

DATES: Comments on this proposed rule must be received in writing by August 14, 1995.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A-5-3), Air and Toxics Division, U.S.

Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 95105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street SW., Washington, DC 20460

California Air Resources Board, Stationary Source Divison, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812-2815

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4812

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B-23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT:

Daniel A. Meer, Chief Rulemaking Section (A-5-3), Air and Toxics Division, U.S Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francicso, CA 94105, Telephone:(415)744-1185

SUPPLEMENTARY INFORMATION: This document concerns South Coast Air Quality Management District's Rule 1106, Marine Coating Operations, submitted to EPA by the California Air Resources Board on February 24, 1995; Rule 1107, Coating of Metal Parts and Products, Rule 1115, Motor Vehicle Assembly Line Coating Operations, Rule 1171, Solvent Cleaning Operations, submitted to EPA by the California Air Resources Board on June 16, 1995; and Santa Barbara County Air Pollution Control District's Rule 323, Architectural Coatings, submitted by the California Air Resources Board on May 24, 1995; and Santa Barbara County Air Pollution Control District's Rule 339, Motor Vehicle and Mobile Equipment Coating Operations, submitted by the California Air Resources Board on April 13, 1995. For further information please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: June 27, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95-17268 Filed 7-13-95; 8:45 am]

BILLING CODE 6560-50-W

SUPPLEMENTARY INFORMATION:

I. Background

On June 9, 1995, the National Highway Traffic Safety Administration (NHTSA) published a notice of intent to establish an advisory committee (Committee) for regulatory negotiation to develop recommended specifications for altering the U.S. lower beam pattern to be more sharply defined. Such a pattern would facilitate visual aimability of headlamps and might be the basis for a world-wide lower beam pattern (60 FR 30506). The notice requested comment on membership, the interests affected by the rulemaking, the issues the Committee should address, and the procedures it should follow. The notice also announced that NHTSA had procured the services of the Federal Mediation and Conciliation Service to facilitate the negotiations. The reader is referred to the notice of June 9, 1995, for further information on these issues.

NHTSA received nine comments on the notice of intent. None of the comments opposed using regulatory negotiation for this rulemaking; all endorsed the process and seven included requests to serve on the Committee. Based on this response and for the reasons stated in the notice of intent, NHTSA has determined that establishing an advisory committee on this subject is necessary and in the public interest. In accordance with Section 9(c) of the Federal Advisory Committee Act, 5 U.S.C. App. I sec. 9(c), NHTSA prepared a Charter for the establishment of a Negotiated Rulemaking Advisory Committee. On April 17, 1995, the Office of Management and Budget approved the Department's Advisory Committee Plan for FY 1995 which included this advisory committee, and on July 6, 1995, the Secretary approved the Charter, authorizing the Committee to begin negotiating the recommended changes.

II. Membership

In addition to a representative from NHTSA, the Committee will consist of the following members:

American Automobile Manufacturers Association

Association of International Automobile Manufacturers, Inc.

Society of Automotive Engineers, Road Illumination Devices Subcommittee Hopkins Manufacturing Corporation Traffic Materials Controls Division, 3M Corporation

Wagner Lighting Division of Cooper Industries

Groupe de Travail Brussels

Liaison Committee for the Manufacturers of Automobile Equipment and Spare Parts

Japanese Automobile Standards Internationalization Center
American Association of Motor Vehicle Administrators
National Automobile Dealers Association
Automotive Service Association
Advocates for Highway and Auto Safety

Requests for representation were made by Osram Sylvania ("Osram"), Hella, Inc., Volkswagen of America, Inc. ("Volkswagen"), National Committee on Uniform Traffic Control Devices ("NCUTCD"), Wagner Lighting Division of Cooper Industries ("Wagner"), 3M Traffic Controls Materials Division ("3M"), and the American Association of State Highway and Transportation Officials ("AASHTO").

In considering the requests for representation, the task before NHTSA was to decide whether the requesters are interests potentially affected by the proposed rulemaking that are not otherwise adequately represented by the Committee members already chosen. Generally, those who responded did not understand that NHTSA used the word "interest" in a broad, categorical sense, rather than a narrow individual one. For example, Wagner, of Hampton, Va., applied to represent its interests as a manufacturer of both OEM and aftermarket lighting products. Upon review of the existing committee members, NHTSA concluded that the interests of domestic headlamp manufacturers might not be adequately represented since there is no specific trade organization that speaks for them, and no Committee member already chosen directly addressed this interest. Accordingly, NHTSA asked Wagner if it would be willing to represent the interests of the domestic OEM and replacement headlamp manufacturing industry (as compared with its corporate interests), and Wagner agreed to do so. Accordingly, NHTSA has added Wagner to the Committee, as shown in the list above. Osram described itself as a manufacturer of motor vehicle headlamp and headlamp light sources that meet both Standard No. 108 and ECE standards, and offered to provide an employee who is a member of the Groupe de Travail Brussels. Hella described itself as an OEM supplier, knowledgeable about the lighting technologies of both the United States and Europe. Both Hella and Osram are the United States subsidiaries of European headlamp manufacturers. After reviewing these requests, NHTSA has decided to deny them. To the extent to which the interest of these companies is headlamps with European beam patterns and aiming characteristics, their interests will be adequately represented by Groupe de Travail

