previous experience (including recent and current contracts), organization (including company officers), technical qualifications, financial resources and facilities available to perform the contemplated work.

(b) Unless otherwise provided in this contract, where the use of optional materials or construction is permitted the same standard of workmanship, fabrication and installation shall be required irrespective of which option is selected. The contractor shall make any change or adjustment in connecting work or otherwise necessitated by the use of such optional material or construction, without additional cost to the Government.

(c) When approval is given for a system component having functional or physical characteristics different from those indicated or specified, it is the responsibility of the contractor to furnish and install related components with characteristics and capacities compatible with the approved substitute component as required for systems to function as noted on drawings and specifications. There shall be no additional cost to the Government.

(d) In some instances it may have been impracticable to detail all items in specifications or on drawings because of variances in manufacturers' methods of achieving specified results. In such instances the contractor will be required to furnish all labor, materials, drawings, services and connections necessary to produce systems or equipment which are completely installed, functional, and ready for operation by facility personnel in accordance with their use.

(e) Claims by the contractor for delay attributed to unusually severe weather must be supported by climatological data covering the period and the same period for the 10 preceding years. When the weather in question exceeds in intensity or frequency the 10 year average, the excess experienced shall be considered "unusually severe." Comparison shall be on a monthly basis. Whether or not unusually severe whether in fact delays the work will depend upon the effect of weather on the branches of work being performed during the time under consideration.

(End of Clause)

[FR Doc. 88-1080 Filed 1-20-88; 8:45 am]

BILLING CODE 8320-10-M

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

### 49 CFR Parts 190 and 192

**[Docket No. PS-99, Amdt. Nos. 190-1 and 192-58]**

## Pipeline Safety Standards and Procedures; Miscellaneous Amendments

**AGENCY:** Research and Special Programs Administration (RSPA).

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the gas pipeline safety standards by making a number of editorial and other minor changes based on a petition for rulemaking submitted by the New England Gas Association and RSPA's review of the standards. The changes clarify the intent of the standards. In addition, the pipeline safety enforcement procedures are modified to reflect changes in agency practices regarding payment of civil penalties.

**EFFECTIVE DATE:** This amendment takes effect February 22, 1988.

**FOR FURTHER INFORMATION CONTACT:** Bernard L. Liebler, (202) 366-2392, regarding the changes to safety standards; Barbara Betsock, (202) 366-4400, regarding the changes to enforcement procedures; or the Dockets Unit, (202) 366-5046, for copies of this final rule or other material in the docket.

**SUPPLEMENTARY INFORMATION:**

### Background

The New England Gas Association (NEGA), by letter of June 19, 1981, recommended 79 unrelated changes, additions and deletions to Part 192. NEGA contended that the proposals would clarify the intent of the regulations and reduce the cost of compliance without compromising pipeline safety. RSPA considered the NEGA letter a Petition for Rulemaking (P-15).

A preliminary review of the NEGA proposals culminated in a letter to NEGA dated Feburary 28, 1984. This letter explained that three of the problems addressed by NEGA had been eliminated by rulemaking. The letter explained further that under Executive Order 12291 rulemaking actions must be based on a demonstrated need and on the costs and benefits of the contemplated action.

In response NEGA resubmitted a slightly modified list of 71 recommendations. By this final rule, RSPA partially grants the NEGA petition and makes additional minor changes to Part 192 based on its review of the standards.

### NEGA Proposed Changes to Safety Standards

As NEGA proposed, the acronym "MAOP" has been added to the definition of "maximum allowable operating pressure" in § 192.3. NEGA argued that, "The letters MAOP are often used in these standards and should be contained in the definition." Contrary to this assertion, a review of the regulations did not reveal a single use of the acronym. However, this NEGA misconception is extremely common, and we believe reflective of the almost universal use of the acronym MAOP in the gas industry and RSPA. Since the acronym could be applied to the phrase "maximum actual operating pressure," albeit rarely and unintentionally, it will clarify the regulations to associate MAOP unambiguously with "maximum allowable operating pressure."

