representing the Environmental Defense Fund, who had cast one of the dissenting votes at the November meeting, expressed concern with the direct final rule extending the compliance dates for pressure testing and the process for its issuance. Extension of the compliance dates for pressure testing delays testing of older pipelines, whose integrity may be questionable and which may be prone to leaks and spills from outdated materials, design, and/or construction practices. The member points to previous extension of the compliance dates because of the development of the risk-based alternative and argues that further extension eliminates pressure on the Office of Pipeline Safety to complete the risk-based alternative rulemaking promptly. This member also contends that written comments objecting to the extension were not submitted because RSPA indicated during the THLPSSC meeting that the negative votes of the committee members would be considered adverse comments.[1]

The THLPSSC member encourages clarification of the advisory committee actions (which is done above) and republication of the extension of compliance dates for pressure testing for comment. RSPA does not believe that extension of compliance dates is inconsistent with prompt action on the risk-based alternative. RSPA believes that, without an extension of compliance dates, an operator may be required unnecessarily to plan for pressure testing lines which would likely qualify for alternative testing. The compliance dates for pressure testing established by the direct final rule are the same as those proposed for pipelines which will be required, under the risk-based alternative, to be pressure tested. Continuation of this consonance assures that pressure testing of higher risk lines will not be delayed by an operator's election of the risk-based alternative.

Given these identical dates for completing pressure testing, comments by THLPSSC members or others on the issues of timing of pressure testing may be submitted on the current proposed rule on the risk-based alternative. That comment period is open until April 6, 1998, and RSPA encourages anyone concerned with the timing of the pressure testing to comment on that proposal.

[1] The direct final rule process is designed to allow for immediate issuance of rules for which comment is not deemed necessary because of the lack of controversy. Thus the receipt of adverse comments requires the agency to republish the rule either as a proposal or as a revised direct final rule.

Issued in Washington, DC on March 20, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–7813 Filed 3–30–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 538

[Docket No. NHTSA–98–3433]

RIN 2127–AG63

Manufacturing Incentives for Alternative Fuel Vehicles

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

ACTION: Denial of petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration of the agency's decision to set a 200 mile minimum driving range for dual fueled passenger automobiles other than electric vehicles.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, S.W, Washington, DC 20590.

For non-legal issues: Ms. Henrietta L. Spinner, Consumer Programs Division, Office of Planning and Consumer Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590, (202) 366–4802.

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC–20, telephone (202) 366–5253, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Establishment of a Minimum Driving Range for Dual Fueled Passenger Automobiles

On April 2, 1996, NHTSA published a final rule in the **Federal Register** (61 FR 14507) establishing a minimum driving range for dual fueled passenger automobiles other than electric vehicles. The rule also established gallons equivalent measurements for gaseous fuels other than natural gas and eliminated provisions relating to the granting of alternative range requirements for alternative fueled passenger automobiles not powered by electricity.

The agency promulgated this rule in response to amendments in the Energy Policy Act of 1992 (EPACT) (Pub. L. 102–486) that expanded the number of alternative fuels in the corporate average fuel economy (CAFE) law, now recodified as Chapter 329 of title 49, U.S.C. As amended, section 32901(c) requires dual fueled passenger automobiles to meet specified criteria, including meeting a minimum driving range, in order to qualify for special treatment under sections 32905 and 32906 in the calculation of their fuel economy for purposes of the CAFE standards.

One change made by EPACT concerning driving ranges was that, under section 32901(c), the minimum driving range set by NHTSA for dual fueled passenger automobiles other than electric passenger automobiles could not be less than 200 miles. The EPACT amendments also provided that the agency may not, in response to petitions from manufacturers, set an alternative range for a particular model or models that is lower than 200 miles, except for electric passenger automobiles.

The EPACT amendments necessitated amending part 538. In the final rule, the agency established gallons equivalent measurements for the wider range of alternative fuels included in the EPACT amendments and deleted provisions relating to the establishment of alternative minimum driving ranges for non-electric alternative-fueled passenger automobiles. In regard to the minimum driving range, NHTSA concluded that both the text and the legislative history of these amendments indicated that the agency was required to set a minimum driving range of not less than 200 miles for all dual fueled passenger automobiles other than electric passenger automobiles.

