Signed: May 17, 2002.

Bradley A. Buckles,

Director.

[FR Doc. 02–16972 Filed 7–8–02; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 302

[SW H–FRL–7241–7]

RIN 2050–AE88

Correction of Typographical Errors and Removal of Obsolete Language in Regulations on Reportable Quantities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to correct errors and remove obsolete or redundant language in regulations regarding notification requirements for releases of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). EPA has reviewed the CERCLA release reporting regulations and has identified several categories of errors, including: typographical errors in the table of CERCLA hazardous substances; definitions made legally obsolete because of changes in CERCLA's statutory provisions; and redundant or unnecessary information that could be removed from the regulations to simplify these regulations and reduce potential confusion.

In the Rules and Regulations section of today's **Federal Register**, EPA is approving this action as a direct final rule without a prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval of this action is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is anticipated in relation to this rule. If EPA receives adverse written comments on one or more distinct amendments, paragraphs, or sections of the direct final rule, EPA will withdraw the distinct amendments, paragraphs, or sections for which the adverse comment was received by publishing a timely withdrawal in the **Federal Register**. All adverse public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received before or on August 8, 2002.

ADDRESSES: *Comments:* Interested parties may submit an original and two copies of comments referencing docket number 102RQ-CORRECT to (1) if using regular U.S. Postal Service mail: Docket Coordinator, Superfund Docket Office, (Mail Code 5201G), U.S. Environmental Protection Agency Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or (2) if using special delivery such as overnight express service: Superfund Docket Office, Crystal Gateway One, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202.

It would also be helpful, although not mandatory, to include an electronic copy of your comments by diskette or Internet e-mail. For more information, see the ''Electronic Submission of Comments'' portion of the **SUPPLEMENTARY INFORMATION** section of EPA's direct final rule published in today's **Federal Register**.

Docket: Copies of public comments and other materials supporting EPA's decision to correct typographical errors and remove obsolete language from 40 CFR Part 302 may be examined at the U.S. EPA Superfund Docket Office, Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia 22202 [Docket Number 102RQ-CORRECT]. Docket hours are 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Please call (703) 603–9232 for an appointment. You may copy a maximum of 100 pages from any regulatory docket at no charge; additional copies cost 15 cents per page. The Docket Office will mail copies of materials to you if you are located outside the Washington, DC metropolitan area.

FOR FURTHER INFORMATION: Contact Ms. Lynn Beasley of the Office of Emergency and Remedial Response (5204G), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by phone at (703) 603–9086, or by e-mail at *beasley.lynn@epa.gov.*

Dated: June 28, 2002.

Christine Todd Whitman,

Administrator.

[FR Doc. 02–16873 Filed 7–8–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 02–12643]

RIN 2127–AC66

Federal Motor Vehicle Safety Standards: Air Brake Systems

ACTION: Termination of rulemaking.

SUMMARY: Brake blocks, also known as brake linings, are sacrificial components of brake systems. Composed of friction material, they are pressed against brake drums or brake rotors when a vehicle's brakes are activated. The composition and characteristics of brake blocks may vary considerably. This variation has a direct impact on brake performance and vehicle stopping distances. NHTSA received two petitions for rulemaking requesting issuance of standards for brake blocks, one from the American Trucking Associations (ATA) and the other from a private individual, Mr. Ralph Grabowsky. In March 1989, NHTSA granted the ATA petition and partially granted and partially denied Mr. Grabowsky's petition, agreeing to consider beginning rulemaking to develop a standard for marking, identifying and rating the effectiveness of heavy truck brake blocks. After granting these petitions, the agency initiated a number of studies to determine the feasibility of developing effectiveness ratings for heavy truck brake blocks. After examining the data developed from its research as well examining voluntary standards for heavy truck brake blocks, NHTSA has determined that it is unlikely that a suitable test procedure for comparing and rating brake blocks can be developed with currently available test equipment and procedures. Accordingly, the agency is terminating this rulemaking action.

