complete, and in accordance with the Commission's rules, regulations, and other requirements; or

(3) The application is entitled to comparative consideration (under § 24.431) with another application (or applications).

(f) The Commission may grant, deny or take other action with respect to an application designated for a formal hearing pursuant to paragraph (e) of this section or part 1 of this chapter.

(g) [Reserved]

(h) Reconsideration or review of any final action taken by the Commission will be in accordance with Subpart A of part 1 of this chapter.

§ 24.433–24.438 [Reserved].

§ 24.439 Transfer of control or assignment of station authorization.

(a) Approval required. Authorizations shall be transferred or assigned to another party, voluntarily (for example, by contract) or involuntarily (for example, by death, bankruptcy, or legal disability), directly or indirectly or by transfer of control of any corporation holding such authorization, only upon application and approval by the Commission. A transfer of control or assignment of station authorization in the narrowband Personal Communications Service is also subject to § 24.309 (Designated Entities) and § 1.2111 (Assignment or transfer of control: unjust enrichment).

(1) A change from less than 50% ownership to 50% or more ownership shall always be considered a transfer of control.

(2) In other situations a controlling interest shall be determined on a case-by-case basis considering the distribution of ownership, and the relationships of the owners, including family relationships.

(b) Form required—(1) Assignment.

(i) FCC Form 490 shall be filed to assign a license or permit.

(ii) In the case of involuntary assignment, FCC Form 490 shall be filed within 30 days of the event causing the assignment.

(2) *Transfer of control.* (i) FCC Form 490 shall be submitted in order to transfer control of a corporation holding a license or permit.

(ii) In the case of involuntary transfer of control, FCC Form 490 shall be filed within 30 days of the event causing the transfer.

(3) *Form 430.* Whenever an application must be filed under paragraph (a) (1) or (2) of this section, the assignee or transferee shall file FCC Form 430 ("Common Carrier Radio License Qualification Report") unless an accurate report is on file with the Commission.

(4) *Notification of completion.* The Commission shall be notified by letter of the date of completion of the assignment or transfer of control.

(5) If the transfer of control of a license is approved, the new licensee is held to the original build-out requirement of § 24.103.

(c) In acting upon applications for transfer of control or assignment, the Commission will not consider whether the public interest, convenience, and necessity might be served by the transfer or assignment of the authorization to a person other than the proposed transferee or assignee.

(d) [Reserved]

§ 24.440–24.442 [Reserved].

§ 24.443 Extension of time to complete construction.

(a) If construction is not completed within the time period set forth in § 24.103, the authorization will automatically expire. Before the period for construction expires an application for an extension of time to complete construction (FCC Form 489) may be filed. See paragraph (b) of this section. Within 30 days after the authorization expires an application for reinstatement may be filed on FCC Form 489.

(b) An application for extension of time to complete construction may be made on FCC Form 489. Extension of time requests must be filed prior to the expiration of the construction period. Extensions will be granted only if the licensee shows that the failure to complete construction is due to causes beyond his control. An application for modification of an authorization (under construction) does not extend the initial construction period. If additional time to construct is required, an FCC Form 489 must be submitted.

§ 24.444 Termination of authorization.

(a) (1) All authorizations shall terminate on the date specified on the authorization or on the date specified by these rules, unless a timely application for renewal has been filed.

(2) If no application for renewal has been made before the authorization's expiration date, a late application for renewal will only be considered if it is filed within 30 days of the expiration date and shows that the failure to file a timely application was due to causes beyond the applicant's control. During this 30 day period reinstatement applications must be filed on FCC Form 489. Service to subscribers need not be suspended while a late filed renewal application is pending, but such service shall be without prejudice to Commission action on the renewal application and any related sanctions. See also § 24.16 (Criteria for Comparative Renewal Proceedings).

(b) Special Temporary Authority. A special temporary authorization shall automatically terminate upon failure to comply with the conditions in the authorization.

[FR Doc. 94–12165 Filed 5–23–94; 8:45 am]

BILLING CODE 6712–01–M

---

47 CFR Part 64

[CC Docket No. 92–256, FCC 94–58]

Common Carriers; Open Network Architecture Requirements an Nondiscrimination Safeguards

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted an order applying to GTE Corporation the same regulatory framework of Open Network Architecture (ONA) requirements and nondiscrimination safeguards that apply to the Bell Operating Companies (BOCs) for GTE's participation in the enhanced services market. Under this order, GTE will be required to file an ONA plan within nine months of the release of this order, file federal and state ONA tariffs three months later, and implement ONA requirements and nondiscrimination safeguards fifteen months from the release of this order. The Commission stated that the public interest benefits of applying these measures to GTE amply justify its taking the next logical step toward an overall environment that will foster a fully competitive market for the provision of enhanced services to the American public.

