FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Florida is amended by removing DTV Channel 25 and adding DTV Channel 50 at Fort Walton Beach.

Federal Communications Commission

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–30688 Filed 11–30–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2570; MM Docket No. 00–228, RM–9991]

Radio Broadcasting Services; Linden, White Oak, Lufkin, Corrigan, Mount Enterprise, and Pineland, TX and Zwolle, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by OARA, Inc. proposing the reallotment of Channel 257C2 from Linden, Texas, to White Oak, Texas, as that community's first local service. The coordinates for Channel 257C2 at White Oak are 32–30–32 and 94–50–41. To accommodate the allotment at White Oak, we shall also propose to substitute Channel 261C2 for Channel 257C2 at Lufkin, Texas, and modifiy the license for Station KUEZ at coordinates 31–24–28 and 94–45–53; substitute Channel 257A for vacant Channel 261A at Corrigan, Texas, at coordinates 30–59–47 and 94–49–36; reallot Channel 260A from Mount Enterprise, Texas to Zwolle, Louisiana, at coordinates 31–37–53 and 93–38–39; and allot Channel 256A at Pineland, Texas at coordinates 31–08–48 and 93–56–53.

DATES: Comments must be filed on or before January 2, 2000, and reply comments on or before January 17, 2000.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Ann Bavender, Fletcher, Heald & Hildreth, P.L.C., 1300 N. 17th Street, 11th Floor, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–228, adopted November 1, 2000, and released November 9, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Linden, Channel 257C2 and adding White Oak, Channel 257C2, by removing Channel 257C2 at Lufkin and adding Channel 261C2 at Lufkin, by removing Channel 261A at Corrigan and adding Channel 257A at Corrigan, by removing Channel 260A and Mount Enterprise, and by adding Pineland, Channel 256A.

3. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Zwolle, Channel 260A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–30689 Filed 11–30–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 567, 571, 574 and 575

[Docket No. NHTSA–00–8296]

RIN 2127–AI32

Certification; Federal Motor Vehicle Safety Standards; Tire Identification and Recordkeeping; Consumer Information Regulations

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: Section 11 of the recently enacted Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act requires

the Secretary of Transportation to initiate rulemaking to improve the labeling of tires to assist consumers in identifying tires that may be the subject of a safety recall. The TREAD Act also provides that the Secretary may take whatever additional action is appropriate to ensure that the public is aware of the importance of observing motor vehicle tire load limits and maintaining proper tire inflation levels for the safe operation of a motor vehicle.

Pursuant to that Act, the agency is considering amendments to its regulations to improve the quality and usefulness of tire information and its availability and understandability to consumers. To aid in this effort, the agency is seeking responses from the public to questions relating to such matters as tire identification number content, readability and location, loading, plies and cord material, tread wear indicators, Uniform Tire Quality Grading Standards, speed ratings, run-flat and extended mobility tires, tire inflation pressure, and dissemination of tire safety information.

DATES: You should submit your written comments so that they are received by January 30, 2001.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System (DMS) website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues: Mr. George Soodoo, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2720. Fax: (202) 366–4329. Joseph Scott, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2720. Fax: (202) 366–4329.

For legal issues: Nancy Bell, Attorney Advisor, Office of the Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION: You may read the materials placed in the docket for this notice (*e.g.,* the comments submitted in response to this notice by other interested persons) by going to the DMS at the street address given above under **ADDRESSES**. The hours of the DMS are indicated above in the same location.

You may also read the materials on the Internet. To do so, take the following steps:

(1) Go to the Web page of the Department of Transportation DMS (*http://dms.dot.gov/*).

(2) On that page, click on ''search'' near the top of the page or scroll down to the words ''Search the DMS Web'' and click on them.

(3) On the next page (*http://dms.dot.gov/search/*), scroll down to ''Docket Number'' and type in the four-digit docket number shown in the title at the beginning of this notice. After typing the docket number, click on ''search.''

(4) On the next page (''Docket Summary Information''), which contains docket summary information for the materials in the docket you selected, scroll down to ''search results'' and click on the desired materials. You may download the materials.

Table of Contents

I. Background
II. Tire Information Labeling/Marking
A. Generally
B. Tire Identification Number (TIN)
1. Current Requirements
2. 1980 NPRM
3. 1999 Final Rule
C. Other Labeling
III. Questions for Public Comment
IV. Regulatory Analyses

I. Background

The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, Pub. L. 106–414, requires the agency to address numerous matters through rulemaking. One of these matters, set forth in section 11 of the Act, is the improvement of the labeling of tires required by section 30123 of title 49, United States Code, to assist consumers in identifying tires that may be the subject of a recall. Section 11 provides that the agency must initiate a rulemaking proceeding for that purpose within 30 days after the enactment of the Act and must complete it not later than June 1, 2002.

Additionally, that section provides that the agency may take whatever additional action it deems appropriate to ensure that the public is aware of the importance of observing motor vehicle tire load limits and maintaining proper tire inflation levels for the safe operation of a motor vehicle. Section 11 states that such additional action may, for example, include a requirement that the manufacturer of motor vehicles provide the purchasers of the motor vehicles information on appropriate tire inflation levels and load limits if the agency determines that requiring such manufacturers to provide that information is the most appropriate way that information can be provided.

