

quickly at lower overall costs and with fewer accidents and litigation.

(b) The use of partnering is encouraged as it has been shown to reduce the average contract cost and schedule growth and to reduce contract claims and litigation.

(c) Partnering is a voluntary contract relationship within the management process that is not to be used to unofficially alter terms of the contract.

1836.7003 Policy.

(a) Partnering should be used on a contract when the contracting officer, in coordination with the project manager, determines that the benefits to be achieved from its use are expected to be greater than the costs.

(b) In determining whether the benefits of partnering are greater than the costs, the following factors should be considered:

(1) The estimated dollar value of the contract;

(2) The complexity of the work to be performed;

(3) The contemplated length of the contract; and

(4) The estimated costs to be incurred in conducting the partnership development and team building initial and follow-up workshops.

1836.7004 NASA solicitation provision and contract clause.

The contracting officer may insert a clause substantially the same as stated at 1852.236-75, Partnering for Construction Contracts, in solicitations and contracts for construction, when it has been determined in accordance with 1836.7003 that the benefits to be derived from partnering exceed the costs.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.236-75 [Added]

3. Section 1852.236-75 is added to read as follows:

1852.236-75 Partnering for construction contracts.

As prescribed in 1836.7004, insert the following clause:

Partnering for Construction Contracts—August 1998

(a) The terms “partnering” and “partnership” used herein shall mean a relationship of open communication and close cooperation that involves both Government and Contractor personnel working together for the purpose of establishing a mutually beneficial, proactive, cooperative environment within which to achieve contract objectives and resolve issues and implementing actions as required.

(b) Partnering will be a voluntary commitment mutually agreed upon by at

least NASA and the prime contractor, and preferably the subcontractors and the A&E design contractor, if applicable. Sustained commitment to the process is essential to assure success of the relationship.

(c) NASA intends to facilitate contract management by encouraging the foundation of a cohesive partnership with the Contractor, its subcontractors, the A&E design contractor, and NASA's contract management staff. This partnership will be structured to draw on the strengths of each organization to identify and achieve mutual objectives. The objectives are intended to complete the contract requirements within budget, on schedule, and in accordance with the plans and specifications.

(d) To implement the partnership, it is anticipated that within 30 days of the Notice to Proceed the prime Contractor's key personnel, its subcontractors, the A&E design contractor, and NASA personnel will attend a partnership development and team building workshop. Follow-up team building workshops will be held periodically throughout the duration of the contract as agreed to by the Government and the Contractor.

(e) Any cost with effectuating the partnership will be agreed to in advance by both parties and will be shared with no change in the contract price. The contractor's share of the costs are not recoverable under any other Government award.
(End of clause)

[FR Doc. 98-22023 Filed 8-17-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 555

[Docket No. 98-NHTSA-4285]

RIN 2127-AH44

Temporary Exemption From Motor Vehicle Safety Standards

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

ACTION: Technical amendments; final rule.

SUMMARY: This document amends Part 555 to clarify procedures for submitting confidential business information to accompany applications for temporary exemption from one or more of the Federal motor vehicle safety standards. The intent of the rule is to simplify the process for manufacturers who may wish to claim confidentiality for information in their applications.

The agency is also amending the temporary exemption procedures to give examples of factors that may be relevant in preparing hardship applications, and in demonstrating that good faith efforts

have been made to comply with standards for which an exemption may be sought.

Finally, the agency is updating statutory references and the location of the docket room where public comments are available for inspection.

DATES: The final rule is effective August 18, 1998.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION: The primary purpose of this document is to clarify the agency's confidential business information procedures so that applicants for temporary exemption from the Federal motor vehicle safety standards may comply with NHTSA's procedural requirements without unnecessary delay.

Manufacturers who apply for temporary exemptions from Federal motor vehicle safety standards are afforded an opportunity to “specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with part 512” of Chapter V, Title 49, Code of Federal Regulations. Part 512, *Confidential Business Information*, is the agency's regulation setting forth the procedures under which NHTSA will consider claims that information submitted to the agency is confidential business information as described in 5 U.S.C. 552(b)(4).

The agency has found that, when some manufacturers file their exemption applications, they assert a claim for confidentiality without submitting the documentation required by part 512, or otherwise substantiating their request. The absence of substantiation causes unnecessary delay while the Office of Chief Counsel contacts the applicant and explains the necessity of either submitting substantiation or withdrawing its request.