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Mr. Samuel Daniel Jr., Office of Crash Avoidance Standards, NPS–22, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone (202) 366–4921, facsimile (202) 366–4329, electronic mail *sdaniel@nhtsa.dot.gov.*

For legal issues: Mr. Otto G. Matheke, III, NCC–20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone (202) 366–2992,

facsimile (202) 366–3820, electronic mail *omatheke@nhtsa.dot.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. ATA and Grabowsky Petitions

On April 6, 1987, a private individual, Mr. Ralph Grabowsky, petitioned for rulemaking to establish a brake block standard for motor vehicles and equipment, covering stability, friction, fade, proper identification and wear. On August 11, 1987, the American Trucking Associations (ATA) petitioned for a standard that would require rating the effectiveness (coefficient of friction) of all heavy truck brake blocks, and to have that rating permanently marked on the block. In March 1989, NHTSA granted the ATA petition and that portion of the Grabowsky petition concerning the friction rating and identification of brake blocks for heavy-duty vehicles. The agency indicated that it was planning research investigations in the subject area and that information derived from those investigations would be used to help determine whether a notice of proposed rulemaking would be issued. NHTSA explained its denial of the other portions of the Grabowsky petition in a notice published in the **Federal Register** on July 11, 1989 (54 FR 29067).

The ATA petition indicated that the trucking industry believed that voluntary brake block effectiveness rating standards then in place were inadequate and that a federal standard would improve heavy truck stability and braking performance. The Grabowsky petition stated that a new federal standard for brake blocks would reduce deaths, injuries and economic losses resulting from traffic accidents.

2. SAE Test Procedures

At the time the petitions were granted, NHTSA did not have any standard governing the rating and marking of brake blocks. Several voluntary standards were in place. The Society of Automotive Engineers (SAE) recommended practice for rating heavy-duty vehicle brake block performance, SAE Recommended Practice J661a—*Brake Block Quality Control Test Procedure* was one such standard. The SAE also had a recommended practice for marking heavy vehicle brake blocks with performance data based on the results from the J661a procedure. This SAE Recommended Practice, J866—*Friction Coefficient System For Brake Blocks,* designated the normal temperature and high temperature performance of given block material, and specified procedures for printing the J661 performance ratings on the edge of the block.

Based on its evaluations of the J661a test procedures, the trucking industry concluded that the levels of repeatability and reproducibility of the SAE standards were unacceptably low. Additionally, the trucking industry determined that the test procedure was not realistic since it did not use a full-scale brake block or other full-scale heavy-duty vehicle brake hardware. The J866 specifications and ratings were also deemed unacceptable. According to ATA, a given SAE J866 rating covered such a wide range of brake block performance that vehicle brake balance problems were possible using blocks with the same rating. In addition, the J866 procedure for marking the blocks did not result in permanent markings. As a result, vehicle operators and maintenance personnel often could not identify the performance ratings on in-service blocks.

Since the SAE recommended practices for testing brake block effectiveness and the procedure for marking the blocks with an effectiveness value were unacceptable to the industry, the SAE initiated the development of new procedures in the mid-1980s. At that time, the SAE Brake Committee, Brake Effectiveness Task Force, initiated development of a new procedure for evaluation of the effectiveness of heavy vehicle brake blocks, SAE Recommended Practice J1802—*Brake Block Effectiveness Rating.* The SAE began development of a new specification for rating the effectiveness of brake blocks and permanently labeling the blocks with information concerning the effectiveness (torque output), SAE J1801, *Brake Effectiveness Marking for Brake Blocks.*

The SAE J1802 test procedure is a dynamometer test procedure to be used to compare frictional properties of brake blocks. The test conditions specify a reference full-scale air brake assembly of 16.5 in. X 7.0 in. that utilizes S-cam actuation. The test is initiated with a burnish procedure requiring 200 stops with a 9.8 ft/sec^2 deceleration and with an initial brake temperature of 392° F for each stop. The burnish procedure is followed by the normal temperature test for brake effectiveness, which specifies stops at brake chamber pressures of 10, 15, 20, 25, 30, 35, 40, 45, and 50 psi, with an initial brake temperature for each stop of 212° F. A high temperature test for brake effectiveness is conducted after the normal temperature test, using the same procedure as the normal temperature test with the exception of initial brake temperature, which is 572° F. for each stop. The brake output torque and brake input torque are recorded for each stop from the time the specified air pressure is reached until the brake stops. The SAE J1802 brake effectiveness rating is a calculated, non-dimensional quantity that relates the average output torque determined in the procedure, to the average input torque. In order to make the friction ratings available to end users, SAE J1801 specifies that the actual normal temperature and high temperature brake effectiveness values obtained from J1802 testing be engraved to a depth of 0.2 mm on one side or edge of the brake block (block).