II. Tire Information Labeling/Marking

A. Generally

NHTSA's existing labeling requirements for new passenger car tires are set forth in Federal Motor Vehicle Safety Standard (FMVSS) No. 109, New Pneumatic Tires—Passenger Cars (49 CFR 571.109). Specifically, paragraph S4.3 of FMVSS No. 109 sets forth information labeling requirements for tires, including requirements regarding the positioning of the information on the sidewall to ensure that it is readily visible and to minimize the possibility that it will be scuffed off if the sidewall hits a curb or similar object. It provides that the information listed in paragraphs S4.3 (a) through (e) (*e.g.,* number of plies and maximum permissible inflation pressure) must appear, on at least one sidewall, in an area between the maximum section width and the bead of the tire, unless the maximum section width of the tire falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. For tires for which the maximum section width falls in that area, all required labeling must be located between the bead and a point one-half the distance from the bead to the shoulder of the tire.[1] Paragraphs S4.3.1 and S4.3.2 provide more extensive location requirements for other information (*e.g.,* the DOT certification and the name of the manufacturer or

[1] The agency initially addressed the problem of labeling tires whose maximum section width is close to the bead in a 1985 rulemaking regarding tires for vehicles other than passenger cars. (49 FR 37816; September 26, 1984 and 50 FR 10773; March 18, 1985). That rulemaking amended 49 CFR part 574, Tire Identification and Recordkeeping (49 CFR 574.4) and FMVSS No. 119, New Pneumatic Tires for Motor Vehicles Other Than Passenger Cars (49 CFR 571.119) to permit placing markings at a different location in order to permit the introduction of a new tire concept for vehicles other than passenger cars where the tire's maximum section width is at the bead. In particular, Figure 1 of part 574 was amended to specify the requirements for the label's position if a tire's maximum section width falls within one-fourth of the distance from the bead to the tire shoulder. In that case, a marking must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire. Amending part 574 had the practical effect of applying the new requirement to paragraphs S4.3.1 and S4.3.2 of FMVSS No. 109, given that these provisions state that the tires must be labeled ''in the manner specified in part 574.'' A subsequent rulemaking (55 FR 41190; October 10, 1990) amended FMVSS No. 109 to incorporate this provision explicitly.

brand name and number assigned to the manufacturer) to be placed on passenger car tires. They provide that the labeling must be done ''in the manner specified in Part 574.''

NHTSA's labeling requirement for retreaded passenger car tires is set forth in FMVSS No. 117, Pneumatic Retreaded Tires (49 CFR 571.117). FMVSS No. 117 requires that each new retreaded tire have molded into its sidewall information similar to that required in FMVSS No. 109, plus the words ''bias belted'' or ''radial,'' as applicable. FMVSS No. 117 does not, though, require that the name of the manufacturer or brand name and number assigned to the manufacturer be placed on retreaded tires as is required on new passenger car tires by FMVSS No. 109.

NHTSA's labeling requirements for new tires for vehicles other than passenger cars are set forth in FMVSS No. 119, New Pneumatic Tires for Vehicles other than Passenger Cars (49 CFR 571.119). Paragraph S6.5 of FMVSS No. 119 specifies that all tires for vehicles other than passenger cars must have certain markings on the sidewalls. Among other things, these tires must show the actual number of plies in the tire, the composition of the ply cord material (S6.5(f)), and a letter designating the load range (S6.5(j)). S6.5 also provides that the designated information must appear, on at least one sidewall, in an area between the maximum section width and bead of the tire, unless the maximum section width of the tire falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. For tires for which the maximum section width falls in that area, all required labeling must be located between the bead and a point one-half the distance from the bead to the shoulder of the tire. Additionally, S6.5(b) requires that each tire be marked with the ''tire identification number required by part 574 of this chapter'' and that this number ''may be marked on only one sidewall.''

NHTSA's labeling requirements for new temporary spare non-pneumatic tires for passenger cars are set forth in FMVSS No. 129, New non-pneumatic tires for passenger cars (49 CFR 571.129). Paragraph S.4 of FMVSS No. 129 specifies that each non-pneumatic tire must have certain markings on the sidewalls including the non-pneumatic tire identification code (''NPTIC''), the load rating, and the tire identification number. These labeling requirements also specify that the labeling information must appear on both sides of the tire, except that in the case of a tire that has a particular side that must always face outward, the information must appear on the outward-facing side.

B. Tire Identification Number (TIN)

1. Current Requirements

Section 574.5 of Title 49, CFR, Tire Identification Requirements, sets forth the methods by which new tire manufacturers and new tire brand name owners must identify tires for use on motor vehicles. The section also sets forth the methods by which tire retreaders and retreaded tire brand name owners must identify tires for use on motor vehicles. One purpose of these requirements is to facilitate efforts by tire manufacturers to notify purchasers of defective or nonconforming tires and by such purchasers to identify those tires so that purchasers can take appropriate action in the interest of motor vehicle safety.

Specifically, section 574.5 requires each new tire manufacturer and each tire retreader to mold a TIN into or onto the sidewall of each tire produced, in the manner and location specified in the section and as depicted in Figures 1 and 2 of that section. The TIN is composed of four groups of symbols:

1. The first group represents the manufacturer's identification mark assigned to such manufacturer by this agency in accordance with section 574.6;

2. The second group represents the tire size for new tires; for retreaded tires, the second group represents the retread matrix in which the tire was processed or, if no matrix was used, a tire size code;

3. The third group may, at the option of the manufacturer, be used as a descriptive code for identifying significant characteristics of the tire. If the tire is produced for a brand name owner, the third grouping must identify such brand name owner; and

4. The fourth group identifies the week and year of manufacture. The first two symbols identify the week, starting with ''01'' to represent the first full week of the calendar year; the second two symbols represent the year. For example, ''2198'' represents the 21st week of 1998.

NHTSA originally proposed these requirements in response to the May 22, 1970 amendments to the National Traffic and Motor Vehicle Safety Act of 1966.[2] Those amendments, among other things, required manufacturers and brand name owners of new and retreaded motor vehicle tires to maintain records of the names and addresses of the first purchasers of tires (other than dealers or distributors) in order to facilitate notification of such purchasers in the event tires were found to be defective or not to comply with applicable Federal motor vehicle safety standards.

The agency believed that an effective method of tire identification was essential to an effective defect or noncompliance notification system for tire owners. Accordingly, on July 23, 1970, NHTSA published a Notice of Proposed Rulemaking (NPRM) (35 FR 11800) proposing to establish a tire identification system to provide a means to identify the manufacturer of the tire, the date of manufacture, the tire size, and, at the option of the manufacturer, additional information to further describe the type or other significant characteristics of the tire. The agency proposed a TIN composed of four groups of symbols: the first group would contain the manufacturer's identification mark which would be assigned by NHTSA; the second group would identify the tire size; the third group would identify the date of manufacture of the tire; and the fourth group would be the manufacturer's optional description of the tire. The symbols would be a minimum of 6 millimeters (mm) (¼ inch) high and would appear on both sidewalls of the tire.

