

In accordance with section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 284C3 at Washington or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before April 20, 1992, and reply comments on or before May 5, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Peter Gutmann, Esq., Pepper & Corazzini, 1776 K Street, NW., Washington, DC 20006 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-29, adopted February 13, 1992, and released February 27, 1992. The full text of this Commission decision 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 decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting:

Federal Communications Commission.

Michael C. Ruger,

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

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 198

[Docket No. PS-119, Notice 2]

RIN 2137-AC 12

Allocation Formula for State Grants

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes revisions to the allocation formula for distributing Federal pipeline safety grants to states beginning in Calendar Year (CY) 1992. The notice also summarizes comments received in response to a February 25, 1991 Advance Notice of Proposed Rulemaking (ANPRM) soliciting ideas on revising the allocation formula. The Department of Transportation is modifying the formula to focus attention on program performance. Formula revisions would be phased in over a 2-year period to allow states time to reassess their programs from a performance perspective and take steps to meet performance criteria. The intent is to encourage states to further enhance pipeline safety, improve the effectiveness of their programs, and assume jurisdictional responsibility over all intrastate pipeline operators.

DATES: Interested persons are invited to submit written comments in duplicate by April 3, 1992. Late filed comments will be considered to the extent practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESSES: Send comments to the Dockets Unit, room 8417, Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), U.S. Department of Transportation (DOT), 400 Seventh Street SW., Washington, DC 20590. Identify the docket and notice number stated in the heading of this notice. All comments and materials cited in this document will be available in the docket for inspection and copying in room 8421, between 8 a.m. and 4 p.m., each working day. Non-federal employee visitors are admitted to the DOT headquarters building through the southwest quadrant at Seventh and E Streets.

FOR FURTHER INFORMATION CONTACT: G. Tom Fortner (202) 366-4564, or Karen Sagett (202) 366-4577, regarding the

subject matter of this NPRM, or the Dockets Unit (202) 366-4453 for copies of this documentation or other materials in the docket.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the Federal pipeline safety grants is to encourage states to adopt and enforce minimum Federal pipeline safety regulations. RSPA is proposing to revise the allocation formula used to distribute the grants to reflect the evolution of the program over the years. Initially, in distributing grants, emphasis was placed on assisting states in establishing their pipeline safety programs. Now that this objective has largely been accomplished, attention is shifting to assisting states in enhancing program performance. Accordingly, the intent is to revise the formula to parallel this shift in program emphasis.

Emphasis on performance will lead to a more uniform, consistent pipeline safety program across the country. States which have below average programs will be encouraged to upgrade their operations. States which have not yet assumed full jurisdiction over all intrastate pipeline operators will have incentive to do so. By tying Federal funds to performance, RSPA anticipates that states will pay more attention to the adequacy of their operating and recordkeeping practices; the quality of their inspections, investigations, and enforcement actions; and the caliber of their personnel.

Currently, the formula allocates funds on a 75/25 percent split, with 75 percent based on program size and 25 percent based on program performance. The 75 percent portion is calculated by multiplying the state request by a percentage factor inversely related to the level of the request. The 25 percent portion reflects the number of points a state received for achieving a specific level of performance (extent of state jurisdiction over pipeline operators, inspector qualifications, number of inspectors, number of inspection person days, compliance with underground utility damage program requirements, and attendance at Federal/state meetings). The current formula results in states with smaller programs receiving a greater percent of their request than states with larger programs, which receive more funding but a small percentage of the cost of running their programs. A detailed description of the current formula used for distributing CY 1991 funds and the actual state-by-state grant allocations can be obtained through the docket or by writing the information contacts listed above.

Revision of the formula should be considered in the context of two other related actions—an effort to attain 50 percent funding and development of a staffing formula.

The Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act both authorize grant funding of up to 50 percent of the cost of personnel, equipment, and activities reasonably required by a state agency to carry out its safety program. Since 1981, state request for funds have exceeded appropriations. RSPA is committed to moving toward full 50 percent funding on a phased basis tied to state assumption of jurisdictional responsibility over all intrastate pipeline operators and the transition to a performance-based formula for distributing grant funds. Increased grant funding would provide a more cost-effective approach to an increased inspection capability since states provide matching or greater funding.

In a related area, the National Association of Pipeline Safety Representatives (NAPSR) Staffing Formula Committee is working on a staffing formula which will define a reasonable number of inspectors necessary for an adequate state pipeline safety program. The formula would include factors such as miles of pipeline and number of inspection units—factors that also might be taken into account in the allocation formula for distributing state grants. The intent is to fund state programs at a baseline level regarded appropriate to achieve pipeline safety objectives, provided the states also meet performance criteria. While RSPA encourages states to go beyond the baseline level to assure public safety, RSPA does not intend to fund any state activities over and above the baseline level.