EFFECTIVE DATE: June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Peggy Reitzel, Policy and Program Planning Division, Common Carrier Bureau (202) 632–1300.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The requirements have been analyzed with respect to the Paperwork Reduction Act of 1980, as amended, 44 U.S.C. § § 3501–20. The information collection contained herein is not subject to the clearance provisions of 44 U.S.C. 3507 because it is imposed on less than nine respondents.

Regulatory Flexibility Act

In the NPRM the Commission certified that the Regulatory Flexibility Act of 1980 did not apply to this

proceeding because the rule amendments would not have a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act. The rule changes directly apply only to GTE which is considered dominant in its field of operation. Neither the Chief Counsel for Advocacy of the Small Business Administration nor any commenting party challenged the Commission's analysis. The Secretary of the Commission is required to send a copy of this Report and Order, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the regulatory Flexibility Act. Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.*

Summary of Report and Order

1. This is a summary of the Report and Order in Common Carrier Docket No. 92–256, Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, adopted March 8, 1994, and released April 4, 1994 (FCC 94–58). The full text of the Commission's decision is available for inspection and copying, Monday through Friday, 9 a.m.—4:30 p.m., in the FCC Reference Room (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of the Report and Order may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

2. Over the last eight years, the Commission established a comprehensive regulatory framework of nonstructural safeguards, including Open Network Architecture (ONA) requirements and nondiscrimination safeguards, to govern the Bell Operating Companies' (BOCs') participation in the enhanced services marketplace. Under ONA, BOCs are required to offer unbundled ONA services to enhanced service providers (ESPs). By requiring the BOCs to offer unbundled network services to ESPs, ONA increases opportunities for enhanced services providers (ESPs) to provide, and customers to receive, a wide range of enhanced services. The nondiscrimination safeguards consist of Customer Proprietary Network Information (CPNI) rules, Network Information Disclosure rules, and nondiscrimination reporting requirements.

3. The Commission initially did not require local telephone companies other than the BOCs to comply with ONA requirements and nondiscrimination safeguards. The Commission stated that it would revisit the issue of applying these requirements to GTE once initial ONA implementation by the BOCs was completed. After gaining substantial experience with the BOCs, on December 2, 1992, the Commission released a Notice of Proposed Rulemaking (NPRM) to seek comment on its proposal to apply to GTE the ONA requirements and nondiscrimination safeguards that govern the BOCs' participation in the enhanced services market (57 FR 62544, Dec. 21, 1992).

4. In the Report and Order adopted March 8, 1994 (FCC 94–58), the Commission decided that it should no longer exempt GTE from complying with ONA requirements and nondiscrimination safeguards. The Commission concluded that applying these measures to GTE will extend greater access to the largest non-BOC local telephone company, thus facilitating the provision of additional information age services and greater price competition to consumers.

5. GTE's primary argument against the imposition of these requirements appeared to be the implementation costs. The Commission, however, concluded that the benefits of applying these requirements to GTE substantially outweigh the costs involved based on GTE's estimated implementation costs. The Commission concluded that the implementation costs are not greatly affected by inclusion of GTE's more dispersed, rural service areas because, according to GTE, the costs of implementing ONA are primarily fixed costs related to modifying GTE's centralized systems.

6. In addition, the Commission concluded that GTE, by many measures, is one of the largest local telephone companies in the United States. When compared to the BOCs, GTE ranks second behind BellSouth in total operating revenue, total gross plant, and the number of employees. While GTE has many service areas that are smaller and more rural than those of the BOCs, it has more working loops than Southwestern Bell even if GTE study areas with less than 200,000 working loops are excluded. GTE also serves a number of major urban areas in Florida, California, Hawaii, and Texas, that resemble BOC service areas. The Commission concluded that consumers in GTE's large service areas would benefit substantially from an environment that fosters the competitive provision of enhanced services.

7. The Commission also concluded that GTE's voluntary ONA measures, while commendable, fall short of the BOC standards and cannot achieve the Commission's goals. Specifically, the Commission concluded that GTE's network disclosure and customer proprietary network information (CPNI) programs lack certain important elements contained in the BOC's requirements. Also, GTE's voluntary program does not include disclosure of important information that the BOCs must report. Thus, the Commission required GTE to implement BOC ONA requirements and comply with the BOC nondiscrimination safeguards.