In a final rule published on November 10, 1970 (35 FR 17257), the agency revised the requirements proposed in the NPRM in response to the suggestions of various commenters. Specifically, NHTSA reversed the order of the manufacturer's optional information and the date of manufacture, so that the latter would appear in the fourth grouping and the manufacturer's optional information would appear in the third grouping. NHTSA also stated that the TIN need only appear on one sidewall in response to concerns relating to worker safety, and that the symbols need only be 4 mm (5/32 inch) high on tires with a bead diameter of less than 13 inches.[3] Many

[2] The National Traffic and Motor Vehicle Safety Act of 1966, Pub. L. 89–563, was originally codified at 15 U.S.C. 1581, *et seq.* However, it was recodified in 1995 and is now found at 49 U.S.C. 30101, *et seq.*

[3] In the preambles to the final rules establishing the location requirements for the safety information to be molded on the sidewall of the tires in FMVSS Nos. 109 and 119, the agency explained that it was establishing location requirements for two reasons.

First, the agency stated that the labeling on retreaded tires should use original casing labeling a much as possible, since this reduces the chances of incorrect labeling. Accordingly, the agency required that new tire labeling appear in an area where it would not be buffed off the tire during recapping and similar retreading (37 FR 23536; November 4, 1972).

commenters requested that the date code be expressed in alpha-numeric form in order to reduce the date symbols to two digits. NHTSA declined to adopt the alpha-numeric system because it could be confusing to the public and because retreaders may not be able to easily determine the age of the casing to be retreaded. In order to shorten the stencil plate, however, NHTSA dropped one of the two digits representing the decade of manufacture, thereby reducing the date of manufacture group from four digits to three. The date of manufacture grouping was later expanded to four digits (64 FR 36807; July 8, 1999).

2. 1980 NPRM

As stated above, the TIN originated with the May 22, 1970 amendments to the National Traffic and Motor Vehicle Safety Act of 1966. Prior to that time, there were no tire labeling requirements in effect. Tire manufacturers simply followed standard industry practices.

In the early 1980's, NHTSA granted a petition for rulemaking filed by the Center for Auto Safety (the Center) requesting that 49 CFR Part 574, Tire Identification and Recordkeeping, be amended to require that the TIN be placed on the outside sidewall (*i.e.*, the sidewall visible when a tire is mounted on a vehicle) of whitewall tires and on both sides of blackwall tires. The Center stated that the current tire industry practice of placing the TIN on the inside sidewall of whitewall tires and on only one side of blackwall tires made it very difficult for most motorists to find and read the TINs on their tires once they are mounted on vehicles.

Prior to publishing an NPRM (45 FR 82293; December 15, 1980), the agency sent special orders to nine tire manufacturers who together represented 84 percent of world tire production and 90 percent of domestic production of tires for use in this country to gather information on the feasibility and costs of implementing the proposed requirements. Among the questions in the special orders were ones asking whether the tire presses were operated 24 hours a day seven days a week and, if so, what measures could be taken to ensure that workers could safely change the identification number plates in the presses. (A tire press generally works like a clam shell. The lower half of the press remains in a fixed horizontal position, while the upper half is movable. The tire mold, which also has upper and lower halves, fits inside the press.) None of the respondents suggested that changing the number plates would present insurmountable safety problems.[4] Further, based on its evaluation of these responses, NHTSA determined that such a requirement would impose costs of between $4.25 million and $5.9 million.

On April 9, 1981, the agency published a notice of intent listing 17 actions that the agency said it intended to take to reduce unnecessary regulatory burdens upon the motor vehicle and related manufacturing industries (46 FR 21203). Among them was terminating rulemaking on the location of the TIN.

Subsequently, the agency terminated the rulemaking (48 FR 19761; May 2, 1983). The agency stated that it was taking that action because it was unable to determine that the adoption of the proposal would significantly contribute to motor vehicle safety and because the compliance costs would be $4.25 to $5.9 million. Although the agency anticipated that the adoption of the amendment would increase the response to tire recall campaigns and that ultimately the action would reduce the chance of potentially unsafe tires being used on public roads, it was not able to provide a quantified estimate of the benefits to be gained from the proposed amendment. The data relied upon by the agency in issuing the proposal consisted solely of anecdotal comments by 13 consumers on difficulties they experienced in locating TINs. These 13 comments were among about 9,500 responses received by the agency in response to a survey in which it sent questionnaires to approximately 100,000 consumers. Thus, only 0.013 percent of the questionnaire recipients and 0.14 percent of the respondents reported this type of difficulty. Prior to issuing the proposal, the agency did not have any data or perform any analysis regarding the extent to which the proposed requirement would increase the number of people who find the identification number on their tires, the number of those people who respond to a tire recall, or the number of defective or noncomplying tires that would be removed from service. No additional data regarding benefits were obtained by the agency as a result of the comment process.

3. 1999 Final Rule

In response to petitions for a rulemaking, the agency amended NHTSA's tire identification and recordkeeping regulation in 1999 to require the date of manufacture to be expressed in four digits, instead of the previously required three, so that consumers would be able to determine the decade of manufacture of their tires (64 FR 36807; July 8, 1999). This rule also reduced the minimum size of the digits from the then-currently required minimum of 6 mm (¼ inch) to 4 mm (5/32 inch) to relieve the manufacturers and retreaders of the burden they might otherwise have incurred by having to redesign their tire molds to accommodate the additional digit.

