

**List of Subjects in 47 CFR Part 1**

Communications common carriers.

Accordingly, 47 CFR 1.767(e) is corrected by making the following correcting amendments:

**PART 1—PRACTICE AND PROCEDURE**

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

**Authority:** 15 U.S.C. 79 *et seq.*

2. Section 1.767(e) is corrected to read as follows:

**§ 1.767(e) [Corrected]**

\* \* \* \* \*

(e) A separate application shall be filed with respect to each individual cable system for which a license is required, or for which modification or amendment of a previous license is requested. The application fee for a non common-carrier cable landing license is payment type code BJT. Applicants for common carrier cable landing licenses shall pay the fees for both a common carrier cable landing license (payment type code CXT) and overseas cable construction (payment type code BIT). There is no application fee for modification of a cable landing license, except that the fee for assignment or transfer of control of a cable landing license is payment type code CUT. See § 1.1107(2) of this chapter.

\* \* \* \* \*

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 00-21625 Filed 8-24-00; 8:45 am]

**BILLING CODE 6712-01-P**

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

[DA 00-1740; MM Docket No. 98-89; RM-9279, RM-9670]

**Radio Broadcasting Services; Hanna and Baggs, Wyoming**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Mountain Tower Broadcasting, allots Channel 271C to Hanna, Wyoming, as the community's first local aural service, and, at the request of Mount Rushmore Broadcasting, Inc., allots Channel 277A at Hanna and Channel 277A to Baggs, Wyoming, as the community's first local aural service. See 63 FR 34620 (June 25,

1998). Channel 271C can be allotted at Hanna in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, with a site restriction of 55.7 kilometers (34.6 miles) west of the community at coordinates 42-00-54 and 107-12-32. Channel 277A can be allotted at Hanna in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments without a site restriction at coordinates 41-52-06 and 106-34-00 and Channel 277A can be allotted at Baggs in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments without a site restriction at coordinates 41-02-12 and 107-39-24. Filing windows for Channels 271C and 277A at Hanna and 277A at Baggs will not be opened at this time. Instead, the issue of opening a filing window for each channel will be addressed by the Commission in a subsequent *Order*.

**DATES:** Effective September 18, 2000.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 98-89, adopted July 26, 2000, and released August 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Hanna, Channel 271C, 277A and Baggs, Channel 277A.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 00-21401 Filed 8-24-00; 8:45 am]

**BILLING CODE 6712-01-P**

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

[Docket No. NHTSA-98-4807]

**RIN 2127-AH72**

**Federal Motor Vehicle Safety Standards; Compressed Natural Gas Fuel Containers**

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

**ACTION:** Final rule, correcting amendment; Response to Petitions for Reconsideration.

**SUMMARY:** On December 3, 1998, we published a final rule that deleted the material and manufacturing process requirements in the Federal motor vehicle safety standard on compressed natural gas fuel containers. As part of this final rule, we amended the provisions relating to the hydrostatic burst test to remove any reference to the deleted requirements. Those amendments also inadvertently amended the hydrostatic burst test requirement to require the stress ratio to be applied as a pressure ratio. This document corrects that error, and thereby moots requests related to that amendment in several petitions for reconsideration of the 1998 final rule.

This document also denies the request in a petition for reconsideration from Lincoln Composites, Inc., to link the deletion of the material and manufacturing process requirements with the addition of new performance tests to the standard.

**DATES:** This final rule is effective August 25, 2000. Petitions for reconsideration must be received by October 10, 2000.

**ADDRESSES:** Petitions should refer to the docket number of this rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

*For non-legal issues:* Mr. Charles Hott, NPS-12, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh

Street, SW., Washington, DC 20590 (Telephone 202-366-0247) (FAX 202-366-4329).

*For legal issues:* Mr. Stephen P. Wood, NCC-20, Assistant Chief Counsel for Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (Telephone 202-366-2992) (FAX 202-366-3820).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In a final rule published on December 3, 1998, we deleted the material and manufacturing process requirements from Federal Motor Vehicle Safety Standard No. 304, Compressed Natural Gas Fuel Container Integrity, and amended S7.2.1 and S7.2.2 of the Standard to eliminate any reference to the deleted requirements. We explained that we believed that deleting these requirements would facilitate technological innovation without having an adverse affect on safety.

In addition, we noted that we were not replacing the deleted requirements with other requirements, as had been suggested by some commenters on the Notice of Proposed Rulemaking (NPRM). We gave several reasons for that decision.