8. Based on the experience gained in implementing ONA for the BOCs, the Commission was able to streamline this process for GTE. The Commission referred GTE to the numerous orders in the Computer III and ONA proceedings that provide detailed review and guidance on how it should implement ONA. The Commission required GTE to comply with the comparably efficient interconnection requirements and all other ONA requirements imposed in the Computer III and ONA proceedings. The Commission did not require that GTE detail these measures in the ONA plan it must submit to the Commission as long as GTE's ONA program follows specific procedures approved for the BOCs and is consistent with requirements set out in the ONA orders. If GTE wants to request authority to meet the requirements in a different way, it must justify the request in its ONA plan.

9. GTE is also required to participate in the Information Industry Liaison Committee (IILC) beginning thirty days after publication of this Order in the **Federal Register**. GTE also must report to the Commission on its progress on IILC activities as the BOCs are required to do.

10. GTE is required to demonstrate in its ONA plan that its proposed initial offering of ONA services will adequately meet the needs of enhanced service providers (ESPs) in its service areas. GTE also must comply with the ONA deployment projection reporting requirements applicable to the BOCs. This information must be filed with GTE's ONA plan nine months after release of this order. Thereafter, the deployment report must be filed annually with the other annual reports on July 31 of each year beginning July 31, 1996. GTE will also be subject to all of the annual and semi-annual ONA reporting requirements that are applicable to the BOCs, and the reports must be filed on July 31 of each year beginning July 31, 1996. In addition, GTE is required to begin providing the semi-annual tariff report that the BOCs are required to file. The Commission required GTE to begin providing this

report to the Commission on September 30, 1995, and every six months thereafter.

11. The Commission also required GTE to comply with the nondiscrimination requirements that govern the BOCs' provision of enhanced services. These nondiscrimination safeguards consist of CPNI rules, network information disclosure rules, and nondiscrimination reporting requirements. The Commission stated that as a Tier 1 local exchange carrier, GTE is already fully subject to the cost accounting safeguards adopted in the BOC Safeguards Order.

12. The Commission required GTE to comply with the CPNI requirements established for the BOCs within fifteen months of the release of this Order. Since GTE may need additional time to implement password ID systems, the Commission allowed GTE two years from the release of this order to comply with the password ID requirements. GTE must describe in its ONA plan how it will meet the CPNI requirements and include the CPNI notification letter it proposes to send to its multiline business customers.

13. GTE is also required to comply with the Commission's Operations Support Systems (OSS) requirements within fifteen months from the release of this Order. The Commission also required GTE to comply with the network disclosure rules effective fifteen months from the release of this Order. GTE is not required to detail how it meets these requirements in its ONA plan as long as GTE's procedures follow specific procedures approved for the BOCs and are consistent with the Commission's requirements in a specific manner already approved for the BOCs.

14. The Commission also required GTE to comply with the nondiscrimination reporting requirements applicable to the BOCs. In particular, GTE must file an annual affidavit stating that it does not discriminate in providing ONA services to competitive ESPs and their customers, including the installation, maintenance, and quality of such services. The annual affidavit must be signed by the officer principally responsible for ONA service quality, installation, and maintenance. GTE is also required to file quarterly installation and maintenance reports using the reporting categories adopted for BOC reports unless GTE proposes and the Commission approves a different format for its quarterly report in GTE's ONA plan. GTE's initial installation and maintenance report is to cover the first full calendar quarter following the implementation date for ONA requirements and nondiscrimination safeguards and thereafter must be filed quarterly. The report for each calendar quarter is due thirty days after the close of that calendar quarter. GTE's format should be consistent with the installation and maintenance system reports required of the BOCs and described in the BOC ONA Reconsideration Order.

GTE may, however, attempt to justify different service categories at a comparable level of detail. The Commission delegated authority to the Chief, Common Carrier Bureau to review and to act on any requested changes to the reporting categories.

15. The Commission concluded that the experience it has gained from its lengthy review of the BOCs' initial ONA plans and tariffs, as well as from the implementation of approved BOC ONA service offerings, will enable it to streamline the review of GTE's initial ONA service offerings. GTE shall submit an ONA plan within nine months of the release of this Order and shall file state and federal ONA tariffs for its ONA services within one year of the release of this order. The Commission required that GTE implement all ONA requirements and nondiscrimination safeguards fifteen months after the release of this order unless another time period is specified in the order. These requirements include those that have been developed in the Computer III and Computer III remand proceedings and the ONA orders, as well as any future requirements that the Commission may establish for the BOCs, unless GTE is specifically exempted. The tariffs will be subject to the requirements established in the ONA proceeding and the federal tariffs will also be subject to the pricing and other requirements of CC Docket No. 89–79, relating to the creation of access charge subelements and cost support requirements for ONA. GTE must amend its initial federal ONA tariff to include any additional requirements that are adopted so close to the GTE tariff filing date that they cannot be reflected in the initial tariff filing as soon as possible during the three month public notice period.