II. Petition for Reconsideration of the Minimum Driving Range

On May 24, 1996, the agency received a petition from the National Biodiesel Board (NBB) requesting reconsideration of NHTSA's decision to set a minimum driving range of 200 miles for all dual fueled passenger automobiles other than electric vehicles.

NBB requested that the agency (1) clarify the status of biodiesel as an alternative fuel, (2) adopt a definition of dual fueled vehicles to include vehicles operating on a mixture of alternative fuel and gasoline or diesel fuel, and (3) find that a passenger vehicle operating on a mixture of alternative fuel and gasoline or diesel fuel has satisfied the minimum driving range requirement of 200 miles if the alternative fuel component of the mixture in the vehicle's fuel system would propel the

passenger automobile a distance of 200 miles.

The agency notes that the three points raised by NBB in its petition are outside of the scope of the rulemaking NBB asks the agency to reconsider. The April 2, 1996 final rule did not address the definition of alternative fuels, alternative fuel vehicle, or prescribe the manner in which an alternative fuel passenger automobile may meet the minimum driving range. Therefore, each of these issues may be more properly viewed as a request for interpretation rather than a request for reconsideration. The agency has, however, examined NBB's requests and will address them below.

III. Response To Petition for Reconsideration

The petitioner's first request essentially asked that the agency confirm that biodiesel is an alternative fuel. NBB contends that biodiesel is an alternative fuel, that its status as an alternative fuel was recognized by Congress when the EPACT amendments were adopted, and that NHTSA should amend Section 538.4(a) to include biodiesel and neat biodiesel as alternative fuels.

> Part 538.4(a) reads as follows:
> 538.4 Definitions.
> (a) Statutory terms. (1) The terms alternative fuel, alternative fueled automobile, and dual fueled automobile, are used as defined in 49 U.S.C. 32901(a).

NBB requests that 538.4(a) be amended to repeat the statutory definitions incorporated by reference and further seeks to have an explanatory parenthetical added to the definition of alternative fuel as set forth in section 32901(a)(1)(I), 49 U.S.C. 32901(a)(1)(I). This section defines alternative fuel as ''fuels (except alcohol) derived from biological materials * * *'' NBB requests that the parenthetical ''(including neat biodiesel)'' be inserted in this definition following the phrase ''biological materials.''

NHTSA regards such an amendment as unnecessary. The agency notes that neat biodiesel, which is a fuel entirely derived from biological materials, is already within the definition of an alternative fuel under section 32901(a)(1)(I). The agency also notes that elsewhere in NBB's petition, NBB contends that biodiesel blends such as B20, a mixture of 20% biodiesel and 80% petroleum derived diesel, should be accorded the status of an alternative fuel. Section 32901(a)(1)(K) grants the agency the authority to designate as alternative fuels ''any other fuel * * * that is not substantially petroleum and that would yield substantial energy security and environmental benefits.'' Thus, the agency may, by regulation, establish that certain fuels are alternative fuels when such a determination is appropriate. However, B20 is substantially derived from petroleum. NHTSA concludes that to deem B20 as an alternative fuel would be in direct contravention of Chapter 329. Biodiesel that is derived entirely from organic material (neat biodiesel) is, under section 32901(a)(1)(I), clearly an alternative fuel and NHTSA believes that the existing definition and regulations leave no doubt on this point. Biodiesel blends which are substantially petroleum, such as B20, are not alternative fuels under section 32901(a)(1)(K) and the agency cannot deem them as such. As NBB's petition does not seek clarification regarding other biodiesel blends, NHTSA will not presently exercise its authority to establish the concentration at which these fuels are not substantially derived from petroleum.

The petitioner also requests that NHTSA issue regulations establishing that vehicles operating on a mixture of an alternative fuel and a petroleum based fuel are alternative fuel vehicles. In support of its request, NBB asserts that in regulations issued pursuant to the Alternative Fuel Transportation Program, the Department of Energy (DOE) has recognized that dual fueled vehicles operating on a mixture of alternative and petroleum fuels are dual fueled vehicles.

The agency notes that EPACT broadened the scope of the incentives contained in Chapter 329, encouraging the production of alternative fuel vehicles, as part of a national effort to reduce the dependence of the United States on petroleum based fuels. While other statutory schemes may recognize that vehicles operating on a mixture of alternative fuels and petroleum are alternative fuel vehicles, NHTSA concludes that such vehicles do not qualify as alternative fuel vehicles for the purposes of Chapter 329. Section 32901(a)(2) defines an alternative fuel vehicle as either a dedicated vehicle or a dual fueled vehicle. Dedicated vehicles are defined in section 32901(a)(7) as automobiles that operate only on an alternative fuel. Dual fueled vehicles are defined in section 32901(a)(8) as follows:

> (8) *dual fueled automobile* means an automobile that—
> (A) is capable of operating on alternative fuel and on gasoline or diesel fuel;
> (B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the United States Government, when operating on alternative fuel as when operating on gasoline or diesel fuel;
> (C) for model years 1993–1995 for an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel and if the Administrator of the Environmental Protection Agency decides to extend the application of this subclause, for an additional period ending not later than the end of the last model year to which section 32905(b) and (d) of this title applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on a mixture of alternative fuel and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as when operating on gasoline or diesel fuel; and
> (D) for a passenger automobile, meets or exceeds the minimum driving range prescribed under subsection (c) of this section.

Examination of this section compels the conclusion that Congress intended that for the purposes of Chapter 329's incentive program that dual fueled vehicles are, with one limited exception, vehicles operating either on an alternative fuel or a petroleum fuel but not on a mixture of the two. Subsection (A) describes a vehicle that operates on a petroleum or alternative fuel but not a mixture of both. Subsection (B) limits dual fuel vehicles to those vehicles that offer equal or superior energy efficiency when operating on an alternative fuel, thereby indicating that the two modes of operation are exclusive. Subsection (C) indicates that vehicles operating on a mixture of alternative fuel and gasoline or diesel fuel may only be considered as dual fueled automobiles for the 1993–1995 model years (unless extended by the Administrator of the Environmental Protection Agency to the 2004 model year) when such vehicles offer equal or superior energy efficiency when operating on a 50/50 mix of alternative fuel and diesel fuel or gasoline. Therefore, the statutory text of section 32901(a)(8) indicates that Congress did not intend to make incentives available for dual fueled vehicles operating on a mix of fuels except under the limited circumstances enunciated in 32901(a)(8)(C). As the period set by Congress in which such vehicles could be considered as dual fueled vehicles has expired and the EPA has not extended this period by regulation, NHTSA concludes that under Chapter 329 a dual fueled vehicle is one that is capable of operating on either an alternative fuel or gasoline or diesel fuel but not a mixture of both simultaneously. This is not to say, however, that a vehicle using a fuel that is composed of gasoline or diesel fuel and an alternative fuel cannot be a dual

fueled vehicle; under section 32901(a)(1)(K) a mix of gasoline or diesel fuel and another substance may be an alternative fuel if it is not substantially petroleum and yields substantial environmental and energy benefits.