In § 192.59(a)(1), referring to the standards of manufacture of new plastic pipe, NEGA recommended the following be deleted: "except that before March 21, 1975, it may be manufactured in accordance with any listed edition of a listed specification." This language was inserted in 1975 when this section was revised to require the use of the "latest listed edition of a listed specification" for the manufacture of plastic pipe. (Amdt. 192-19, 40 FR 10472, March 6, 1975) The purpose of the language NEGA proposed to delete was to permit operators to use stockpiled pipe manufactured prior to the effective date of the amendment.

Twelve years have passed since this wording was inserted. It no longer serves a useful purpose, and RSPA agrees that it should be deleted. In addition, the concept of a "latest listed edition" is no longer valid because editions of listed specifications (those set forth in Section I of Appendix B) are no longer listed in sequence. Also, § 192.7(c) was amended previously to provide that an earlier edition of a specification may be used for materials manufactured according to that edition, provided that it was listed at the time of such manufacture. Therefore, RSPA has revised § 192.59(a)(1) to read, "It is manufactured in accordance with a listed specification." Section 192.59(b)(1), concerning used plastic pipe, has been amended similarly.

RSPA agrees with NEGA's proposed revision of § 192.161(f), concering branch connections. The word "detrimental" has been inserted between "prevent" and "lateral," so that only "detrimental" movement at branch connections has to be prevented. The revised text of this section makes it consistent with the intent of the regulation.

To express better the intent of § 192.177(a)(1), governing the location of bottle-type holders, the word "storage" has been deleted from "storage site." With this change, a bottle-type holder may be located at any "site" that meets the standards.

RSPA also has revised the lead-in text of § 192.355(b), as NEGA recommended, by deleting, "The outside terminal of each service regulator vent and relief vent must—" and substituting, "Service

regulator vents and relief vents must terminate outdoors, and the outdoor terminal must—." The current wording could be misinterpreted as being conditional, meaning if the vent terminates outside, it must comply with the requirements of § 192.355(b). This has never been the intent. This section was based on USAS B31.8—1968, a voluntary consensus standard covering gas piping. Paragraph 848.33 of the current edition of this standard, ANSI ASME B31.8—1986, includes the following, "All service regulator vents and relief vents, where required, shall terminate in the outside air * * *" RSPA believes that the foregoing reflects current and acceptable industry practice as well as the original intent of § 192.355(b).

**Other Changes to Safety Standards**

RSPA has made several additional clarifying changes not addressed in the NEGA petition. The first corrects a typographical error by replacing "conjection" with "conjunction" in § 192.281(e)(2).

RSPA has clarified § 192.191(b), concerning plastic fittings. The note that appears below the table in § 192.191(b) states that the pressures shown are the same as would be determined by applying the design formula for plastic pipe in § 192.121 and the limitations of § 192.123. This is no longer true. The design formula that appears in § 192.121 was amended previously to apply a uniform design factor of 0.32 to all plastic pipe regardless of class location. Thus, the table is superfluous and misleading, implying a differentiation in class location requirements beyond the 100-psig limitation for Classes 3 and 4 locations and distribution systems under § 192.123(a).

RSPA has deleted the current § 192.191(b) and replaced it with the following: "Thermoplastic fittings for plastic pipe must conform to ASTM D2513." This removes the existing conflict with §§ 192.121 and 192.123, and addresses thermoplastic fittings in a manner consistent with current practice and level of public safety. The 1981 edition of the ASTM D2513 document, "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings," has been incorporated by reference in Part 192 for other purposes related to the use of plastic pipe (see §§ 192.59 (listed specification), 192.63, 192.281, and 192.283). Because the 1981 edition is the applicable edition incorporated by reference in Part 192 (§ 192.7) and operators have it available, it will serve for purposes of the new § 192.191(b) until updated through a separate rulemaking.