In that rulemaking, all commenters supported adding a fourth digit to the date code. Two of the commenters, though, opposed reducing the size of the numbers in the TIN on the basis that such reduction would make it more difficult for consumers to see, especially those with visual pathologies. These commenters did not, however, provide any data showing that drivers cannot read 4 mm (5/32 inch) symbols. NHTSA said that its experience to date with 4 mm (5/32 inch) symbols on tires suggest that symbols of that size do not present a problem.[5] As discussed in the final rule, 4 mm (5/32 inch) is approximately the equivalent of font size 16 in Windows 95, which is approximately double the font size used in the **Federal Register** and also approximately double the size of the largest letters found on the U.S. quarters being minted then. Additionally, this agency pointed out that the size of the Uniform Tire Quality Grading Standards tire grades marked on tire sidewalls has always been 4 mm (5/32 inch) and the agency had not received any complaints that those letters or numbers were too small to read. Finally, Part 574 permits tires of less than 13 inches in diameter or those

Second, the agency wanted the safety information to be located in an area where it would not be scuffed off the tire if the tire were rubbed against a curb or other object while parking, loading, etc. By requiring that the safety information appear between the widest part of the tire (the maximum section width) and the bead, NHTSA believed that the information would be less likely to be scuffed off the tire, and thus would be available to the user of the tire.

[4] From the responses to the orders, the agency learned that of the 52 tire plants operated by the respondents in this country, 46 of them operated only five or six days a week. The remaining six plants operated all week. In the case of those 46 plants, workers could safely and easily change the number plates during one of the days when the molds were nonoperational and at room temperature. The practice of the manufacturers was to change the number plates on these molds during their nonoperational day. On that day, workers could as easily change the number plates on the upper mold as on the lower mold. Additionally, the manufacturers operating seven days a week indicated that workers could safely change the number plates on operating upper molds in any of several ways. One way would be to place insulated blankets over the bottom molds. Another way would be to mold the whitewall side of whitewall tires on the lower mold so that the number plates could be placed on the more readily accessible upper molds.

[5] It should be noted that many tire manufacturers actually use symbols larger than 4 mm (5/32 inch) for the date code.

that have less than a 6-inch cross section width to have a letter/number size of 4 mm (5/32 inch). Again, the agency had not received any complaints about the size of those letters/numbers.

C. Other Labeling

Labeling requirements are also contained in 49 CFR part 567, Certification, 49 CFR part 575, Consumer Information Regulations, FMVSS No. 110, Tire Selection and Rims, applicable to passenger cars and to non-pneumatic spare tire assemblies for use on passenger cars, and FMVSS No. 120, Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars.

Section 567.4 requires vehicle manufacturers to affix to each vehicle a label bearing, among other things, the Gross Vehicle Weight Rating (GVWR), which must not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's rated seating capacity; and the Gross Axle Weight Rating (GAWR), which is the value specified by the manufacturer as the load carrying capacity of a single axle system.

Section 30123(e) of Title 49, U.S. Code, requires the Secretary of Transportation to prescribe a uniform quality grading system for motor vehicle tires to help consumers make an informed choice when purchasing tires. NHTSA implemented this statutory mandate by issuing the Uniform Tire Quality Grading Standards (UTQGS) at 49 CFR 575.104, which are applicable to new passenger car tires.[6] The UTQGS require passenger car and tire manufacturers and tire brand name owners to provide consumers with information with respect to the treadwear, traction, and temperature resistance performance of their tires. Excluded from the UTQGS are deep-tread, winter-type snow tires, space-saver or temporary-use spare tires, tires with nominal rim diameters of 12 inches or less and limited production tires as described in 49 CFR 575.104(c)(2).

Section 575.6(a) of Title 49, CFR, requires that when a motor vehicle is delivered to the first purchaser for purposes other than resale, the vehicle manufacturer must provide, in writing and in the English language, the information specified in section 575.103 applicable to that vehicle, and in the owner's manual, the information specified in section 575.104.[7] Section 575.104(d)(1)(iii) requires vehicle manufacturers to list all possible grades for traction and temperature resistance and restate verbatim the explanation of each of the three graded aspects of performance. The information must also contain a statement referring the reader to the tire sidewall for the specific graded performance of the tires with which the vehicle is equipped. Section 575.6(c) requires that each vehicle manufacturer, brand name owner of tires, and manufacturer of tires for which there is no brand name owner to provide the information specified in subpart B of Part 575 to prospective purchasers at each location at which its vehicles or tires are offered for sale.

Paragraph S4.3 of FMVSS No. 110 requires manufacturers to affix a placard to each passenger car's glove compartment door or an equally accessible location showing the vehicle's capacity weight, designated seating capacity, the manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight, the manufacturer's recommended tire size designation, and, for a vehicle equipped with a non-pneumatic spare tire assembly, the non-pneumatic identification code required by FMVSS No. 129, New Non-Pneumatic Tires for Passenger Cars. The required information is intended to promote the vehicle's safe performance by preventing overloading of the tires or the vehicle itself.[8]

Paragraph S5.3 of FMVSS No. 120 requires that each vehicle show, on the label required by section 567.4, or on a tire information label, the following information: the recommended tire size designation appropriate for the GAWR; the size and type designation of rims appropriate for those tires; and the recommended cold inflation pressure for those tires such that the sum of the load ratings of the tires on each axle (when the tires' load carrying capacity at the specified pressure is reduced by dividing by 1.10, in the case of a tire subject to FMVSS No. 109, i.e., a passenger car tire, installed on a multipurpose passenger vehicles (MPVs), truck, bus or trailer) is appropriate for the GAWR. The reduction in load rating is intended to provide a safety margin for the generally harsher treatment, such as heavier loading and possible off-road use, that passenger car tires receive when installed on a MPV, truck, bus or trailer instead of on a passenger car.

III. Questions for Public Comment

To aid the agency in conducting this rulemaking, the agency is seeking answers from the public to the following questions:

A. General Consumer Knowledge and Behavior/Availability of Information to Consumers

(1) Are consumers being given the information they need to maintain their tires properly, to determine how much weight (passengers plus cargo) they can safely place in their vehicles, and to identify tires that have been determined to be defective or noncompliant? What tire information is most important for consumers to have for safety and recall purposes?

[6] The UTQGS is not applicable to retreaded tires.