In December 1990, RSPA staff met with NAPSR's Grant Formula Committee which NAPSR established expressly to develop state views related to revising the formula. The Committee, composed of seven state pipeline safety representatives from across the country, discussed options for revising the formula. In addition, RSPA published an ANPRM February 25, 1991, soliciting ideas on revising the allocation formula and specifically requested comments on the best mix of formula allocation factors and appropriate weights to be assigned to each. In June 1991, RSPA staff met again with members of the NAPSR Grant Formula Committee to discuss responses to the ANPRM and to present the proposed approach for revising the formula that is described in this NPRM. In July 1991, RSPA reviewed

the proposed approach with members of the National Association of Regulatory Utility Commissioners (NARUC) Gas Committee/Subcommittee on Pipeline Safety. Additionally, the proposed approach was discussed at the five NAPSR regional meetings held during the fall of 1991 involving all state pipeline safety representatives.

Summary of ANPRM Comments

The February 25, 1991 ANPRM soliciting ideas on revising the allocation formula specifically requested comments on the best mix of formula allocation factors and appropriate weights to be assigned to each. Ten factors were included for consideration (most of the factors in the current formula plus a number of new ones). Additionally, the ANPRM sought reaction to seven issues related to revising the formula (minimum level of performance, protection from abrupt drop in funding, phasing in the revised formula, incentives, annual aberrations, state monitoring of program performance, and set asides for special projects).

Fourteen comments were received in response to the ANPRM. Thirteen of the 14 were from state agencies and one was from a trade association. Eleven of the 14 commenters were generally supportive of revising the allocation formula. Of the remaining three commenters, two said the current system of allocating 25 percent of the funds based on performance seems reasonable and should be continued. The other commenter wanted to return to a formula similar to the one used in 1981, the first year a formula was used to allocate funds (each state requesting less than \$75,000 was allocated its full request; states with larger expenses were allocated \$75,000 plus an amount based on proportionate sharing of the remaining funds).

On average, only five states commented on each of the ten proposed factors for inclusion in the revised formula. One of these states ranked the importance of each factor on a scale of high-medium-low. Another said criteria would have to be developed on full, partial, or inadequate performance. Two states said they supported all the proposed factors but did not make any specific comments on the individual factors. Another state said the factors give a good picture of state performance but it was difficult to assign weights. The comments made by those responding specifically to the ten proposed allocation factors are summarized below:

1. *The Extent to Which a State Inspects all Pipeline Operators and Enforces Minimum Federal Pipeline Safety Standards*

Five states responded. Two states said the formula should recognize the extent of state jurisdiction. One of these states went on to say, however, that states not having full jurisdiction should not be precluded from receiving full funding for efforts performed. One state not having full jurisdiction felt strongly that there should not be a penalty for lack of full jurisdiction. Another state said this factor should be ranked medium to low on a high-medium-low scale.

2. *The Frequency, Quality, and Type of State Inspections and Incident Investigations Conducted.*

Seven states commented. One state said this factor should be considered and that the annual monitoring visit was a good starting point. Another state said recognition should be given to the number of inspection units, size of units (miles of lines and number of customers), and inspection frequency intervals. Yet another state said this factor should be ranked high. One other state said its inspection program always exceeded requirements. Three states had some concerns: one state questioned whether frequency would be determined by the state's ability to inspect or by a RSPA data base; another state said this was a very difficult factor to judge and therefore should be dropped. The third state said states should not be penalized for noncompliance with arbitrary RSPA goals.

3. *The Number of State Inspectors and Support Staff Available*

Four states commented. One said the minimum staffing requirement being proposed by the NAPSR Staffing Formula Committee should be considered for this factor. Another said this factor should be ranked high. One other said its personnel numbers paralleled Federal expectations. The remaining state commenting said the number of inspectors should not be linked to funding; that number depends upon state funding and any reduction in Federal funds because a state cannot meet the recommended number would only add to budget problems.

4. *The Percent of Staff Time Spent on Inspections*

Five states commented. One proposed ranking this factor high. Another proposed consideration of the number of inspection person days, not percent of

staff time. One other mentioned that inspection time already exceeds Federal minimums. Another questioned whether this factor meant actual field time or if it included report writing, follow-up, and travel time. The remaining state said the current level of 85 inspection person-days seems reasonable and that funding should not be reduced if a state cannot meet the required level for a valid reason (illness, maternity leave, etc.).

5. State Inspector Qualifications, Including Compliance With Training Requirements

Six states commented. Five of the six generally thought state inspector qualifications should be included in the formula; one said a point system should favor registered engineers rather than inspectors without recognized credentials. One other said all of its inspectors exceed qualifications requirements now and that the Federal requirements should be increased or maintained. Another said inspector qualifications should be ranked high in the formula. With respect to training, two states said they should not be penalized if they were unable to meet the training requirements. One state said RSPA should fund 100 percent of new inspector training, allocating each state up to two training courses per year for each new inspector.

