

3. Procedural Matters

The purpose of this workshop is to provide NHTSA an opportunity for further dialog with the biomechanics community and interested parties to gather information, data, and opinions on proposals by and to the agency regarding biomechanical performance criteria needed to support the agency's recently proposed rulemaking initiatives. To maximize the output of the workshop within the limited time available, the first topic to be addressed will concern the appropriateness of the various statistical techniques used to analyze the available biomechanical data. Subsequent topics, in the order of their presentation, will be discussions of proposals for criteria for the skull/brain, neck, and the torso. The order of events in each topic area will be: A short presentation of the NHTSA proposal presented in the NPRM. Then, presentations by persons and organizations on the proposals and/or comments they made to the docket. This will be followed by presentations of any new or previously uncited data by interested persons, an open discussion by workshop participants of the technical merits of the previous presentations, and a summary statement by the workshop. To insure that the agency is fully cognizant of their issues and positions taken at this workshop, a transcript of the workshop will be made. Persons and organizations are also encouraged to submit written comments on the issues related to or discussed at this workshop. They should be submitted (preferably two copies) to Docket Management, National Highway Traffic Safety Administration, Room PL-401, 400 Seventh Street, Washington, DC 20590. Submissions must refer to Docket NHTSA 98-4405, Notice 3.

4. Workshop Participation

This workshop is a public workshop, and attendance is open to the public. You may attend as a participant (a presenter or a discussant) or an observer.

C. Written Comments

Interested persons are invited to submit comments on this notice. Two copies should be submitted to Docket Management at the address given at the beginning of this document.

In addition, for those comments of four or more pages in length, it is requested but not required that 10 additional copies, as well as one copy on computer disc, be sent to: Dr. Rolf Eppinger, Office of Human-Centered Research, National Highway Traffic

Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. This would aid the agency in expediting its review of all the comments. The copy on computer disc may be in any format although the agency would prefer that it be in WordPerfect 8.

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 two copies from which the purportedly confidential information has been deleted should be submitted to Docket Management. 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.

List of Subjects in 49 CFR Part 571

Imports, Motor Vehicle Safety, Motor Vehicles.

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

Issued on: March 17, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99-7073 Filed 3-22-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

49 CFR Part 1420

[Docket No. BTS-98-4659]

RIN 2139-AA05

Revision to Reporting Requirements for Motor Carriers of Property and Household Goods

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Bureau of Transportation Statistics (BTS) collects data from motor carriers of property on annual report Form M and quarterly report Form QFR. BTS proposes to adopt measures

concerning what data from those forms are made publicly available. Summary information, where information cannot be readily matched to an individual carrier, would always be made available. However, the proposed rules would restrict access to individual carrier data for some of the operating statistics, revenue equipment, and employment data items. Access to these data items would be limited to the Department of Transportation (DOT) and to such persons and in such circumstances as DOT determines to be in the public interest or consistent with the Department's regulatory functions and responsibilities.

DATES: Comments must be submitted by April 22, 1999.

ADDRESSES: Please direct comments to the Docket Clerk, Docket No. BTS-98-4659, Department of Transportation, 400 Seventh Street, SW., Room PL-401, Washington, DC 20590, from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Comments should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on Docket BTS-98-4659. The Docket Clerk will date stamp the postcard and mail it back to the commenter.

If you wish to file comments using the Internet, you may use the U.S. DOT Dockets Management System website at <http://dms.dot.gov>. Please follow the instructions online for more information.

FOR FURTHER INFORMATION CONTACT:

David Mednick, K-2, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590; (202) 366-8871; fax: (202) 366-3640; e-mail: david.mednick@bts.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You can examine all comments that were submitted to the Rules Docket concerning this rulemaking at: Department of Transportation, 400 Seventh Street, SW., Room PL-401, Washington, DC 20590, from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Internet users can access the comments at the address: <http://dms.dot.gov>. Search for Docket Number 4659. Please follow the instructions online for more information and help.

You can download an electronic copy of this document using a modem and

suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512-1661. If you have access to the Internet, you can obtain an electronic copy at <http://www.bts.gov/mcs/rulemaking.htm>.

II. Background

Authority

The Secretary of Transportation has authority to establish regulations for the collection of certain data from motor carriers of property and others. Section 103 of the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (1995) (codified at 49 U.S.C. 14123). This authority has been delegated to the Director of the Bureau of Transportation Statistics (BTS). 49 CFR 1.71.