[7] Prior to May 24, 1999 (64 FR 27921), passenger car manufacturers were required to directly provide general UTQGS information and the information specified in Section 575.104 in writing and the English language to purchasers and potential purchasers at the point of sale of new vehicles. The agency eliminated this requirement, instead requiring that the information be contained within the owner's manual, because it believed that the elimination of the point-of-sale requirement would relieve a significant burden on vehicle manufacturers and dealers and yet would have little effect on consumers (64 FR 27921; May 24, 1999).

[8] Herzlich Consulting (Herzlich) petitioned the agency on March 12, 1992, to amend FMVSS Nos. 110 and 120 to include a requirement that the manufacturers of the vehicles subject to those standards place a warning in the glove compartment or some other accessible/visible location which would state, in high visibility letters: ''Warning: Underinflation, Overloading, or Damage can Cause any Tire to Fail Suddenly.'' In support of the petition, Herzlich argued that although the Federal and state governments and the tire industry continuously communicate tire safety information, such efforts are ''rather unsuccessful.'' Herzlich also argued that tire failure due to road hazard damage, underinflation, or overload continues to be a problem. The petitioner stated that tires are the most important safety component on the vehicle and, perhaps because of their high degree of reliability, they are often taken for granted by consumers. Herzlich also referred to unspecified surveys purporting to show that a ''significant number of vehicles are running on underinflated, overloaded, worn-out or damaged tires,'' which, it contended, indicates that people get careless and need to be reminded over and over again to inspect and properly maintain their tires.''

After a full and careful review of the petition, NHTSA decided to deny it based on several factors (57 FR 45759; October 5, 1992). First, there already existed a vast amount of information on proper tire maintenance. Additionally, the agency stated that there was no reason to believe that requiring the same information be made available in another place would increase consumer's responsiveness to such information. Finally, the petitioner presented no data, and this agency was aware of none, that would support petitioner's assertion that improper maintenance causes the vast majority of tire failures or that a significant number of vehicles are running on underinflated, overloaded, worn out or damaged tires.

In summary, NHTSA believed at that time that the wealth of safety materials already available to the public through industry, government, and consumer sources adequately addressed the issue of proper tire inflation and maintenance; that existing labeling requirements provided sufficient information to enable consumers to maintain tires properly and safely; and that the petitioner had not shown that the amendments it proposed would significantly change the behavior of the public in that respect.

(2) Do consumers read and correctly understand the information that they are currently receiving? For example, do consumers understand the factors that contribute to tire failure (such as speed, tire inflation pressure, and weight) and the steps they can take to reduce the possibility of tire failure? Do consumers know where to locate tire information in their vehicles, particularly recommended cold tire inflation pressure and maximum load information? Do consumers read the information in the owner's manual regarding proper tire care? Are consumers confused when they find a difference between the recommended tire inflation pressure labeled on their vehicle and the maximum inflation pressure labeled on the tire? Which of those two pressures do they follow in inflating their tires? Do consumers understand the relationship/interaction between tire inflation pressure and the load that a vehicle and its tires can safely carry? Do consumers understand how and when to measure cold inflation pressure? Do consumers understand and use the tire labeling information that currently appears on the tires and in the vehicle?

(3) Do consumers routinely use and correctly follow the guidance included in that information? For example, do they typically inflate their own tires? How often? To what level?

(4) What tire information do consumers want, how do they want it expressed, and where would they prefer to see that tire information located on their tires or in their vehicles? If any focus group studies have been conducted by manufacturers or other organizations regarding the consumers' needs in this area, should the agency use them to aid in assessing how to meet those needs? Should the agency supplement these studies by conducting its own focus group study? If so, what questions should be presented to the focus groups?

B. TIN Information

Location

The continued use of tires determined to be unsafe poses a safety risk not only for the occupants of the vehicles equipped with those tires, but also for other highway users near those vehicles. To the extent that it is difficult and inconvenient to check the TINs, the percentage of people who respond to a tire recall campaign may be reduced, and motorists unknowingly could continue to drive their vehicles with unsafe tires.

The side of a tire bearing the TIN is often mounted so that it faces inward. In the case of whitewall tires, this occurs because the TIN is almost always molded on the blackwall (*i.e.,* inside sidewall) of the tire.[9] Whitewall tires account for a small and declining percentage (currently about 5 percent or less) of original equipment tire sales in this country, but about 40 percent of replacement tires. The ratio of original equipment tires to replacement tires is about 1 to 3. Blackwall tires have the TIN on one sidewall. The agency believes that blackwall tires (other than those with white raised lettering) are as likely to be mounted with the number side facing in as out. Thus, it appears that a substantial percentage of tires are mounted with their TINs not readily visible. We would appreciate information from commenters that would help us to estimate the percentage of tires with the TIN facing inward.

When the TINs appear on the inside sidewalls of the tires mounted on vehicles, motorists have three inconvenient ways of finding the TINs. They must either: (1) Slide under the vehicle with a flashlight, pencil and paper and search the inside sidewalls for the TINs; (2) remove each tire, find the TIN, and then replace the tire; or (3) enlist the aid of a garage or service station attendant or tire retailer.

Improved access to the TIN would enhance the owner's ability to determine if his or her tires have been recalled. Requiring that the TIN be placed on the outside sidewall of whitewall and raised-letter tires and on both sides of blackwall tires would significantly facilitate finding the TIN and thus should increase the ability of consumers to know whether their tires are covered by recall campaigns.

(5) Based on the above discussion, how should the current requirements regarding the location of the TIN be modified, if at all, to make it easier for consumers to determine whether their tires are covered by a safety recall?

(6) The agency originally proposed in an NPRM published July 23, 1970 (35 FR 11800) that the TIN be marked on both sidewalls. As discussed above in the background section, one of the objections raised by the industry and others to that proposal was a safety hazard said to be associated with positioning the TIN on both sidewalls during the manufacturing process. Ten years later, in its 1980 NPRM, the agency concluded, based on new information from tire manufacturers, that the potential safety hazard had been eliminated or at least reduced to a manageable level. Was this conclusion correct? Is there any remaining significant hazard that is not addressable at reasonable cost? Please describe any manufacturing process changes that have been made that make it safer now than it was in 1970 to position the TIN manufacturing plates during tire assembly. Are there any additional changes that could be made to improve the safety of this operation?