The remaining changes relate to confusion regarding required test pressures. Currently, leak test requirements for pipelines (other than service lines and plastic pipelines) to be operated "at or below 100 p.s.i.g." are addressed in § 192.509. Required test pressures for establishing the MAOP of steel pipelines to be operated "at 100 p.s.i.g. or more" are addressed in § 192.619(a)(2)(ii). These sections set forth confusing requirements for 100-psig steel mains. Section 192.509(b) requires a minimum test pressure of 90 psig for mains to be operated at 1 psig or more, while § 192.619(a)(2)(ii) requires a minimum test pressure for mains in Class 1 locations of 110 psig, and higher in other class locations. Operators often avoid the more stringent requirement of § 192.619(a)(2)(ii) by setting the MAOP of steel mains at 99 psig and conducting a 90-psig leak test. It is obviously not the intent of the standards to make 100 psig a unique operating pressure.

RSPA has removed the confusion in the following way. The titles and lead-in text of §§ 192.507 and 192.509 have been revised to change their statements of applicability. As amended, the test requirements of § 192.507 apply to pipelines operating at a hoop stress of less than 30 percent of SMYS and "at or above 100 p.s.i.g.," instead of the current "above 100 p.s.i.g.," bringing steel pipelines to be operated at 100 psig under § 192.507. The words "at or" have been deleted from "at or below 100 p.s.i.g." in the lead-in text of § 192.509, thus removing 100-psig pipelines from the requirements of that section.

The result of these changes is that test requirements for pipelines to be operated at 100 psig are clearly addressed in § 192.507 and the confusion over the current test requirements of §§ 192.509(b) and 192.619(a)(2)(ii) is eliminated. Compliance is simplified, while no operational changes are required.

Although Subpart J prescribes the pressure test requirements for new, replaced, and relocated pipelines, the minimum test pressures needed to substantiate a proposed MAOP are prescribed in Subpart L in § 192.619. To make this separation of related requirements easier to comprehend, the words "and with § 192.619" have been inserted after the words "in accordance with this subpart" in § 192.503(a)(1). This change explicitly directs the operator to the test pressure requirements, thus eliminating potential confusion without requiring operational changes.

Section 192.625(g), which pertains to interim standards for odorization of gas, in transmission lines, has had no legal effect since final standards became effective under § 192.625(b) on January 1, 1977. It is therefore removed.

**Enforcement Procedures**

Under RSPA's procedures governing the assessment and collection of civil penalties for violation of a pipeline safety regulation, order, or statute, the person charged with the violation may pay the proposed civil penalty and close the case. (§ 190.209(a)(1)). RSPA considers such action by a respondent to be an admission of violation by the respondent. It is therefore relevant to the determination of the amount of any future civil penalty assessment under § 190.225. That section requires consideration of a "respondent's history of prior offenses." To make this clear, § 190.209(a)(1) is revised by adding the phrase "with prejudice to the respondent" after the words "close the case."

Under § 190.227(a), civil penalty payments are no longer remitted to the Chief Counsel's office. Certified checks or money orders are made payable to the "Department of Transportation" and sent to Chief General Accounting Branch (M–86.2), Accounting Operations Division, Office of the Secretary, Room 2228, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

**Impact Assessment**

This final rule is considered to be nonmajor under Executive Order 12291 and is not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Because it includes no substantive revisions that could be expected to require significant changes in operator procedures or compliance burdens, and because the economic impact would be slight, a full regulatory evaluation is not required.

The agency certifies under section 605 of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule makes a number of editorial and other clarifying changes to Part 192 and does not impose any substantive new safety requirements. The changes were considered in September 1987 by the Department's gas pipeline advisory committee, the Technical Pipeline Safety Standards Committee, which approved them without comment or modification. Each change makes the regulations more easily understood or states more clearly

the original intent which has been evident in practice but not stated as lucidly as possible. For example, the change to § 192.355(b) makes clear that service regulator vents and relief vents must terminate outside. This has always been the intent of the requirement, but the existing language allows an interpretation that such an outside terminal is optional. Because of the minor and principally editorial nature of the changes, and because they will not effect either implementation or enforcement activities, prior notice and opportunity for public comment are unnecessary. Therefore, in accordance with the Administrative Procedure Act, the changes are final.

In addition, because the two changes to Part 190 modify agency rules of practice and procedure, the Administrative Procedure Act does not require prior notice and opportunity for public comment on the changes.

**List of Subjects**

*49 CFR Part 190*

Pipeline safety, Penalty, Enforcement procedures.