6. State Adoption of Applicable Federal Regulations

Four states commented. Three of the four wanted state adoption of Federal Regulations in the formula; one of these said it should be ranked high. The fourth state said state adoption of Federal regulations is time consuming. It could take 2-3 years to process rule changes. If a state is taking steps to adopt, its funds should not be penalized.

7. State Adoption of Damage Prevention Program

Four states and the one trade association that responded to the ANPRM commented. Three of the four states said state adoption of damage prevention programs should be included in the formula, with one ranking it low as a factor. The fourth state merely said that RSPA should not withhold funds due to lack of complete compliance. The trade association, in its only comments on the contents of the ANPRM, thought state adoption/enforcement of effective damage prevention requirements should be weighed heavily in the formula, citing that over 63 percent of all gas pipeline incidents during the last 16 years resulted from third-party damage.

8. State Enforcement of Regulations Including Assessment of Penalties

Five states commented. Two states thought enforcement should be included in the formula; one of these states said it should be ranked high. Three states were wary of including assessment of penalties in the formula. One was not aware of a uniform system for assessing penalties or formal RSPA policy on enforcement in relation to fines; another said funding should have nothing to do with assessment of penalties because states use different methods to achieve compliance and the method used should be left to the discretion of the states.

9. State Attendance at Federal/State Pipeline Safety Meetings

Six states commented. Five of the six said meeting attendance should be included in the formula. Three of these five commenters said RSPA should continue the current practice of funding State travel to attend these meetings. One state objected to including this proposed factor, saying the purpose of the pipeline safety program is to inspect pipelines and all funding should be based on that purpose.

10. Adequacy of State Recordkeeping Procedures and Ability to Retrieve Data

All four states commenting on this factor believe that recordkeeping should be reflected in the formula.

In addition to the ten allocation factors proposed in the ANPRM, several states surfaced other factors such as level of safety achieved (based on 5 year average of accidents per mile of pipeline and per number of services), number of inspection units, size of units (miles of lines and number of customers), and construction activity.

With respect to the seven issues related to revising the formula, states made more comments on these issues than they did on the ten proposed allocation factors. On average, 11 or 12 states commented on each issue. A summary of these comments follows:

1. Should the Formula Address Funding of State Pipeline Safety Programs at Only a Base (or "Minimum") Level of Performance?

Eleven states made comments. Ten of the 11 states thought the formula should provide funding at a base level; one state believed the formula should provide funding for performance over and above the base level. Additionally, four states thought the formula should provide incentives, but only if funds were available after all states were minimally funded.

2. How can Relatively Smaller State Programs and Marginal Programs Be Protected From an Abrupt Drop in Funding Level if the Formula is revised?

Thirteen states responded. Eleven think smaller state programs should be protected from a drop in funding if more weight is given in the formula to performance. Two states disagreed; one said funds should not be allocated just because a safety program is in place.

3. Should the Revised Formula Be Phased in Over a Several Year Period or Should it be Introduced Immediately Without any Transition?

Thirteen states responded. Twelve thought the formula should be phased in, with most feeling a 2-3 year period would be appropriate. One state felt the new formula should apply right away.

4. What Incentives Might Be Used to Convince States Currently not in the Program To Participate?

Ten states suggested a number of incentives that might be used to keep states in the program. Seven said that increased (50 percent) funding would be a major incentive. Two said minimizing red tape and retaining the Federal/State Partnership (equal status) would help. Other incentives mentioned included developing video material and showing tolerance to different methods of achieving compliance.

5. Should the Formula Take Into Account Annual Aberrations a State may Experience but Over Which it has Little Control That Could Adversely Affect its Funding Level?

Twelve states responded. Eleven felt some provision should be made for annual aberrations. One state thought it might be difficult, given the difference in Federal/state fiscal years and the disconnect between the state budget cycle and certification time frame. Proposed approaches included using: The greater of the annual evaluation and a 3-year evaluation; a straight 3-year average; a 2-3 year smoothing function; and a 5-year averaging basis.

6. Should Results of the State Monitoring Visit by the RSPA Office of Pipeline Safety Staff be Factored Into the Formula?

Eleven states responded. Eight thought the state monitoring visit should be used to assess performance for purposes of the formula. Two states disagreed. The remaining state questioned the purpose of the monitoring visit, wondering if it was to verify the state certification or review the program. That state noted that the

monitoring form has a lot of duplication with the certification form.

7. Should a Portion of the Grant Funds be set Aside for Special Projects and Initiatives That may Come up From Year to Year?

Twelve states responded. Eight said that funds should be used for special projects but five of these states said only if funds were left over after the base-level allocations were made. Three states do not want funds used for special projects. The remaining state said if it is done, funding should be at 100 percent.

Based on the comments received in response to the ANPRM and the comments received at NAPS and NARUC meetings, most states believe the allocation formula should be revised to put greater emphasis on program performance. Additionally, most states are in general agreement that the revised formula should be phased in over several years, and that no state should receive less funding under the revised formula than it does under the current formula. There is no clear consensus among states, however, with respect to what allocation factors (or performance criteria) should be included in the formula nor what weight should be assigned to each factor. RSPA, therefore, proposes to select factors and assign weights that reflect overall program priorities and national concerns.