NBB's petition also requests that NHTSA determine that a vehicle operating on a mix of biodiesel and diesel fuel be deemed to have met the minimum driving range requirement of 200 miles if the biodiesel fuel portion of the mixture in the vehicle's fuel tank would propel the vehicle that distance. As noted above, the agency concludes that Congress did not intend that vehicles operating on a mixture of alternative and petroleum fuel be eligible as alternative fuel vehicles under Chapter 329's incentive program unless that mix is itself an alternative fuel. NBB contends that the energy content of the alternative fuel is the relevant criteria for determining range and further argues that there is no practical difference between a vehicle operating on a 30 percent biodiesel mix and one with two separate fuel systems where the biodiesel tank holds 30 percent of the total fuel capacity. In the latter case, NBB submits, the vehicle would clearly meet the range requirement if the biodiesel propelled it 200 miles. If, according to NBB, the vehicle that mixes the two fuels in one tank cannot be deemed to meet the range requirement, the purposes of the incentive program will be frustrated and lead to an unequitable result. However, NBB's argument fails in that a vehicle operating on a mixture of 30 percent biodiesel and 70 percent diesel is not using an alternative fuel. In the absence of data demonstrating otherwise, such a fuel is substantially petroleum and therefore not an alternative fuel under section 32901(a)(1). The passenger automobile operating with a dual fuel system would, however, qualify as a dual fueled passenger automobile if it could reach 200 miles on 100 percent biodiesel because such a fuel is an alternative fuel.

In response to the petition, the agency has reconsidered its decision to set a 200 mile minimum driving range for non-electric dual fueled passenger automobiles when operating on an alternative fuel. As explained below, the agency is, on reconsideration, reaffirming that decision.

The petition raises points that are beyond the scope of the final rule establishing the 200 mile minimum driving range. The agency has nonetheless examined the merits of the petitioner's requests and concludes that the relief requested would have been denied even if it had been within the scope of the final rule. NHTSA concludes that the existing text of part 538 and the statutory definitions incorporated therein by reference include neat biodiesel as an alternative fuel. The agency also concludes that vehicles operating simultaneously on a mixture of an alternative fuel and gasoline or diesel fuel are not dual fueled vehicles for the purposes of Chapter 329's incentive program unless that mixture qualifies as an alternative fuel under section 32901(a)(1)(K). Similarly, NHTSA also concludes that a dual fueled passenger automobile may not meet the range requirements simply by virtue of having a percentage of alternative fuel that may propel it 200 miles. The range requirement may only be met by passenger automobiles that may travel the required distance while being propelled by a fuel or a fuel mixture that is, by itself, an alternative fuel as defined by Congress or by NHTSA regulation. Accordingly, the agency is denying the petition.

Issued on: March 26, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–8364 Filed 3–30–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 980225048–8059–02; I.D. 030698A]

RIN 0648–AK58

Pacific Halibut Fisheries; Catch Sharing Plans; Correction

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

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule pertaining to Pacific Halibut Fisheries published in the **Federal Register** on March 17, 1998.

DATES: This action becomes effective March 31, 1998.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206–526–6143.

SUPPLEMENTARY INFORMATION:

Background

A final rule was published in the **Federal Register** on March 17, 1998, that published annual management measures for Pacific halibut fisheries and approval of catch sharing plans (63 FR 13000). That document contained two typographical errors.

Corrections

As published, an incorrect date was listed twice in the March 17, 1998, edition of the **Federal Register**. On page 13002, in the first column, under ''Comment:,'' the season start date should read ''May 21.''

On page 13007, under instruction number 23 in the second column, under (4)(b)(i)(A) the fishing season start date should read ''May 21.'' NMFS is correcting these errors and is making no substantive change to the document in this action.

Dated: March 25, 1998.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–8430 Filed 3–30–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980318065–8065–01; I.D. 030698B]

RIN 0648–AK68

Atlantic Sea Scallop Fishery; Area Closures

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

ACTION: Interim final rule.

SUMMARY: NMFS amends the regulations implementing the Atlantic Sea Scallop Fishery Management Plan (FMP). This rule closes two areas to scallop fishing to protect concentrations of juvenile scallops, to reduce fishing mortality, and to increase yield per recruit (YPR). The intended effect of this action is to improve the condition of the resource.

DATES: Effective April 3, 1998 through September 27, 1998. Comments must be received on or before April 30, 1998.

ADDRESSES: Comments on the rule should be sent to Andrew A. Rosenberg, Ph.D., Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–2298. ATTN: Paul Jones. Copies of the documents supporting this action may also be obtained from the Northeast Regional Office.