16. The Commission described filing dates in this order as being a certain number of months after a particular event. In such cases the filing or other such date will be the same day of the month as the triggering event, but the specified number of months later. Months shall be counted beginning with the month after the one in which the triggering event occurs. Filing dates falling on a weekend or official federal government holiday will be moved to the next business day.

17. Finally, the Commission adopted the same preemption of state network disclosure requirements for GTE that was established for the BOCs in the BOC Safeguards Order. The Commission determined that no other modification to the preemption of state requirements adopted in the BOC Safeguards Order was warranted.

Ordering Clauses

18. Accordingly, *It is ordered*, that pursuant to Sections 1, 4 (i) and (j), 201–205, 218, 220 & 404 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i) & (j), 201–205, 218, 220 & 404, and Section 553 of the Administrative Procedure Act, 5 U.S.C., 553, that the policies, rules, and requirements set forth herein *are adopted.*

19. *It is further ordered*, That GTE shall file an ONA plan nine months after release of this Order.

20. *It is further ordered*, That GTE shall file ONA tariffs three months after the date for filing the ONA plan. The federal tariffs shall be scheduled to become effective on three months public notice.

21. *It is further ordered*, That GTE shall implement ONA requirements and nondiscrimination safeguards within fifteen months from the release of this Order.

22. *It is further ordered*, That GTE shall provide the reports described herein.

23. *It is further ordered*, That GTE shall comply with the CPNI password ID requirements within two years from the release of this Order.

24. *It is further ordered*, That the petition to expand the scope of this proceeding filed by North American Telecommunications Association (NATA) *is denied.*

25. *It is further ordered*, That the decisions in this Report and Order *shall be effective* thirty days after publication in the **Federal Register**.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Computer technology.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–12603 Filed 5–23–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 90–01; Notice 4]

RIN 2127–AF32

Federal Motor Vehicle Safety Standards; School Bus Pedestrian Safety Devices

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

ACTION: Interim final rule, request for comments.

SUMMARY: In response to a petition for rulemaking from Blue Bird Body Company, this notice amends Standard No. 131, School Bus Pedestrian Safety Devices, with respect to the flash rate for stop signal arm lamps. Specifically, this notice amends the standard to remove design restrictive language that acts to prohibit strobe lamps. The agency has determined that immediate action is in the public interest since school buses are currently being ordered and manufactured with strobe lamps so that purchasers can comply with the laws of several States and local jurisdictions that require these types of lamps. The agency is also requesting comments on whether NHTSA should make permanent its amendment of the flash rate requirement.

DATES: *Effective Date:* The amendments made by this interim final rule are effective May 24, 1994.

Comments. Comments must be received on or before July 8, 1994.

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

FOR FURTHER INFORMATION CONTACT: Mr. Charles Hott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–0247.

SUPPLEMENTARY INFORMATION:

I. Background

On May 3, 1991, NHTSA published a final rule establishing a new Federal motor vehicle safety standard (FMVSS) requiring each new school bus to be equipped with a stop signal arm. (56 FR 20363). A stop signal arm is a device patterned after a conventional "STOP" sign and attached to the driver's side of a school bus. When the school bus stops, the stop signal arm automatically extends outward from the bus. Its purpose is to alert motorists that a school bus is stopping or has stopped. The standard specifies requirements about the stop signal arm's appearance, size, conspicuity, operation and location.

To enhance the conspicuity of a stop signal arm, Standard No. 131 specifies that the device must be either reflectorized or be illuminated with flashing lamps. If flashing lamps are used to comply with the Standard, they must comply with the requirements for color, flash rate, vibration, moisture, dust, corrosion, photometry, and warpage, as set forth in S6.2 of the Standard. In the preamble to the final rule, the agency stated that the tests for flash rate were patterned after the tests in the Society of Automotive Engineer's (SAE's) Recommended Practice, J1054, Warning Lamp Alternating Flashers (January 1977). Specifically, S6.2.2 of the final rule states:

> The lamps on each side of the stop signal arm, when operated at the manufacturer's design load, shall flash at a rate of 60–120 flashes per minute with a current "on" time of 50 percent.

