

FOR FURTHER INFORMATION CONTACT:

Diane L. Hofbauer, Policy and Rules Division, Mass Media Bureau, (202) 254-3394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* in MM Docket No. 88-509, adopted October 13, 1988, and released November 4, 1988.

The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this *Notice of Proposed Rulemaking* may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

1. Having previously permitted unlimited-time operation for most daytime-only AM radio broadcast stations operating on the 14 foreign clear channels and on the U.S. clear and regional AM channels, the FCC proposes changes in its Rules to facilitate the enhancement of nighttime operations of Class II-S and Class III-S AM stations operating on these channels. Accordingly, the Commission proposes rule amendments that would permit these stations to establish a separate nighttime antenna system without having to meet the minimum power, city coverage or minimum operating schedule requirements that would otherwise apply to such changes in nighttime operations.

2. In prior actions permitting daytime-only stations to operate at night, the power levels authorized were calculated based upon use of the same antenna system that the station used for daytime operations. Because such antenna systems were designed with only daytime protection in mind, in many cases they were not capable of providing effective nighttime service due to differing interference considerations. Many AM stations authorized to operate at night thus chose not to utilize the nighttime authorization. The rule changes proposed in this action would allow Class II-S and Class III-S stations to operate at night using a separate nighttime antenna system designed with nighttime interference protection requirements in mind.

3. Similarly, under prior actions authorizing such AM stations to operate at night, the Commission's Rules restricted power increases to only those stations able to achieve minimum power as set forth in the Commission's Rules.

This action proposes to allow Class II-S and Class III-S stations' nighttime operations to utilize power levels below the 0.25 kW minimum power requirement.

4. Under the proposed rule amendments, no station will be permitted to cause any increased interference to full-time AM broadcast stations.

5. It is proposed that Class II-S and Class III-S stations providing enhanced nighttime service would continue to be exempt from the city coverage and minimum operating schedule requirements.

6. Finally, the *Notice of Proposed Rulemaking* seeks comment upon permitting voluntary power reductions for nighttime operations by full-time AM broadcast stations. Stations eligible for and engaging in such voluntary power reductions would be reclassified as Class II-S or III-S stations and would lose their right to interference protection that is accorded to stations with at least minimum facilities.

Comments

7. Pursuant to applicable procedures set forth in § 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 27, 1988, and reply comments on or before January 11, 1989. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Non-restricted rulemaking

8. This is a non-restricted notice and comment rulemaking proceeding. See § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Initial Regulatory Flexibility Analysis

9. With reference to the Regulatory Flexibility Act of 1980, 5 U.S.C. section 603, the proposed rule will, if promulgated, have a beneficial impact upon small AM broadcast stations that will be enabled to provide enhanced nighttime services to the public, and thereby compete more effectively with existing unlimited-time AM and FM stations. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete.

Notice of Proposed Rulemaking

10. The Secretary of the Commission is directed to send a copy of the *Notice of Proposed Rulemaking* in this proceeding to the Chief Counsel for Advocacy of the Small Business Administration in accordance with

section 603(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Paperwork Reduction Act Statement

11. The proposed rule changes have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information, collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed upon the public.

12. Authority for the rule changes upon which comments are invited is contained in sections 4(i), 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 307.

List of Subjects in 47 CFR Part 73

Radio broadcasting.
Federal Communications Commission.
Donna R. Searcy,
Secretary.

[FR Doc. 88-26108 Filed 11-9-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 172 and 173**

[Docket No. HM-142A; Notice No. 88-6]

RIN: 2137 AB56

Etiologic Agents

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration (RSPA), DOT.
ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) by revising the definition of "etiologic agent" and removing the 50 milliliter (1.69 fluid ounces) exception in 49 CFR 173.388. This action is necessary to protect health and safety and to ensure that all quantities of etiologic agents are subject to the same requirements for packaging and hazard communication. The intended effect is to enhance the safe transportation of etiologic agents through application of regulatory requirements for packaging and hazard communication.

DATE: Comments must be received on or before January 18, 1989.