3. Agency Efforts To Develop A Rating

In 1990, NHTSA began working with SAE and the Heavy-duty Brake Manufacturers Council (HDBMC) in the development and evaluation of SAE J1801 and J1802 and the development of possible improvements to them. In that year, dynamometer testing to an early version of J1802, was conducted by three different test facilities using their own funds (Greening Labs, Link Engineering, and Vehicle Research and Test Center). The testing produced significantly different effectiveness ratings for brake blocks that were manufactured to have essentially the same performance characteristics. It could not be determined from this testing whether the differences in effectiveness ratings were due to the variations in actual block performance, differences in test fixtures, or differences in the dynamometers at each facility.

In order to determine the cause of the significant differences in the ratings of brake block effectiveness produced by the three facilities, a round-robin series of brake block testing was conducted. Nine organizations with brake dynamometer testing facilities, including the agency's Vehicle Research and Test Center (VRTC), volunteered to participate in the project using their own funds. For this testing, which was conducted in 1991–1992, a single test fixture that included a brake drum and brake blocks was tested at each facility. After completion of testing at one facility, the brake assembly and brake blocks were forwarded to another of the participating facilities. The primary purpose of this series of tests was to determine the variability of the test results due to differences in the dynamometers at each facility. The test results revealed a small (10–15%) variation in test results that could be attributed to the differences in the dynamometers at each facility.

Based on the results of the single fixture testing results, VRTC conducted

a second series of voluntary round-robin testing in 1992 and 1993 to evaluate the repeatability and reproducibility of the J1802 test procedure. Six brake testing facilities participated in this test series, which involved determining the normal and high temperature brake effectiveness ratings for three brake block materials using the J1802 test procedure. Each facility was supplied with a brake drum and several sets of blocks. The blocks supplied to each facility by a given manufacturer were from the same batch or block manufacturing cycle. Although the entire test series was not completed by all participants, sufficient data were produced for the agency to determine that there was as much as a 50% variation of the effectiveness ratings for the same brake block material when tested at different facilities, and a 20% variation in the effectiveness ratings for the same block material during different tests at the same facility.

The first round-robin test series indicated that the differences in the test facility dynamometers resulted in as much a 10–15% difference in brake block effectiveness values. The increased variation in effectiveness ratings experienced in the second round-robin was attributed to other test parameters such as test fixture, the method of brake assembly installation on the test fixture, and the brake preparation (brake burnishing and brake block grinding).

Additional SAE J1802 research was conducted in 1993–1994 by VRTC with the coordination from HDBMC. These tests were conducted to study the effects of block burnishing and pre-test grinding procedures on the variability in effectiveness demonstrated in the second round-robin test series. The results indicated that neither the burnishing nor grinding of the blocks eliminated variability in brake effectiveness ratings. The pattern of large variations in the SAE J1802 effectiveness ratings from one test facility to the other was unaffected when different burnishing and grinding techniques were used to prepare the blocks for testing.

The 1990–1994 testing by VRTC and other brake test facilities led NHTSA to believe that the SAE J1802 test procedure lacked the repeatability and reproducibility that is needed for federal safety standards. The agency further concluded that the problems were not minor, and considerable time and resources would likely be necessary to solve them. For these reasons, NHTSA decided in 1994 against incorporating the SAE J1802 test procedures into the federal brake performance requirements.

In 1996, NHTSA initiated a project aimed at developing a brake block rating scheme that could be used to provide information to consumers about the effectiveness of heavy truck brake blocks. A one-year feasibility project was conducted at VRTC, which developed several effectiveness test components and test procedures that were different from those in SAE J1802. These differences included variations in burnish cycles, the number of effectiveness stops, and block pre-cutting profiles. New test fixture components and effectiveness test procedures were used to test one original equipment brake block and several aftermarket blocks. Although the VRTC-developed fixture and procedure were successful in eliminating some of the effectiveness variability experienced with SAE J1802, the modified procedure still resulted in considerable variation in block effectiveness. There was a 20–30% variation in effectiveness rating results when a single brake block was tested 10 consecutive times with the new brake components and modified procedures. VRTC then evaluated the variability that might result from using different brake blocks. An original equipment block and two aftermarket brake blocks recommended as replacement blocks were tested. The variability of the effectiveness rating for the original equipment block was about 10%. The variability of the test results for the two aftermarket replacement blocks was 18–25% for one block and 8–25% for the other.