NHTSA received a petition for reconsideration of the May 1991 final rule from Epicor Industries, a manufacturer of turn signals, hazard warnings and alternating flashers. It requested that the agency change the requirements for the flash rate for stop signal arm lamps under S6.2.2 to conform with the most recent version of SAE J1054, "Warning Lamp Flashers, (October 1989). The petitioner stated that such an amendment would assure that the lamps on either side of the stop signal arm would flash alternately and have "on" times that meet an accepted requirement and have proven effective. The previous version of SAE J1054 (January 1977), which was used by NHTSA to develop the final requirements of S6.2.2, was determined by the SAE to have been incorrectly written.

After reviewing Epicor's petition in light of the modified SAE recommended practice, NHTSA decided to amend S6.2.2 to make the requirement consistent with the most recent SAE Recommended Practice. (57 FR 40131, September 2, 1992). In that notice, the agency explained its decision to revise S6.2.2 to reflect the most recent language adopted in the October 1989 version of J1054. The amended version of S6.2.2 states:

> S6.2.2 *Flash rate.* The lamps on each side of the stop signal arm, when operated at the manufacturer's design load, shall flash at a rate of 60 to 120 flashes per minute with a current "on" time of 30 to 75 percent. The total of the percent current "on" time for the two terminals shall be between 90 and 110.

II. Petition for Rulemaking

On February 22, 1994, Blue Bird Body Company (Blue Bird) petitioned the agency to amend Standard No. 131 to allow the use of strobe lamps on stop signal arms. Blue Bird stated that, according to Specialty Manufacturing Company, one of the largest manufacturers of stop signal arms, approximately 15 percent of the total stop signal arm market (5,000 units) were equipped with strobe lamps in 1992. Citing previous agency notices, Blue Bird stated its belief that NHTSA had not intended, in issuing the May 1991 final rule, to prohibit the use of strobe lamps on stop signal arms. For instance, it stated that in the advance notice of proposed rulemaking (ANPRM), the agency had solicited comments about whether the agency should require strobe lamps.[1]

Blue Bird stated its petition was precipitated by a letter that it received from NHTSA's Office of Vehicle Safety Compliance addressing an apparent non-compliance of school buses manufactured with stop signal arms equipped with strobe lamps. According to Blue Bird, the apparent non-compliance results from the fact that S6.2.2 sets forth restrictive design requirements based on the operating characteristics of incandescent lamps instead of more performance-oriented requirements based on visual effectiveness. The petitioner alleged that the requirement prevents the use of strobe lamps. Based on these allegations, Blue Bird stated that the apparent noncompliance results from a deficiency in the Standard and not a deficiency in its school buses. Blue Bird requested that the agency amend S6.2.2 to allow the use of strobe lamps, stating that this would be in the interests of safety and consistent with the Standard's intent.

Blue Bird also stated that four states (Alaska, New Mexico, Washington, and West Virginia) as well as some local school districts require stop signal arms to be equipped with strobe lamps. This consideration prompted Blue Bird to request that this rulemaking take effect immediately, claiming that the production and delivery of school buses with strobe lamp equipped stop signal arms needs to continue without disruption.

[1] The agency notes that there was no ANPRM addressing stop signal arms. The discussion described by Blue Bird was contained in the NPRM.

III. Agency's Decision

NHTSA notes that, in establishing the flash rate requirements, it did not intend to prohibit stop signal arms from being equipped with strobe lamps. Instead, the flash rate requirements were intended to assure the conspicuity of stop signal arms. The absence of any intent to prohibit strobe lamps is evident from the preambles to the notice of proposed rulemaking (NPRM) and final rule. In the NPRM, the agency solicited comments about whether the Standard should require strobe lamps after discussing the potential benefits from them. (55 FR 3618, 3624, February 2, 1990) In the May 1991 final rule, the agency declined to mandate strobe lights on all new school buses, but suggested that they might be beneficial in areas prone to poor visibility.

NHTSA further notes that the agency has attempted to make Standard No. 131 consistent with the SAE's Recommended Practice J1133, School Bus Stop Arms, within the parameters of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) As a result, in reviewing Blue Bird's petition, the agency has analyzed the changes made in the July 1989 revision to J1133, School Bus Stop Arms. The agency notes that the only significant change was one expressly made to accommodate strobe lamps and had the effect of allowing them to be installed on stop signal arms.

