

**FEDERAL COMMUNICATIONS  
COMMISSION**
**47 CFR Part 73**

[MM Docket No. 97-129; RM-9076]

**Radio Broadcasting Services; New  
Martinsville, WV**

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Seven Ranges Radio Company, Inc., proposing the allotment of Channel 222A at New Martinsville, West Virginia, as potentially the community's third local FM transmission service. Channel 222A can be allotted to New Martinsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) south to avoid a short-spacing to the licensed site of Station WWHC(FM), Channel 222A, Oakland, Maryland. The coordinates for Channel 222A at New Martinsville are North Latitude 39-34-38 and West Longitude 80-51-16. Since New Martinsville is located within 320 kilometers (200 miles) of the United States-Canadian border, concurrence of the Canadian government has been requested.

**DATES:** Comments must be filed on or before June 30, 1997, and reply comments on or before July 15, 1997.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Thomas P. Taggart, Esq., P.O. Box 374, St. Marys, West Virginia 26170 (Counsel for Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97-129, adopted April 30, 1997, and released May 9, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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**

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 97-12603 Filed 5-13-97; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**
**National Highway Traffic Safety  
Administration**
**49 CFR Part 571**

[Docket No. 97-030; Notice 1]

**RIN 2127-AG47**

**Federal Motor Vehicle Safety  
Standards; Lamps, Reflective Devices  
and Associated Equipment**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Federal motor vehicle safety standard on lighting to permit white reflex reflectors designed to be mounted horizontally in trailer and truck tractor conspicuity treatments to be mounted vertically in upper rear corner locations if they comply with photometric requirements when tested horizontally. This action implements the grant of a rulemaking petition from James King & Co. and will have the benefit of simplifying compliance with the standard.

**DATES:** Comments are due June 30, 1997. The amendments would become effective 45 days after publication of the final rule.

**ADDRESSES:** Comments should refer to the docket number and notice number, and must be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.).

**FOR FURTHER INFORMATION CONTACT:** Patrick Boyd, Office of Safety Performance Standards, NHTSA (Phone: 202-366-5275; FAX 202-366-4329).

**SUPPLEMENTARY INFORMATION:** Paragraph S5.7 of Motor Vehicle Safety Standard No. 108 specifies conspicuity system requirements for truck tractors, and trailers of 80 or more inches overall width and a gross vehicle weight rating of more than 10,000 pounds. Part of the conspicuity treatment consists of two pairs of white material applied horizontally and vertically to the right and left upper contours of the body. This material may be either white retroreflective sheeting, or white reflex reflectors.

This agency has received a petition for rulemaking concerning white reflectors. Paragraph S5.7.2.1(c) requires white reflex reflectors to "provide at an observation angle of 0.2 degree, not less than 1250 millicandelas/lux at any light entrance angle between 30 degrees left and 30 degrees right, including an entrance angle of 0 degree, and not less than 300 millicandelas/lux at any light entrance angle between 45 degrees left and 45 degrees right." A petition from James King & Co. states that white reflectors designed to give the required performance at 30 and 45 degree right and left entrance angles when mounted horizontally cannot do so in the right and left directions when tested in the vertical position. Consequently, when white reflex reflectors are molded in bars of multiple reflectors, the reflector bars required for the two upper rear vertical positions must be different from the reflector bars that are used in horizontal positions to fulfill conspicuity requirements. King has asked NHTSA for rulemaking to allow use of horizontal bars meeting S5.7.2.1(c) in vertical positions.

The agency has granted this petition. The white upper material is part of the rear conspicuity treatment to improve the distance perception of a driver of a faster, overtaking vehicle in the same lane. In this circumstance, the usual view of the truck tractor or trailer by the driver is close to orthogonal. Since the upper rear corner material is meant to provide a two dimensional image to vehicles approaching in the same lane, it does not operate at the high light-entrance angles typical of views of the sides of vehicles. A conspicuity-grade reflex reflector bar, regardless of its mounting orientation, will provide excellent retroreflective performance at the low light entrance angles typical of upper rear corner material. The fact that

a different reflex reflector bar has had to be used for the vertical portion of the upper rear treatment is an unintended consequence of the agency's rulemaking activities.

NHTSA tentatively agrees with the petitioner that reflex reflector bars designed for horizontal mounting should be permitted to be mounted vertically in the rear upper corners. As the petitioner pointed out, a corner treatment composed of two identical reflector bars mounted at right angles maximizes the total range of light entrance angles at which at least part of the upper treatment can reflect at full brightness. The agency is therefore proposing that Standard No. 108 be amended to add new paragraph S5.7.2.2(c) allowing reflex reflectors meeting the requirements of paragraph S5.7.2.1(c) when installed horizontally to be installed in all orientations required at the rear upper locations on truck tractors and trailers subject to the conspicuity requirements. Such an action will simplify compliance and should encourage the retrofitting of vehicles in service not subject to the conspicuity requirements.

#### Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments

received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

#### Effective Date

Since the final rule would not impose any additional burden and is intended to afford an alternative to existing requirements, it is hereby tentatively found that an effective date earlier than 180 days after issuance of the final rule is in the public interest. The final rule would be effective 45 days after its publication in the **Federal Register**.

#### Rulemaking Analyses

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

This rulemaking action has not been reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The effect of the rulemaking action would be to allow the same white reflex reflector bars to be used for vertical and horizontal locations on the rear of truck tractors and trailers, rather than two different types of bars. The final rule would not impose any additional burden upon any person. A final rule based on such an action would reduce costs both to manufacturers and consumers. Impacts of the rule are so minimal as not to warrant preparation of a full regulatory evaluation.

##### *Regulatory Flexibility Act*

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action would not have a significant economic effect upon a substantial number of small entities. Motor vehicle manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions would not be significantly affected since the price of new motor

vehicles should not be impacted. As noted above, the cost impacts per vehicle are relatively minor. Accordingly, no Regulatory Flexibility Analysis has been prepared.

##### *Executive Order 12612 (Federalism)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 on "Federalism." It has been determined that the rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

##### *National Environmental Policy Act*

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action would not have a significant effect upon the environment as it does not affect the present method of manufacturing reflex reflectors.

##### *Civil Justice Reform*

This rulemaking action would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Under 49 U.S.C. 30163, a procedure is set forth for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

#### List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

#### **PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

1. The authority citation would continue to read as follows:

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

##### **§ 571.108 [Amended]**

2. Section 571.108 would be amended by adding new paragraph S7.5.2.2(c) to read as set forth below:

S7.5.2.2 \* \* \*

(c) If white reflex reflectors comply with paragraph S7.5.2.1(c) when installed horizontally, they may be installed in all orientations specified for

rear upper locations in paragraph  
S5.7.1.4.1(b) or paragraph S5.7.1.4.3(b).

Issued on: April 29, 1997.

**L. Robert Shelton,**

*Associate Administrator for Safety  
Performance Standards.*

[FR Doc. 97-12585 Filed 5-13-97; 8:45 am]

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