In 1997, NHTSA reviewed the previous J1802 evaluation projects and the NHTSA 1996 research project designed to develop an improved rating procedure for heavy-duty brake block torque effectiveness. The agency decided to examine the SAE J1802 procedure further and determine what, if any modifications would be required to improve the consistency of the test results. A VRTC project, entitled ''S-Cam Brake Effectiveness Comparison Using Two Fixtures and Two Block Types on a Single Inertia Dynamometer,'' examined the effect of using two different test fixtures on the SAE J1802 brake effectiveness ratings. The project was initiated in 1998 and the draft final report was circulated for comment within the agency in January 2000. Measurements were taken on several components of the two SAE J1802 test fixtures including the S-cam profile, the chamber force-displacement calibrations, and brake spider position. VRTC determined that the measured differences in these brake fixture dimensions and performance characteristics were minimal. The two fixtures were then used to test two different sets of brake blocks from two different manufacturers. To eliminate potential sources of variation in the test results, the testing was conducted with the same operator and dynamometer. A limited number of tests indicated that the test fixtures, which were used in previous SAE J1802 testing, did not contribute significantly to the 10.2% variation in effectiveness ratings. Results from previous SAE J1802 testing indicated the existence of several potential causes for variation in block effectiveness ratings including the dynamometer, operator, test set-up procedures, and brake block and/or brake drum material differences.

A computer study funded by the Federal Highway Administration (FHWA) examined the effect of several S-cam type brake parameters on the brake output torque (effectiveness). This computer simulation study, conducted by the University of Michigan Transportation Research Institute (UMTRI), and completed in 1999, found that small variations in the test fixtures could cause significant changes in brake output torque. The study further stated that the brake equilibrium reached during burnish could be disturbed when brake actuation pressure is above or below the burnish pressure. This non-equilibrium condition, caused by differential block wear between the leading and trailing block at equilibrium, may result in the instability of the brake effectiveness ratings experienced in the SAE J1802 testing. The study concluded by recommending that the computer model be extended to include block wear properties to further examine the SAE J1802 brake effectiveness variations.

B. Discussion

As discussed above, NHTSA, FHWA, SAE, and ATA have conducted research over the past 10 years to develop test devices and repeatable, reliable, and reproducible test procedures suitable for the development of heavy vehicle brake block performance ratings. Much of the research activity has focused on the SAE J1802 procedure, which was originally developed in the mid-1980s. Testing conducted in accordance with the SAE J1802 procedures from 1990 through 1994 resulted in brake block effectiveness ratings that vary by up to 50% when a given block is tested at different facilities. Even when a given brake block was subjected to repeat testing at the same facility, test results varied by as much as 20 percent. This level of variability may be acceptable for some applications, but is unacceptably

high for a federal brake block effectiveness rating. Agency efforts made in 1994 and 1995 to reduce this variability were unsuccessful. Further efforts to develop a reliable test procedure, including the 1996 VRTC alternative test scheme study, the VRTC ''S-cam brake comparison study'' and the UMTRI ''S-cam brake computer sensitivity study'' have not reduced this unacceptably high level of variability.

Although SAE J1802 was published in 1993, the research conducted by NHTSA and the other test facilities has consistently indicated that the procedure is not highly accurate at measuring brake block torque output. Consequently, very few brake blocks are marked according to the marking procedure specified in SAE J1801. Resistance to use of the J1802 rating and the J1801 markings is based on the belief that the J1802 ratings suffer from high variability in test results and are not a good predictor of brake block effectiveness.

As a result of the slow progress of SAE J1802 development, the ATA Maintenance Council developed a Recommended Practice (RP) for rating the torque capacity of replacement brake blocks and issued this practice, RP 628, in 1995. The RP 628 uses the dynamometer test procedure in Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems* to ensure that replacement brake blocks meet the same requirements as brake blocks for new vehicles. The Maintenance Council and the SAE periodically publish a list of blocks that meet all the FMVSS No. 121 dynamometer test performance requirements. The publications also include the brake output torque measured during a 40-psi constant-brake-chamber-pressure stop to allow comparison of the torque output capacity (effectiveness) of different brake blocks. It was recognized that this procedure had a number of shortcomings and was intended to be an interim procedure. However, RP628 is currently the procedure used most often by brake block manufacturers to evaluate the torque output performance of heavy vehicle, domestic blocks.

