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Federal Communications Commission.

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

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2001-9600; Notice 1]

Federal Motor Vehicle Safety Standards; FMVSS No. 121, Air Brake Systems

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

ACTION: Denial of petition for rulemaking, Motor & Equipment Manufacturers Association—Heavy Duty Brake Manufacturers Council

SUMMARY: On January 16, 2001, the Heavy Duty Brake Manufacturers Council (HDBMC) of the Motor & Equipment Manufacturers Association petitioned NHTSA to delay the implementation date for transmittal of antilock braking system (ABS) malfunction signals from trailers to tractors and trucks that are equipped to tow trailers. These requirements are specified in S5.1.6.2(b) for trucks and tractors, and S5.2.3.2 for trailers, of FMVSS No. 121, Air Brake Systems. The petitioner cites difficulties of its member companies in obtaining suitable computer chips at a reasonable cost to perform the ABS malfunction signal communications. However, the agency believes that the member companies' failure to reach suitable business arrangements with their supplier and a holder of a patent on this technology has resulted in this situation. The agency notes that nearly five years of lead time was provided to meet these requirements. The current difficulties cited by the petitioner normal commercial problems, not a lack of available technology. This petition is denied.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Woods, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366-6206; fax (202) 366-4329.

SUPPLEMENTARY INFORMATION: NHTSA has been petitioned by the Heavy Duty

Brake Manufacturers Council (HDBMC) to delay implementation of the in-cab warning lamp requirements in FMVSS No. 121. These requirements became effective March 1, 2001. The HDBMC petition dated January 16, 2001, asked for a one-year extension to March 1, 2002. The requirements apply to air-braked vehicles that tow or are towed by other air-braked vehicles, such as tractors, trucks, trailers, and converter dollies. The in-cab warning lamp provides the driver with an indication on the truck instrument panel that there is a malfunction in the ABS of a towed vehicle, so that the driver can identify such malfunctions and have them corrected. The requirements for ABS malfunction signaling between towed and towing vehicles were originally adopted in a final rule issued on March 10, 1995 (60 FR 13216). These requirements underwent slight revisions and were finalized in their present form in a final rule issued on May 31, 1996 (61 FR 27288).

In 1997, the industry formed the PLC-4-TRUCKS consortium to develop a system to transmit the trailer ABS malfunction signals between towing and towed vehicles. The industry believed that the systems commercially-available at that time did not meet all of the industry's needs, which include the ability of the system to be incorporated into the ABS electronic control units installed on the subject vehicles; the availability of a system that is not proprietary and thus any manufacturer could produce the needed components; and the ability of the system to work within the existing wiring common among heavy-duty tractors and trailers.

The PLC-4-TRUCKS system that was developed by the consortium uses computer chips manufactured by Intellon Corporation that provide spread-spectrum data communications capability over a power line, or power line carrier (PLC). These chips, which are used in other commercial applications, were adapted to heavy-duty truck use and through the PLC-4-TRUCKS consortium, a communications protocol was developed. As HDBMC states in their petition, Alan Lesesky of VES Corporation was granted a patent in October, 2000, which covers the use of spread-spectrum data communications on tractor-trailer applications, and subsequently VES filed a lawsuit against Intellon alleging patent infringement issues. Prior to filing the lawsuit, VES offered licensing agreements to the manufacturers of heavy-duty ABS systems to enable them to use this technology. As stated in the petition, the HDBMC believes that the licensing fees proposed by VES are commercially

unreasonable and inconsistent with past licensing arrangements for products covered by Society of Automotive Engineers (SAE) or NHTSA standards.

NHTSA notes that as early as 1998, the agency was prepared to initiate rulemaking to mandate one of the commercially-available systems for the purpose of communicating trailer ABS warning lamp signals, to ensure that the industry would comply with the March 1, 2001 compliance date. However, the agency was assured by the industry that the PLC-4-TRUCKS solution was indeed that way that the industry wanted to go and that such a mandate was unnecessary. The agency heeded the industry's recommendations and subsequently did not begin the rulemaking process for such a mandate.

NHTSA contacted VES and Intellon attorneys for an update on the lawsuit by VES against Intellon. The attorney for VES indicated that one of the HDBMC member companies, Eaton Corporation, had negotiated and signed a licensing agreement with VES to use the spread-spectrum technology for trailer ABS warning lamp purposes. The VES attorney indicated that he believed other ABS manufacturers would follow suit. The agency believes that if suitable licensing agreements are made between the ABS manufacturers and VES, then the lawsuit would be terminated so that manufacturing the PLC-4-TRUCKS system with the Intellon computer chips could resume.

