

Commission's Rules, 47 CFR 0.131, 0.331.

Federal Communications Commission.

**Herbert W. Zeiler,**

*Deputy Chief, Public Safety & Private Wireless Division, Wireless Telecommunications Bureau.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-99-5119; Notice 01]

RIN No. 2127-AH57

#### Federal Motor Vehicle Safety Standards; Hydraulic and Electric Brake Systems; Air Brake Systems

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Request for comments.

**SUMMARY:** NHTSA is considering whether to grant a petition to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 105, Hydraulic and Electric Brake Systems, and FMVSS No. 121, Air Brake Systems, to require that school buses be equipped with a parking brake warning system that activates when the school bus engine is turned off, the transmission is in neutral, and the parking brake has not been applied. The petition was submitted by Schmitt and Sons School Buses, a school bus operator that is concerned about the possibility of school bus roll away crashes due to the driver not applying the parking brake. The petitioner cited several instances in which this has occurred. This request for comments notice seeks to obtain information to help the agency determine the magnitude of the problem and the potential effectiveness of the proposed warning system.

**DATES:** Comments must be received on or before April 30, 1999.

**ADDRESSES:** Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Management, Room PL-401, 400 Seventh Street SW, Washington, DC 20590. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10:00 a.m. to 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues: Mr. Jeff Woods, Office

of Safety Performance Standards (NPS-22), NHTSA, 400 Seventh St., SW, Washington, DC, 20590. Mr. Woods' telephone number is (202) 366-6206; facsimile (202) 366-4329.

For legal issues: Ms. Dorothy Nakama, Rulemaking Division, Office of Chief Counsel, NHTSA, 400 Seventh St., SW, Washington, DC, 20590. Ms. Nakama's telephone number is (202) 366-2992 and her facsimile number is (202) 366-3820.

#### SUPPLEMENTARY INFORMATION:

##### Background

A petition was submitted to NHTSA on June 23, 1998, by Schmitt and Sons School Buses, a school bus operator. The petition cited several crashes in Minnesota involving school buses in which the parking brake was not set and the bus rolled into another vehicle. In one instance, it was reported that an empty school bus rolled into another school bus that was unloading students during a practice emergency exit drill, and as a result, several students were injured.

The petitioner believes that a warning system should be incorporated on school buses to provide a warning buzzer and/or light to indicate to the driver that the parking brake has not been applied when the engine has been turned off and the transmission has been placed in the "neutral" position. The petitioner contacted Blue Bird Body Company, a school bus manufacturer, to determine if such a system could be made available. A copy of the response letter from the manufacturer was enclosed with the petition. Blue Bird indicated that the warning system concept appears to have merit. However, the manufacturer cited several concerns with the concept. The primary concern was that incorporation of the warning system on some (newer) vehicles would result in inconsistencies in the fleet, whereby some vehicles would prompt the driver to apply the parking brake and other vehicles would not. Blue Bird suggested that if a driver became used to being prompted to applying the parking brake in a vehicle equipped with the warning system, then that driver may forget to apply the parking brake when operating a vehicle not equipped with the warning system.

Other concerns cited by Blue Bird included the proliferation of warning devices, which could result in driver dependence and/or confusion, issues on integrating this system with other warning devices and systems, and the need to deactivate the system after some preset time to prevent battery drain.

Blue Bird stated that if such a warning system were to be implemented, then it

would recommend unilaterally applying it to all medium and heavy vehicles to avoid the situation of some vehicle types being equipped with the warning system and others not being equipped with the warning system. In Blue Bird's view, implementation of the warning system would also need to be accompanied by an extensive publicity and driver training program to familiarize drivers with the new system.

Blue Bird stated that because of these concerns, it would not make such a warning system available as standard equipment or as optional equipment. Blue Bird suggested that the school bus operator petition NHTSA to require such a system on all medium and heavy vehicles, so that appropriate research, study, and public comment could be addressed prior to such a system being introduced. The school bus operator, Schmitt & Sons School Buses, subsequently petitioned NHTSA to require such a warning system on a nationwide basis.