*49 CFR Part 192*

Pipeline safety, Plastic pipe, Plastic fittings, Supports and anchors, Service regulators.

In view of the foregoing, RSPA amends 49 CFR Parts 190 and 192 as follows:

## PART 190—[AMENDED]

1. The authority citation for Part 190 is revised to read as follows:

**Authority:** 49 App. U.S.C. 1672, 1677, 1679a, 1679b, 1680, 1681, 1804, 2002, 2006, 2007, 2008, 2009 and 2010; 49 CFR 1.53 and Appendix A to Part 1.

2. Section 190.209(a)(1) is revised to read as follows:

**§ 190.209 Response options.**

* * * * *

(a) * * *

(1) Pay the proposed civil penalty as provided in § 190.227 and close the case with prejudice to the respondent;

* * * * *

3. Section 190.227(a) is revised to read as follows:

**§ 190.227 Payment of penalty.**

(a) Payment of a civil penalty proposed, assessed, or compromised under this subpart must be made by certified check or money order payable to the "Department of Transportation." Except as provided by § 190.209, such payment is sent to the Chief, General Accounting Branch (M–86.2), Accounting Operations Division, Office of the Secretary, Room 2228, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

* * * * *

## PART 192—[AMENDED]

4. The authority citation for Part 192 is revised to read as follows:

**Authority:** 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

5. In § 192.3, the definition of "Maximum allowable operating pressure" is revised to read as follows:

**§ 192.3 Definitions.**

* * * * *

"Maximum allowable operating pressure (MAOP)" means the maximum pressure at which a pipeline or segment of a pipeline may be operated under this part.

* * * * *

6. In § 129.59, paragraphs (a)(1) and (b)(1) are revised to read as follows:

**§ 192.59 Plastic pipe.**

(a) * * *

(1) It is manufactured in accordance with a listed specification; and

* * * * *

(b) * * *

(1) It was manufactured in accordance with a listed specification;

* * * * *

7. The text of § 192.161(f) is revised to read as follows:

**§ 192.161 Supports and anchors.**

* * * * *

(f) Except for offshore pipelines, each underground pipeline that is being connected to new branches must have a firm foundation for both the header and the branch to prevent detrimental lateral and vertical movement.

**§ 192.177 [Removed]**

8. In § 192.177(a)(1), the word "storage" is removed.

9. Section 192.191(b) is revised to read as follows:

**§ 192.191 Design pressure of plastic fittings.**

* * * * *

(b) Thermoplastic fittings for plastic pipe must conform to ASTM D 2513.

**§ 192.281 [Amended]**

10. Section 192.281(e)(2) is corrected by removing the word "conjection" and inserting the word "conjunction" in its place.

11. In § 192.355(b) the introductory text is revised to read as follows:

**§ 192.355 Customer meters and regulators: Protection from damage.**

* * * * *

(b) *Service regulator vents and relief vents.* Service regulator vents and relief vents must terminate outdoors, and the outdoor terminal must—

* * * * *

12. Section 192.503(a)(1) is revised to read as follows:

**§ 192.503 General requirements.**

(a) * * *

(1) It has been tested in accordance with this subpart and § 192.619 to substantiate the maximum allowable operating pressure; and

* * * * *

13. In § 192.507 the title and introductory text are revised to read as follows:

**§ 192.507 Test requirements for pipelines to operate at a hoop stress less than 30 percent of SMYS and at or above 100 p.s.i.g.**

Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated at a hoop stress less than 30 percent of SMYS and at or above 100 p.s.i.g. must be tested in accordance with the following:

* * * * *

14. In § 192.509 the title and introductory text are revised to read as follows:

**§ 192.509 Test requirements for pipelines to operate below 100 p.s.i.g.**

Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated below 100 p.s.i.g. must be leak tested in accordance with the following:

* * * * *

**§ 192.625 [Removed]**

15. Section 192.625(g) is removed.

Issued in Washington, DC on January 15, 1988.