(7) What are the economic costs of requiring that the TIN appear on both sidewalls of some types of tires? Are there alternative available methods of manufacture that would facilitate placing the TIN on both sidewalls? If so, please describe these processes in detail.

(8) Where, in relation to the bead and the shoulder of the tire, should the TIN be positioned on the sidewall to ensure that it can be easily located by consumers? Should the current requirements regarding TIN location in FMVSS Nos. 109 and 119 be changed to improve the visibility of the TIN to consumers? How would your answer to the immediately preceding question be affected by the considerations of manufacturing feasibility and the vulnerability of the TIN to abrasion in certain sidewall locations as a result of contact with curbs and other hard objects?

Content and Readability

(9) Should all of the information currently required in the TIN be retained or should the agency cease to require some of it? Should the agency require that any information be added to the TIN or otherwise be required to be shown on the sidewalls of the tire? For instance, would it be helpful for the plant location, manufacturer's name, date of manufacture or country of manufacture to be shown on the sidewalls of the tire? Should the number, format, and type of symbols be revised? Should any of the information currently required to be included in the TIN be deleted? Please provide examples.

(10) The current labeling requirement allows, at the option of the manufacturer, the use of up to four symbols in the TIN for marketing information. Should these optional symbols be either prohibited or separated from the mandatory portion of the TIN to shorten it? Would this facilitate reading the TIN and identifying recalled tires?

(11) What type of changes to the appearance of the lettering and numbering would make it easier for

[9] Blackwall tires with white raised lettering on one sidewall have their TIN molded on the opposite sidewall. These tires, like whitewall tires, are mounted with their TIN facing inward.

consumers to read the TIN? Should raised letters with contrasting colors be required? If not, should other methods (*e.g.,* reflectivity) be used to increase the readability of the TIN?

(12) What minimum should NHTSA specify for the height of the symbols in the TIN? Currently, the required minimum height for the symbols in the first three groups of the TIN is ¼ inch (0.25 inch or 6.35 mm), while the required minimum height for the symbols in the fourth group of the TIN is 5/32 inch (0.16 inch or 4 mm). Should one height be specified for all four groups of symbols? If so, what height? Please provide data to support your suggestions regarding the appropriate height for the symbols. Please discuss how your answer to this question would be affected by the adoption of any of the types of appearance changes mentioned in the immediately preceding question.

C. Other Tire Labeling Information

Load Ratings

(13) Should the maximum load rating [10] in kilograms (kg)/pounds (lbs) at the maximum permissible inflation pressure in pounds per square inch (psi), as is currently required by FMVSS Nos. 109 and 119, continue to be shown on the tire? If the maximum load rating were replaced by a load index number (a numerical code associated with the maximum load a tire can carry at the speed indicated by its speed symbol under specified service conditions), would it be more effective or less effective in conveying the load limits of the tire to consumers? [11]

(14) Do consumers understand and effectively use the load index values that are now provided on some tires? [12] When purchasing replacement tires, do consumers typically refer to the maximum load rating and/or the load index for their vehicle? Do they sometimes replace extra load capacity tires with standard capacity tires? Please provide data to support your responses to this question.

(15) What assistance do tire retailers provide consumers in selecting a tire with the correct load rating or load index for their vehicle? Is this assistance provided to all customers or only to those customers who ask about the rating or index? How much information do the retailers provide to ensure that a consumer chooses a tire that is right for his or her vehicle? Do the retailers routinely check the certification label information for gross vehicle weight rating (GVWR) or gross axle weight rating (GAWR) to ensure that the load capacity of the tires selected by the purchaser exceeds the GAWR/GVWR of the vehicle?

(16) When motorists load a light vehicle (*i.e.,* a passenger car, pickup truck, sport utility vehicle (SUV) or a minivan with a GVWR of 10,000 lbs. or less), how do they determine whether the vehicle is capable, given the pressure to which the vehicle's tires are inflated, of safely carrying the load? How frequently do they use the load rating information on the tires to make this determination? When they do use it, how do they do so? Do they make the determination correctly?

(17) Do consumers often overload their light vehicles? If so, to what extent? What factors contribute to overloading? Do consumers accurately estimate the loaded weight of their vehicles? If overloading frequently occurs, what allowance for such overloading should be included in passenger car tire load ratings? FMVSS No. 120 currently specifies that if passenger car tires are used on vehicles other than passenger cars, each tire's load rating is to be reduced by dividing by 1.10. The requirement is intended to provide a safety margin for the generally harsher treatment, such as heavier loading and possible off-road use, that passenger car tires receive when installed on a MPV, truck, bus, or trailer, instead of on a passenger car.

Plies and Cord Materials

(18) FMVSS Nos. 109 and 119 currently require that the actual number of plies used in the tread area and in the sidewall be labeled on both sidewalls. FMVSS No. 109 also requires that the generic name of each cord material used in the plies be indicated on the label. Should this information continue to be marked on the tire? What is the safety value of providing consumers with this information? How do they actually make use of the information? Should any descriptive/qualitative information, such as the tire manufacturer's ''mileage warranty,'' [13] be added to tires?

Tread Wear Indicator

(19) FMVSS Nos. 109 and 119 require that tires be equipped with a tread wear indicator that enables motorists to determine visually whether tires have worn to a tread depth of 2/32 inch. [14] Notwithstanding the inclusion of information about the tread wear indicator in the owner's manual, should any information also be placed on a label in the vehicle to inform consumers about the tread wear indicator and its purpose? If so, what information should be provided? Should markings be placed on the sidewall of the tire to pinpoint the location of the tread wear indicator on the tread surface? If yes, what type and size of marking would be most effective?

UTQGS

(20) The UTQGS provides consumer information on the treadwear, traction and temperature performance of passenger car tires. What changes to the UTQGS ratings should the agency consider in order to make the ratings more easily understood and more useful for consumers?