The agency therefore denies the petition for a one-year extension of the March 1, 2001, compliance date for trailer ABS malfunction signals. The technology is available to transmit the trailer ABS malfunction signals. The agency believes that this issue is a business matter that the ABS suppliers need to work out with appropriate parties, including Intellon, VES, and the vehicle manufacturers to whom they sell their products. The agency notes that it was prepared to mandate one of the older, commercial systems on the market, but the agency was persuaded not to do so. Under these circumstances the fact that the vehicle manufacturers do not want to pay the amount proposed by VES is not an adequate basis to extend the effective date. Further, the agency notes that the cost of ABS in general has decreased significantly (i.e., a factor of two or three) compared to ABS costs prior to the tractor ABS mandate of March 1, 1997, and that the cost to incorporate the trailer ABS malfunction signaling would only amount to a small increase in the cost of current ABS equipment.

Issued on May 21, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01-13184 Filed 5-24-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 010-427105-1105-01; I.D. 011001F]

RIN 0648-AJ82

Magnuson-Stevens Act Provisions; Update of Regulations Governing Council Operations

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes to update regulations governing the operation of Regional Fishery Management Councils (Councils) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This proposed rule would make amendments by codifying recent administrative and policy changes, and by making editorial changes for readability, clarity, and uniformity. The intent of this proposed rule is to update Council regulations to reflect current policies and procedures.

DATES: Comments must be received on or before June 25, 2001.

ADDRESSES: Comments should be sent to William T. Hogarth, Acting Assistant Administrator, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments on this document will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT:

Richard Surdi, F/SF5, NMFS, 301-713-2337. This **Federal Register** document is also accessible via the Internet at the Office of the Federal Register website at http://www.access.gpo.gov/su-docs/aces/aces_140.tml.

SUPPLEMENTARY INFORMATION:

Background

Currently, regulations pertaining to general provisions of the Magnuson-Stevens Act related to Council operations are contained in title 50 of the Code of Federal Regulations (CFR). NMFS is proposing to update part 600

(Regional Fishery Management Councils, subpart B, and Council Membership, subpart C), to codify important provisions of the recently withdrawn Council Operations and Administration Handbook (Handbook), which was a reference guide that compiled various requirements of the Magnuson-Stevens Act and other applicable law, as well as policy guidance. Some of the guidance contained in the Handbook consisted of regulations that were removed from title 50 of the CFR at the time the Handbook was developed. NMFS is proposing to reinstate some of those former regulations because they are not contained elsewhere and they are necessary for the Councils to function. Other proposed additions and revisions reflect necessary policy changes that were not contained in the Handbook, and were not previously in regulation.

Proposal

1. The topic of compensation for Council staff (not Council members) would be added at § 600.120, noting that Council pay rates must be consistent with the pay rates established for General Schedule Federal employees or the alternative personnel management system for the U.S. Department of Commerce (62 FR 67434; December 24, 1997). The Councils have the discretion to adjust pay rates and pay increases for cost of living (COLA) and other adjustments, but no pay adjustment may exceed the applicable percentage of salary for COLA and locality pay available to Federal employees in the same geographic area. In addition, the regulations would prohibit salary increases funded in lieu of life and medical/dental policies, a former regulation that was contained in the Handbook. Other additions at § 600.120 that reinstate former regulations include fair hiring practices and the hiring of an independent legal counsel.

2. The topic of payment for unused sick and annual leave would be added at § 600.120. It would provide that unused sick leave may be accumulated to a maximum as established by the Council. It also provides for the distribution of accumulated funds for unused sick leave to the employee upon his or her retirement, or their estate upon his or her death, as established in the Council's Statement of Organization, Practices, and Procedures (SOPP). Each Council may pay for unused annual leave upon separation, retirement, or death of an employee.

3. A requirement would be added under § 600.125 regarding agreements, including grants, contracts, or cooperative agreements. Councils may

not independently enter into agreements in which they will receive funds, and all such agreements must be approved and entered into by NOAA on behalf of the Council. A policy that was contained in the Handbook regarding the receipt of gifts or contributions would also be added at § 600.125.

4. Policies in the Handbook regarding meeting notification, meeting closures, and voting procedures that were also former regulations would be added at § 600.135.

5. A policy that was contained in the Handbook regarding the disposition of records that was also a former regulation would be added at § 600.150.

6. A policy contained in the Handbook regarding responding to Freedom of Information Act requests that was also a former regulation would be added at § 600.155.

7. The constituent states of the eight Regional Fishery Management Councils are represented by "principal state officials" designated by their Governors. Each principal state official under section 302(b) of the Magnuson-Stevens Act is currently required to be employed, on a full-time basis, in a position related to the development of fisheries management policies for that state. The proposed rule would amend the language at § 600.205 so that a designee of that official would not have to be a full-time employee of the state, with the aforementioned responsibilities, but must be a resident of the state and knowledgeable and experienced in the fishery resources of the geographic area of concern to the Council. This would grant greater flexibility to the principal state official in selecting a designee, who may have the expertise and ability to serve, but might not be a full-time state employee.

8. Section 302(d) of the Magnuson-Stevens Act establishes GS-15, step 7 General Schedule as a Council member's daily pay rate. This proposed rule would remove § 600.245(a) which is inconsistent with the statutory provision.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Chief Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities in the fishing industry. This proposed rule does not affect any small entities. Rather, it establishes procedures or guidelines for