NHTSA has also found that when some small manufacturers apply for the first time for a temporary exemption based on a claim that compliance would cause them substantial economic hardship, they do not request confidential information for the financial information they submit in support of their claim of hardship. They do not realize they must make a specific request for confidentiality to prevent the information from becoming a matter of public record. This omission by applicants had limited consequences when their applications were available only through inspection in NHTSA's docket room. However, the applications and their supporting information are now placed “on line” and may be

accessed through the internet, making possible a much wider exposure. This problem is readily avoidable through making the necessary request for withholding information from public disclosure. It has been NHTSA's practice to grant confidentiality, when requested, to such information, and to deny it only with respect to the information absolutely required to explain or justify a hardship decision, which must be shared with the public as the basis for NHTSA's decision. For example, the agency must make public the company's net losses in the three years immediately preceding the filing of its application.

NHTSA is therefore amending § 555.5(b)(6) to add subparagraphs (i) and (ii). Under Sec. 555.5(b)(6)(i), a manufacturer's specification of withholding must be submitted in accordance with 49 CFR 512.4, *Asserting a claim for confidential information*. Under § 555.5(b)(6)(ii), the manufacturer's request for withholding must be accompanied by a certification in support as set forth in Appendix A to 49 CFR Part 512. NHTSA believes that these reminders will ensure timely compliance with the confidential business information, to the advantage of both the applicant and NHTSA.

In a related issue, in 1996, the agency received a petition for rulemaking from the Coalition of Small Vehicle Manufacturers (COSVAM) to amend Parts 555 and Part 571. Although no formal action has been taken on this petition, the agency is amenable to two of the requests relating to § 555.6(a), the provisions under which the Administrator may temporarily relieve a manufacturer from compliance upon finding that "compliance would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith." 49 U.S.C. 30113(b)(3)(B)(I).

Under § 555.6(a)(1)(vi), an applicant is invited to discuss "any other hardships (e.g., loss of market) that the petitioner desires the agency to consider." COSVAM asked that the agency consider "factors such as the difficulty in obtaining suppliers * * *." It is a common refrain of small volume manufacturers that it is difficult for them to interest outside suppliers in engineering air bags or antilock brake systems for limited production vehicles. NHTSA has taken this claim into account when the issue has been raised, and considered it in formulating a decision. Accordingly, NHTSA is codifying this practice by adding "difficulty in obtaining suppliers" to loss of market as an example of a

hardship whose existence may be argued when it is relevant to do so.

COSVAM also argued that the agency should be specific about factors it takes into consideration in determining whether an applicant has tried in good faith to comply. Two of these factors cited as relevant by COSVAM are the resources available to the applicant, and its inability to procure goods and services necessary for compliance following a timely request. The agency has also considered these factors in its deliberations without necessarily discussing them in each relevant case. NHTSA is also amenable to codifying this practice by expressly citing these factors in part 555 as relevant to the hardship argument. Accordingly, it is adding a new § 555.6(a)(2)(iii) to implement COSVAM's request.

Finally, NHTSA is adopting several technical amendments. The National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) was repealed on July 5, 1994, and reenacted without substantive change as 49 U.S.C. Chapter 301-Motor Vehicle Safety. References to the former statute have been changed to reflect the new references in Sec. 555.1 and Sec. 555.10(b). Since the location of the NHTSA Docket Room was changed in 1997, § 555.10(a) has been revised to substitute the new location.

Effective Date

Since the amendment relates to internal procedures, prior notice and comment on it are not required under the Administrative Procedure Act. Since the rule imposes no additional burden upon any party, the agency hereby finds that an effective date earlier than 180 days after issuance is in the public interest, and the final rule is effective upon its publication in the **Federal Register**.

Rulemaking Analyses

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice has not been reviewed under E.O. 12866. After considering the impacts of this rulemaking action, NHTSA has determined that the action is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The final rule makes no substantive changes. The impacts are so minimal as not to warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act. For the

reasons discussed above, I certify that this action would not have a significant economic impact upon "a substantial number of small entities." The amendment is intended to assist potential applicants for temporary exemptions, including small businesses, to understand agency procedures so that, if a request for confidentiality is made, the documentation will be complete at the time the request is made. It is also designed to provide guidance as to arguments the agency considers relevant in making decisions upon exemption applications. Governmental jurisdictions will not be affected at all since they are generally neither importers nor purchasers of nonconforming imported motor vehicles.

C. Executive Order 12612 (Federalism)

The agency has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act and concludes that the action will not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles produced or imported will not vary from that existing before promulgation of the rule.

E. Civil Justice Reform

This final rule will 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. A procedure is set forth in 49 U.S.C. 30161 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.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the

private sector, of more than \$100 million annually. Since this final rule will not have a \$100 million effect, no Unfunded Mandates assessment has been prepared.