**M. Cynthia Douglass,**

*Administrator, Research & Special Programs Administration.*

[FR Doc. 88–1173 Filed 1–20–88; 8:45 am]

BILLING CODE 4910–60–M

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## National Highway Traffic Safety Administration

### 49 CFR Part 544

**[Docket No. T86–01; Notice 4]**

## Insurer Reporting Requirements; List of Insurers Required To File Reports in October 1987

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

**ACTION:** Final rule.

**SUMMARY:** Title VI of the Motor Vehicle Information and Cost Savings Act requires each passenger motor vehicle insurer to file annual reports with this agency, unless the insurer is exempted by this agency from filing such reports. This law specifies that NHTSA can exempt those insurance companies whose market share is below certain percentages for the nation as a whole and in each individual State. To carry out these statutory provisions, NHTSA has exempted all those insurance companies that are statutorily eligible to be exempted and published a listing of the unexempted companies, i.e., those insurance companies that are required to file annual reports.

The list of unexempted companies is subject to slight changes from time to time since a company's eligibility for exemption from the reporting requirements may vary annually, as its national and State-by-State market shares change. To address this situation, NHTSA publishes annual updates of the list of insurance companies that are required to file annual reports. The listings in these updates are based on the most current market share information available to the agency. Any insurance company omitted from this list is *not* required to file a report for the 1986 calendar year. Those insurance companies included on the list at the end of this rule were statutorily required to file reports for the 1986 calendar year not later than October 25, 1987. However, NHTSA recognizes that the statutory date for filing those reports has passed. Because this final listing is published after the statutory date has passed, the agency will accept as timely insurer reports for the 1986 calendar year that are filed within 30 days after this listing is published.

**DATES:** *Effective date:* This rule is effective January 21, 1988.

*Deadline for submitting petitions for reconsideration:* Any petitions for reconsideration of this rule must be received by NHTSA not later than February 22, 1988.

**ADDRESS:** Any petitions for reconsideration must be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies of the petition be submitted.

**FOR FURTHER INFORMATION CONTACT:** Barbara A. Kurtz, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4807).

**SUPPLEMENTARY INFORMATION:**

*Background:* Section 612 of the Motor Vehicle Information and Cost Savings Act (the Act; 15 U.S.C. 2032) requires each insurer to file an annual report with NHTSA unless the agency exempts the insurer from filing such reports. The term "insurer" is defined very broadly for the purposes of section 612, consisting of two broad groups of entities. One of these broad groups is included in the definition of "insurer" by virtue of section 612(a)(3). That section specifies that for the purposes of section 612, the term "insurer" includes any person, other than a governmental entity, who has a fleet of 20 or more motor vehicles used primarily for rental or lease and not covered by theft insurance policies issued by insurers of passenger motor vehicles. The requirements for this group of insurers are not addressed in or affected by this rule.

The other broad group is included within the term "insurer" by virtue of section 2(12) of the Act (15 U.S.C. 1901(12)). That section provides that every person engaged in the business of issuing passenger motor vehicle insurance policies is an insurer, regardless of the size of the business. Section 612(a)(5) provides that the agency shall exempt small insurers included in this second broad group from the reporting requirements if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information collected and compiled in the reports, either nationally or on a State-by-State basis. The term "small insurer" is defined in section 612(a)(5)(C) as an insurer whose premiums account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also provides that if an insurance company satisfies this definition of a "small insurer", but accounts for 10 percent or more of the total premiums for all forms of motor vehicle insurance issued by insurers within a particular State, such insurer must report the required information about its operations in that State.

To implement these statutory criteria for exempting small insurers, NHTSA has used the data voluntarily supplied by insurance companies to A.M. Best to determine the insurers' market shares nationally and in each State. The A.M. Best data were chosen because they are both accurate and timely, and because its use imposes no additional burdens on any party.

After examining the A.M. Best data, NHTSA determined that it should exempt all those insurance companies that were statutorily eligible for exemption from these reporting requirements. This determination was based on two separate considerations. First, NHTSA determined that the reports from only those insurance companies that were statutorily required to file reports would provide the agency with representative data, both nationally and on a State-by-State basis. Second, NHTSA determined that the data in the insurer reports provided by the insurance companies that were ineligible for an exemption would be sufficient for NHTSA to carry out its activities and responsibilities under Title VI of the Act.