Brussels and the Liaison Committee for the Manufacturers of Automotive Equipment and Spare Parts. To the extent to which their interests are headlamps complying with the beam and aim characteristics of Standard No. 108, their interests will be adequately represented by Wagner.

Volkswagen requested participation on behalf of itself, Volkswagen AG and Audi AG "as major European automobile manufacturers" and "as a liaison participant on behalf of the Association of International Automobile Manufacturers (AIAM)." Because AIAM is a member of the Committee, NHTSA concludes that Volkswagen's interests are adequately represented and has denied its request.

3M, an applicant who is a manufacturer of retroreflective materials, believes that "[m]odification of the lower beam pattern may impact the effectiveness of retroreflective devices in place on our nation's highways." In reviewing the composition of the Committee, the agency discerned that the interests of the reflectorized marking industry were not adequately represented. Accordingly, it asked 3M whether it would be willing to serve as the representative of that industry for the negotiated rulemaking. It agreed to do so, and has been added to the Committee. NCUTCD, among other things, "provides background information and develops proposed standards for traffic control devices for the Federal Highway Administration." It applied for membership on the basis of "the critical need for adequate headlamp that provides the light source for sign reflectorization." After reviewing the composition of the Committee and NCUTCD's remarks, NHTSA is denying its request. The group's interest in headlighting and sign reflectorization are adequately represented by existing committee members. To the extent that NCUTCD provides guidance to the Federal Highway Administration (FHWA), its interests are adequately represented by NHTSA, which also represents the FHWA. AASHTO applied because of its concern "with regard to the illumination of signage and other traffic control devices having retroreflective characteristics." The agency has concluded that AASHTO's interests are adequately represented by 3M, AAMVA, and NHTSA, and is denying its request.

III. Participation by Non-Members

Negotiation sessions will be open to the public, so that individuals who are not part of the Committee may attend and observe, but not participate.

IV. Key Issues for Negotiation

In its notice of intent, NHTSA tentatively identified major issues that should be considered in this negotiated rulemaking, and asked for comment concerning the appropriateness of these issues for consideration and whether other issues should be added. These issues were:

1. Whether NHTSA should be involved in specifying headlamp aimability requirements, or delete aimability requirements from Federal Motor Vehicle Safety Standard No. 108 and leave this subject to be regulated by the States.

There was one commenter on this issue. 3M believed that it was more appropriate for NHTSA, rather than the States, to establish "a national standard for headlamp beam patterns and to establish standards covering the ability to aim headlamps such that the beam pattern can be maintained." In its view, "[i]ndividual states may lack the resources required to scientifically research headlamp beam performance and establish required performance." Without a national standard, "the performance of traffic control devices could be jeopardized."

2. Whether it is appropriate for NHTSA to develop a single approach to visual aim or any aim.

There were no commenters on this issue.

3. Whether motor vehicle inspectors are likely to follow the results of a negotiated approach.

3M, the sole commenter, considers that "[t]he negotiation process will most likely result in a standard which is as easy to implement as possible while still remaining effective." Implementation of the result will be more successful if "the reasoning which supports the specification is communicated to those affected. States and inspectors need to understand the 'why' as well as the 'how' associated with safe night time driving."

4. Whether SAE Standard J1735 *Harmonized Vehicle Headlamp Performance Requirement* is acceptable as a starting point from which to begin negotiating the details of a visual aim provision for Standard No. 108.

3M agreed without comment. Volkswagen of America agreed that the committee could use the SAE standard as the starting point even though "a few photometric points and zonal values still need to be discussed and resolved."

5. Other issues.

Commenters raised other issues. Volkswagen recommended that "front fog lamps or other front lamps that project a beam should also be included

in the negotiated rulemaking even though they are optional devices and not required by any Standard." In its view, "unregulated fog lamps on some vehicles are actually larger and in some cases brighter with more glare, especially if improperly aimed, than the headlamps themselves." It believes that any headlamp beam standard that NHTSA develops "would be fruitless and only a partial solution if unregulated fog lamps and other auxiliary lamps remain uncontrolled and improperly aimed."

In NHTSA's view, Volkswagen's recommendation does not relate directly to the issue of headlamp aimability requirements, which are the focus of the Committee. The argument made by Volkswagen is interesting as it relates to the overall needs of roadway illumination for nighttime driving; however, it would be appropriate to address it in a future rulemaking more closely aligned with roadway illumination performance.

