rulemaking action will not have a significant effect upon the environment as it does not affect the present method of manufacturing motorcycle headlamps.

Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Under 49 U.S.C. 30163, a procedure is set forth for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority section continues to read as follows:


§571.108 [Amended]

2. Section 571.108 is amended by adding new paragraph S7.9.6 and by revising the subheading of Table IV, and the entry for Headlamps in Table IV to read as set forth below:

S7.9.6 A headlamp system shall be installed on a motorcycle in accordance with the requirements of this paragraph.

S7.9.6.1 The headlamp system shall be located on the front of the motorcycle.

S7.9.6.2 (a) If the system consists of a single headlamp, it shall be mounted on the vertical centerline of the motorcycle. If the headlamp contains more than one light source, each light source shall be mounted on the vertical centerline with the upper beam no higher than the lower beam, or horizontally disposed about the vertical centerline and mounted at the same height. If the light sources are horizontally disposed about the vertical centerline, the distance between the closest edges of their effective projected luminous lens areas shall not be greater than 200 mm (8 in.).

(b) If the system consists of two headlamps, each of which provides both an upper and lower beam, the headlamps shall be mounted either at the same height and symmetrically disposed about the vertical centerline or mounted on the vertical centerline. If the headlamps are horizontally disposed about the vertical centerline, the distance between the closest edges of their effective projected luminous lens areas shall not be greater than 200 mm (8 in.).

(c) If the system consists of two headlamps, one of which provides an upper beam and one of which provides the lower beam, the headlamps shall be located on the vertical centerline with the upper beam no higher than the lower beam, or horizontally disposed about the vertical centerline and mounted at the same height. If the headlamps are horizontally disposed about the vertical centerline, the distance between the closest edges of their effective projected luminous lens areas shall not be greater than 200 mm (8 in.).

* * * * *

TABLE IV—LOCATION OF REQUIRED EQUIPMENT

[All Passenger Cars and Motorcycles, and Multipurpose Passenger Vehicles, Trucks, Trailers, and Buses of Less than 80 (2032) Inches (MM) Overall Width]

<table>
<thead>
<tr>
<th>Item</th>
<th>Location on—</th>
<th>Height above road surface measured from center of item on vehicle at curb weight</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses</td>
<td>Motorcycles</td>
</tr>
<tr>
<td>Headlamps</td>
<td>On the front, each headlamp providing the lower beam, at the same height,</td>
<td>See S7.9</td>
</tr>
<tr>
<td></td>
<td>each side of the vertical centerline, each headlamp providing the upper beam, at the same height, 1 on each side of the vertical centerline, as far apart as practicable. See also S7.</td>
<td></td>
</tr>
</tbody>
</table>

* * * * *


Ricardo Martinez,
Administrator.

[FR Doc. 98–21285 Filed 8–7–98; 8:45 am]
sent electronic mail (E-mail) to:
Michael W. Kaszynski, (202) 606±0004.

FOR FURTHER INFORMATION CONTACT:

Street, NW., Washington, DC 20415±0001.

Division, OPM, Room 3425, 1900 E

medically necessary services to FEHB enrollees.

DATES: This regulation is effective on

ADDRESSES: Comments should be
directed to Abby L. Block, Chief,
Insurance Policy and Information
Division, OPM, Room 3425, 1900 E
Street, NW., Washington, DC 20415-
0001.

FOR FURTHER INFORMATION CONTACT:
Michael W. Kaszynski, (202) 606±0004.
You may submit comments and data by
sending electronic mail (E-mail) to:
MWKASZY@OPM.Gov.

SUPPLEMENTARY INFORMATION: On
February 20, 1998, the President signed
an Executive Memorandum directing the
Office of Personnel Management
(OPM) to take the necessary steps to
bring the FEHB Program into
contractual compliance with the
Consumer (Patient) Bill of Rights and
Responsibilities by no later than year
end 1999. The Memorandum
specifically directed OPM to propose
regulations within 90 days to prohibit
practices that restrict physician-patient
communications about medically
necessary treatment options. OPM’s
regulation prohibits FEHB participating
carriers from placing provisions or
financial incentives in contracts with
health care providers, provider groups,
or health care workers that would
limit providers’ or health care workers’
ability to discuss medically necessary
treatment options with Federal
enrollees. We are aware that a proposal
to enact a “gag clause” regulation raises
three broad areas of concern regarding:
(1) Potential impairment of a health
plan’s ability to review utilization
against appropriate treatment protocols
or perform quality assurance functions,
(2) potential conflict with providers’ or
health plan sponsoring organizations’
ethical, moral, or religious beliefs, and
(3) impact on providers’ or workers’
ability to discuss non-covered or high
cost treatment options. This regulation
is not intended to limit a health plan’s
ability to perform utilization review or
perform quality assurance functions, nor
is it intended to cause providers, health
care workers, or health plan sponsoring
organizations to discuss treatment
options that they would not ordinarily
discuss in their customary course of
practice because such options are
inconsistent with their professional
judgment or ethical, moral or religious
beliefs.