Accordingly, the agency included an Appendix A and Appendix B in the final rule for insurer reports published January 2, 1987 (52 FR 59). The 20 insurance companies listed in Appendix A had premiums that accounted for one percent or more of all motor vehicle insurance premiums paid nationally. Hence, those companies were required to report on their operations for every State in which they did business. The 11 insurance companies listed in Appendix B had premiums that accounted for ten percent or more of the total motor vehicle insurance premiums within a particular State or States. Such companies were required to report on their operations only for those States in which their premiums accounted for ten percent or more of the total premiums.

*The Proposal:* The market shares for each of the insurance companies listed in the January 2, 1987, final rule were derived from the A.M. Best data for 1984, the most recent year for which the A.M. Best data were available as of the date the final rule was published. However, the A.M. Best data for 1985 became available after January 2. In the January final rule, NHTSA stated, "The agency will update these appendices annually, shortly after A.M. Best publishes its revised listings, to reflect changes in premium shares for the insurance companies." 52 FR 62.

In accordance with that pledge, the agency published a proposed updated listing of subject insurance companies on May 28, 1987 (52 FR 19898). This proposal used the most current A.M. Best data to determine which insurance companies are statutorily required to file reports by October 25, 1987. This notice proposed that all insurance companies that were statutorily eligible for an exemption from these reporting requirements should be exempted.

*The Comment and the Agency's Decision:* Only one comment was filed in response to the proposed rule. The Sentry Insurance Group (Sentry) was listed in proposed Appendix A as an insurance company that was required to file an annual report this year for each State in which it did business. This

proposal was based on A.M. Best data showing that Sentry had a 1.0 percent market share nationally, and was therefore statutorily ineligible for an exemption. Sentry commented that its review of the A.M. Best data showed that Sentry had only 0.984 percent of the national market. Sentry stated that if this number were to be rounded, it should be rounded to 0.98 percent. If it were so rounded, Sentry asserted that it would be not be required to file a report in October 1987, because it would have a national market share of less than one percent.

A.M. Best reported to NHTSA that Sentry had a 1.0 percent market share nationally. In response to Sentry's allegations, NHTSA contacted A.M. Best officials and asked them whether Sentry's comment was accurate. After further examining their raw data, those officials stated that Sentry's assertion that its market share was actually 0.984 percent was mathematically correct, but statistically invalid. Those officials stated that A.M. Best has always rounded market share percentages to the nearest one tenth of a percentage point. According to those officials, A.M. Best has always followed this practice in order to account for the uncertainties and previous rounding of numbers used in these statistical calculations. In accordance with this longstanding practice, which A.M. Best applies to all insurance companies, Sentry's market share of 0.984 percent was rounded to 1.0 percent by A.M. Best and reported as such to the agency.

The A.M. Best practice is consistent with the general principle of statistics that an impression of numerical accuracy should be avoided, if such accuracy does not actually exist. This subject is discussed in John Griffin's *Statistics, Methods and Applications*, Holt, Rinehart and Winston, Appendix B (1962). Such spurious accuracy would be illustrated by an attempt to express the estimated population of a city in 1987 to a precise number in the final digit. It is not possible for such an estimate to be that accurate. Accordingly, persons making estimates must round off the estimate to the degree of accuracy of the least precise figure used in computing the estimate.

To illustrate this, let us suppose that a business were attempting to estimate its sales in four different States, and then determine what percentage of that four State area was represented by the sales in State B. Assume that the sales figures for the States were:

| | |
|---|---|
| State A | 25,000 |
| State B | 1,400,000 |
| State C | 12,000 |
| State D | 3,450,000 |

The total for these numbers 4,887,000. However, this total is an improper expression of accuracy. Since the least precise sales figure is expressed to the nearest hundred thousand in State B, the four State estimated total would also be expressed to the nearest hundred thousand, as 4.9 million.