Issues of concern to 3M were "the impact of all potential lower headlamp beam patterns on the visibility of traffic signs and pavement markings, the cost of maintaining traffic control devices to meet a minimum luminance value of 2.4 candelas per square meter based on the various beam patterns under consideration, how the visibility of pedestrians, joggers, etc. on both sides of the roadway would be affected by the proposed beam patterns, the applicability of beam patterns among various vehicle types, the effect of changing headlamp patterns on research completed by the FHWA for minimum replacement values for signs and pavement markings, the impact of beam pattern on conspicuity of other vehicles and legibility of front mounted license plates." These appear to be relevant concerns and, as a Committee member, 3M may raise them when appropriate.

The University of Michigan Transportation Research Institute ("UMTRI") expressed concern that the driving public was underrepresented on the proposed committee. UMTRI did not request that it be added to the committee, but asked that the committee keep in mind the needs of older drivers as it negotiates. 3M also asked that the committee consider "the elderly driver's response to glare." NCUTCD pointed out that "[t]he ability to see and react to traffic control devices is even more critical for the older driver." NHTSA shares these concerns, and anticipates that a proposal based upon the recommendations of the committee will accommodate the needs of older drivers in no less a fashion that do current headlighting specifications.

V. Procedure and Schedule

Two comments were received on the Committee procedure regarding establishment of a definition of consensus. The American Automobile Manufacturers Association (AAMA), a Committee member, is concerned that "if the advisory committee is unable to initially agree on the voting rules, that by default, the voting rules for subsequent votes will be required to be unanimous." In its view "this possible occurrence could negate the efforts to arrive at constructive rulemaking in this area." It recommends that the "default voting rules" be set for "substantial agreement" in order "to eliminate the potential for one vote to stymie the process." Volkswagen of America expressed the same concern, and recommended that consensus be "substantial agreement or some defined plurality such as 2/3 of the members voting acceptance." The voting rules are set during the Organization Meeting of the Committee, and NHTSA will make the Committee aware of the recommendations of the commenters.

NHTSA anticipates that all of the negotiation sessions will take place at DOT headquarters in Washington, D.C.

Consistent with requirements of the Federal Advisory Committee Act, NHTSA will keep a summary record of all Committee meetings. This record will be placed in Docket No. 95-28.

The objective of the negotiation, in NHTSA's view, is for the Committee to prepare a report recommending a regulatory approach for resolving the issues discussed above. If consensus is not obtained on some issues, the report will identify the areas of agreement and disagreement, and explanations for any disagreement. NHTSA will issue a notice of proposed rulemaking based on the approach recommended by the Committee.

The negotiation process will proceed according to a schedule of specific dates that the Committee devises at the first meeting to be held on July 25-27, 1995. NHTSA will publish notices of future meetings in the **Federal Register**. The first meeting is scheduled to begin at 9:30 a.m. in Room 2230 of the Nassif Building, DOT headquarters, 400 Seventh Street, SW., Washington, D.C. This session will commence with an orientation and regulatory negotiation training program conducted by a facilitator from the Federal Mediation and Conciliation Service. An orientation in headlamp aiming will then be presented. After the training program, the Committee will devise its procedures and calendar, and will then begin substantive deliberations. NHTSA

has given advance notice of this meeting to all Committee members and believes that all members will be present for this first and important meeting.

Title 41 CFR Sec. 101-6.1015 requires that establishment notices and notices of advisory committee meetings must be published at least 15 calendar days before the committee charter is filed and at least 15 calendar days prior to a meeting. However, that section also provides that the Secretariat may approve less than 15 days for the establishment notice when requested by the agency for good cause. In exceptional circumstances, the agency may give less than 15 days notice of a meeting, provided that the reasons for doing so are included in the committee meeting notice published in The **Federal Register**. In developing the schedule for the first meeting, the agency determined that an early date was most convenient for the identified interests. The date chosen did not permit the notice of establishment and first meeting to be published not less than 15 days before the charter was filed and the scheduled date for the meeting. However, representatives of the identified interests were informed of the meeting date well in advance of the 15 day period.

Issued: July 12, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

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49 CFR Part 575

[Docket No. 94-30, Notice 4]

RIN 2127-AF17

Consumer Information Regulations Uniform Tire Quality Grading Standards; Correction

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

ACTION: Correction to supplemental notice of proposed rulemaking and change in date of public meeting.

SUMMARY: On July 5 1995, NHTSA published a notice announcing a public meeting on the Uniform Tire Quality Grading Standards (UTQGS), and a supplemental notice of proposed rulemaking to amend the UTQGS (See 60 FR 34961). In this document, NHTSA changes the date of the public meeting to July 28, 1995, and corrects the proposed regulatory text.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives,