the parking brakes are capable, after such release, of reapplication by subsequent venting of the front supply line coupling to the atmosphere, at a level meeting the minimum performance specified either in S5.6.1 or S5.6.2. This requirement shall be met both with and without any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system).

S5.6.5.4 The initial conditions for S5.6.5.3 are as follows. The reservoir system and supply line are pressurized to 100 psi, using the supply line portion of the trailer test rig (Figure 1). If the vehicle is designed to tow a vehicle equipped with air brakes, a 50 cubic inch test reservoir is connected to the rear supply line coupling.

5. S5.6.6 through S5.6.6.6 are added to § 571.121 to read as follows:

S5.6.6 Accumulation of Actuation Energy. Effective December 9, 1991, each parking brake system shall meet the requirements specified in S5.6.6.1 through S5.6.6.6.

S5.6.6.1 For trucks and buses, with initial conditions as specified in S5.6.6.2, the parking brake system shall be capable of meeting the minimum performance specified either in S5.6.1 or S5.6.2, with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system), at the conclusion of the test sequence specified in S5.6.6.3.

S5.6.6.2 The initial conditions for S5.6.6.1 are as follows. The engine is on. The reservoir system pressure is 100 psi. If the vehicle is designed to tow a vehicle equipped with air brakes, a 50 cubic inch test reservoir is connected to the supply line coupling.

S5.6.6.3 The test sequence for S5.6.6.1 is as follows. The engine is turned off. Any single leakage type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system), is then introduced in the brake system. An application actuation of the parking brake control is then made. Thirty seconds after such actuation, a release actuation of the parking brake control is made. Thirty seconds after the release actuation, a final application actuation of the parking brake control is made.

S5.6.6.4 For trailers, with initial conditions as specified in S5.6.6.5, the parking brake system shall be capable of meeting the minimum performance specified either in S5.6.1 or S5.6.2, with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system), at the conclusion of the test sequence specified in S5.6.6.6.

S5.6.5.5 The initial conditions for S5.6.6.4 are as follows. The reservoir system and supply line are pressurized to 100 psi, using the supply line portion of the trailer test rig (Figure 1). If the vehicle is designed to tow a vehicle equipped with air brakes, a 50 cubic inch test reservoir is connected to the rear supply line coupling.

S5.6.6.6 The test sequence for S5.6.6.4 is as follows. Any single leakage type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (excluding failure of a component of a brake chamber housing but including failure of any brake chamber diaphragm that is part of any other brake system including a diaphragm which is common to the parking brake system and any other brake system), is introduced in the brake system. The front supply line coupling is vented to the atmosphere. Thirty seconds after the initiation of such venting, the supply line is repressurized with the trailer test rig (Figure 1). Thirty seconds after the initiation of such repressurizing of the supply line, the front supply line is vented to the atmosphere. This procedure is conducted either by connection and disconnection of the supply line coupling or by use of a valve installed in the supply line portion of the trailer test rig near the supply line coupling.

Figure 1—[Amended]