NHTSA decided to publish this request for comments prior to making a determination on whether to grant or deny the petition. If NHTSA determines that the petition should be granted, based on indications that there is a significant safety need, then it would begin the rulemaking process to propose amendments to the Federal Motor Vehicle Safety Standards (FMVSSs), in this case, FMVSS No. 105, Hydraulic and Electric Brake Systems, and FMVSS No. 121, Air Brake Systems. The rulemaking process, if it proceeds, will provide ample opportunity for concerned parties to further comment on all aspects of any proposed changes to the FMVSSs.

##### Parking Brake Requirements

FMVSS No. 105, Hydraulic and Electric Brake Systems, requires each vehicle with a gross vehicle weight rating (GVWR) of 10,000 lbs. (4536 kg) or less and each school bus with a GVWR greater than 10,000 lbs. to be equipped with a friction-type parking brake system, with a solely mechanical means to retain engagement (S5.2).

The standard requires the parking brake for a passenger car or a school bus with a GVWR of 10,000 lbs. or less to hold the vehicle on a 30 percent grade (up to the limit of traction on the braked wheels).

As an option, the standard permits a passenger car or school bus with a GVWR of 10,000 lbs. or less, equipped with a transmission that includes a parking mechanism, to use the parking mechanism in meeting the 30 percent grade holding requirement for the vehicle, if the parking mechanism must

be engaged to enable the ignition key to be removed (S5.2.2.1). If this option is used, there is a separate requirement for such vehicles to meet a 20 percent grade holding requirement with the parking brakes engaged and the parking mechanism disengaged (S5.2.2.2). The transmission parking mechanism is then subjected to a 2½-mph barrier impact test on level ground, which requires that the parking mechanism not become disengaged or fractured. In the context of these tests and requirements, the parking mechanism is a supplemental parking aid and is not the primary source of grade holding ability.

The parking brake system on a school bus with a GVWR greater than 10,000 lbs. must be capable of holding the vehicle stationary for five minutes on a 20 percent grade (S5.2.3). This grade holding requirement also applies to trucks, multipurpose passenger vehicles, or buses other than school buses, with a GVWR of 10,000 lbs. or less.

There is a supplemental requirement in FMVSS No. 114, Theft Protection, that requires passenger cars, trucks, and buses with a GVWR of 10,000 lbs. or less, equipped with an automatic transmission with a park position, to meet a 10 percent grade holding test (S4.2.1(b)) when the key has been removed and the transmission is locked in the park position.

FMVSS No. 135, Light Vehicle Brake Systems, which becomes effective for multipurpose passenger vehicles, trucks, and buses with a GVWR of 7,716 lbs. (3500 kg) or less, manufactured on or after September 1, 2002, requires a 20 percent grade holding ability using the parking brake with the vehicle at GVWR, and does not address the use of transmission parking mechanisms.

FMVSS No. 121, Air Brake Systems, which applies to trucks, buses (including school buses), and trailers equipped with air brakes, requires a 20 percent grade holding ability with the vehicle both empty and at GVWR, or optionally, a static retardation force test may be used which incorporates requirements based on GVWR or gross axle weight rating (GAWR) depending on vehicle type. This standard also does not address the use of transmission parking mechanisms.

Additional requirements are included in FMVSS Nos. 105 and 135 for visual warning indicators (brake light) to indicate that the parking brake is engaged, and both standards include requirements for maximum force levels in applying the parking brake mechanism for the grade holding tests. FMVSS No. 121 includes requirements for a parking brake application control

that is separate from the service brake control, and includes parking brake application and release timing requirements. It also specifies parking brake performance requirements with certain system failures.

#### **Automatic Transmission Shift Sequence and Parking Functions**

FMVSS No. 102, Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect, requires that, if a park position is included in the automatic transmission shift lever sequence, the park position shall be located at the end of the shift lever sequence adjacent to the reverse drive position (S3.1.1). This shift pattern is provided universally on light vehicles equipped with automatic transmissions, either using a steering column shifter or a shifter located on the floor console.

On some medium vehicles and most, if not all, heavy vehicles equipped with automatic transmissions, a park position is not included in the automatic transmission shift sequence. A transmission parking mechanism in a heavy vehicle would be subjected to a very high loading that makes such a mechanism impractical. Hence, to park such a vehicle, the driver places the transmission in the neutral position and then applies the parking brakes, either using the dash-mounted valve for air-braked vehicles or the parking brake lever for hydraulically-braked vehicles.

The lack of a parking position in certain medium and heavy vehicles equipped with automatic transmissions should provide a cue to the driver that the vehicle is not in park. As the vehicle can only be shifted into the neutral position, the shift sequence is substantially different than for a vehicle in which the shift lever is moved from either a forward or reverse drive position to the park position located at the end of the shift sequence. The cue to a driver that the vehicle has only been shifted to the neutral position is intended to help the driver realize that the parking brake must be engaged to park the vehicle. The absence of this awareness could result in roll away incidents.

A Society of Automotive Engineers (SAE) technical paper, Allison Transmission's New Family of Transmissions: The 1000/2000 Series (ref. SAE technical paper 973278, Nov. 1997), includes market research indicating that customer preference for heavy duty automatic transmissions incorporating a park position/parking pawl mechanism resulted in developing standard and optional (depending on transmission model and GVWR) parking features into that company's new line of

automatic transmissions for vehicles with GVWRs up to 26,000 lbs. (11,800 kg). NHTSA requests comments on trends to incorporate parking mechanisms in heavy duty automatic transmissions, especially in the GVWR range of typical school buses.

NHTSA is also aware that systems are available which automatically apply the parking brake when the transmission shift lever is moved to the "park" position. In this configuration, the automatic transmission does not incorporate a parking pawl, but a switch located on the transmission activates a mechanism that automatically applies the parking brake. NHTSA requests comments on the availability of such systems, in particular for school buses, equipped with either air or hydraulic braking systems.

#### **Driver Training and Skill**

The Federal Highway Administration (FHWA) requires certain operators of commercial motor vehicles to have a commercial driver's license (CDL). The FHWA's definition (49 CFR 383.5) of a commercial motor vehicle includes: vehicles with a GVWR or gross combination weight rating (GCWR) of 26,001 lbs. (11,794 kg) or more; vehicles designed to transport 16 or more passengers, including the driver; and vehicles of any size used to transport hazardous materials in a quantity sufficient to require placarding. The definition covers commercial motor vehicles operated in interstate, intrastate, and foreign commerce, and also includes vehicles that are controlled and operated by Federal, State, or local government agencies. Therefore, a driver who operates a school bus with 16 or more seating positions (including the driver) must have a CDL.

Since April 1, 1992, drivers of commercial motor vehicles have been required to obtain a CDL issued by their State of residence in accordance with minimum Federal requirements. The State must administer knowledge and skill tests of CDL applicants to ensure the driver has the ability to safely operate a commercial motor vehicle. The knowledge and skills test provisions in Subpart G of 49 CFR part 383 require that each driver demonstrate proficiency in performing a pre-trip inspection, using the vehicle's controls and emergency equipment, operating the vehicle in traffic, and proper braking procedures. Operators of passenger-carrying vehicles must obtain a passenger endorsement on their licenses for which the driver must have demonstrated knowledge of the proper procedures for loading and unloading

passengers, proper use of emergency exits, and proper responses to emergency situations such as fires and unruly passengers. The FHWA's CDL requirements are intended to help reduce or prevent truck and bus crashes, fatalities, and injuries by requiring drivers to have a single CDL and by disqualifying drivers who operate commercial motor vehicles in an unsafe manner.

Subpart G—Required Knowledge and Skills, of the CDL standards, includes a reference to vehicle controls in S383.111(c)(1), which states that the driver shall be familiar with the purpose and function of the controls and instruments commonly found on commercial motor vehicles. A similar reference is included in the appendix to subpart G in the sample requirements provided for a State to use in its CDL licensing program. There are also specific references in Subpart G to air brake system operation for drivers qualifying on air-braked vehicles. There are no specific references to the use of parking brake controls.

Since the parking brake and transmission controls can vary among different types of commercial motor vehicles, including school buses, it may not be appropriate to address this issue in specific detail at the federal or state regulatory (CDL requirements) level. NHTSA believes that this is most appropriately addressed at the fleet level, that is, each fleet is responsible to ensure that each driver is trained in the proper use of the controls of the vehicles in that fleet. NHTSA is soliciting input on this issue in the *Questions for Comment* section below, specifically, if other countermeasures to a warning system, such as additional driver training, should be considered.

### **Problem Discussion**

The school bus incidents reported in the petition could be attributable to the school bus drivers' regular use of both light vehicles and medium/heavy vehicles, and the differences in transmission controls between these vehicle groups when they are equipped with automatic transmissions. In practice, light vehicles, including passenger cars, light trucks, multi-purpose passenger vehicles, and many small buses, include a "park" position in the transmission position selections, when these vehicles are equipped with automatic transmissions. A park position is not required by any FMVSS, but is provided universally as a convenience feature in light vehicles equipped with automatic transmissions, so that the parking brakes do not always need to be applied. The driving habits

of passenger car drivers vary, with some drivers always applying the parking brakes in addition to selecting the transmission parking position, while others may not apply the parking brakes or may do so only when parked on steep grades. Furthermore, passenger cars equipped with manual transmissions require drivers to use the parking brakes for grade holding ability, with some drivers also leaving the transmission in a gear position and some with the transmission in neutral.

While some medium trucks with automatic transmissions include a park position in the automatic transmission shift sequence, especially those with GVWRs slightly above 10,000 lbs., many medium and heavy truck automatic transmissions do not have a parking mechanism/shift position. It would be impractical for such a parking mechanism to provide substantial grade holding ability, especially in higher GVWR applications. As a result, all grade holding ability is provided by the parking brakes. The problem referred to by the school bus operator appears to be that some drivers are used to having a park position with an automatic transmission in a light vehicle, while no such park position is provided in the medium and heavy vehicles equipped with heavy-duty automatic transmissions. In the instances cited by the petitioner, the drivers may have mistakenly believed that the bus was held in "park", while in fact the parking brake still needed to be applied.

NHTSA also believes that school bus drivers may not be as familiar with the operation of their school buses compared to drivers of typical commercial vehicles. Many school bus drivers are employed on an hourly or part-time basis, as well as on a seasonal basis, compared with many truck drivers that drive commercial vehicles on a much more regular basis and therefore may be more familiar with the operation, equipment, and controls of their vehicles.

### **Safety Problem Size Assessment**

The petitioner referenced several accidents in Minnesota in which roll-away buses struck another vehicle. In a telephone conversation with the petitioner, it was learned that two of the cases occurred in the petitioner's organization, and one other school bus operator in Minnesota had experienced this problem.

A search of the Office of Defects Investigation complaints database was made to determine if problems with parking brakes have been reported by vehicle owners or operators. The search included medium and heavy trucks and

school buses, with coverage from model years 1991 through 1998. The search revealed complaints on one heavy truck, one medium truck, two buses (one of these known to be a school bus), and five motorhomes. The reported complaints included one instance of parking brakes automatically applying on an axle, one complaint on the parking brake control due to an accidental release of the parking brakes, five complaints of parking brakes failing or not holding on an incline, and two complaints of broken components in the parking brake system. There were no complaints related to vehicle roll away due to a driver failing to engage the parking brakes.

The coding schemes for General Estimates Systems (GES) and Fatality Analysis Reporting System (FARS) databases of property damage and injury- or fatality-producing crashes were determined to not be suitable for identifying roll-away crashes due to failure to apply the parking brakes. If there are any such cases, the cause may be noted on a police accident report, but the data base coding would not indicate this. Also, a check of the special crash investigations program for school buses did not indicate that any such cases had occurred, although it should be noted that only a limited number (less than a ten percent sample) of school bus crashes are investigated each year. There is one known instance of a crash resulting from the release of a school bus parking brake, which resulted in two fatalities. However, this crash is related to the location of the parking brake controls and protection from inadvertent release.

There may be instances in which a school bus (or other medium or heavy vehicles) rolled away but no crash or injury resulted. The main purpose of this request for comments is to determine the magnitude of the problem and whether the petitioner's reported incidents are isolated occurrences or are indicative of a more widespread problem.

### **Effectiveness of a Warning System**

NHTSA requests comments on the potential effectiveness of a warning system that activates when the engine is turned off, the transmission is in neutral, and the parking brakes have not been engaged. At this time, NHTSA is considering such a system only for vehicles equipped with automatic transmissions without a parking position, but welcomes comments on application of such a system for vehicles equipped with manual transmissions as well.

Assuming that the warning is sufficiently loud and/or visible to effectively warn the driver under the specified condition, NHTSA also requests comments on situations in which the warning system would not activate and thus the vehicle could still roll away. If a driver were to park the bus without turning off the engine, such as during a short break while keeping the heat on in cold weather, or while having minor service performed at a maintenance facility, the warning system would not be activated. Likewise, if the driver had to leave the driver's seat momentarily (while leaving the engine running) to check on a situation on the bus or outside of the bus, the warning system would not be activated. Finally, a driver could, for some reason, turn the bus off without putting the transmission in neutral, in which case the warning would not activate.

NHTSA also requests comments on potential negative effects of a warning system. While the warning system is envisioned only as a device to warn the driver in rare occasions in which the parking brake had not been applied, it is possible that a driver could come to rely on the warning system as a prompt to apply the parking brake. Under such a scenario and given any of the situations cited above, the driver would not be prompted to apply the parking brake. Other points that were also raised by Blue Bird, which should be considered, include drivers switching between buses that are equipped with the warning system and buses not equipped with the warning system, and the proliferation of warning systems (e.g., emergency exit door alarm and starter interlock requirements in FMVSS No. 217, low air pressure warnings, etc.) that could cause confusion among drivers.

#### Questions for Comment

Prior to making a determination on whether to grant or deny the petition from Schmitt and Sons School Buses, NHTSA requests additional information relative to the parking brake warning system proposed for school buses and its potential application to other medium and heavy vehicles.

1. Can data be provided on bus roll away instances to assist NHTSA in determining the problem size? Any information on bus roll away crashes, resulting injuries or property damage, and whether such incidents occurred during student loading/unloading operations or in other circumstances, such as in bus parking areas, are requested. The focus of these data

should be instances in which the parking brake was not applied.

2. In lieu of hard data on roll away incidents that have occurred, NHTSA requests comments regarding to what extent the trend from equipping school buses with manual transmissions to equipping them with automatic transmissions without a park position has on the increased likelihood for roll away incidents.

3. Of all school buses produced by a manufacturer, or purchased by a school bus operator, what are the current and projected trends on switching from manual to automatic transmissions, specifically in the higher weight classes in which automatic transmissions do not have a park position?

4. What are the trends in incorporating parking pawls in heavy duty automatic transmissions, especially in the GVWR range of typical school buses? What is the availability of automatic parking brake application systems for air- and hydraulic-brakes school buses? In the foreseeable future, what is the likelihood that all school buses will be equipped with either of these systems, or have them available to those purchasers that desire such features?

5. Are differences in driver familiarity with vehicle operation considered to be a factor for school buses versus other commercial vehicles, considering that many school bus drivers are employed on a part-time or seasonal basis?

6. Would the petitioner's proposed system that activates when the engine is turned off, the bus is in neutral, and the parking brake is not applied, be considered an effective warning system in light of the issues raised in the section *Effectiveness of a Warning System* above? Are there other consequences of the warning system to consider? Would it be appropriate to consider a warning system for school buses also equipped with manual transmissions?

7. Would it be appropriate to expand the petitioner's request and consider a warning system that activates when a school bus' engine is turned off, the parking brake is not applied, and the transmission is in any position other than "park?" This would address situations where the school bus is left in gear and the parking brake is not applied. Are there known instances of school buses rolling away in these circumstances?

8. Should other countermeasures (either within or excluding the Federal Motor Vehicle Safety Standards, or the Federal Motor Carrier Safety Regulations) be considered, such as

additional driver training, warning labels, informational campaign, etc.?

9. For the warning system described (an audible warning when the specified conditions are met), will drivers be confused by another audible warning on school buses? Would it be helpful to supplement the audible warning with a visual warning (e.g., the brake warning lamp on the instrument panel could flash)?

10. Would a system that automatically applies the parking brake on school buses (for air- or hydraulic-braked vehicles) whenever the ignition is turned to "lock" or the key is removed be acceptable to drivers, fleets, and school bus manufacturers? Would an override switch be necessary for towing, maintenance, or other situations?

11. Should NHTSA consider expanding the application of the proposed (or an alternate) warning system to include vehicles other than school buses, for example, all buses, or all medium and heavy vehicles?

#### Procedures for Filing Comments

Interested persons are invited to submit comments on this request for comment. It is requested but not required that two copies be submitted.

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 Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

**Authority:** 49 U.S.C. 32, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: February 23, 1999.

**L. Robert Shelton,**

*Associate Administrator for Safety  
Performance Standards.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 216

[Docket No. 990204042-9042-01;  
I.D.123198B]

RIN 0648-AM09

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Platforms in the Beaufort Sea

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

**ACTION:** Notice of receipt of a petition for rulemaking and an application for a small take exemption; request for comment and information.