Proposed Approach

Given the desirability of an increasingly performance-based formula, the effort to attain full 50 percent grant funding, the emphasis upon state assumption of jurisdictional responsibility for all intrastate pipeline operators, and the comments received on the ANPRM and in subsequent discussions with state pipeline safety representatives, RSPA is proposing a phased approach toward revising the grant allocation formula. This approach would use the existing formula for distributing grants in CY 1991 as a point of departure. CY 1992 and 1993 would be transition years, to assure some stability while the states assess their programs from a performance perspective and take steps to meet performance criteria. No state would receive less funding than it did in CY 1991, provided its request is at the CY 1991 level or higher and appropriated funds are at the CY 1991 level or higher. In CY 1994, RSPA would re-evaluate continuation of funding states at the CY 1991 level.

CY 1992

The following changes are proposed to the CY 1991 formula:

- Adjust the current primary/secondary allocation split from 75/25 percent to 50/50 percent. The primary allocation, reflecting program size, is currently calculated by multiplying the state request by a percentage factor inversely related to the level of the request (e.g., a state requesting \$45,000 would have a percentage factor of 82; while a state requesting \$245,000 would have a percentage factor of 42). The secondary allocation, reflecting program performance, is calculated by totaling the number of points a state receives for achieving specific program objectives. (This change would put increased emphasis on performance.)
- Modify the existing table used for the primary allocation percentage factors so that state requests of \$200,001 and over would all have a percentage factor of "50," instead of the sliding scale from 50 to 35. (This change would allow larger programs to receive a somewhat greater percentage of the cost of running their programs than they currently receive, resulting in greater equity among the states.)

Tentative state allocations for the natural gas and hazardous liquid programs based on the proposed CY 1992 formula revisions (50/50 split; modified percentage factor) appear in an Appendix to this NPRM, along with state allocations based on the CY 1991 formula (75/25 split). These two breakouts show on a state-by-state basis the differences in funding levels resulting from the proposed formula revisions for CY 1992. They are based on CY 1991 state request levels and Federal funding in CY 1992 of \$7 million.

CY 1993

The following additional changes are proposed to the CY 1991/92 formula:

- Adjust the primary/secondary allocation split from 50/50 percent to 25/75 percent.
- Revise the state point criteria used in the secondary allocation for assessing state program performance to take into account the results of the annual state monitoring visit as well as information provided in the annual pipeline safety program certification/agreement packages. A maximum of 100 performance points would be assigned (50 from the state monitoring visit and 50 from the certification/agreement package).

Both the monitoring form and certification/agreement packages would

be revised so the monitoring form is used primarily to assess state field performance (e.g., operating practices; quality of state inspections, investigations, and enforcement actions; adequacy of recordkeeping) and the certification/agreement packages are used primarily to assess state program compliance (e.g., extent of jurisdiction, inspector qualifications, number of inspectors, number of inspection person days, state adoption of applicable Federal regulations including one-call notification system requirements, attendance at Federal/state meetings). These revisions would also eliminate existing duplication between the monitoring form and certifications/agreements. The information provided by a state on the certifications/agreements would be validated during the annual monitoring visit.

By CY 1994, RSPA intends that the formula would be performance based. In anticipation of this objective, RSPA would undertake a wholesale re-examination of the formula along with a reassessment of what constitutes adequate state performance at a baseline program level. Consideration would be given to program size/need, level of state request, actual state program costs for the prior year, number of pipeline miles, number of services, or some combination of factors. An objective would be for larger programs to receive funding in proportion to their need and not be penalized as in the past due to insufficient Federal grant funds. Actual funding levels would, of course, always depend upon the annual grant fund appropriation. In the event state requests exceed the grant funds available, each state's allocation would be prorated accordingly. Larger programs would not take a disproportionate reduction.

While this preamble describes the proposed allocation formula for use in CY 1992 and CY 1993 in some detail, proposed language to be included in the regulations is general to allow RSPA the discretion of making annual adjustments in the formula without having to revise the regulation each time a change is made. As the pipeline safety program continues to evolve, safety priorities and national concerns will change. RSPA needs flexibility in distributing funds to target specific areas that may require state attention (e.g., aging infrastructure, environmental protection). Any proposed changes would be discussed with states in various NAPS and NARUC meetings as well as other appropriate forums prior to implementation. State agencies would also be notified in writing of any

proposed changes to the formula at least 6 months prior to allocating funds for the following year. RSPA is also considering establishing a joint RSPA/state committee that would meet annually to provide advice on specific formula revisions.

Accordingly, the proposed regulations, §§ 198.5 and 198.7, establish that a performance-based formula will be used to distribute grants to states but the regulations do not specify all factors nor weights assigned to each factor that will be considered in allocating grants.