(21) Section 575.104(c) provides that the UTQGS apply to new pneumatic passenger car tires. UTQGS does not apply, however, to deep tread, winter-type snow tires, space-saver or temporary use spare tires, tires with nominal rims of 12 inches or less, or ''limited production'' tires. Should any of these types of tires, such as deep tread tires which are frequently used on SUVs/MPVs, be required to be labeled with the UTQGS information? Should UTQGS also apply to light truck tires (LT-metric) since these tires are also used on SUVs, MPVs, and light trucks? Please be specific in your response and provide a basis for your answer.

Speed Rating

(22) The speed rating of a tire is generally indicated on the tire although not required by either FMVSS Nos. 109 and 119. Should steps be taken to increase the likelihood that consumers purchase replacement tires with a speed rating at least as high as the rating specified by the vehicle manufacturer? If so, what steps should be taken and why? Do tire retailers routinely assist consumers to ensure that the selected

[10] The maximum load rating is the amount of load that may be carried by the tire at the tire's maximum permissible inflation pressure.

[11] The load index is a part of the labeling required by Economimc Commission for Europe (ECE) Regulation 30 Annex 3, which requires the load index and the speed-category symbol to be placed together near the size designation. For example, the sidedwall would contain the size designation * * *. {P215/65R15 89H} where ''89'' is the load index and ''H'' is the speed-category symbol. Annex 4 of Regulation 30 provides a Tablewith the Load Index and corresponding Load Rating in kilograms.

[12] The load index is not required to be labeled on tires sold in the U.S. However, the maximum load rating is required in the U.S. but no in the ECE Regulation. Often the load index is placed on tires so that manufacturers can simultaneusly comply with both ECE and FMVSS requirements.

[13] Manufacturers often warrant that a tire will last for a specified number of miles, subject to a number of terms and exclusions, *e.g.,* the tire must be rotated at specified intervals.

[14] State inspection systems require that the tread on each tire be not less than 2/32 inch deep. See 49 CFR § 570.9(a).

tires have the correct speed rating for their vehicles?

Run-Flat and Extended Mobility Tires

(23) Should run-flat or extended mobility tires have that capability identified on the tire and/or on the vehicle certification label to ensure that consumers know that a tire is categorized as such? If so, how should that capability be identified?

Retreaded Tires

(24) What changes, if any, should be made in the labeling requirements applicable to retreaded tires? Please provide the basis for your response.

Tire Inflation Pressure

(25) With respect to passenger cars, a placard containing the vehicle manufacturer's recommended cold tire inflation pressure is required by FMVSS No. 110 to be affixed to the glove compartment door or an equally accessible location, *e.g.,* the driver's door pillar. With respect to motor vehicles other than passenger cars, similar information is required by FMVSS No. 120 to appear on the vehicle certification label or on the tire information label. What other pertinent tire information (*e.g.,* tire size and speed rating) should be considered for the placard or the labels? What other locations, such as the inside of the fuel tank access door, should be considered to ensure that the tire information contained on the placard and the labels is conspicuous to vehicle users and why? The fuel tank access door is regularly seen by drivers who fill their own fuel tanks and at such times when an air pump is generally available nearby. Please provide the basis for your responses.

(26) The maximum cold inflation pressure value provided on the sidewalls of the tire appears to mislead some consumers, who use it as the vehicle's recommended inflation pressure.[15] Should the maximum inflation pressure value (and the corresponding maximum load rating for tires subject to FMVSS No. 120) be removed from the tire sidewall? What would be the potential safety impact? If no inflation pressure value appeared on the tire, would users take the time to seek the vehicle manufacturer's recommended cold inflation pressure on the glove compartment door, the door pillar, or the owner's manual?

Dissemination of Tire Safety Information

(27) Maintaining proper inflation pressure in motor vehicle tires is important to the safe and efficient use of motor vehicles. Maintaining tires at their proper inflation pressure, instead of allowing them to become underinflated, reduces heat build up, minimizes tire wear, contributes to good vehicle handling, and improves fuel economy through decreasing the rolling resistance of the tires. In light of the trend toward self-service gasoline stations, the responsibility for maintaining proper inflation pressure falls increasingly on motorists. Surveys indicate that a significant number of vehicles are being operated with underinflated, overloaded and/or damaged tires and that the public needs to be reminded to inspect and properly maintain their tires. What type of tire safety information should be provided? Where and how should it be presented so that it is readily noticed and easily understood? Should a tire inflation warning label be placed in a conspicuous location such as on the exterior of the glove box door? In answering these questions, please consider the requirement in section 13 of the TREAD Act that the agency complete a rulemaking to require a warning system in new motor vehicles to indicate to the operator when a tire is significantly underinflated.

Motorcycles and Trailers

(28) Paragraph S5.1.1 of FMVSS No. 120 specifies that each motor vehicle shall be equipped with tires that meet the requirements of FMVSS No. 109 or 119. What are the merits of including or excluding trailer tires, motorcycle tires, etc., from any amendments to the tire information labeling requirements that may be proposed and adopted in this rulemaking? Please be specific in your response and provide a basis for your answer.

Font Height for Labeling Information

(29) Currently, the various tire labeling requirements specify the height of letters, numbers, etc., used to convey the required information. For instance, FMVSS Nos. 109 and 119 require that symbols be not less than 0.078 inches (1.98 mm) in height, while the date of manufacture symbols for the TIN under Section 574.4 and the UTQGS figures under Section 575.104 are required to be not less than 5/32 inch (0.16 inch or 4 mm) in height. Is there any reason for the agency to continue to specify different minimum heights for different types of required information or should it require one height for all required symbols? What height should be chosen? Please provide a basis for your answer. Please explain how your answer to this question would be affected by the adoption of a requirement to use contrasting colors or other means to increase the readability of the symbols.

D. Harmonization Issues

The agency is participating in the development of a global tire standard as part of a cooperative worldwide effort, through the United Nations Economic Commission for Europe, to establish best safety and environmental practices for motor vehicle regulations. The issue of tire labeling is one of the issues being addressed in ongoing negotiations to develop worldwide labeling requirements.