First, we determined that the current testing requirements in Standard No. 304 for pressure cycling, burst, and bonfire were sufficient to ensure an appropriate level of safety for CNG fuel containers. These tests indirectly ensure that the containers are manufactured using appropriate materials and wall thicknesses. We concluded, therefore, that the Standard's design and material requirement unnecessarily restricted the ability of manufacturers to use the latest technology in manufacturing CNG fuel containers.

Second, we explained that we had no evidence indicating the existence of a safety problem that would be addressed by adding additional tests to the Standard. We explained that we knew of six CNG fuel container ruptures that had occurred since 1993. Mishandling, misuse, and improper placement and maintenance of the CNG fuel containers caused the failures. We determined that all six ruptures could have been prevented if appropriate precautions had been taken (e.g., proper placement and shielding of the CNG fuel containers along with a periodic inspection of the container, as directed by the labels on the CNG fuel containers). We also found that none of the additional testing provisions<sup>1</sup> in the

new American National Standards Institute (ANSI) industry standard (ANSI/NGV2) would have prevented these cylinder failures. We concluded, therefore, that addition of those tests was unnecessary.

Third, we concluded that testing for such time-related failures as corrosion, stress rupture, viscoelastic yielding, and aging may be impracticable due to the small sample size and short time period involved with testing. Thus, we explained that even if there were a safety problem that could not be addressed by the standard's current testing requirements, we believed it would be inappropriate to require these particular tests given the current uncertainty about their effectiveness.

Fourth, we explained that we did not believe that manufacturers would fail to exercise care in selecting appropriate materials to manufacture CNG containers and stressed that any CNG fuel containers that might be found in the future to have an unanticipated safety related failure would be subject to recall. Fifth, we stated that we would continue to monitor the performance of CNG fuel containers closely and said that should a safety problem arise, we would take the appropriate regulatory or enforcement action.

##### II. Petitions for Reconsideration and Technical Amendment of the Final Rule

Lincoln Composites (Lincoln) and Pressed Steel Tank Co. (PST) each submitted a petition for reconsideration of the final rule. In addition, General Motors (GM) petitioned for a technical amendment to that final rule.

###### A. Hydrostatic Burst Test Requirements in S7.2.2

Lincoln, PST, and GM all objected to the revision of S7.2.2, which specifies requirements for the hydrostatic burst test. Both PST and Lincoln argued that no notice was given in the NPRM that we were considering amending those requirements. PST stated that the revision to S7.2.2 altered the burst test performance requirement for composite reinforced CNG containers by requiring the stress ratio in Table 1 of the Standard to be applied as a pressure ratio. PST explained that this regulatory change reversed a prior amendment to S7.2.2 that had been made in a July 24, 1995 final rule.

1. Sulfide stress cracking resistance of high strength steels using the methods of NACE Standard TM0177-90;

2. Sustained load cracking for aluminum alloys in accordance with Annex D of ISO/DIS 7866; and

3. Intercrystalline corrosion and stress corrosion tests for aluminum alloys in accordance with Annex A of ISO/DIS 7866.

GM stated that the changes to the regulatory language of S7.2.2 not only removed a reference to S5.5.1, but altered the burst performance requirement. GM stated that it believed this change was inadvertent and requested that we issue a technical correction to correct the problem.

Lincoln stated that the removal of Sections 5.5, 5.5.1, and 5.5.2 along with the revision of Sections 7.2.1 and 7.2.2, modified the intent of the stress ratios and amended the hydrostatic burst test requirement. To address this problem, Lincoln stated that we should reinstate Sections 5.5, 5.5.1, and 5.5.2 and return Sections 7.2.1 and 7.2.2 to their original wording. Lincoln also stated that, if we failed to do this, we should withdraw the rule in its entirety or stay the rule pending reconsideration and court review of its merits.

As part of the December 3 final rule, we amended the requirement in S7.2.2 for the hydrostatic burst test to remove any reference to the deleted material and manufacturing requirements. Our intent in amending S7.2.2 was simply to remove any reference to the deleted requirements—not to alter the burst performance requirement. However, the regulatory language of the final rule inadvertently amended the hydrostatic burst test requirement to require the values in Table 1 to be applied as pressure ratios.

This document corrects that error. We are amending S4 to remove the definition of "stress ratio." We are revising S7.2.2 to remove the reference to stress ratio and to state that burst pressure shall not be less than the 2.25 times the service pressure as suggested by PST. Finally, we are removing Table 1 from the standard because it will no longer be needed.