NHTSA has determined that the current requirements, which are based upon incandescent or filament type lamps, cannot be met by strobe or gaseous discharge lamps. Filament type bulbs do not reach full brilliance until sufficient time has passed for the electrical current to heat up the filament wire in the light bulb. This is a function of the filament wire diameter and the supplied voltage which results in a time delay while the filament wire is being heated to produce light. As a result of the delay, an extended period of time must be specified before a filament light comes to complete brilliance. In contrast, strobe lamps are gaseous discharge type lamps that do not have a filament that emits light and thus do not require an extended time period to achieve complete brilliance. Gaseous discharge lamps emit light by charging a capacitor and discharging the capacitor through an ionized gas. As a result, the current "on" time duration is typically much shorter for a gaseous type lamp than a filament type lamp. Specifically, the relationship between the amount of time for a filament type bulb to come to full brilliance is a function of filament wire diameter, voltage, type of filament wire, and the gas surrounding the filament wire. Based on the above considerations, NHTSA has decided to issue this interim final rule changing the flash rate requirements for stop signal arms to remove design restrictive language that acts to prohibit strobe lamps. Specifically, the agency is amending S6.2.2 to modify the requirements addressing the "current 'on' time." As a result, School buses manufactured after the date of the interim final rule's issuance are permitted to be equipped with strobe lamps.

NHTSA notes that without this amendment to permit strobe lamps, school bus manufacturers and users would be violating the laws of several States and local jurisdictions that require strobe lamps. This amendment will allow manufacturers to build and school districts to order school buses that comply with State and local laws that require stop signal arms to be equipped with strobe lamps. The amendment will also alleviate potential compliance problems for manufacturers that would have to modify their stop signal arms to remove a noncomplying strobe lamp. Comments on this notice should address whether the amended language for flash rate is appropriate for strobe lamps.

NHTSA finds that the issuance of this notice without prior opportunity for comment is necessary in view of the compliance difficulties that are occurring and would continue to occur if the standard were not amended. The agency also finds for good cause that it is in the public interest to establish an immediate effective date for the amendments made by this notice. In the absence of an immediate effective date, manufacturers would be unable to both certify compliance with Standard No. 131 and meet the requirements of some state laws. The amendments impose no new requirements but instead provide additional flexibility to manufacturers by removing a design restrictive requirement.

Regulatory Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking and determined that it is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The agency has determined that the economic effects of the amendment are so minimal that a full regulatory evaluation is not required. Since the amendment imposes no new requirement but simply allows for an alternative design, any cost impacts will be in the nature of slight, nonquantifiable cost savings. Additional cost savings may be realized since the amendment permits manufacturers to avoid civil penalties.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this rulemaking on small entities. Based on this evaluation, I hereby certify that the amendments will not have significant economic impact on a substantial number of small entities. Few of the school bus manufacturers qualify as small entities. In addition, manufacturers of motor vehicles, small businesses, small organizations, and small governmental units that purchase motor vehicles will not be significantly affected by the amendments. Accordingly, a regulatory flexibility analysis has not been performed.

C. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Nevertheless, NHTSA notes that the laws of various local jurisdictions and four States (Alaska, New Mexico, Washington, and West Virginia) require stop signal arms to be equipped with strobe lamps and thus would have been preempted without this amendment.

D. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this rule. The agency has determined that this rule will not have a significant effect on the quality of the human environment.

E. Civil Justice Reform

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative

proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

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

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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.

2. Section 571.131 is amended by revising S6.2.2 and adding S6.2.2.1 and S6.2.2.2 to read as follows:

§ 571.131 Standard No. 131, school bus pedestrian safety devices.

* * * * *

S6.2.2. *Flash rate.* The lamps on each side of the stop signal arm, when operated at the manufacturer's design load, shall flash alternately at a rate of 60 to 120 flashes per minute.

S6.2.2.1 Filament type lamps shall have a current "on" time of 30 to 75 percent of the total flash cycle. The total current "on" time for the two terminals shall be between 90 and 110 percent of the total flash cycle.

S6.2.2.2 Gaseous discharge lamps shall have an "off" time before each flash of at least 50 percent of the total flash cycle.

* * * * *

Issued on: May 18, 1994.

Christopher A. Hart,

Deputy Administrator.

[FR Doc. 94–12535 Filed 5–23–94; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 931199–4042; I.D. 051994A]

Groundfish of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA that remain open to directed fishing for pollock. This action is necessary because the second seasonal allowance of Pacific halibut prohibited species catch (PSC) apportioned to the shallow-water species fishery in the GOA has been caught.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 19, 1994, until 12 noon, A.l.t., June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Senior Inseason Manager, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

An emergency interim rule (59 FR 6222, February 10, 1994) apportioned the Pacific halibut PSC limit for trawl gear into bycatch allowances, and seasonal apportionments thereof, among fishery categories. In accordance with § 672.20(f)(3)(iii), the shallow water-species fishery, which is defined at § 672.20(f)(3)(ii)(A), was apportioned 100 metric tons of Pacific halibut PSC for the second season—March 31, 1994 through June 30, 1994.