ADDRESS: Address comments to Dockets Unit, Office of Hazardous Materials Transportation, (DHM-30), U.S. Department of Transportation,

Washington, DC 20590. Comments should be submitted, when possible, in five copies and should identify the docket number. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except public holidays.

FOR FURTHER INFORMATION CONTACT: George Cushmac, (202) 366-4545, Technical Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, or Ann Boylan, (202) 366-4488, Standards Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: RSPA is proposing three amendments to the HMR with regard to etiologic agents. The first proposal concerns the definition of an etiologic agent and the list of etiologic agents referenced in the regulations of the Department of the Health and Human Services (DHHS) in 42 CFR 72.3. Objective criteria for the etiologic agent hazard class have not been developed yet and the list of etiologic agents is difficult to keep current. Therefore, RSPA proposes to broaden the definition of an etiologic agent in 49 CFR 173.386(a)(1). The proposed definition would include those agents listed in 42 CFR 72.3, and "any agent that poses a degree of hazard similar to those agents". This proposed action would require pathogens not currently listed in the DHHS regulations to be shipped as etiologic agents, based on the shipper's knowledge that the agents present a substantial risk to health and safety. This would include the acquired immune deficiency syndrome (AIDS) virus.

The proposed definition is broader in scope than the current definition in § 173.386 because it applies to more agents than are currently regulated. However, it is not as broad as the definition for infectious substances (Division 6.2) contained in the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) and international regulations based on the UN Recommendations such as the International Civil Aviation

Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These standards define infectious substances as "substances containing viable microorganisms or their toxins which are known, or suspected to cause disease in animals or humans". Under the international regulations, any quantity of an infectious substance is subject to requirements for shipping papers, marking, labeling and packaging. This definition of infectious substance includes substances which affect animals, and appears to include some relatively innocuous substances (e.g., cold viruses, yeasts and fungi which may cause minor illnesses). However, the scope of the definition is limited in this proposal to address the immediate problem.

A second proposal concerns the exception in 49 CFR 173.386(d)(3) under which cultures of etiologic agents of 50 ml or less total quantity in one outside package are not subject to any requirements of the HMR if the items as packaged do not contain a material otherwise subject to the HMR. After reconsideration of the health hazards presented by etiologic agents, it is RSPA's belief, based on safety considerations, that etiologic agents in any quantity present a substantial public health hazard and should be subject to regulation. Therefore, RSPA proposes to regulate all quantities of etiologic agents by deletion of the exception for quantities of 50 ml or less.

A third proposal concerns the per package quantity limits of etiologic agents aboard aircraft. This proposal would align the HMR with quantity limitations for infectious substances in the ICAO Technical Instructions.

The proposals in this notice are the initial step in a comprehensive review of the requirements pertaining to the transportation of etiologic agents. In future rulemaking action, RSPA plans to focus attention on various issues concerning etiologic agents, including packaging, the exceptions for biological products and diagnostic specimens addressed in § 173.386(d)(1) and (2), the present exclusion of etiologic agents which only affect animals, and adoption of hazard communication provisions and the definition for infectious substances in the UN Recommendations.

Administrative Notices

Executive Order 12291

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures [44 FR 11034]; (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A regulatory evaluation is available for review in the Docket.

Executive Order 12612

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

Impact on Small Entities

Based on limited information concerning size and nature of entities likely to be affected by this final rule, I certify that the regulations proposed herein would not, if adopted, have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Parts 172

Hazardous materials transportation, Hazardous materials table.

49 CFR Part 173

Hazardous materials transportation, Definition, Packaging, Etiologic agents.