Although the Economic Commission for Europe (ECE) has developed a brake block standard, this standard does not provide much guidance for developing a standard suitable for conditions in the U.S. The ECE has procedures for evaluating the torque output performance of replacement brake blocks for powered vehicles and trailers, which are contained in ECE Regulation No. 90 (R90), ''Uniform Provisions Concerning the Approval of Replacement Brake Block Assemblies and Drum Brake Blocks for Power-Driven Vehicles and Their Trailers.'' In general, replacement blocks for heavy trucks, buses, and trailers may be evaluated by installing the blocks on a vehicle for which they are designed and conducting portions of the brake testing specified in ECE Regulation 13, ''Uniform Provisions Concerning the Approval of Vehicle Categories M, N, and O With Regard to Braking.'' Replacement blocks are approved for use only on the type of vehicle tested if the ECE R13 performance requirements are met. Replacement blocks may also be tested for approval either through an inertia dynamometer test procedure or a rolling bench test. If the dynamometer test or the rolling bench test is used to obtain approval for replacement blocks, original equipment blocks for the same type of vehicles must also be tested with the dynamometer or rolling bench procedure. Approval of the replacement blocks is based on a comparison between the test results of the replacement blocks and the original equipment blocks.

To date, none of the ECE member countries or Japan has voluntarily adopted the R90 procedures and requirements for heavy truck, bus, or trailer replacement brake blocks. The ECE R90 requirements were scheduled to become effective in all European Economic Commission (EEC) member countries, in the form of EEC Directive 98/12, in the mid-2000s. There are several issues surrounding the implementation of ECE Directive 98/12 for heavy trucks and trailers that are currently being addressed. According to EEC Directive 98/12 (ECE R90), brake blocks for heavy vehicles are to be packaged in full axle sets (brake blocks for left and right side wheels in the same package). These packages must be handled mechanically due to their weight and consequently, transportation and handling of these packages will be difficult unless there are some adjustments to the packaging requirements. Additionally, the European friction material manufacturers do not generally assemble the blocks to the brake shoes. As a result, mismatching of shoe-block attachment hardware (rivets and rivet bore sizing) is also an issue. As noted, the regulation requires that the performance of replacement blocks be compared to the performance of original equipment blocks if the dynamometer or rolling bench tests are used for approval. The specific tests and compliance requirements for these tests have not been finalized to date.

As previously stated, the agency does not consider the EEC Directive 98/12 (ECE R90) test procedures and performance requirements as suitable for application in the U.S. The full-scale vehicle test using older model vehicles equipped with new replacement parts is costly and time-consuming. In addition, this testing only assesses brake block performance in a specific vehicle. To date, test procedures and compliance requirements for the dynamometer test and the rolling bench test in Europe have not been finalized. We have asked the European governments and industry, at the ECE meetings of the Working Party on Brakes and Running Gear (GRRF), for any research data, tests, or other findings that they may have, which could assist NHTSA in developing an acceptable test for brake block effectiveness. They indicated that they did not have any such data.

In considering whether to commence a rulemaking action in this case, NHTSA notes that the continuing difficulties encountered in developing an acceptable brake block effectiveness test indicate that an acceptable test is elusive. Further, in deciding whether to continue this effort, and to expend agency resources in furtherance of this effort, the agency must also consider the safety problem to be addressed by a brake block effectiveness standard and whether other means are available to address that problem. ATA's petition for rulemaking indicated that heavy vehicle wheel lockup and the resultant potential for instability was one of the primary concerns it sought to have the agency address through a brake block effectiveness rule. In theory, using brake blocks with a similar effectiveness on each axle can reduce the risk of instability in situations where brake blocks with different friction characteristics would cause braked wheels to decelerate at different rates. Wheel lockup can have a severe impact on vehicle control and stability, particularly in heavy trucks and truck-trailer combinations under slippery roadway conditions.

NHTSA believes that there are safety benefits that would be associated with the issuance of a heavy vehicle brake block performance rating standard, although we are not aware of any study that has quantified these benefits. As a result, the agency does not believe the research in this area should be terminated, although the current problems will not be readily solved based on the experience of the past 10–12 years. The agency wants to be clear on the fact that only the rulemaking activities are being terminated, not the research. In fact, as proposed by the Senate, the agency's fiscal year 2002 budget includes $300,000.00 for

research into brake lining friction. A reliable rating system would allow vehicle users to select brake blocks with similar wear and performance characteristics. A reliable rating system would also allow users to select a block appropriate for the expected use of the vehicle. However, the most recently completed research projects indicate that considerably more research is required to improve the reliability of existing test procedures or to develop another acceptable procedure.