Regulatory History

On November 3, 1998, BTS published a Notice of Proposed Rulemaking (NPRM) which proposed rules for revising the data collected from Class I and II motor carriers of property and household goods (63 FR 59263). It also proposed a system for carriers to request exemptions from filing reports and exemptions from public release of their reported data. On November 25, 1998, BTS published a notice extending the comment period until January 15, 1999 (63 FR 65163). In addition to publishing this Supplemental Notice of Proposed Rulemaking (SNPRM), BTS is also publishing the final rule on the NPRM (Final Rule). The Final Rule is being published in this issue of the **Federal Register**. While the NPRM and Final Rule addressed the issue of confidentiality of individual carrier reports, they did not examine the issue of public availability of the data generally.

Brief History of the Data Collection Program

The Interstate Commerce Commission (ICC) collected financial data from regulated motor carriers from the 1930's until its sunset at the end of 1995, when the data collection was transferred to the Department of Transportation (DOT). See 49 U.S.C. 11145 and its implementing regulations at 49 CFR part 1420.¹ Between 1978 and 1994, the ICC significantly reduced the reporting requirements. It substantially shortened report forms and eased record retention requirements. These changes followed the shift in the ICC's focus from close economic regulation of the motor carrier

industry to industry oversight. The last revision to accounting and reporting requirements, ICC's Ex Parte No. MC-206, 10 I.C.C.2d 329 (1994), contains additional background information.

Changes Made to the Data Collection Program by the Final Rule

The Final Rule, discussed above in "Regulatory History," implements the ICC Termination Act of 1995 (the ICCTA), which abolished the ICC and transferred some of the data collection program to DOT. While the ICCTA continued the program, it made several changes to it. Similar to the legislation replaced by the ICCTA, then codified at 49 U.S.C. 11145, the ICCTA requires DOT to collect certain data from motor carriers of property and motor carriers of passengers:

The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

The former 49 U.S.C. 11145 did not explicitly charge ICC to collect information relevant to safety and did not specify minimum data to be collected. The ICCTA also allows DOT to collect certain other data as needed:

The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

The ICCTA specifies the criteria to be used in designing the reporting program. DOT must consider: (1) Safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. In the ICCTA, Congress explicitly called on DOT to streamline and simplify these reporting requirements to the maximum extent practicable.

Unlike the former 49 U.S.C. 11145, the ICCTA authorizes two types of exemptions from the reporting requirements. Each exemption is based on certain criteria and is granted for a three-year period. The first is an exemption from filing report forms. The requestor "must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available." The second is an exemption from public release of a carrier's report. Similar to the other exemption, the requestor must

demonstrate that "the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5." Further, for the latter exemption the requestor must not be a publicly held corporation or must not be subject to financial reporting requirements of the Securities and Exchange Commission.

To implement the ICCTA, BTS proposed changes to the reporting requirements and proposed procedures for carriers to request exemptions. After receiving comments on the proposal, BTS issued the Final Rule, which made a number of changes to the data collection program. Class I carriers, those with annual operating revenues of \$10 million or more, will now file significantly reduced annual and quarterly reports. Class II carriers, those with annual operating revenues of between \$3 and \$10 million, will file a modified annual report. In addition, the Final Rule sets out procedures for carriers to request exemptions from filing and exemptions from public release of their reports. For more information, please refer to the NPRM and Final Rule.

Content of Carrier Reports

The annual report collects financial and operating data from Class I and Class II for-hire motor carriers of property and motor carriers of household goods. The types of data, with varying amount of detail for each, are: (1) Assets, (2) liabilities; (3) operating revenue; (4) other revenue; (5) detailed operating expenses; (6) other expenses; (7) miles, tons, shipments, and ton-miles by industry segment; (8) revenue equipment; and (9) employment and compensation. Only Class I carriers are required to file the quarterly report, which contains much fewer data items and in much less detail. The types of data required in the quarterly report are: (1) Operating revenue; (2) other revenue; (3) operating expenses; (4) other expenses; and (5) miles, tons, and shipments.

The data are used by the Department of Transportation, other federal agencies, motor carriers, shippers, industry analysts, labor unions, segments of the insurance industry, investment analysts, and the consultants and data vendors that support these users. Among the uses of the data are: (1) Developing the U.S. national accounts and preparing the quarterly estimates of the Gross Domestic Product; (2) measuring the performance of the for-hire motor carrier industry

¹ The regulations were recently transferred from 49 CFR part 1249 to 49 CFR part 1420. See *Reports of Motor Carriers; Redesignation of Regulations Pursuant to the ICC Termination Act of 1995*, 63 FR 52192 (Sept. 30, 1998).

and segments within it; (3) monitoring carrier safety; (4) benchmarking carrier performance; and (5) analyzing motor carrier safety, productivity, and its role in the economy.