We are not reinstating S5.5, S5.5.1, and S5.5.2 and returning S7.2.1 and S7.2.2 to their original wording, as requested by Lincoln, nor are we withdrawing the rule in its entirety. As stated above, we are making a technical correction that essentially returns S7.2.2 to the burst test performance requirement that existed prior to the December 3 final rule. We believe that this technical correction adequately addresses Lincoln's concern that we had altered the hydrostatic burst test requirement and the intent of the stress ratios.

###### B. Additional Performance Tests

In its petition, Lincoln also reiterated the concerns that it raised in its comments on the NPRM and asked the agency to reconsider its decision to remove the material and manufacturing requirements without adding new

<sup>1</sup> ANSI/NGV2 includes the following three enhanced material performance test requirements:

performance tests to the standard. Lincoln argued that the following performance tests were necessary to ensure safety:

1. Sulfide stress cracking resistance of high strength steels using the methods of NACE Standard TM0177-90;
2. Sustained load cracking for aluminum alloys in accordance with Annex D of ISO/DIS 7866;
3. Intercrystalline corrosion and stress corrosion tests for aluminum alloys in accordance with Annex A of ISO/DIS 7866; and
4. Cycling tests to determine leak before rupture failure modes or high cyclic fatigue safety margins.

Lincoln stated that ANSI, the Canadian Standards Association (CSA), and the International Standards Organization (ISO) included such tests in their individual CNG container standards (ANSI NGV2, CSA B51 Part 2, and ISO/FDIS 11439). Lincoln explained that these tests were based on extensive testing and an examination of field events that caused damage but not rupture and were included in response to safety failures. Lincoln cited one instance of a safety failure: the rupture of a steel cylinder after a small number of fills. This incident was discussed at a November 28, 1990, NHTSA public meeting. Lincoln argued that the lack of additional field ruptures was due, in part, to the fact that most of the NGV fuel containers sold in the United States were qualified to NGV2 in addition to Standard No. 304. Lincoln argued that new manufacturers could make and sell unsafe fuel containers if additional tests were not included in Standard No. 304.

We are denying Lincoln's request and affirming our earlier decision to not replace the deleted requirements with other requirements for several reasons. First, we continue to believe that Standard No. 304's current testing requirements—pressure cycling, burst, and bonfire—are sufficient to ensure an appropriate level of safety for CNG fuel containers.

Second, we still have no evidence indicating the existence of a safety problem that would be addressed by including additional tests in the Standard.<sup>2</sup> As stated in the December 3, 1998 final rule, we know of six CNG fuel container ruptures that have occurred since 1993. According to a

<sup>2</sup> We note that while several of the commenters to the NPRM stated that NHTSA should amend Standard No. 304 to require additional tests to prevent in-service failures of CNG containers, none provided evidence indicating the existence of a safety problem with in-service failures that was not addressed by the Standard's current tests and would be addressed by the inclusion of additional tests.

safety bulletin published by the Gas Research Institute in October 1996, all six ruptures could have been prevented if appropriate precautions had been taken. Mishandling, misuse, and improper placement and maintenance of the CNG fuel containers caused the failures. In four of the cases, the CNG fuel container did not have a shield to protect it from impact damage. A vehicle design change would address this problem. In the other two cases, the CNG fuel containers ruptured after prolonged exposure to acidic fluids. In those two cases, the shielding surrounding the CNG fuel containers lacked adequate drainage. Consequently, acidic fluids accumulated in the area beneath the containers and damaged the CNG fuel containers. We believe that the proper placement and shielding of the CNG fuel containers along with a periodic inspection of the container, as directed by the CNG fuel containers label, could have prevented these failures.

Third, none of the additional testing provisions in ANSI/NGV2, CSA B51 Part 2, or ISO/FDIS 11439 would have prevented these cylinder failures. The only failure cited by Lincoln occurred prior to 1990, before Standard No. 304 was issued. We believe that Standard No. 304's current testing requirements—pressure cycling, burst, and bonfire—would have prevented such a failure. In addition, while Lincoln stated that ANSI, CSA, and ISO included additional tests in their standards in response to safety failures, it did not provide any evidence of these failures. Further, although it stated that these additional tests were based on extensive testing and examination of field events that caused damage but not rupture, they did not provide any data.