Further, the agency notes that heavy truck stability under braking has been addressed by a means other than a brake block effectiveness rating standard. In March 1995, the agency issued final rules requiring antilock brake systems (ABS) on heavy-duty vehicles including air braked truck tractors, trucks and buses, and hydraulically braked trucks and buses (60 FR 13216, March 10, 1995). The rule became effective for air-braked truck tractors in March 1997. For air-braked trailers, single unit trucks and buses, the requirements for ABS became effective in March 1998. The ABS requirements for hydraulically-braked trucks and buses became effective in March 1999. NHTSA believes that the ABS requirements will significantly reduce wheel lockup and the resultant potential for vehicle instability. ABS reduces the vehicle instability that results from brake imbalance because it modulates the brake torque to prevent lockup at each wheel or axle where it is installed. ABS does not address or alleviate all safety concerns related to differential brake block performance such as stopping distance performance. However, the ABS requirement improves vehicle stability during braking, which is the primary concern expressed by ATA in the original petition.

Due to the substantial technical obstacles that still remain in regard to development of a test procedure and the advent of ABS requirements that, in part, address the safety need that would be met by a brake block effectiveness rating, NHTSA has determined that further rulemaking action on the Grabowsky and ATA petitions is unwarranted. However the agency does not believe that research and evaluation of a dynamometer-based procedure for evaluating the torque output of heavy vehicle brake blocks should be terminated.

C. Agency Determination

For the reasons stated above, NHTSA is terminating this rulemaking action.

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

Issued on: July 3, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–17193 Filed 7–8–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 062102B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has determined that an application for EFPs contains all of the required information and warrants further consideration. The Regional Administrator is considering the impacts of the activities to be authorized under the EFPs with respect to the Northeast Multispecies Fishery Management Plan (Multispecies FMP) and the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (Highly Migratory Species (HMS) FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. Therefore, NMFS announces that the Regional Administrator proposes to issue EFPs in response to an application submitted by the East Coast Tuna Association that would allow five purse seine vessels to fish for giant Atlantic bluefin tuna (*Thunnus thynnus*) in Northeast multispecies year-round Closed Area I, where use of purse seine gear is currently prohibited. The purpose of the study is to collect information regarding bycatch of—and interactions of purse seine gear with—groundfish species, other species, and marine mammals, and to record contact with the ocean bottom or with any Essential Fish Habitat (EFH). The results of this EFP would allow NMFS and the New England Fishery Management Council (Council) to evaluate the feasibility of allowing purse seine gear in Closed Area I as an exempted gear on a permanent basis.

DATES: Comments on this action must be received at the appropriate address or fax number (see **ADDRESSES**) on or before July 24, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on EFP Proposal.'' Comments may also be sent via fax to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the Environmental Assessment and the Regulatory Impact Review (EA/RIR) are available from the Northeast Regional Office at the same address.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Policy Analyst, phone: 978–281–9103, fax: 978–281–9135, email: allison.ferreira@noaa.gov

SUPPLEMENTARY INFORMATION:

Background

The Georges Bank and Southern New England (GB/SNE) multispecies year-round closed areas were established under the Multispecies FMP to provide protection to concentrations of regulated multispecies, particularly cod, haddock, and yellowtail flounder. Consequently, all fishing in these year-round closed areas was prohibited, with a few exceptions. The only exceptions allowing access to the closed areas were fishing activities known to have a very low incidence of multispecies bycatch. For example, pelagic midwater trawl gear was determined to have a negligible catch of regulated multispecies because the gear fishes well off the ocean floor. As a result, it is an allowed gear in the GB/SNE multispecies closed areas.

Purse seine gear is typically used to target pelagic species such as herring, mackerel, and tuna that are concentrated at or near the surface of the ocean. This type of gear is not designed or intended to fish for species at or near the ocean floor, and is typically considered to have very little interaction with bottom-dwelling species such as groundfish. Observer data from the 1996 tuna purse seine fishery, the last year the fishery carried full-time observers, documented a small catch of regulated groundfish, other demersal species, and bottom debris (i.e., sponges and empty shells) in 20 out of 39 observed sets. Out of these 20 sets, only 4 occurred inside Closed Area I, in depths ranging from 28 to 35 fathoms (fm). In 2000, EFPs were issued to four purse seine vessels to collect information on the interaction between purse seine gear and demersal species