Confidentiality—Background

Under the current policy, individual carrier reports are made available to the public, unless otherwise prohibited by law. This policy was carried over from the time when the ICC administered the program. With the changes made by the ICCTA, as implemented by the Final Rule, privately held carriers are able to request that their report be kept confidential.

To understand how confidentiality is treated in the ICCTA requires a bit of background about the Freedom of Information Act (FOIA) (5 U.S.C. 552). Under FOIA, any person can obtain records from a federal agency, unless the records (or a part of the records) are protected from disclosure by any of the law's nine exemptions. Records include reports filed with the government by private entities, such as Form M and Form QFR. Of FOIA's nine exemptions, where disclosure is not mandatory, Exemption Four is relevant here. It protects "trade secrets and commercial or financial information obtained from a person (that is) privileged or confidential." Information is confidential under Exemption Four if disclosure would be likely "to cause substantial harm to the competitive position of the (reporting carrier)" or "impair the Government's ability to obtain necessary information in the future."²

Like FOIA, the ICCTA both calls for information to be available and restricts availability in certain instances. While nothing in the statutory authority explicitly requires that information be made publicly available, it is implied. BTS, in designing the data collection program, must consider not just government needs but also safety needs; use of the data by the private sector, academics, and the public; and the public interest. This gives a strong public policy statement in support of making individual carrier data accessible to the public. While summary data may meet certain needs, individual carrier data would be more helpful to some analyses. Furthermore, effective safety monitoring requires individual carrier data. The implication that individual carrier data generally be made publicly available is further supported by the fact that the ICCTA defines the circumstances under which

a carrier's data must be withheld from disclosure. BTS must withhold carrier information from public release in those situations where the carrier can show competitive harm would result. In this case, the carrier's entire report is withheld for three years, except for internal DOT use or in aggregate form. Confidentiality also plays a role in shaping the data collection, since the ICCTA instructs BTS to take into account the need to preserve confidential business information and prevent competitive harm.

Confidentiality—Comments in the NPRM

As discussed above, individual carriers are able to request an exemption if public release would likely result in substantial competitive harm. Several commenters, however, advocated that some or all of the information should be kept confidential for all carriers. That is, the information could cause competitive harm not just in a particular carrier's case, but for carriers generally. These commenters said that is it common knowledge the data can be used by competitors to the reporting carrier's detriment. Publishing only aggregate data would serve most purposes because private data users have other means of getting data. Furthermore, in other industries companies are not required to divulge financial information. Since no public purpose would be served and the information provided by carriers is private, otherwise confidential, commercially sensitive information, it should not be publicly released. These commenters generally stated that the data collected (presumably all or most) fell into the confidentiality category. One wanted all data protected, but was most concerned about operating statistics (schedules 300 and 400 of proposed Form M). This was identified as information that could, when used in combination with other financial information, be used by competitors to the detriment of the reporting carrier. That is, the units of operation are most sensitive because they allow calculation of such items as revenue per mile and cost per mile.

By contrast, some other commenters pointed to the need for individual carrier data. They stated that the reports enable not only the government but also non-governmental entities to review the financial status of the motor carriers. This helps ensure that those carriers who are most likely to create safety risks are subject to oversight and evaluation. Some representatives and associations of insurance companies stated that they use reports to ascertain and evaluate the financial condition of insured and

applicant motor carriers. They also state that this type of information is not generally available otherwise. A motor carrier supported continued availability, saying the information is pro-competitive, as it allows the public to monitor the profile of motor carriers. Furthermore, markets, including the motor carrier industry, operate most efficiently in the light of adequate competitive information. Without this essential data, shippers would have diminished ability to compare carriers, and carriers would have less incentive to benchmark their operations. Another commenter pointed out that the financial information is useful to shippers, who are concerned about the financial well-being of carriers they use.

Confidentiality—Proposal

The goal of the Final Rule is to determine what data items to collect. BTS had to balance user needs with the burden the data collection places on respondents and strike this balance within the guidelines and restrictions of the ICCTA. In this Supplemental Notice of Proposed Rulemaking, BTS seeks to strike a similar balance and again within the confines of the ICCTA. Data users need access to data, often at the individual carrier level. Respondents face the burden of having data they believe are proprietary and sensitive made available to competitors, shippers, and the public.

To protect carriers from any potential harm, BTS could either eliminate sensitive items from the data collection, withhold carrier reports from public release individually, or withhold some or all data from public release for all carriers. BTS proposes to use a combination of these approaches. The Final Rule will reduce the data items we collect to those that are most important. It also allows individual carriers to assert competitive harm with respect to their circumstances. This proposal would, to the extent allowed by law, protect for all carriers the most sensitive of the information that is collected under the revised forms. The proposal also includes a provision for releasing individual carrier data in certain circumstances, to ensure continued access for key uses.