6. Figure 1 is revised to read as follows:

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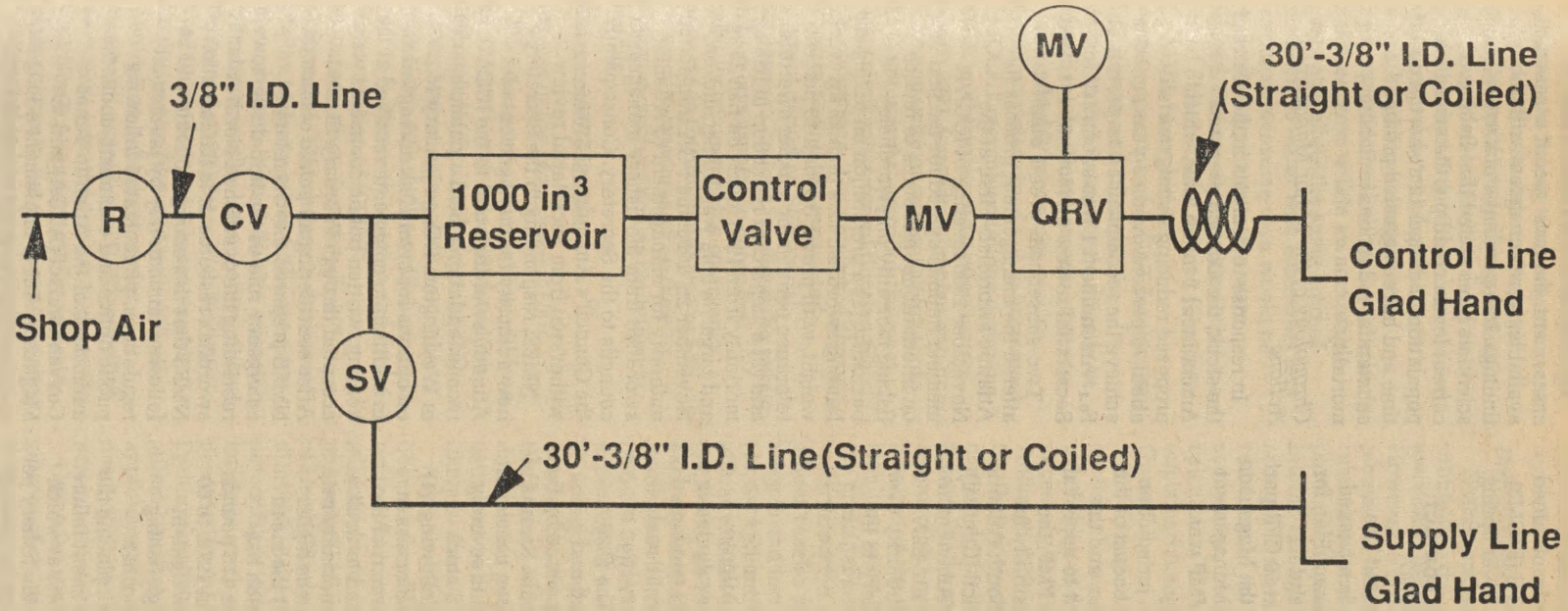

SV - Shut-off Valve
R - Regulator (set at 100 psi for service brake actuation tests;
95 psi for service brake release tests;
100 psi for parking brake tests in S5.6.3.3, S5.6.3.4, S5.6.5.4 and S5.6.6.5;
and any pressure above 70 psi for parking brake test in S5.6.5.3)
CV - Check Valve
MV - Metering Valve (Variable or Fixed)
QRV - Quick Release Valve

Figure 1. Trailer Test Rig.

BILLING CODE 4910-59-C

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Issued on June 4, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91-13596 Filed 6-11-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 910640-1140]

Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency rule.

SUMMARY: The Secretary of Commerce (Secretary) issues this emergency rule to amend for 180 days the regulations governing the Atlantic swordfish fishery to (1) redefine the swordfish management unit to include the entire North Atlantic Ocean north of 5°N. latitude; (2) establish a minimum size limit of 31 inches (78.7 cm) carcass length for swordfish with a 15 percent allowance for undersized swordfish based on the number of swordfish landed per trip; (3) establish an annual quota for the directed swordfish fishery of 6.0 million pounds (2.73 million kilograms (kg)), dressed weight, divided equally between the periods January 1 through June 30, 1991, and July 1 through December 31, 1991; (4) further subdivide each of the 3.0-million pound (1.36 million kg) quotas into a drift gillnet quota of 30,044 pounds (13,628 kg) and a quota for other allowable commercial gear (i.e., longline and harpoon) of 2,969,956 pounds (1,347,172 kg); (5) limit the possession of swordfish after a gear-type closure to a bycatch limit of two swordfish except for vessels using or possessing harpoon gear for which no bycatch is allowed; (6) provide for NMFS-approved observers on cooperating permitted vessels; and (7) prohibit the sale of swordfish caught in the recreational fishery and restrict gear in the recreational fishery to rod and reel. The intended effect of this emergency rule is to respond to the critical condition of the swordfish resource by reducing fishing mortality on the stock to levels that will increase the probability of rebuilding the spawning stock biomass to a level that reduces the likelihood of recruitment failure.