Impact Assessment

This proposal is considered to be nonmajor under Executive Order 12291 and is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Also, based on the facts available concerning the impact of this proposal, I certify under section 605 of the Regulatory Flexibility Act that it would not, if adopted as final, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

As part of a state's assumption of responsibility for adopting minimum Federal pipeline safety regulations, routinely inspecting pipeline operators for compliance with those regulations, investigating accidents and complaints, and in many cases taking appropriate enforcement actions in the event of violations or noncompliance, the state must enter into an annual certification/agreement with RSPA indicating the scope of its activities. As part of this process, the state must provide RSPA information on the extent to which it is fulfilling basic program requirements. That information is used in the allocation formula for distributing grants to states.

Inasmuch as this information collection imposes a reporting burden on the states, it has been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Persons desiring to comment on the information collection requirements should submit their comments to: Desk Officer, Research and Special Programs Administration,

Office of Regulatory Policy, Office of Management and Budget, 728 Jackson Place, NW., Washington, DC 20503. Persons submitting comments to OMB are requested to send a copy of their comments to RSPA as indicated above under **ADDRESSEE**.

Federalism

This action has been analyzed under the criteria of E.O. 12612 and found not to warrant preparation of a Federalism Assessment. The action, in fact, supports the intent of the fundamental principles in the Executive Order. The Federal government through grant allocations is seeking to strengthen the Federal-State Partnership for pipeline safety.

List of Subjects in 49 CFR Part 198

Grant programs, Formula, Pipeline safety.

In consideration of the foregoing, RSPA proposes to amend 49 CFR part 198 as follows:

PART 198—REGULATIONS FOR GRANTS TO AID STATE PIPELINE SAFETY PROGRAMS

1. The authority citation for part 198 continues to read as follows:

Authority: 49 App. U.S.C. 1674, 1687, and 2004; 49 CFR 1.53.

2. New §§ 198.5 and 198.7 would be added in subpart A to read as follows:

§ 198.5 Grant authority.

Section 5(d)(1) of the Natural Gas Pipeline Safety Act and Section 205(d)(1) of the Hazardous Liquid Pipeline Safety Act authorize the Administrator to pay out of funds appropriated or otherwise made available up to 50 percent of the cost of the personnel, equipment, and activities reasonably required for each state agency to carry out a safety program for intrastate pipeline facilities under a certification or agreement with the Administrator or to act as an agent of the Administrator with respect to interstate pipeline facilities.

§ 198.7 Grant allocation formula.

(a) Beginning in calendar year 1992, the Administrator places increasing emphasis on program performance in

allocating state agency funds under § 198.5. The percent of each state agency allocation that is based on performance follows: 1992-50 percent; 1993-75 percent; 1994 and subsequent years-100 percent.

(b) The Administrator assigns weights to various performance factors reflecting program compliance, safety priorities, and national concerns identified by the Administrator and communicated to each State agency. At a minimum, the Administrator considers the following performance factors in allocating funds:

- (1) Adequacy of state operating practices;
- (2) Quality of state inspections, investigations, and enforcement actions;
- (3) Adequacy of recordkeeping;
- (4) Extent of state safety regulatory jurisdiction over pipeline facilities;
- (5) Qualifications of state inspectors;
- (6) Number of state inspection person-days;
- (7) State adoption of applicable Federal pipeline safety standards;
- (8) Any other factor the Administrator deems necessary to measure performance.

(c) Notwithstanding these performance factors, the Administrator may, in 1992 and subsequent years, continue funding any state at the 1991 level, provided its request is at the 1991 level or higher and appropriated funds are at the 1991 level or higher.

(d) The Administrator notifies each state agency in writing of the performance factors to be used each year at least 6 months prior to allocating funds.

(e) Grants are limited to the appropriated funds available. If total state agency requests for grants exceed the funds available, the Administrator prorates each state agency's allocation.

(Approved by the Office of Management and Budget under Control number 2137-xxx)

Issued in Washington, D.C., on February 27, 1992.

George W. Tenley, Jr.,
Associate Administrator for Pipeline Safety.

Note: This Appendix will not appear in the Code of Federal Regulations

APPENDIX

PROPOSED 1992 ALLOCATION BASED ON 1991 REQUESTS 50/50 (GAS) ¹

State	Request	Percent	Primary	Secondary	Final allocation	Percent of fund
Alabama.....	301,074.00	50	90,025	109,346	119,371	33
Arizona.....	327,352.00	50	97,883	118,094	215,977	33
Arkansas.....	103,230.00	70	51,513	47,886	99,399	48
California.....	749,592.00	50	224,138	87,477	311,615	21