The new rules would limit access to the following data items on the report forms: all of the Operating Statistics data items, the Cost column of the Revenue Equipment data items, and the Total Compensation and Hours Earned or Miles Operated columns of the Employment Information data items. We believe this is information that is generally kept confidential by motor carriers and not voluntarily disclosed to

² *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

shippers and competitors. Furthermore, these data elements of operating information are those most likely to result in substantial competitive harm for carriers if released. This information would be given a three year confidentiality period, which is the amount of time confidential business information is to be withheld from public release under the ICCTA. Furthermore, three years is long enough to greatly diminish the harmful potential of the data.

Summary data that do not identify individual carriers may be released any time. In addition, individual carrier data withheld from public disclosure may be released by BTS to: (1) Other components of DOT for their internal use only; and (2) such persons and in such circumstances as the Department of Transportation determines to be in the public interest or consistent with the Department's regulatory functions and responsibilities. Examples of uses that would likely receive access to data restricted under this proposal include those aimed at improving motor carrier safety or research evaluating policy questions such as the impacts of changes to the driver hours of service regulations. The user would have to state its intended use and agree to abide by BTS's disclosure rules related to the restricted data. Uses that would likely not receive access include individual carriers or shippers seeking to improve their competitive position. There is no absolute guarantee that this information can be withheld from disclosure if requested under the Freedom of Information Act. If such requests are filed, they would be dealt with on a case-by-case basis.

Certain financial and operating information submitted to BTS by air carriers have been accorded confidential treatment under similar guidelines and the system has worked quite well. (See 14 CFR 298.62(d) and 14 CFR part 241 sections 19-6, 19-7 and 22). A similar system is likewise used by the Surface Transportation Board regarding the rail waybill data it collects (see 49 CFR 1244.8) and DOT's National Highway Traffic Safety Administration in its class determinations of confidentiality in certain circumstances (see 49 CFR 512.10 and appendix B to 49 CFR part 512).

Effects of the Proposed Revisions

These proposed rules, in combination with the Final Rule, are designed to minimize any potential detrimental affects of public access to individual carrier data to the extent possible under law. The changes incorporate aspects of the three major suggestions made by

commenters favoring greater protection. The new rules significantly reduce the number and detail of data items class I carriers are required to report. The proposed rules would restrict access to individual carrier data for those data items that are most sensitive. Carriers will still be able to claim that, despite the shortened report form and protection of the most sensitive data items, in their situation competitive harm still result. That is, a carrier will be able to request that BTS further restrict public access to its report or request that BTS waive the reporting requirements altogether.

BTS also notes that the data collection benefits carriers as they are a large component of the data users. The data users will benefit from the changes as BTS retained reporting of key information in the Final Rule and is preserving access to data to meet most needs. First, users will have access to most of the data at the individual carrier level. Second, where individual carrier data are needed for one of the broad listed uses, the user will also have access. Third, all users will have access to all data at an aggregate level. Fourth, they will have access to all data after three years.

III. Request for Comments

The goal of this proposed rulemaking is to reach an equitable and practical balance, within the context of the ICC Termination Act of 1995, between access and confidentiality. It presumes that a certain set of data is likely to be commercially sensitive and creates a system designed to protect against the potential for competitive harm to carriers while permitting access for principal uses. The issue of protecting classes of data was not directly discussed in the earlier NPRM and BTS did not seek comment on it. Nor has the public had a chance to comment on the details of the system we are currently proposing. Therefore, BTS is issuing this SNPRM and requests comments concerning the above revisions to the public availability of the information collected in motor carrier report Forms M and QFR. Among other topics, you may wish to address one or more of the following: (1) Would public availability of the identified data items be likely to cause substantial competitive harms and why or why not; (2) are there other data items that are confidential and public release of them would either cause substantial competitive harm or would impair an important government interest; (3) what changes, if any, need to be made to the proposal to ensure that the ICCTA's goal of providing information for listed uses is fulfilled.

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and therefore is not reviewed by the Office of Management and Budget.

This final rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). It would not affect reporting burden and would have no economic impact. If anything, it would reduce the burden on motor carriers by protecting sensitive information from public release.