In consideration of the foregoing, 49 CFR Parts 172 and 173 would be amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS

1. The authority citation for Part 172 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

§ 172.101 [Amended]

2. The Hazardous Materials Table would be amended by revising the entry for "Etiologic agent, n.o.s." to read as follows:

§ 172.101 Hazardous Materials Table

+ A W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Excep-tions	Specific require-ments	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo ves-sel	Pas-senger vessel	Other requirements
(1)	(2)	(3)	(3a)	(4)	(5a)	(5b)	(6a)	(6b)	(7a)	(7b)	(7c)
	REVISED Etiologic agent, n.o.s.	Etiologic agent.	NA2814	Etiologic agent.	173.386	173.387	50 ml or 50 g.	4 L or 4 Kg.			Not permitted except under specific conditions approved by the Department.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. The authority citation for Part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

4. In § 173.386, paragraph (d)(3) would be removed and paragraph (a)(1) would be revised to read as follows:

§ 173.386 Etiologic agents; definition and scope.

(a) * * *

(1) An "etiologic agent" means a viable microorganism, or its toxin, which causes or may cause human disease, and includes those agents listed in 42 CFR 72.3 of the regulations of the Department of Health and Human Services and any agent that poses a degree of hazard similar to those agents.
* * * * *

Issued in Washington, DC, on November 7, 1988.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 88-26132 Filed 11-9-88; 8:45 am]

[BILLING CODE 4910-60-M]

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 88-13; Notice 1]
RIN 2127-AC72

Consumer Information; Vehicle Owner's Manuals

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Notice of proposed rulemaking.

SUMMARY: This notice implements the granting of a petition by Motor Voters requesting that NHTSA require motor vehicle manufacturers to include information in their vehicle owners'

manuals advising owners about the agency's defect authority and providing them with the telephone number for the agency's Auto Safety Hotline. To encourage owners to report defects and to facilitate their doing so, this notice proposal to amend the agency's Consumer Information Regulations to require manufacturers to provide the requested information.

DATES: Comment closing date: Comments on this notice must be received on or before December 27, 1988.

Proposed effective date: If adopted, these amendments would be effective 180 days after the publication of the final rule.

ADDRESS: All comments on this notice should refer to Docket No. 88-13; Notice 1 and be submitted to the following: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: James P. Talentino, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington DC 20590 (202-366-5212).

SUPPLEMENTARY INFORMATION: The National Traffic and Motor Vehicle Safety Act ("Safety Act") requires manufacturers of motor vehicles and motor vehicle equipment to recall and remedy vehicles and equipment that are determined by the manufacturer or NHTSA to contain either a safety-related defect or fail to comply with a Federal motor vehicle safety standard issued under the Safety Act. The agency's most important source of data used to identify defects which relate to motor vehicle safety is the consumer complaints made by persons calling the agency's Auto Safety Hotline. In 1987, the agency received 332,659 calls on the Hotline. In addition, NHTSA received 15,092 detailed Vehicle Owner Questionnaires that had been sent by

the agency to some of the Hotline callers.

Motor Voters, a consumer organization interested in motor vehicle safety, has petitioned the agency to strengthen the Hotline as source of defect information by requiring the manufacturers of "passenger vehicles" to include information in the vehicle owners' manuals about NHTSA's and safety defects. Specifically, this information would advise owners about NHTSA safety defect authority and urge them to contact the agency about potential safety defects in their vehicles. To facilitate contacting the agency, the information would include the toll free telephone number of the Auto Safety Hotline and the agency's address. The information also would explain that while the agency has authority to investigate defects and order recall and remedy campaigns, it does not become directly involved in the dealings of a particular consumer with a manufacturer of a motor vehicle regarding a defect in that vehicle. These requirements would be added to the agency's Consumer Information Regulations in Part 575 of Title 49 of the Code of Federal Regulations.

NHTSA previously has granted this petition by letter to the petitioner and is issuing this notice to propose the requested requirements. A longstanding goal of the agency is to enhance the visibility of the Auto Safety Hotline and to improve the process of getting information from consumers about potential safety defects. NHTSA plans to publicize the Hotline through public service announcements in the media, through consumer and corporate safety offices, in telephone books, and through programs with State transportation agencies.