PROPOSED 1992 ALLOCATION BASED ON 1991 REQUESTS 50/50 (GAS) ¹—Continued

State	Request	Percent	Primary	Secondary	Final allocation	Percent of fund
Colorado.....	132,358.00	64	58,107	66,001	124,108	47
Connecticut.....	248,375.00	50	74,268	113,720	187,988	38
Georgia.....	174,349.00	56	62,594	107,616	170,210	49
Illinois.....	199,185.00	51	61,551	109,346	170,897	43
Indiana.....	107,287.00	69	52,465	50,781	103,226	48
Iowa.....	130,218.00	64	57,168	64,934	122,102	47
Kansas.....	279,406.00	50	83,546	100,599	184,145	33
Kentucky.....	182,550.00	54	61,887	83,103	144,990	40
Louisiana.....	563,000.00	50	168,345	104,972	273,317	24
Massachusetts.....	309,000.00	50	92,395	91,851	184,246	30
Michigan.....	177,300.00	55	61,880	115,420	177,300	50
Minnesota.....	455,899.00	50	133,330	113,720	247,050	28
Mississippi.....	110,457.00	68	52,910	55,415	108,325	49
Missouri.....	209,060.00	50	62,512	100,599	163,111	39
Nevada.....	82,889.00	74	44,678	38,211	82,889	50
New Jersey.....	226,124.00	50	67,614	96,225	163,839	36
New Mexico.....	150,780.00	60	60,163	90,617	150,780	50
New York.....	911,696.00	50	272,609	113,720	386,329	21
North Carolina.....	132,106.00	64	57,996	71,365	129,361	49
Ohio.....	321,038.00	50	95,995	109,346	205,341	32
Oklahoma.....	150,692.00	60	60,128	87,210	147,338	49
Pennsylvania.....	234,328.00	50	70,067	74,355	144,422	31
Rhode Island.....	58,469.00	79	34,439	24,030	58,469	50
Tennessee.....	222,320.00	50	66,477	118,094	184,571	42
Texas.....	723,578.00	50	216,360	109,346	325,706	23
Utah.....	89,730.00	73	47,468	42,262	89,730	50
Virginia.....	208,370.00	50	62,305	83,103	145,408	35
West Virginia.....	159,668.00	59	62,113	90,329	152,442	48
Wisconsin.....	112,499.00	68	53,888	39,074	92,962	41
Wyoming.....	102,750.00	70	51,274	41,944	93,218	45
Totals.....	8,636,729.00		2,870,091	2,870,091	5,740,182	
Hold Harmless.....						
Delaware.....	15,992.00	87	12,409	3,451	15,860	49
Florida.....	61,972.00	78	42,508	16,580	59,088	48
Hawaii.....	25,177.00	85	16,165	7,009	23,174	47
Maine.....	10,743.00	88	8,443	1,959	10,402	48
Maryland.....	92,926.00	72	58,164	27,491	85,655	46
Montana.....	25,518.00	85	19,290	5,306	24,596	48
Nebraska.....	81,451.00	74	52,611	22,431	75,042	46
New Hampshire.....	46,853.00	81	33,543	8,366	42,909	46
North Dakota.....	33,024.00	84	24,633	7,458	32,091	49
Oregon.....	77,100.00	75	50,572	25,546	76,118	49
Puerto Rico.....	27,752.00	85	20,978	4,516	25,494	46
Vermont.....	47,356.00	81	33,903	12,955	46,858	49
Dist. of Col.....	42,321.00	82	30,722	11,170	41,892	49
Totals.....	588,185.00		403,941	154,238	558,179	
Totals.....	9,224,914.00		3,274,032	3,024,329	6,299,361	

¹ Revised formula.PROPOSED 1992 ALLOCATION BASED ON 1991 REQUESTS 50/50 (LIQUID) ¹

State	Request	Percent	Primary	Secondary	Final allocation	Percent of fund
Arizona.....	33,247.00	84	18,714	14,533	33,247	50
California.....	749,760.00	50	167,109	121,995	289,104	19
Louisiana.....	137,600.00	63	48,557	78,568	127,125	46
Oklahoma.....	66,947.00	77	32,997	33,950	66,947	50
Texas.....	127,690.00	65	47,614	65,945	113,559	44
Totals.....	1,115,244.00		314,991	314,991	629,982	
Hold Harmless.....						
Alabama.....	17,897.00	87	12,621	4,656	17,277	48
Iowa.....	13,400.00	88	9,584	3,367	12,951	48
Minn.....	4,504.00	90	3,311	1,123	4,434	49
Miss.....	10,924.00	88	7,813	2,745	10,558	48
WVA.....	25,752.00	85	17,645	7,153	24,798	48
Totals.....	72,477.00		50,974	19,044	70,018	
Totals.....	1,187,721.00		365,965	334,035	700,000	

¹ Revised formula.