If one then divides the sales figure in State B (1,400,000) by estimated total sales in the four States (4,900,000), the result is 28.57142857142 percent. This expression of the result of a very clear illustration of spurious accuracy. Applying proper statistical principles, the percentage calculated here cannot have more significant digits than are found in any one of the numbers that are divided. In this example, both the divisor and the dividend have only two significant digits. Therefore, the quotient could not have more than two significant digits and the result should be shown as 29 percent.

A.M. Best follows similar rounding procedures when it calculates the market shares for insurance companies. To avoid spurious accuracy in its reported percentages, A. M. Best has determined that its market share percentages should be expressed only to the nearest one tenth of a percentage point. This determination by A.M. Best appears consistent with sound statistical practices.

Therefore, the agency is not persuaded that there is a need for it to recalculate the market share information reported to it by A.M. Best, by asking A.M. Best to furnish its raw data for all insurance companies with a 1.0 percent share of the national market. When NHTSA announced its intention to base its market share determinations on the A.M. Best data, the A.M. Best practice of rounding off market shares to the nearest one tenth of a percentage point was known by all insurance companies. The agency will recalculate the A.M. Best estimates *only* if there is some reason to believe that the estimates are based on a mathematical error, unreasonable statistical practices or assumptions, or are arbitarily applied to only some insurance companies. In this case, none of these factors are present. Therefore, NHTSA does not believe it is necessary or appropriate for it to recalculate A.M. Best's reported market share information. Accordingly, Sentry Insurance Group appears in this final version of Appendix A, based on the A.M. Best report.

No other comments were received on the proposed listings. For the reasons set forth above and in the preamble to the proposed listing, this final rule adopts the proposed listings for both Appendix A and Appendix B.

NHTSA finds for good cause that this rule should be effective immediately upon publication in the **Federal Register**, instead of 30 days thereafter. As noted earlier in this preamble, section 612 of the cost Savings Act (15 U.S.C. 2032) imposes a statutory duty on insurers that were not exempted from these reporting requirements to file a report for the 1986 calendar year no later than October 25, 1987. This statutory obligation makes it imperative that this listing of the insurance companies that are *not* exempted from filing those reports become effective as soon as possible. As also noted above, NHTSA will consider reports by the listed insurance companies to be timely filled, if such reports are received by the agency not later than 30 days after the publication of this rule.

*Regulatory Impacts:* NHTSA has analyzed this rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. This final rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. On the other hand, those companies that are not statutorily eligible for an exemption are expressly required to file reports.

NHTSA does not believe that this rule reflecting more current A.M. Best data affects the impacts described in the final regulatory evaluation prepared for Part 544. Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the cost estimates in the final regulatory evaluation for Part 544, the agency estimates that it will cost the one insurance company added to Appendix A about $100,000 to file its initial report, while saving about $50,000 for the company deleted from Appendix A. The two companies that are deleted from Appendix A, but added to Appendix B, will save about $30,000 each as a result of this change. The three companies deleted from Appendix B will save about $20,000 each, while the company required to report on one State instead of two will save about $10,000. Thus, the net total impact of these changes is estimated to be a savings of about $80,000 for insurance companies. This is well below the threshold of $100 million for classifying a rulemaking action as "major" under the Executive Order.

As noted above, a full regulatory evaluation was prepared for the final rule establishing Part 544. Interested persons may wish to examine that

evaluation in connection with this rule. Copies of that evaluation have been placed in Docket No. T86-01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to: NHTSA Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling the Docket Section at (202) 366-4949.

The agency has also considered the effects of this rulemaking under the Regulatory Flexibility Act. I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule simply applies more current information to determine which insurance companies are statutorily eligible to be exempted from these reporting requirements. NHTSA believes that any insurance company that does not qualify as a "small insurer" within the meaning of section 612 of the Act would also not qualify as a small entity within the meaning of the Regulatory Flexibility Act. Those insurance companies that did not qualify as small insurers under the older data, but do qualify under the newer data, would realize some savings, as discussed above. However, the economic impact would not be substantial, nor are there a substantial number of these companies.

In accordance with the National Environmental Policy Act, the agency has considered the environmental impacts of this rule and determined that it will not have a significant impact on the quality of the human environment.

