October 12, 1978

TO: Joe Allen - Bureau Boyle's office

FROM: Howard W. Bremer

Pursuant to your request for examples of unusual delays and difficulties in obtaining licensing rights from federal agencies you will find attached documentation of a situation which existed at the University of Wisconsin relative to an invention made with funds supplied in part by the Department of the Interior.

Following the letter of July 28, 1976, a meeting was had with Mr. Gersten Sadowsky to discuss the request for an exclusive license under the invention with a right to sublicense. Mr. Sadowsky asked for additional information to be supplied by Professor Boom which specifically outlined a plan for the expenditures for a commercial partner to develop the invention, i.e. an economic analysis of the invention development required and perhaps also a projection as to its potential in the industry.

Dr. Boom, as a University Professor was not in a position to supply such information and to ask some commercial mining operation to provide information of that sort without having the certainty of being able to offer a license upon presentation of satisfactory evidence of their intent to develop was simply impractical. There was little likelihood that a company would apply its talents and efforts to a purely hypothetical situation. As a consequence, no information was supplied and the patent remains in the portfolio of the Department of the Interior with the invention undeveloped and unused.

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the remaining undistributed income ... the close of such taxable year after applying any qualifying distributions made in such taxable year to the distributable amount for such taxable year (determined without regard to this paragraph). If during any taxable year of the adjustment period there is created another excess of qualifying distributions, such excess shall not be taken into account until any earlier excess of qualifying distributions has been completely applied against distributable amounts during its adjustment period.

(2) *Excess qualifying distributions.* An excess of qualifying distributions is created for any taxable year beginning after December 31, 1969, if—

(i) The total qualifying distributions treated (under paragraph (d) of this section) as made out of the undistributed income for such taxable year or as made out of corpus with respect to such taxable year (other than amounts distributed by an organization in satisfaction of section 170(b)(1)(E)(ii) or paragraph (c) of this section, or applied to a prior taxable year by operation of the elections contained in paragraphs (c)(2)(iv) and (d)(2) of this section), exceeds

(ii) The distributable amount for such taxable year (determined without regard to this paragraph).

(3) *Adjustment period.* For purposes of this paragraph, the taxable years in the adjustment period are the 5 taxable years immediately ... year in which ... distributions is c... (within the mean... of this paragra... year cannot be carried over beyond the succeeding 5 taxable years. However, if during any taxable year in the adjustment period an organization ceases to be subject to the initial excise tax imposed by section 4942(a), any portion of the excess of qualifying distributions, which prior to such taxable year has not been applied against distributable amounts, may not be carried over to such taxable year or subsequent taxable years in the adjustment period, even if during any of such taxable years the organization again becomes subject to the initial excise tax imposed by section 4942(a).

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). (i) F, a private foundation which was created in 1967 and which uses the calendar year as the taxable year, has distributable amounts and qualifying distributions for 1970 through 1976 as follows:

Year	1970	1971	1972	1973
Distributable amount	$100	$100	$100	$100
Qualifying distribution	0	$250	$70	$140

Year	1974	1975	1976	.....
Distributable amount	$100	$100	$100	.....
Qualifying distribution	$40	$75	$105	.....

(ii) The qualifying distributions made in 1971 will be treated under paragraph (d) of this section as $100 made out of the undistributed income for 1970, then as $100 made out of the undistributed income for 1971, and finally as $50 out of corpus in 1971. Since the total qualifying distributions for 1971 ($150) exceed the distributable amount for 1971 ($100), there exists a $50 excess of qualifying distributions which F may use to reduce its distributable amounts for the years 1972 through 1976 (the taxable years in the adjustment period with respect to the 1971 excess). Therefore, the $100 distributable amount for 1972 is reduced by $30 (the lesser of the 1971 excess ($50) and the remaining undistributed income at the close of 1972 ($30), after the qualifying distributions of $70 for 1972 were applied to the original distributable amount for 1972 of $100). Since the distributable amount for 1972 was reduced to $70, there is no remaining undistributed income for 1972. Accordingly, the qualifying distributions made in 1973 will be treated as $100 made out of the undistributed income for 1973 and as $40 out of corpus in 1973. Since this amount ($140) exceeds the distributable amount for 1973 ($100), there exists a $40 excess which F may use to reduce its distributable amounts for the years 1974 through 1976 (the taxable years in the adjustment period with respect to the 1973 excess). However, in accordance with subparagraph (1) of this paragraph such excess may not be used to reduce F's distributable amounts for the years 1974 through 1976 until the excess created in 1971 has been completely applied against distributable amounts during such years. The distributable amount for 1974 is reduced by $40 (the lesser of the unused portion of the 1971 excess ($50) plus the 1973 excess ($40) and the remaining undistributed income at the close of 1974 ($40), after the qualifying distributions of $80 for ... distributable ... by $20 ... of the ... ($20) ... income at the close of 1975 ($25), after the qualifying distributions of $75 for 1975 were applied to the original distributable amount for 1975 of $100). Consequently, qualifying distributions made in 1976 will be treated as made first out of the $5 of remaining undistributed income for 1975 and then as $100 made out of the undistributed income for 1976.

Example (2). Assume the facts as stated in example (1), except that in 1974 F receives a contribution of $300 from G, a private foundation which controls F (within the meaning of paragraph (a)(3) of this section), and F distributes such contribution in 1975 in satisfaction of paragraph (c) of this section. Under these circumstances, there would be no excess of qualifying distributions for 1975 with respect to such distribution, since such distribution is excluded from the computation of an excess of qualifying distributions by operation of subparagraph (2)(i) of this paragraph.

Example (3). Assume the facts as stated in example (1), except that in 1972 F is treated as an operating foundation (as such term is defined in section 4942(j)(3)). In accordance with subparagraph (3) of this paragraph since F is not subject to the initial excise tax imposed by section 4942(a) for 1972, the 1971 excess cannot be carried forward to 1972 or any subsequent year in the adjustment period with respect to the 1971 excess, even if F is subsequently treated as a private nonoperating foundation for any year during the period 1973 through 1976.

[FR Doc.73-2039 Filed 2-2-73;8:45 am]

NOTE THE CHANGES MADE BY ATTACHED AMEND. OF JUNE 7, 1973. AMEND OF JULY 30, 1974 (39FR28288)

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

PART 101–4—PATENTS

Licensing of Government-Owned Inventions

This amendment of the Federal Property Management Regulations adds new Part 101–4, Patents and new Subpart 101–4.1, Licensing of Government-Owned Inventions. The amendment sets forth regulations which implement the Presidential Statement of Government Patent Policy dated August 23, 1971. The statement specifically directs the General Services Administration to issue regulations which provide for the licensing and dedication of Government-owned inventions for the purpose of enhancing the utilization of such inventions. Development of the regulation was accomplished in cooperation with the Committee on Government Patent Policy, Federal Council for Science and Technology. Agency and industry comments were considered.

The table of contents for Subchapter A is amended to add new entries, as follows:

Subpart 101–4.1—Licensing of Government-Owned Inventions

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Part 101–4 is added as follows:

§ 101–4.100 Scope of subpart.

This subpart prescribes the terms, conditions, and procedures for the licensing of rights in domestic patents and patent applications vested in the United States of America, and for dedication of Government-owned inventions by a Government agency.

§ 101–4.101 Policy.

(a) A major premise of the Presidential Statement of Government Patent Policy, August 23, 1971 (36 FR 16887, August 26, 1971), is that Government-owned inventions normally will best serve

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the public interest when they are developed to the point of practical application and made available to the public in the shortest possible time. The granting of express nonexclusive or exclusive licenses for the practice of these inventions may assist in the accomplishment of the national objective to achieve a dynamic and efficient economy. However, it is recognized that there may be inventions as to which a Government agency deems dedication preferable to accomplish these objectives.

(b) The granting of nonexclusive licenses generally is preferable since the invention is thereby laid open to all interested parties and serves to promote competition in industry, if the invention is in fact promoted commercially. However, to obtain commercial utilization of the invention, it may be necessary to grant an exclusive license for a limited period of time as an incentive for the investment of risk capital to achieve practical application of an invention.

(c) Whenever the grant of an exclusive license is deemed appropriate, it shall be negotiated on terms and conditions most favorable to the public interest. In selecting an exclusive licensee, consideration shall be given to the capabilities of the prospective licensee to further the technical and market development of the invention, his plan to undertake the development, the projected impact on competition, and the benefit to the Government and the public. Consideration shall be given also assisting small business and minority business enterprises, as well as economically depressed, low income, and labor surplus areas, and whether each or any applicant is a U.S. citizen or corporation. Where there is more than one applicant for an exclusive license, that applicant shall be selected who is determined to be most capable of satisfying the criteria and achieving the goals set forth in this subpart.

(d) Subject to the following: (1) Specific statutes governing the utilization of patent rights of certain Government agencies, or (2) any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization, or (3) licenses under or other rights to inventions made or conceived in the course of or under Government research and development contracts where such licenses or other rights to such inventions are granted to or provided for in the contract and acquired by the party contracting with the Government agency, no license shall be granted or implied in a Government-owned invention except as provided for in this subpart.

(e) No grant of a license under this subpart shall be construed to confer upon any licensee any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this subpart shall not be immunized from the operation of State or Federal law by reason of the source of the grant.

§ 101–4.102 Definitions.

(a) "Government invention" means an invention covered by a domestic patent or patent application that is vested in the United States and is designated by the Government agency having custody of the invention as appropriate for the grant of an express nonexclusive or exclusive license.

(b) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(c) "Government agency" means any executive department, independent commission, board, office, agency, administration, authority, wholly owned corporation, or other independent establishment of the executive branch of the Government of the United States of America.

(d) "The head of the Government agency" means the head of the agency or his designee.

§ 101–4.103 Types of licenses and conditions for licensing.

§ 101–4.103–1 Government inventions available for licensing.

Government inventions normally will be made available for the granting of express nonexclusive or limited exclusive licenses to responsible applicants according to the factors and conditions set forth in §§ 101–4.103–2 and 101–4.103–3, subject to the applicable procedures of § 101–4.104.

§ 101–4.103–2 Nonexclusive license.

(a) *Availability of licenses.* Each Government invention normally shall be made available for the granting of nonexclusive revocable licenses, subject to the provisions of any other licenses, including those under § 101–4.103–4.

(b) *Terms of grant.* (1) The duration of the license shall be for a period as specified in the license agreement, provided that the licensee complies with all the terms of the license.

(2) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license, or such extended period as may be agreed upon, and to continue to make the benefits of the invention reasonably accessible to the public.

(3) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(4) After termination of a period specified in the license agreement, the Government agency may restrict the license to the fields of use and/or geographic areas in which the licensee has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public.

(5) The license may extend to subsidiaries and affiliates of the licensee but shall be nonassignable without approval of the Government agency, except to the successor of that part of the licensee's business to which the invention pertains.

§ 101–4.103–3 Limited exclusive license.

(a) *Availability of licenses.* Each Government invention may be made available for the granting of a limited exclusive license provided that:

(1) The invention has been published as available for licensing pursuant to § 101–4.104–1 for a period of at least 6 months;

(2) The head of the Government agency has determined that (i) the invention may be brought to the point of practical application in certain fields of use and/or in certain geographical locations by exclusive licensing, (ii) the desired practical application has not been achieved under any nonexclusive license granted on the invention, and (iii) the desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further Government-funded research or development;

(3) The notice of the prospective licensee has been published, pursuant to § 101–4.104–4(a) for at least 60 days; and

(4) After termination of the period set forth in § 101–4.103–3(a)(3), the Government agency has determined that no applicant for a nonexclusive license has brought or will bring, within a reasonable period, the invention to the point of practical application as specified in the exclusive license, and that to grant the exclusive license would be in the public interest.

(b) *Selection of exclusive licensee.* An exclusive licensee shall be selected on bases consistent with the policy set forth in § 101–4.101 and in accordance with the procedures set forth in § 101–4.104.

(c) *Terms of grant.* (1) The license may be granted for all or less than all fields of use of the Government invention and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(2) Subject to the rights reserved to the Government in §§ 101–4.103–3(c)(6) and 101–4.103–3(c)(7), the licensee shall be granted the exclusive right to practice the invention in accordance with the terms and conditions specified in the license.

(3) The duration of the license shall be negotiated but shall be for a period less than the terminal portion of the patent, the period remaining being sufficient to make the invention reasonably available for the grant of a nonexclusive license; and such period of exclusivity shall not exceed 5 years unless the head of the Government agency determines on the basis of a written submission supported by a factual showing that a longer

period is reasonably necessary to permit the licensee to enter the market and recoup his reasonable costs in so doing.

(4) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license, or within a longer period as approved by the Government agency, and to continue to make the benefits of the invention reasonably accessible to the public.

(5) The license shall require the licensee to expend a specified minimum amount of money and/or to take other specified actions, within a specified period of time after the effective date of the license, in an effort to bring the invention to the point of practical application.

(6) The license shall be subject to the irrevocable royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of any foreign government or intergovernmental organization pursuant to any existing or future treaty or agreement with the United States.

(7) The license shall reserve to the Government agency the right to require the licensee to grant sublicenses to responsible applicants on terms that are reasonable in the circumstances (i) to the extent that the invention is required for public use by Government regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii) for other public purposes stipulated in the license.

(8) The license may extend to subsidiaries and affiliates of the licensee but shall be nonassignable without approval of the Government agency, except to successors of that part of the licensee's business to which the invention pertains.

(9) An exclusive licensee may grant sublicenses under his license, subject to the approval of the Government agency. Each sublicense granted by an exclusive licensee shall make reference to the exclusive license, including the rights retained by the Government under the exclusive license, and a copy of such sublicense shall be furnished to the Government agency.

(10) The license may be subject to such other terms as may be in the public interest.

§ 101–4.103–1 Additional licenses.

Subject to any outstanding licenses, nothing in this subpart shall preclude a Government agency from granting additional nonexclusive or limited exclusive licenses for Government-owned inventions when the Government agency determines that to do so would provide for an equitable exchange of patent rights. The following exemplify circumstances wherein such licenses may be granted:

(a) In consideration of the settlement of an interference;

(b) In consideration of a release of a claim of infringement; or

(c) In exchange for or as part of the consideration for a license under adversely held patents.

§ 101–4.103–5 Royalties.

(a) Normally, royalties shall not be charged under nonexclusive licenses granted to U.S. citizens and U.S. corporations on Government inventions; however, the Government agency may require other considerations.

(b) An exclusive license on a Government invention may require the payment of royalties, and/or other considerations, when the licensing situation and the policy in § 101–4.101 considered together, indicate that it is in the public interest to do so.

§ 101–4.103–6 Reports.

A license shall require the licensee to submit periodic reports on his efforts to achieve practical application of the invention. The reports shall contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention and other information which the Government agency may determine is pertinent to its licensing activities and is specified in the license.

§ 101–4.104 Procedures.

§ 101–4.104–1 Government agency publication requirements.

Each Government agency shall cause to be published in the FEDERAL REGISTER, the Official Gazette of the U.S. Patent Office, and at least one other publication that the Government agency deems would best serve the public interest, a list of the Government inventions in its custody available for licensing under the conditions specified in § 101–4.103. The list shall be revised periodically to include directly, or by reference to a previously published list, all inventions currently available for licensing. Other publications on inventions available for licensing are encouraged and may include abstracts, when appropriate, as well as information on the design, construction, use, and potential market for the inventions.

§ 101–4.104–2 Contents of a nonexclusive license application.

An application for a nonexclusive license under a Government invention should be addressed to the head of the Government agency having custody of the invention, and shall include:

(a) Identification of invention for which license is desired, including the patent application serial number of patent number, title and date, if known, and any other identification of invention;

(b) Name and address of the person, company, or organization applying for license and whether the applicant is a U.S. citizen or a U.S. corporation;

(c) Name and address of representative of applicant to whom correspondence should be sent;

(d) Nature and type of applicant's business;

(e) Source of information concerning the availability of a license on this invention;

(f) Purpose for which license is desired and a brief description of applicant's plan to achieve that purpose;

(g) A statement of the fields of use for which applicant intends to practice the invention; and

(h) A statement as to the geographic areas in which the applicant would practice the invention.

§ 101–4.104–3 Contents of an exclusive license application.

In addition to the information indicated in § 101–4.104–2, an application for an exclusive license shall include:

(a) Applicant's status, if any, in any one or more of the following categories: (1) Small business firm, (2) minority business enterprise, (3) location in a surplus labor area, (4) location in a low-income area, and (5) location in an economically depressed area;

(b) A statement of applicant's capability to undertake the development and marketing required to achieve the practical application of the invention;

(c) A statement describing the time, expenditure, and other acts which the applicant considers necessary to achieve practical application of the invention and the applicant's offer to invest that sum to perform such acts if the license is granted;

(d) A statement that contains the applicant's best knowledge of the extent to which the Government invention is being practiced by private industry and the Government; and

(e) Any other facts which the applicant believes are evidence that it is in the public interest for the Government agency to grant an exclusive license rather than a nonexclusive license and that such exclusive license should be granted to the applicant.

§ 101–4.104–4 Published notices.

(a) A notice that a prospective exclusive licensee has been selected shall be published in the FEDERAL REGISTER, and a copy of the notice shall be sent to the Attorney General. The notice shall include:

(1) Identification of the invention;

(2) Identification of the selected licensee;

(3) Duration and scope of the contemplated license; and

(4) A statement to the effect that the license will be granted unless:

(i) An application for a nonexclusive license, submitted by a responsible applicant pursuant to § 101–4.104–2, is received by the Government agency having custody of the invention within 60 days from the publication of the notice in the FEDERAL REGISTER, and the Government agency determines in accordance with its prescribed procedures under which procedures the Government agency shall record and make available for public inspection all decisions made pursuant thereto and the basis therefor, that the applicant has established that he has already achieved or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or

(ii) The Government agency determines that a third party has presented evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

(b) If an exclusive license has been granted pursuant to this Subpart 101–4.1, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

(1) Identification of the invention;

(2) Identification of the licensee; and

(3) Duration and scope of the license.

(c) If an exclusive license has been modified or revoked pursuant to § 101–4.104–5, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

(1) Identification of the invention;

(2) Identification of the licensee; and

(3) Effective date of the modification or revocation.

§ 101–4.104–5 Modification or revocation.

(a) Any license granted pursuant to this Subpart 101–4.1 may be modified or revoked by the Government agency granting the license if the licensee at any time defaults in making any report required by the license or commits any breach of any covenant or agreement therein contained.

(b) A license may also be revoked by the Government agency granting the license if the licensee willfully makes a false statement of a material fact or willfully omits a material fact in the license application or any report required in the license agreement.

(c) Before modifying or revoking any license granted pursuant to this subpart for any cause, the Government agency shall furnish the licensee and any sublicensee of record a written notice of intention to modify or revoke the license, and the licensee and any sublicensee shall be allowed 30 days after such notice to remedy any breach of any covenant or agreement as referred to in (a) of this section or to show cause why the license should not be modified or revoked.

§ 101–4.104–6 Appeals.

An applicant for a license, a licensee, or such other third party who has participated under § 101–4.104–4(a)(4)(ii) shall have the right to appeal, in accordance with procedures prescribed by the Government agency, any decision concerning the granting, denial, interpretation, modification, or revocation of a license.

§ 101–4.105 Litigation.

An exclusive licensee shall be granted the right to sue at his own expense any party who infringes the rights set forth in his license and covered by the licensed patent. The licensee may join the Government upon consent of the Attorney General as a party complainant in such suit but without expense to the Government, and the licensee shall pay costs and any final judgment or decree that may be rendered against the Government in such suit. The Government shall have an absolute right to intervene in any such suit at its own expense. The licensee shall be obligated to furnish promptly to the Government, upon request, copies of all pleadings and other papers filed in any such suit and of evidence adduced in proceedings relating to the licensed patent including, but not limited to, negotiations or settlement and agreements settling claims by a licensee based on the licensed patent, and all other books, documents, papers, and records pertaining to such suit. If as a result of any such litigation the patent shall be declared invalid, the licensee shall have the right to surrender his license and be relieved from any further obligation thereunder.

§ 101–4.106 Transfer of custody of Government inventions.

A Government agency having custody of a Government-owned invention may enter into an agreement to transfer its custody to another Government agency for purposes of administration, including the granting of licenses pursuant to this subpart.

Effective date. This subpart is effective May 7, 1973, but may be observed earlier. However, the head of a Government agency may exclude from the terms, conditions, and procedures set forth in this subpart any license that was in the process of being negotiated on the effective date.

Dated: January 29, 1973.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.73-2119 Filed 2-2-73;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 71–21; Notice 6]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

This notice denies petitions for reconsideration of an amendment to Federal Motor Vehicle Safety Standard No. 108 published on October 7, 1972, that modified the method by which conformity of certain lamps to photometric requirements is determined.

The National Highway Traffic Safety Administration amended 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment, on October 7, 1972 (37 FR 21323), to allow photometric conformance of parking lamps, taillamps, stoplamps, and turn signal lamps to be based upon the sum of values derived from grouping individual test points rather than upon a requirement of conformance at each test point. Thereafter, pursuant to 49 CFR 553.35, petitions for reconsideration of the amendment were filed by American Motors Corp., Ford Motor Co., General Motors Corp., SWF-Spezial fabrik fur Autozubehor Gustav [illegible] G.m.b.H., and Volkswagen of America, Inc. Petitions raising the same issues but not timely filed were submitted by Automobiles Peugeot on behalf of the Association Peugeot-Renault and Westfalische Metall Industries KG. Chrysler Corp. submitted a request for an interpretation. The Administration has declined to grant requested relief.

1. *Inclusion of SAE Recommended Practice J256.* All petitioners except General Motors asked for adoption in its entirety of SAE Recommended Practice J256, "Service Performance Requirements for Motor Vehicle Lighting Devices," July 1971. Petitioners complain that the NHTSA adopted the grouping concept and photometric values of Table 2 and Table 3 of the practice without including a correction adjustment factor or a tolerance for maximum photometric values. SAE J256 permits an adjustment in lamp orientation from design position not to exceed 3° in determining compliance with photometric requirements. SAE J256 also permits a tolerance of 10 percent in determining whether group photometric requirements are met. It further provides that the candlepower of parking lamps, taillamps, stoplamps, and turnlamps shall not exceed 120 percent of the maximum values specified in appropriate SAE standards. In support of their request petitioners argue that a readjustment factor is necessitated by the difficulties that test laboratories experience in insuring that lamps of complex and varied shapes are mounted with accuracy in the design position. Tolerances in candlepower output are requested because of variations in test lamp bulbs, and in manufacture and assembly of the lamps themselves.

When Standard No. 108 required compliance at every test point, the SAE standards incorporated by reference did not permit the tolerances that petitioners request. Compliance by meeting minimum group totals rather than compliance at each test point is intended to insert a factor to compensate for these variations in test methods and manufacture that apparently concern industry. The tolerances in the SAE recommended practice represent a further lowering of the quantitative performance requirements. The NHTSA has determined that no sufficient reasons have been given to lower these requirements further, and that it is not in the interest of motor vehicle safety to do so. The petitions are denied.

2. *Excluded lamps.* General Motors requests the inclusion in the group testing concept of clearance lamps, side marker lamps, and identification lamps, as originally proposed by NHTSA. GM's petition is denied. Under the proposal, photometric requirements for clearance, side marker, and identification lamps would have been increased, and identical to those for parking lamps and taillamps. But the proposed values were not adopted, and these lamps were not included in the group concept. The NHTSA believes that the group concept is inappropriate for lamps of low candlepower,