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(f)(3)(iv), that vessels participating in the trawl shallow-water species fishery in the GOA have caught the second seasonal allowance of Pacific halibut PSC apportioned to that fishery. Therefore, NMFS is prohibiting directed fishing for each species and species group that comprise the shallow water species fishery by vessels using trawl gear in the GOA, except directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species." This closure is effective from 12 noon, A.l.t., May 19, 1994, through 12 noon, A.l.t., June 30, 1994.

Classification

This action is taken under 50 CFR 672.20 and is exempt from OMB review under E.O. 12866.

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

Dated: May 19, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–12633 Filed 5–19–94; 4:25 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 99
Tuesday, May 24, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-94-327]

RIN 0581-AB16

Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products Regulations Governing Inspection and Certification [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Certain Other Products by increasing the fees charged for inspection and by adding a section concerning cancellation of contracts. These amendments are necessary in order to recover, as nearly as practicable, the costs of performing inspection services under the Agricultural Marketing Act of 1946.

DATES: Comments must be received on or before: June 23, 1994.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 20090-6456. Comments should note the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Branch Chief during regular business hours.

[1] Other processed products may include the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea, cocoa, coffee, spices, condiments.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 20090-6456, Telephone (202) 720-4693.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Public Law 96-354 (5 U.S.C. 601).

The proposed rule reflects fee increases needed to recover the costs of services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946. The inspection, grading and certification program for processed fruits and vegetables and related products is voluntary.

The AMA authorizes official inspection, grading, and certification on a user-fee basis, of processed food products including processed fruits, vegetables, and processed products made from them. The AMA provides that reasonable fees be collected from the user of the program services to cover as nearly as practicable the costs of services rendered. This proposal would amend the schedule of fees and charges for inspection, grading, and certification services to more nearly reflect the costs currently associated with the program. The amendment would include the addition of the new Section 52.47 pertaining to charges when service is canceled or changed in order to manage the program in the most cost effective manner. Former § 52.47, which was removed, pertained to microbiological and other types of testing functions which were transferred to the AMS Science Division.

AMS regularly reviews its programs to determine if fees are adequate. Employee salary and fringe benefits are major program costs that account for approximately 85 percent of the total operating budget. Two salary increases for Federal employees, a 3.7 percent pay increase effective January 10, 1993, and a locality pay increase, ranging from 3.09 to 6.52 percent depending upon locality, effective January 8, 1994, have materially affected program costs. Unemployment insurance, FTS 2000 telecommunications, General Services Administration rent, and other administrative, supervisory, and program costs have also increased.

In addition, the Agricultural Appropriation Bill for fiscal year 1994 directed AMS to establish a user fee program to recover the costs associated with agricultural commodities quality standards. In response, the service has implemented cost-cutting actions (reorganization and/or downsizing of field offices and technical support services) which reduced obligations by $569,175 from FY-92 to FY-93. Nonetheless, despite these measures, the Agency has determined that due to the increases in program operating costs, an increase in fees is necessary to meet rising costs and prevent financial losses.

Based on the Agency's analysis of increased costs since 1993, AMS proposes to increase the fees relating to such services as shown in the following table. The table compares current fees and charges with proposed fees and charges for processed fruit and vegetable inspection as found in 7 CFR 52.42-52.51. For inspection services charged under § 52.42, overtime and holiday work would continue to be charged as provided in that section. For inspection services charged on a contract basis under section 52.51 overtime work would also continue to be charged as provided in that section. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 52.42 are:

Current: $37.00/hr.
Proposed: $39.50/hr.

Charges for travel and other expenses as found in § 52.50:
Current: $37.00/hr.

Proposed: $39.50/hr.

Charges for year-round in-plant inspection services on a contract basis as found in § 52.51 (c):

(1) For personnel assigned on a year-round basis:

Each Inspector:

Current: $32.00/hr.

Proposed: $34.00/hr.

(2) For personnel assigned on less than a year-round basis:

Each inspector:

Current: $37.00/hr.

Proposed: $39.50/hr.

In-plant sampler: $20.00/hr.—$22.00/hr.

Charges for less than year-round in-plant inspection services (four or more consecutive 40 hour weeks) on a contract basis as found in § 52.51 (d):

Current—Proposed

(1) Each inspector: $37.00/hr.—$39.50/hr.

(2) In-plant sampler:—$20.00/hr. $22.00/hr.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and record keeping requirements, and Vegetables.