**List of Subjects in 49 CFR Part 544**

Crime insurance, Insurance, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 544 is amended as follows:

## PART 544—[AMENDED]

1. The authority citation for Part 544 continues to read as follows:

**Authority:** 15 U.S.C. 2032; delegation of authority at 49 CFR 1.50.

2. Appendix A to Part 544 is revised to read as follows:

**Appendix A—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business**

State Farm Group
Allstate Insurance Group
Farmers Insurance Group
Nationwide Group
Aetna Life & Casualty Group
Liberty Mutual Group
Travelers Insurance Group
USAA Group
Hartford Insurance Group
CIGNA Group
Geico Corporation Group
Continental Group
United States F & G Group
Fireman's Fund Group
California State Auto Association
Interinsurance Exchange Auto Club of Southern California
Sentry Insurance Group
Lincoln National Group

3. Appendix B to Part 544 is revised to read as follows:

**Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States**

Alabama Farm Bureau Group (Alabama)
Island Insurance Group (Hawaii)
Kentucky Farm Bureau Group (Kentucky)
American General Group (Maine)
Commercial Union Assurance Group (Maine)
American Family Group (North Dakota, South Dakota, and Wisconsin)
Auto Club of Michigan Group (Michigan)
Southern Farm Bureau Group (Mississippi)
Amica Mutual Insurance Company (Rhode Island)
American International Group (Vermont)

Issued on January 15, 1988.

**Diane K. Steed,**

*Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 216

### Commercial Fishing Operations Permit; California Sea Lions

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Continuation of regulation and Reauthorization of general permit.

**SUMMARY:** On June 17, 1986, the National Marine Fisheries Service (NMFS) issued a General Permit to the Sportfishing Association of California under Category 6 of the general permit regulations (50 CFR 216.24). This permit authorized operators of commercial passenger fishing vessels (CPFV) to harass California sea lions when they were interfering with active sportfishing operations. The Permit is subject to annual reauthorization based on the NMFS' analysis of the effectiveness of approved harassment devices in deterring sea lions from interfering with sportfishing operations.

The NMFS conducted an analysis of activities conducted under the permit and found that the rate of sea lion interactions with CPFV operations has declined since environmental conditions stabilized subsequent to the 1983-84 El Nino event. Consequently, CPFV operators have not made substantial use of the permit. There were occasional interactions and the use of small numbers of seal bombs and cracker shells was reported. The NMFS concludes that the use of authorized harassment devices under the general permit presents no disadvantage to the sea lions.

Based on its findings, the NMFS is reauthorizing the general permit for gear category 6 issued to the Sportfishing Association of California for the period January 1, 1988 through December 31, 1988.

**FOR FURTHER INFORMATION CONTACT:** E.C. Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731. (213-514-6199).

**SUPPLEMENTARY INFORMATION:** On December 4, 1985, (50 FR 49696) NMFS issued a final rule modifying the regulatory definition of "commercial fishing operation" to include commercial passenger fishing vessels (CPFVs). This modification created a new gear category (category 6) and established procedures for operators and owners of CPFVs to apply, under the authority of the Marine Mammal Protection Act, to harass marine mammals in the course of fishing operations. On June 16, 1986, the NMFS issued a General Permit to the Sportfishing Association of California (SAC) (51 FR 23457, June 27, 1986). Conditions appended to the permit placed certain restrictions on the taking. These included: limiting the techniques authorized for harassing California sea lions away from fishing operations to specific non-lethal devices; broadly specifying the geographic areas where devices may be used; and requiring that any harassment of sea lions be reported to the Regional Director. The authorization to harass sea lions granted by the General Permit is extended to individual vessel owners and operators through a Certificate of Inclusion issued to those individuals that complete an application with the Southwest Region.

The purpose of this report is to assess the effectiveness of the CPFV regulations and the SAC General Permit in both alleviating and monitoring these marine mammal-fishery interactions.

**Permits Issued and Reports Received**

During 1986, 39 Certificates of Inclusion were issued, 17 to vessel owners and 22 to operators. During 1987, 25 certificates (14 owners and 11 operators) were issued. Since issuance of the General Permit, the NMFS has received logs from only two certificate holders, reporting that devices were