The regulation will ensure that
providers and health care workers are
not inhibited from communicating fully
and openly with patients regarding
medically necessary treatment options
regardless of cost or whether the
benefits are covered by their health
plan. Simply stated, the amended
regulation is intended to remove any
contractual impediment to a candid and
open Physician-patient relationship.

On May 21, 1998, OPM published a
proposed regulation in the Federal
Register (63 FR 27902). OPM received
comments from three private citizens,
two FEHB carriers, two medical
specialty provider associations, one
religion health association, one
national organization for women and
families, and two trade associations
representing health maintenance
organizations (HMOs), preferred
provider organizations (PPOs), and
fee-for-service (FFS) plans. We
appreciate the observations and
suggestions and have taken them into
consideration in developing this final
rule. The majority of the comments favored the proposed
regulation. We were surprised, however,
given our explicit statement of intent, at
a few of the reactions that assumed that
OPM would interpret the regulation in
ways that would clearly be detrimental
to the FEHB Program and the people it
covers. A number of issues are
addressed below.

Seven commenters expressed their
support or endorsement of the proposed
regulation. One commenter indicated
support for the rule because it assured
that physicians and other providers
participating in the FEHB Program will
not be contractually enjoined from
providing information on all medically
appropriate treatment options. The
commenter stated that a health plan’s
contractual requirements, such as
coverage and cost, should not be an
impediment to a candid discussion
between a physician and patient
concerning available, medically
appropriate treatment options. One
commenter applauded OPM for its work
on improving patient care under the
FEHB Program. One commenter
indicated that OPM should not be
contractually enjoined from
providing information on all medically
appropriate treatment options. The
commenter indicated that such
restrictions violate the most basic of
rights in a free society.

One commenter pointed out that,
Based on his experience in the
health care industry, the problem is that
HMOs reward physicians for delivering
care work to provide physicians from
providing care that would cost the HMO
money. This commenter recommended
that sanctions be incorporated into
the regulation to prevent health plans from
utilizing prohibited contractual clauses.
No change has been made to the rule
since existing regulations provide OPM
with the authority to impose
appropriate sanctions for violations,
including withdrawal of approval of the
carrier to participate in the FEHB
Program.

One commenter recommended that
the regulation give adequate notice to
FEHB carriers of the types of contract
clauses that are prohibited. This
commenter expressed support for “gag
clause” prohibitions that prohibit
practices, including contract clauses,
that restrict patient-provider
communications, but stated that there is
no compelling reason for prohibiting
provider incentive plans in the FEHB
Program since enrollees have the
remedy of the disputed claims process
or can change health plans annually if
they find that their plan is limiting their
access to medically necessary services.
OPM believes that free and open
communication between a provider or
health care worker and a patient should
be a basic right of all FEHB enrollees
and should not be a matter left solely to
the disputed claims process or be
variable matter for consideration in the
enrollment decision making process.
Therefore, all carriers under the FEHB
Program will be held accountable to
the same standard. The regulation has
been revised to more specifically indicate
types of contract clauses that are
prohibited.

Three commenters expressed a
concern that the regulation is broader in
scope than required by the Patient’s
Bill of Rights or the President’s Executive
Memorandum of February 20, 1998, and
could be interpreted to prohibit
capitation thereby limiting the carriers’
abilities to develop managed care
arrangements. Specifically, one
commenter thought that the regulation
should not address “incentive plans.”
Another commenter indicated that the
regulation could have unintended
consequences which could have a
significant economic impact if it were
interpreted to bar all incentive
programs, capitation and withhold
agreements in particular, from the
FEHB Program. This commenter
recommended that OPM allow the use
of incentive plans but to adopt
substantially the same rules in effect for
Medicare to assure that such plans are
reasonable. The intent of the OPM
regulation is not to bar all incentive
plans, capitation, or withhold
agreements from inclusion in provider
contracts. The intent of the regulation is
to ensure that providers and health care
workers are not inhibited in any way
from communicating fully and openly
with patients regarding medically
necessary treatment options. OPM did
not incorporate the same rules that
Medicare uses in regulating incentive plans since we are not trying to broadly regulate incentive plans, only those specific financial incentives that create an inducement to prevent full and open communication between providers and patients. OPM does not believe it is necessary to replicate the complexity of the Medicare regulation in the FEHB Program in order to meet the goals of the Patient Bill of Rights.

One commenter expressed support for the principle that providers and workers have the ability to communicate fully and openly with patients regarding medically necessary treatment options regardless of cost or plan coverage. However, the commenter cautioned OPM not to interpret the rule to extend beyond communications to regulate broadly compensation arrangements between plans and providers. The commenter also suggested that we include a reference in the preamble that the proposed regulation is not intended to limit the ability of a health plan to operate its quality assurance program. While we believe that the proposed regulation made clear that OPM did not intend to regulate broadly compensation arrangements between plans and providers, we have reiterated that the provision only applies to open communication. The preamble has been revised to specify that the intent of the regulation is not to limit the ability of a health plan to operate its quality assurance program.

One commenter asked that we specify in the regulation that nothing in the regulation should be construed to cause providers or carriers to violate their ethical, moral or religious beliefs. The regulation has been modified accordingly.

One commenter indicated that if OPM believes that an exception for ethical or moral beliefs is necessary, the exception should be available to individuals only and not to health plans or insurance carriers. We have modified the regulation so that the exception for ethical, moral, or religious beliefs applies only to providers, health care workers, or health plan sponsoring organizations.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect health insurance carriers under the Federal Employees Health Benefits Program. Executive Order 12866, Regulatory Revisor

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 48 CFR Part 1609


Janice R. Lachance,
Director.

For the reasons set forth in the preamble OPM is amending 48 CFR Part 1609 as follows:

PART 1609—[AMENDED]

Subpart 1609.70—Minimum Standards for Health Benefits Carriers

§ 1609.7001 Minimum Standards for Health Benefits Carriers

1. The authority citation for 48 CFR Part 1609 continues to read as follows:


2. In § 1609.7001 new paragraph (c)(7) is added to read as follows:

§ 1609.7001 Minimum Standards for Health Benefits Carriers

(c) * * * * *

(7) Entering into contracts or employment agreements with providers, provider groups, or health care workers that include provisions or financial incentives that directly or indirectly create an inducement to limit or restrict communication about medically necessary services to any individual covered under the FEHB Program. Financial incentives are defined as bonuses, withholds, commissions, profit sharing or other similar adjustments to basic compensation (e.g., service fee, capitulation, salary) which have the effect of limiting or reducing communication about appropriate medically necessary services. Providers, health care workers, or health plan sponsoring organizations are not required to discuss treatment options that they would not ordinarily discuss in their customary course of practice because such options are inconsistent with their professional judgment or ethical, moral or religious beliefs.

[FR Doc. 98–21498 Filed 8–6–98; 2:53 pm]

BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 564 and 571

[Docket No. NHTSA 98–4274]

RIN 2127–AH32

Replaceable Light Source Information; Federal Motor Vehicle Safety Standards

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

ACTION: Technical amendment; final rule.

SUMMARY: This document amends part 564 and Federal Motor Vehicle Safety Standard No. 108 in part 571 to remove the references to Docket No. 93–11 and add new Docket No. NHTSA 98–3397, which has been established to receive manufacturers’ information on replaceable light sources. This action reflects an internal change to NHTSA’s docket management system.

DATES: The final rule is effective August 10, 1998.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: Pursuant to 49 CFR Part 564, Replaceable Light Source Information, manufacturers of replaceable light sources used in motor vehicle headlighting systems are required to submit to NHTSA certain dimensional, electrical specification and marking/designation information. Heretofore, section 564.5(a) has required this information to be submitted to the Associate Administrator, Safety Performance Standards, NHTSA, attention: Docket No. 93–11. There are also cross references to Docket No. 93–11 in Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices and Associated Equipment (49 CFR 571.108).

NHTSA has rearranged its docket system to accord with the electronic system adopted by the Department of Transportation. A new docket has been established to receive the information on replaceable light sources previously submitted to Docket No. 93–11. The number of this new docket is Docket NHTSA 98–3397. It is therefore necessary to amend Part 564 and Standard No. 108 to reflect the change in docket numbers. Henceforth, submittals should be addressed to attention: Docket No. NHTSA 98–3397, Part 564—Replaceable Light Source Information.”