List of Subjects in 49 CFR Part 555

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 555 is amended as follows:

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 555 continues to read as follows:

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

§ 555.1 [Amended]

2. Section 555.1 is amended by removing "section 123 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1410" and adding in its place "49 U.S.C. 30113."

3. New § 555.5(b)(6)(i) and (ii) are added to read as follows:

§ 555.5 Petition for exemption.

* * * * *

(b) * * *

(6) * * *

(i) The information and data which petitioner requests be withheld from public disclosure must be submitted in accordance with § 512.4 *Asserting a claim for confidential information of this chapter.*

(ii) The petitioner's request for withholding from public disclosure must be accompanied by a certification in support as set forth in appendix A to part 512 of this chapter.

* * * * *

4. a. Section 555.6(a)(1)(vi) is revised to read as follows:

b. Section 555.6(a)(2)(iii) and (iv) are redesignated as (a)(2)(iv) and (v) respectively; and

c. New § 555.6(a)(2)(iii) is added to read as follows:

§ 555.6 Basis for petition.

(a) * * *

(1) * * *

(vi) A discussion of any other hardships (e.g., loss of market, difficulty of obtaining goods and services for compliance) that the petitioner desires the agency to consider.

(2) * * *

(iii) A discussion of any other factors (e.g., the resources available to the petitioner, inability to procure goods and services necessary for compliance following a timely request) that the petitioner desires the NHTSA to

consider in deciding whether the petitioner tried in good faith to comply with the standard;

* * * * *

§ 555.10 [Amended]

5. The first sentence of § 555.10(a) is amended by removing "Docket Section, Room 5109, National Highway Traffic Safety Administration," and by adding in its place "Docket Management, Room PL-401."

6. Section 555.10(b) is amended by removing "sections 112, 113, and 158 of the Act (15 U.S.C. 1401, 1402, and 1418)" and adding in its place "49 U.S.C. 30166 and 30167."

Issued on: August 11, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98-21956 Filed 8-17-98; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 980320071-8128-02; I.D. 080698A]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Fishery; Inseason Adjustment; Closure

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

ACTION: Adjustment of 1998 Atlantic bluefin tuna (BFT) Angling category quotas; closure.

SUMMARY: NMFS announces that the domestic western Atlantic bluefin tuna (BFT) category quotas for the Angling category are being adjusted due to revised estimates of landings in 1997 and due to a transfer from the Reserve to the Angling category. This adjustment results in a revised 1998 Angling category quota breakdown as follows: School size BFT—92 metric tons (mt) and large school/small medium size BFT—151 mt. The quota for the trophy size class remains at 8 mt. Furthermore, NMFS closes the southern area fishery (Delaware and states south) for school size BFT only. Closure of this fishery is necessary because the revised southern area subquota has been attained. The intent of these actions is to prevent exceeding the quota established for the Angling category fishery.

DATES: Effective 11:30 p.m. local time on August 13, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 301-713-2347, or Pat Scida, 978-281-9260.

SUPPLEMENTARY INFORMATION:

Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

If a quota in any category or, as appropriate, subcategory has been exceeded or has not been reached, the Assistant Administrator for Fisheries, NOAA (AA), is required under § 285.22(h) to subtract the excess from, or add the remainder to, that quota category for the following year, provided that the total of the adjusted quotas and the Reserve is consistent with a recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The AA is further required to publish in the **Federal Register** any amounts to be subtracted or added and the basis for the quota reductions or increases.

On May 21, 1998 (63 FR 27862), the final quota specifications were published, effective May 15, 1998, notifying the public that 4 mt remained unharvested in the Angling category at the end of 1997. New information indicates the actual Angling category harvest to be different than those reported. The difference is enough to warrant a readjustment of the Angling category quota.

In the final specifications, the adjusted 1998 Angling category quota of 269 mt was subdivided as follows: 108 mt of school BFT (consistent with the ICCAT limitation on annual catch of school BFT to 8 percent by weight of the total annual domestic quota, i.e., 1,344 mt), with 57 mt to the northern area and 51 mt to the southern area; 153 mt of large school/small medium BFT, with 81 mt to the northern area and 72 mt to the southern area; and 8 mt of large medium/giant BFT, with 3 mt to the northern area and 5 mt to the southern area. Revised 1997 Large Pelagic Survey landings estimates indicate that the 151 mt quota for large school and small medium size BFT was exceeded by 19 mt and that the 108 mt quota of school size BFT was exceeded by 16 mt.

Given these revised landings in 1997, equivalent reductions for school and large school/small medium size BFT are necessary for the final Angling category quotas in 1998. In addition, NMFS is transferring 19 mt from the Reserve category to the large school/small