1992 PROPOSED NATURAL GAS GRANT ALLOCATION—7 MILLION 75/25 ¹

State	Request	Percent	Primary allocation	State points	Second allocation	Final allocation	Percent of fund
Alabama	301,074.00	38	126,839	25	55,021	181,860	30
Arizona	327,352.00	38	137,910	27	59,423	197,333	30
Arkansas	103,230.00	70	76,523	25	24,728	101,251	49
California	749,592.00	36	300,803	20	44,017	344,820	23
Colorado	132,358.00	64	90,174	24	37,497	127,671	48
Connecticut	248,375.00	41	112,089	26	57,222	169,311	34
Delaware	15,992.00	87	14,573	26	1,366	15,939	49
Florida	61,972.00	78	50,897	23	9,434	60,331	49
Georgia	174,349.00	56	104,834	26	57,222	162,056	46
Hawaii	25,177.00	85	22,440	21	2,129	24,569	49
Illinois	199,185.00	51	109,808	25	55,021	164,829	41
Indiana	107,287.00	69	78,458	25	26,694	105,152	49
Iowa	130,218.00	64	88,716	24	36,891	125,607	48
Kansas	279,406.00	40	123,299	23	50,620	173,919	31
Kentucky	182,550.00	54	106,114	19	41,816	147,930	41
Louisiana	563,000.00	36	225,926	24	52,820	278,746	25
Maine	10,743.00	88	9,897	23	720	10,617	49
Maryland	92,926.00	72	70,744	22	18,075	88,819	48
Massachusetts	309,000.00	38	130,178	21	46,218	176,396	29
Michigan	177,300.00	55	104,836	27	59,423	164,259	46
Minnesota	445,899.00	36	178,934	26	57,222	236,156	26
Mississippi	110,457.00	68	79,671	26	29,645	109,316	49
Missouri	209,060.00	49	111,071	23	50,619	161,690	39
Montana	25,518.00	85	22,744	23	2,363	25,107	49
Nebraska	81,451.00	74	63,637	21	13,856	77,493	48
Nevada	82,889.00	74	64,760	27	18,129	82,889	50
New Hampshire	46,853.00	81	39,885	19	4,903	44,788	48
New Jersey	226,124.00	45	111,092	22	48,419	159,511	35
New Mexico	150,780.00	60	96,694	27	54,086	150,780	50
New York	911,696.00	35	356,737	26	57,222	413,959	23
North Carolina	132,106.00	64	90,002	26	40,544	130,546	49
North Dakota	33,024.00	84	29,104	24	3,485	32,589	49
Ohio	321,038.00	38	135,250	25	55,021	190,271	30
Oklahoma	150,692.00	60	96,637	26	52,053	148,690	49
Oregon	77,100.00	75	61,008	26	15,496	76,504	49
Pennsylvania	234,328.00	44	112,779	17	37,414	150,193	32
Puerto Rico	27,752.00	85	24,735	18	2,011	26,746	48
Rhode Island	58,469.00	79	48,605	27	9,864	58,469	50
Tennessee	222,320.00	46	111,447	27	59,423	170,870	38
Texas	723,578.00	36	290,364	25	55,021	345,385	24
Utah	89,730.00	73	69,208	27	20,522	89,730	50
Vermont	47,356.00	81	40,314	26	6,782	47,096	49
Virginia	208,370.00	49	110,705	19	41,816	152,521	37
District of Columbia	42,321.00	82	36,451	26	5,653	42,104	49
West Virginia	159,668.00	59	100,797	25	54,511	155,308	49
Wisconsin	112,499.00	68	81,144	18	20,903	102,047	45
Wyoming	102,750.00	70	76,167	22	21,660	97,827	48
Total	9,224,914.00		4,725,000		1,575,000	6,300,000	34

Note: The 'request' represents 50% of the state's estimated budget. The '% of fund' is the percentage of the budget represented by the allocation.

Alabama	17,897.00	87	14,712	15	2,811	17,523	49
Arizona	33,247.00	84	26,332	17	6,915	33,247	50
California	749,760.00	36	233,935	16	49,591	283,526	19
Iowa	13,400.00	88	11,149	15	1,986	13,135	49
Louisiana	137,600.00	63	80,085	15	46,491	126,576	46
Minnesota	4,504.00	90	3,837	16	627	4,464	49
Mississippi	10,924.00	88	9,089	15	1,619	10,708	49
Oklahoma	66,947.00	77	48,337	17	18,610	66,947	50
Texas	127,690.00	65	76,871	14	41,851	118,722	46
West Virginia	25,752.00	85	20,653	15	4,499	25,152	49
Total	1,187,721.00		525,000		175,000	700,000	29

Note: The 'request' represents 50% of the state's estimated budget. The '% of fund' is the percentage of the budget represented by the allocation.

¹ Existing formula.

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National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91-16; Notice 2]

RIN 2127-AD97

Federal Motor Vehicle Safety Standards; Tire Selection and Rims; Vehicles Other Than Passenger Cars

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

ACTION: Termination of rulemaking.