EFFECTIVE DATES: June 12, 1991 through December 9, 1991.

ADDRESSES: Copies of documents supporting this action may be obtained from Richard B. Stone, NMFS (F/CM3), 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, 301-427-2347.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish fishery is managed under the Fishery Management Plan for Atlantic Swordfish (FMP) and its implementing regulations at 50 CFR part 630 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP was prepared by the five fishery management councils with jurisdiction over the waters off the east coast of the Atlantic, the Gulf of Mexico, and the Caribbean Sea. Subsequent to approval and implementation of the FMP, the Secretary assigned responsibility for amending the FMP to the South Atlantic Fishery Management Council (Council). The Fishery Conservation Amendments of 1990 (FCA), Public Law 101-627, transferred management authority over the Atlantic swordfish fishery to the Secretary.

Background

Status of the Stock

The status of the North Atlantic swordfish stock has been evaluated in a series of stock assessments conducted by the NMFS and the International Commission for the Conservation of Atlantic Tunas (ICCAT). The 1989 assessments were reviewed and confirmed as scientifically sound by two independent scientific panels. Results of these assessments have been consistent and indicate that the stock is severely overfished. The 1989 NMFS stock assessment indicated the following: (1) The adult spawning stock biomass in 1987 was only about 40 percent of the 1978 level and has continued to decline since; (2) the 1989 fishing mortality rate was approximately four times higher than the $F_{0.1}$ target rate; (3) the mean size of swordfish in the catch has declined continuously from 115 pounds (52.2 kg), dressed weight, in 1978, to 60 pounds (27.2 kg), dressed weight, in 1988; and (4) continuing high fishing mortality would result in further declines in spawning stock, placing the stock in jeopardy of recruitment failure. $F_{0.1}$ is a fishing mortality rate at which the increase in yield from the fishery per increased fishing effort is 10 percent of what is was when fishing mortality was very low. $F_{0.1}$ is frequently used as a target for effective fishery management. At $F_{0.1}$, the stock will produce near maximum sustainable yield.

The results of the 1990 ICCAT assessment, the most recent assessment available, were consistent with these findings. Independent stock assessment scientists have stated that fishing at current levels could put the swordfish population in danger in a short period of time and have suggested prompt, substantial reductions in fishing mortality.

Chronology of the Major Management Actions

In response to declines in the status of the stock, the Council prepared Amendment 1 to the FMP, which proposed reducing fishing mortality about 78 percent over a 3-year period to achieve the recommended target rate of $F_{0.1}$. Amendment 1 was submitted for Secretarial review on November 1, 1990.

Two subsequent events significantly altered the management process for Atlantic swordfish. First, at the November 1990 meeting of ICCAT, member nations agreed for the first time on international measures to reduce fishing mortality on swordfish—basically, (1) a prohibition on taking and landing swordfish less than 25 kg, whole weight, with provision for a 15 percent tolerance per trip for smaller swordfish, and (2) a 15 percent reduction in fishing mortality from 1988 levels on fish 25 kg and larger, whole weight. Second, on November 28, 1990, the FCA transferred authority for management of Atlantic swordfish from the fishery management councils to the Secretary. Consequently, the Council's Amendment 1 was withdrawn from Secretarial review.

NMFS, responding to the Secretary's new authority for management of Atlantic swordfish and to the ICCAT recommendations, held a public hearing in Washington, DC, on January 15, 1991, on options for swordfish management. In addition to comments received at the hearing, written public comments were accepted through February 15, 1991. After considering all public comments, NMFS prepared this Secretarial emergency rule as the initial step toward rebuilding the overfished North Atlantic swordfish resource. It is the intention of NMFS that this emergency rule will be followed immediately by permanent regulations, promulgated following public notice and comment, under the authorities of the Atlantic Tunas Convention Act (ATCA) and the Magnuson Act to implement a long-term management program to rebuild and conserve the swordfish resource.

Need for Emergency Action

The documented decline of the Atlantic swordfish resource and