Fourth, we do not believe that manufacturers will fail to exercise care in selecting appropriate materials to manufacture CNG containers. We will continue to monitor the performance of CNG fuel containers closely. Should a safety problem arise, we will take the appropriate regulatory or enforcement action.

Finally, Lincoln also argued that our decision not to include additional performance tests, such as those included in ANSI NGV2, CSA B51 Part 2, and ISO/FDIS 11439 disrupts international harmonization efforts. We disagree. While we do not require manufacturers to certify their CNG containers to these additional tests, nothing prohibits them from doing so.

### III. Effective Date

We find good cause for making this final rule effective immediately. The

stated purpose of the final rule was to delete the material and manufacturing requirements for CNG containers and to remove any references to those requirements in S7.2.1 and S7.2.2, not to amend the hydrostatic burst test requirements. This rule corrects an error which resulted unintentionally amending the hydrostatic burst test requirement. We have, therefore, determined that there is good cause for this final rule to be effective immediately upon publication.

### VI. Rulemaking Analyses

#### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule was reviewed under E.O. 12866. We have analyzed this rule and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This rule does not impose any new requirements on manufacturers. It simply corrects an error.

#### B. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I hereby certify that the final rule would not have a significant economic impact on a substantial number of small entities.

The following is our statement providing the factual basis for the certification (5 U.S.C. 605(b)). The final rule primarily affects manufacturers of CNG containers. The Small Business Administration's size standards (13 CFR part 121) are organized according to Standard Industrial Classification Codes (SIC). SIC Code 3714 "Motor Vehicle Parts and Accessories" has a small business size standard of 750 employees or fewer.

This rule does not impose any new requirements on manufacturers. It simply corrects an error. Thus, we believe that this final rule will not have a significant economic impact on a substantial number of small businesses.

#### C. Paperwork Reduction Act

We have analyzed this rule under the Paperwork Reduction Act of 1995 (Pub. L. 104-13) and determined that it will not impose any information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320.

#### D. National Environmental Policy Act

We have considered the environmental implications of this final rule in accordance with the National Environmental Policy Act of 1969 and

determined that it will not significantly affect the human environment.

#### *E. The Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, 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. Annual expenditures from this final rule will not exceed the \$100 million threshold.

#### *F. Executive Order 13132 (Federalism)*

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule has no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

#### *G. Civil Justice Reform*

This rule has no retroactive effect. We are not aware of any state law that would be preempted by this rule. This rule does not repeal any existing Federal law or regulation. This rule does not impose any new requirements on manufacturers. It simply corrects an error. This rule does not require submission of a petition for reconsideration or the initiation of other administrative proceedings before a party may file suit in court.

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

Motor vehicle safety, Reporting and record keeping requirements, Tires.

In consideration of the foregoing, the agency is amending part 571 of Title 49 of the Code of Federal Regulations as follows:

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

1. The authority citation for part 571 continues to read as follows:

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

2. Section 571.304 is amended by removing the definition of “stress ratio” from S4, republishing S7.2, and revising S7.2.2 to read as follows:

#### **§ 571.304 Standard No. 304; Compressed natural gas fuel container integrity.**

\* \* \* \* \*  
S7.2 Hydrostatic burst test.

\* \* \* \* \*  
S7.2.2 Each Type 2, Type 3, or Type 4 CNG fuel container shall not leak when subjected to burst pressure and tested in accordance with S8.2. Burst pressure shall be not less than 2.25 times the service pressure.

Issued on: August 22, 2000.

**L. Robert Shelton,**

*Executive Director.*

[FR Doc. 00-21778 Filed 8-24-00; 8:45 am]

**BILLING CODE 4910-59-P**

### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

**[Docket No. 000211039-0039-01; I.D. 082200A]**

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska**

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the third seasonal apportionment of the 2000 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been caught.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 23, 2000, until 1200 hrs, A.l.t., October 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council

under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by the Final 2000 Harvest Specifications for Groundfish for the GOA (65 FR 8298, February 18, 2000) for the third season, the period July 4, 2000, through September 30, 2000, as 400 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the third seasonal apportionment of the 2000 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: all rockfish of the genera *Sebastes* and *Sebastobius*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

#### **Classification**

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent exceeding the third seasonal apportionment of the 2000 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 22, 2000.

**Bruce C. Morehead**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 00-21789 Filed 8-22-00; 3:50 pm]

**Billing Code:** 3510-22-S