SUMMARY: This notice terminates a rulemaking proceeding in which the agency issued a notice proposing to amend the labeling requirements of Standard No. 120 to specify that manufacturers list the "vehicle capacity weight" and "designated seating capacity" of the vehicle. After reviewing the comments, the agency has determined that there are insufficient demonstrated safety benefits to warrant further rulemaking on this matter. Accordingly, the agency has decided to terminate this rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington DC, 20590 (202) 366-5892.

SUPPLEMENTARY INFORMATION:

Background

Three of this agency's regulations require manufacturers to affix labels to each of their vehicles containing certain information, including information about the vehicle's weight and carrying capacity. First, part 567, Certification (49 CFR part 567), requires motor vehicle manufacturers to affix a certification label to each vehicle containing information including: the Gross Vehicle Weight Rating (GVWR, i.e., the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the number of designated seating positions), and the Gross Axle Weight Rating for each axle (GAWR, i.e., the value specified by the vehicle manufacturer as the load carrying capacity of a single axle system).

Second, Standard No. 120, Tire selection and rims for vehicles other than passenger cars (49 CFR 571.120), requires manufacturers of multipurpose passenger vehicles (MPV's), trucks, buses, trailers and motorcycles to include certain additional information

either on the part 567 certification label described above, or, at the manufacturer's option, on a tire information label affixed to the vehicle. Specifically, Standard No. 120 requires manufacturers to provide information including: an appropriate GVWR-GAWR-tire combination; the size designation of tires appropriate for the GAWR; the size and, if applicable, type designation of rims appropriate for the recommended tires; and the cold inflation pressure for the recommended tires. Standard No. 120's labeling requirements are intended to promote safe performance by ensuring that vehicles are equipped with tires of adequate size and load rating, and with rims of appropriate size and type designation.

Third, Standard No. 110, Tire selection and rims, requires manufacturers of passenger cars to affix a placard to each vehicle's glove compartment door (or an equally accessible location), containing information that is also intended to promote the passenger car's safe performance by preventing overloading of the tires or the vehicle itself. Standard No. 110 requires the placard to list the "vehicle capacity weight" (the rated cargo load and luggage load plus 150 pounds times the number of designated seating positions) and the designated seating capacity, as well as the manufacturer's recommended tire size designation and tire cold inflation pressure for the maximum vehicle weight.

Petition for Rulemaking

On May 22, 1990, Mr. Durkovich submitted a petition to NHTSA requesting the agency to amend the certification label requirements of part 567 to require manufacturers to list the "rated cargo load" which a vehicle has been designed to carry and control safely. The petitioner requested that the rated cargo load and its definition appear on the label with the vehicle's GVWR, printed in larger text and contrasting color. The petitioner did not submit any data demonstrating the existence of a safety problem due to vehicle overloading. Instead, the petitioner based his request on the general assertion that operators frequently load their vehicles beyond the load capacity of the vehicles' braking, steering, suspension and other components, and beyond the manufacturer's design intent. The petitioner further claimed that excessive overloading of a vehicle can cause loss of vehicle control and lead to accidents, thus creating an unreasonable safety risk to the public. Accordingly, the petitioner stated his belief that

providing consumers with information about the safe carrying capacity of their vehicles would decrease the incidence of overloading, thus reducing this safety risk.

Notice of Proposed Rulemaking

NHTSA granted Mr. Durkovich's petition on August 22, 1990, although the agency decided to propose a slightly different information requirement than one he requested. On April 16, 1991 (56 FR 15315), the agency published a notice containing proposals responding to Mr. Durkovich's petition, as well as several proposals to update Standard No. 120.

Instead of proposing to require "rated cargo load" to be listed on a vehicle's part 567 certification label, NHTSA proposed to amend the labeling requirements of Standard No. 120 to specify that manufacturers list the "vehicle capacity weight" and "designated seating capacity" of the vehicle. The agency further proposed to modify the definition of "vehicle capacity weight" to clarify that the "rated cargo load" includes luggage.

The agency proposed to require manufacturers to provide information about vehicle capacity weight and designated seating capacity for several reasons. First, since Standard No. 110 currently requires manufacturers to label passenger cars with information about vehicle capacity weight, the agency had believed that adoption of the proposal would have resulted in uniform provisions requiring the same loading information to be provided for all vehicles. Second, the agency believed that the term "vehicle capacity weight," a constant amount for a particular vehicle which refers to the vehicle's total carrying capacity, was less confusing than the term "rated cargo load". The rated cargo load does not include passengers and luggage and thus changes depending on the number of passengers. Further, rated cargo load is often confused with a vehicle's "payload", which sometimes does include the weight of passengers. Finally, NHTSA noted that the vehicle's rated cargo load could be easily calculated based on the vehicle's GVWR and vehicle capacity weight.

NHTSA's proposal to amend Standard No. 120 was based on the agency's tentative conclusion that providing consumers with information about vehicle capacity weight and designated seating capacity would assist them in determining the safe carrying capacity of their vehicles, thus reducing the likelihood of overloading. NHTSA believed that this information could be of particular use to those who purchase