For the reasons set forth in the preamble, 7 CFR part 52 is proposed to be amended as follows:

PART 52— REGULATIONS GOVERNING INSPECTION AND CERTIFICATION OF PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

1. The authority citation for part 52 is revised to read as follows:

Authority: 7 U.S.C. 1622, 1624.

2. Section 52.42 is revised to read as follows:

§ 52.42 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, shall be at the rate of $39.50 per hour plus one-half the hourly rate per hour for all scheduled overtime hours. When work is performed on a holiday, an additional hour shall be charged at the regular hourly rate for each hour worked. A ten (10) percent night differential charge will be made for all work performed between the hours of 6 p.m. and 6 a.m.

3. A new § 52.47 is added to read as follows:

§ 52.47 Changing types of service.

If an applicant cancels a new year-round contract before a full year has elapsed, the applicant shall be charged the difference between the year-round rate and less than year-round rate for the full period the year-round contract was in effect. If an applicant cancels a year-round contract after a full year or more of uninterrupted service, the fee remains at the year-round rate.

4. In § 52.50, the 1st sentence is revised to read as follows:

§ 52.50 Travel and other expenses.

Charges may be made to cover the cost of travel time incurred in connection with the performance of any inspection service, including appeal inspections, at the rate of $39.50 per hour. * * *

5. In § 52.51, paragraphs (c) (1), (c)(2), (d)(1), and (d)(2) are revised to read as follows:

§ 52.51 Charges for inspection services on a contract basis.

* * * * *

(c) * * *

(1) For personnel assigned on a year-round basis:

Each inspector—$34.00 per hour.

(2) For personnel assigned on less than a year-round basis:

Each inspector—$39.50 per hour.

In-plant sampler—$22.00 per hour.

* * * * *

(d) * * *

(1) Each inspector—$39.50 per hour. [1]

(2) In-plant sampler—$22.00 per hour.

* * * * *

Dated: May 16, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–12586 Filed 5–23–94; 8:45 am]

BILLING CODE 3410–02–P

Packers and Stockyards Administration

9 CFR Part 201

RIN 0590–AA08

Regulations and Statements of General Policy Issued Under the Packers and Stockyards Act: Definitions, Industry Rules, Schedules of Rates and Charges, Proceeds of Sales, Accounts and Records, Trade Practices, Stockyards Services, Brand Inspection, and Buyers Expenses

AGENCY: Packers and Stockyards Administration, Agriculture.

ACTION: Proposed rule.

SUMMARY: The Agency is currently reviewing all regulations and statements of general policy issued under the provisions of the Packers and Stockyards (P&S) Act. Review of 20 regulations and statements of general policy, which have been identified as Group 1, has been completed. As a result of the review, this document proposes to remove 2 regulations, amend 1 trade practice regulation, and retain 14 regulations and 3 statements of general policy in their present form.

DATES: Comments must be submitted on or before July 25, 1994.

ADDRESSES: Comments may be mailed to the Administrator, Packers and Stockyards Administration, room 3039, South Building, U. S. Department of Agriculture, Washington, D.C. 20250–2800. Comments received may be inspected during normal business hours in the Office of the Administrator.

FOR FURTHER INFORMATION CONTACT: Tommy Morris, Acting Director, Livestock Marketing Division (202) 720–6951, or Kenneth Stricklin, Director, Packer and Poultry Division (202) 720–7363.

SUPPLEMENTARY INFORMATION: Advance Notice of Proposed Rulemaking was published in the **Federal Register** (57 FR 42515) on September 15, 1992. Comments were solicited, at that time, concerning the relevance and importance of each regulation and statement of general policy to today's livestock, meat, and poultry industries, and which sections should be retained, modified or removed. To complete the review process, the rules covered by the Advance Notice of Proposed Rulemaking have been divided into three groups and this document relates to those rules identified as Group 1.

In response to the request for comments in the Advance Notice of Proposed Rulemaking, the Agency received a total of 1,419 comments relating to the rules in Group 1. Comments were received from 1,307 individuals not identified as producers or as members of any organization, 78 individuals identified as livestock producers, 15 livestock producer and trade associations, 8 animal welfare groups, 3 individuals representing livestock marketing interests, 3 attorneys, 1 association of veterinarians, 1 bank, 2 law enforcement associations, and 1 State Department of Agriculture.

No comments were received regarding § 201.5, which pertains to Agency procedures on posting a stockyard, or § 201.6, concerning Agency deposting procedures. Both of these regulations involve internal procedures taken by the Agency in posting and deposting stockyards and are merely expository of the explicit statutory requirements and

[1] Except a minimum of 8 hours per day will be billed in lieu of a minimum of 40 hours a week.