**SUMMARY:** NMFS has received a request for two Letters of Authorization (LOAs) from BP Exploration (Alaska), 900 East Benson Boulevard, Anchorage, AK 99519 (BPXA) for the take of small numbers of marine mammals by harassment incidental to construction and operation of offshore oil and gas platforms at the Northstar and Liberty developments in the Beaufort Sea in state and Federal waters. BPXA has also petitioned NMFS for regulations to govern that take. In order to promulgate these regulations, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. NMFS invites comment on the application, and suggestions on the content of the regulations.

**DATES:** Comments and information must be postmarked no later than March 31, 1999.

**ADDRESSES:** Comments should be addressed to the Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226. A copy of the application may be obtained by writing to this address or by telephoning one of the contacts listed here (see **FOR FURTHER**

**INFORMATION CONTACT**). A copy of the draft environmental impact statement (DEIS) for Northstar may be obtained by contacting the U.S. Army Engineer District, Alaska, Regulatory Branch, P.O. Box 898, Anchorage, AK 99506-0898.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead (301) 713-2055, Brad Smith, (907) 271-5006.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

##### Summary of Request

On November 30, 1998, NMFS received an application requesting a small take exemption under section 101(a)(5)(A) of the MMPA from BPXA to take marine mammals incidental to the construction and operation of offshore oil and gas platforms at the Northstar and Liberty developments in the Beaufort Sea in state and Federal waters.

BPXA proposes to produce oil from two offshore oil developments, Northstar and Liberty. These two developments will be the first in the Beaufort Sea that use a subsea pipeline to transport oil to shore and then into the Trans-Alaska Pipeline System.

The Northstar Unit is located between 2 and 8 miles (mi) (3.2 and 12.9 kilometers (km)) offshore from Pt. Storkersen, AK. This unit is adjacent to the Prudhoe Bay industrial complex and is approximately 54 mi (87 km) northeast of Nuiqsut, a Native Alaskan community. During 1998-1999 (year 1), a gravel island will be constructed this winter and spring, followed by construction work on the island during the 1999 open-water season. Incidental takes of whales and seals during this period are expected to be authorized under an Incidental Harassment Authorization (IHA) issued under section 101(a)(5)(D) of the MMPA (see

63 FR 57096, October 26, 1998).

However, because of the possibility that construction might be delayed until after expiration of the IHA, work described in the cited **Federal Register** document may be conducted during the effectiveness period of these regulations. Following is a brief description of the proposed scope of work for Northstar and Liberty projects. For more detailed descriptions please refer to either the BPXA application or to the DEIS, both of which are available upon request (see **ADDRESSES**).

##### Northstar

The proposed construction activity includes the construction of several ice roads, one from West Dock and the Pt McIntyre drill site to the Northstar gravel mine and one from the mine site to Seal Island. In the second year of construction an ice road will be constructed parallel to the coast from Pt. McIntyre to the location of the pipeline crossing and then along the pipeline route to Seal Island. Construction of a gravel island work surface for drilling and oil production facilities will take place during the first winter and into the open water season. The transport and installation of the drill rig and associated equipment via the ice road, and the construction and installation of two 10 in (0.25 m) pipelines, one to transport crude oil and one for gas for field injection, will all occur during year 2. The two pipelines will be buried together in a single trench.

It is estimated that during the winter approximately 16,800 large-volume haul trips between the onshore mine site and a reload area in the vicinity of Egg Island, and 28,500 lighter dump truck trips from Egg Island to Seal Island will be necessary to transport construction gravel to Seal Island. An additional 300 truck trips will be necessary to transport concrete-mat slope protection materials to the island. During the summer approximately 90 to 100 barge trips from Prudhoe Bay or Endicott are expected to support construction.

The operational phase will begin with drilling, which will continue for 2 years. Drilling is scheduled to begin in February 2000, using power supplied by diesel generators. This phase of drilling will continue until the power plant is operational in November 2000. Drilling will continue until February 2002, when all 23 development wells (15 production, 7 gas injection) are expected to be drilled. After drilling is completed, only production-related site activities will occur. In order to support operations at Northstar, the proposed operations activity includes the annual construction of an ice road from Pt. McIntyre to the shore crossing of the