(30) Are there any voluntary consensus standards or requirements of other countries or regions which address the issues raised in this ANPRM? Do they provide effective ways of accomplishing the purposes of this rulemaking?

(31) What opportunities are there to accomplish the purposes of this rulemaking in ways that minimize any unnecessary differences between NHTSA's requirements and those of other countries and regions?

IV. Regulatory Analyses

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This advance notice was not reviewed under Executive Order 12866 and under the Department of Transportation's regulatory policies and procedures. Due to the preliminary nature of this document, NHTSA has identified few specific changes that it might propose to its standards and regulations. Further, it has limited current cost information that might be relevant to any potential changes. Accordingly, NHTSA is unable now to evaluate the economic impacts that this rulemaking might ultimately have. At this time, it does not appear that the rule resulting from this rulemaking will be significant. However, NHTSA will reassess this rulemaking in relation to the Executive Order, the DOT Regulatory Policies and Procedures, the Unfunded Mandates Reform Act of 1995 and other requirements for analyzing rulemaking impacts after using the information received in response to this advanced

[15] The maximum cold inflation pressure is labeled on the tire by the tire manufacturer to provide the maximum cold inflation pressure to which a tire may be inflated based upon the maximum load rating for that tire. The recommended inflation pressure is labeled on the vehicle on a placard or the vehicle certification label by the vehicle manufacturer to provide the correct cold tire inflation pressure for the maximum loaded vehicle weight based upon vehicle specifications and operation, as determined by the vehicle manufacturer.

notice to select specific proposed changes. To that end, the agency solicits comments, information, and data useful in assessing the impacts of making changes to the various requirements discussed in this document.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: November 28, 2000.

Stephen R. Kratzke,

Associate Administrator, Safety Performance Standards.

[FR Doc. 00–30647 Filed 11–30–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[I.D. 112400A]

Taking of the Cook Inlet (CI), Alaska, Stock of Beluga Whales by Alaska Natives

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

ACTION: Notice of hearing; final agenda.

SUMMARY: This final agenda governs the formal on-the-record hearing regarding the proposed regulations to limit the taking of CI, AK stock of beluga whales by Alaska Natives.

DATES: The hearing will commence on Tuesday, December 5, 2000, at 9:30 a.m. AKST.

ADDRESSES: The hearing will be held before Judge Parlen L. McKenna of the United States Coast Guard at the United States District Court 222 West 7th Avenue, 2nd Floor Courtroom, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Barbara Mahoney, NOAA/NMFS, Alaska Region, Anchorage Field Office, (907) 271-5006, fax (907) 271-3030, or Michael Payne, NOAA/NMFS, Alaska Region, (907) 586-7235, fax (907) 586-7012, or Thomas Eagle, Office of Protected Resources, (301) 713-2322, ext. 105, fax (301) 713-4060.

SUPPLEMENTARY INFORMATION: In an effort to recover CI beluga whales to its Optimum Sustainable Population, NMFS issued proposed regulations under the Marine Mammal Protection Act (MMPA) that would limit the subsistence harvest of the whales by Alaska Natives. Section 101(b) of the MMPA provides an exemption to the general moratorium on the taking of marine mammals and permits Alaska Natives to harvest marine mammals for subsistence purposes or for the purpose of creating traditional Native handicrafts and clothing. However, the Federal government may regulate Native subsistence harvest of marine mammals if the stock in question is designated as depleted after regulations specific to the depleted stock are issued and an opportunity for notice and hearing on the record has been provided.

After a depleted determination was made on May 31, 2000 (65 FR 34590), NMFS issued a proposed rule on October 4, 2000 (65 FR 59164), to regulate subsistence harvest of CI beluga whales by Alaska Natives. The proposed regulation provides that:

(1) Subsistence harvest can only occur under an agreement between NMFS and an Alaska Native organization pursuant to section 119 of the MMPA;

(2) Subsistence harvest shall be limited to no more than two strikes annually until the stock is no longer considered depleted under the MMPA;

(3) The sale of CI beluga whale products shall be prohibited;

(4) All hunting for subsistence purposes shall occur after July 15 each year; and

(5) The harvest of newborn calves, or adult whales with maternally dependent calves shall be prohibited.

All interested persons or parties have been given an opportunity to file a notice of intent to participate in the hearing that will be conducted in accordance with section 103(d) of the MMPA. Such interested persons or parties have also been given an opportunity to file direct testimony and documentary exhibits. Parties who submitted notice of intent to participate in the hearing were advised to submit rebuttal testimony by Novenber 28, 2000. Pursuant to the procedural regulations governing the formal rulemaking hearing that was reinstated on June 27, 2000 (65 FR 39560), Judge Parlen McKenna issued the following notice identifying the participants and the final agenda as follows:

Participant	Interest
Thomas J. Meyer, Esq., NOAA, Office of General Counsel, Juneau, AK	Represents NMFS (i.e., the proponent of the proposed regulations)
Joel and Debra Blatchford, Kasilof, AK	Represents Eskimo whale hunters. Generally supports the proposed regulations. However, he argues that Eskimos should be a party to any co-management agreement governing the harvest of CI beluga whales and one strike should be allocated to the Eskimos.
Steve Silver, Esq., Robertson, Monagle & Eastaugh, Arlington, VA	Represents the Municipalities of Anchorage, Kenai Peninsula Borough, and Matankuska-Susistna Bourough. Generally supports the proposed regulations.
Judy Brady, Exec. Dir., Alaska Oil and Gas, and Jeffrey W. Leppo, Esq., Stoel Rives, LLP., Seattle, WA	Represents Alaska Oil & Gas Assoc. (''AOGA''). Generally supports the proposed regulations. AOGA expresses concerns regarding (1) the effectiveness of the co-management agreement strategy; (2) the agency's ability to enforce the regulations and manage the subsistence harvest of CI beluga whales; and (3) whether illegal takes will be counted against the two-strike harvest limit.