The major beneficiaries of the data collection are the federal government, the motor carrier industry, industry associations, transportation investment analysts, transportation research analysts, and motor carrier safety analysts. The program provides data that are used in developing the national accounts, data for monitoring industry trends, and data useful to the public and private sectors regarding the operation and health of the trucking industry and individual carriers.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), BTS must consider whether a final rule would have a significant economic impact on a substantial number of small entities. The definition of "small business" is contained in the Small Business Administration's small business size standard regulations. For motor carriers of property, small businesses are those with annual receipts of up to \$18.5 million. Under the current classification, there are about 2,800 reporting carriers of which an estimated 2,180 (or 78 percent) are small businesses (all class II carriers and 31 percent of class I carriers are classified as small businesses). The proposed changes will not affect reporting burden for any reporting carriers. Instead they would reduce the burden on motor carriers by protecting sensitive information from public release. In addition, the changes would not impose any new regulatory requirements, directly or indirectly, on small entities. Therefore, I certify this proposal if adopted would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Analysis

In this SNPRM, no changes are being proposed to either Form M or Form QFR.

Other Determinations

BTS has analyzed this action for the purposes of the National Environmental Protection Act. It will not have a significant impact upon the quality of the human environment or the conservation of energy resources. Accordingly, an Environmental Impact Statement is not required. BTS has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism") and determined that the rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This action does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule. Similarly, because this action does not create an unfunded Federal mandate on state, local or tribal governments, the requirements of section 1(a) of Executive Order 12875, Enhancing Intergovernmental Partnerships, do not apply. This action does not have potential takings implication under Executive Order 12630 because it does not authorize any takings. In accordance with Executive Order 12630, regarding Governmental Action and Interference with Constitutionally Protected Property Rights, BTS finds that this SNPRM implicates no takings, in that it does not propose or implement licensing, permitting, or other conditions, requirements, or limitations on private use, nor does it require dedications or exactions from owners of private property. BTS has reviewed this action in accordance with Executive Order 12988, Civil Justice Reform, and has determined that this action meets the applicable standards provided in section 3(b) of the Executive Order. Nor does this action require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139-AA05 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 1420

Motor carriers, Reporting and classification.

Proposed Rule

Accordingly, the Bureau of Transportation Statistics proposes to amend 49 CFR part 1420 Reports of Motor Carriers, as follows:

PART 1420—REPORTS OF MOTOR CARRIERS

1. The authority citation for part 1420 continues to read as follows:

Authority: 49 U.S.C. 14123.

2. In § 1420.10, paragraph (c) is redesignated as paragraph (d).

3. Section 1420.10 is amended by adding paragraph (c) to read as follows:

§ 1420.10 Public release of motor carrier of property data.

* * * * *

(c) Exceptions relating to certain operating information.

(1) The following data items contained in annual report Form M or quarterly report Form QFR shall be withheld from public release for a period of three years after the report's due date: all of the Operating Statistics data items, the Cost column of the Revenue Equipment data items, and the Total Compensation and Hours Earned or Miles Operated columns of the Employment Information data items.

(2) Except as provided in paragraph (b) of this section, individual carrier financial data withheld from public disclosure may be disclosed by BTS to such persons and in such circumstances as BTS determines to be in the public interest or consistent with the Department of Transportation's regulatory functions and responsibilities.

(3) This paragraph applies to annual reports covering 1998 and later years, and quarterly reports beginning with the first quarter of 1999.

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Ashish Sen,

Director, Bureau of Transportation Statistics.

[FR Doc. 99-6850 Filed 3-22-99; 8:45 am]

BILLING CODE 4910-FE-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 990226056-9056-01; I.D. 122498C]

RIN 0648-AL31

Northeast Multispecies Fishery; Amendment 9 to the Northeast Multispecies Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 9 to the Northeast Multispecies Fishery Management Plan (FMP). This amendment would add Atlantic halibut to the species managed under the Northeast Multispecies FMP, implement measures to rebuild halibut and stocks of winter flounder, and implement new or revised overfishing definitions and revised specifications of optimum yield for 12 groundfish species. This rule proposes: The addition of Atlantic halibut to the species managed under the Northeast Multispecies FMP and a one-fish halibut possession limit with a minimum size of 36 inches (66 cm); an increase of one inch in the minimum size of winter flounder; postponement of the Vessel Monitoring System (VMS) requirement beyond May 1, 1999; a modification of the framework process to allow for aquaculture projects and changes to the overfishing definitions; and a prohibition of brush-sweep trawl gear when fishing for multispecies. The intent of Amendment 9 is to eliminate overfishing and rebuild many of the groundfish stocks.

DATES: Comments are invited through May 3, 1999.

ADDRESSES: Comments on proposed Amendment 9 to the FMP, and its supporting documents should be sent to Jon C. Rittgers, Acting Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Multispecies Plan."

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to the Acting Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).