The inclusion of the requested information in the owners' manuals would be an important addition to NHTSA's public information campaign to increase consumer awareness of the

Hotline and the agency's efforts to strengthen its defect investigation activities. Including the Hotline number in owners' manuals would put the number in the hands of millions of motor vehicle purchasers at very little cost. Moreover, since owners typically refer to their manuals periodically throughout the ownership of their vehicles, especially when they are experiencing vehicle problems, the Hotline number printed in the manuals is likely to be seen many times. The inclusion of the Hotline number in manuals would be particularly important for new car owners since it would produce a higher volume of calls about potential safety defects earlier in a vehicle's life. This would be particularly important to detect defects in newly introduced models.

Accordingly, NHTSA proposes to amend § 575.6 of the Consumer Information Regulation to require motor vehicle manufacturers to include information about NHTSA's recall and remedy authority and about the Auto Safety Hotline in the owner's manual. The agency is proposing a requirement that is somewhat broader than the petition in that the proposal covers all new motor vehicles, not just "passenger vehicles." NHTSA took this step because facilitating owner reporting of potential safety defects is important for all types of motor vehicles. The agency also has made minor changes in the information requirements requested in the petition.

The proposed amendment would require manufacturers to state in the owner's manuals that consumers may contact NHTSA if they believe that their vehicle contains a safety defect. The amendment would also require that the manuals include the Hotline telephone number and agency address. Finally, the amendment would require that manufacturers include in the manuals a statement about the agency's authority to order a safety recall if it finds that a safety defect exists in a group of vehicles.

NHTSA has evaluated this proposal to require information about the agency in vehicle owners' manuals and has found that its effect would be to impose only minimal costs on a motor vehicle manufacturer, even though this regulation would require every new vehicle to contain this information in the owners' manual. The agency anticipates that a manufacturer would have to devote only one-half of a page in the owner's manual to this information. The cost of this measure is estimated to be only the additional costs related to the

printing of one-half page since the manufacturers already print manuals. Therefore, the additional costs resulting from this rule not be more than a few cents per vehicle. Accordingly, the agency has determined that the proposal is not major within the meaning of Executive Order 12291 and is not significant for purposes of Department of Transportation policies and procedures for internal review because it would not have an impact on the economy in excess of \$100 million. Similarly, it would not result in a major change in costs or prices for consumer's individual industries, government, or any geographic region. Nor would this action significantly affect competition. The agency has further determined that the costs associated with this proposal would not be large enough to warrant preparation of a regulatory evaluation under the procedures.

For the same reasons just discussed, I certify under the Regulatory Flexibility Act this rule will not have a significant impact on a substantial number of small entities within the meaning of the statute.

Further, this rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it has no Federalism implication that warrants preparation of Federalism report.

Finally, the agency has concluded that the environmental consequences of the proposed change would be of such limited scope that they clearly would not have a significant effect on the quality of the human environment.

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.

List of Subjects in 49 CFR Part 575

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, it is proposed that 49 CFR 575.6 be amended as follows:

PART 575—CONSUMER INFORMATION REGULATIONS

1. The authority citation for Part 575 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, and 1423; delegation of authority at 49 CFR 1.50.

§ 575.6 [Amended]

2. Section 575.6(a) would be amended by redesignating the existing language as paragraph 6(a)(1), and adding a new paragraph (a)(2), to read as follows:

§ 575.6 Requirements.

(a) * * *

(2) At the time a motor vehicle is delivered to the first purchaser for purposes other than resale, the manufacturer of that vehicle shall provide to the purchaser, in writing and in the English language, the following statement in the owner's manual:

If you believe that a vehicle or item of motor vehicle equipment (such as tires, lamps, etc.) has a potential safety-related defect, you may notify the National Highway Traffic Safety Administration (NHTSA). You

may either call toll free at 800-424-9393 (or 366-0123 in Washington, DC) or write Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. NHTSA investigates alleged safety-related defects and may order a recall and remedy campaign if it finds that a safety defect exists in a group of vehicles and the manufacturer does not voluntarily conduct a recall and remedy campaign. However, NHTSA does not become directly involved in the dealings between a particular consumer and vehicle manufacturer regarding a defect in the consumer's vehicle.

Issued on: November 7, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 88-26079 Filed 11-9-88; 8:45 am]

BILLING CODE 4910-59-M