

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601

Subpart D—[Amended]

§ 60.42 [Amended]

2. Section 60.42 is amended by removing paragraph (b)(3).

§ 60.45 [Amended]

3. Section 60.45 is amended by removing paragraph (g)(1)(iii).

[FR Doc. 96-24283 Filed 9-23-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: This document eliminates an outdated footnote in regulations, addressing the organization of the Office of Hearings and Appeals (OHA) and the authority delegated by the Secretary to the Director and other principal officials in OHA. The organization and authority is fully explained in the text of the regulation. This document also eliminates the words "and Osage Indian wills" as a limitation no longer applicable on the scope of authority of Administrative Law Judges and Interior Board of Indian Appeals to rule on probate issues from the Osage Indian Tribe.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: James P. Terry, Deputy Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, VA 22203. Telephone: (703) 235-3810.

SUPPLEMENTARY INFORMATION: This action reflects agency management in deleting nonsubstantive, outdated, and unnecessary language in a footnote relating to organization and authority of OHA, already fully described in the current text of § 4.1 of 43 CFR Part 4, Subpart A, and, similarly, in deleting nonsubstantive, outdated, and inapplicable language in § 4.1(b)(2)(ii) of 43 CFR Part 4, Subpart A. Accordingly, the Department has determined that the provisions of the Administrative Procedures Act, 5 U.S.C. 553 (b) and (d), allowing for public notice and comment and a 30-day delay in the effective date of a rule, are unnecessary and impracticable.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure.

Therefore, under the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 4 of Title 43 of the Code of Federal Regulations, is amended as follows:

PART 4—[AMENDED]

1. The authority citation for Part 4 continues to read:

Authority: R.S. 2478, as amended, 43 U.S.C. sec 1201, unless otherwise noted.

Subpart A—General; Office of Hearings and Appeals

§ 4.1 [Amended]

2. Section 4.1 is amended by removing footnote 1 from the introductory text of the section.

3. Section 4.1(b)(2)(ii) is revised to read as follows:

§ 4.1 Scope of authority; applicable regulations.

* * * * *

(b) * * *

(2) * * *

(ii) Orders and decisions of Administrative Law Judges in Indian probate matters other than those involving estates of the Five Civilized Tribes of Indians. The Board also decides such other matters pertaining to Indians as are referred to it by the Secretary, the Director of the Office of Hearings and Appeals, or the Assistant Secretary-Indian Affairs for exercise of review authority of the Secretary. Special regulations applicable to proceedings before the Board are contained in subpart D of this part.

* * * * *

Dated: September 6, 1996.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 96-23828 Filed 9-23-96; 8:45 am]

BILLING CODE 4310-79-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95-097, Notice 02]

RIN 2127-AF90

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

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

ACTION: Final rule.

SUMMARY: In this document, NHTSA transfers most of the requirements of the Federal motor vehicle safety standard on headlamp concealment devices to the safety standard on lamps, reflective devices and associated equipment. The remaining requirements of the standard on headlamp concealment devices are rescinded. This rule adopts most of the amendments proposed in the notice of proposed rulemaking. However, instead of rescinding a requirement that both headlamp concealment devices be operated by one switch, as proposed, this notice transfers that requirement to the lighting standard. This action is part of the President's Regulatory Reinvention Initiative to make regulations easier to understand and to apply.

DATES: *Effective date.* This final rule is effective October 24, 1996.

Petitions for reconsideration. Any petitions for reconsideration of this final rule must be received no later than November 8, 1996.

ADDRESSES: Any petitions for reconsideration of this final rule should refer to the docket number and notice number cited at the beginning of this notice, and be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

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

For technical issues: Mr. Richard Van Iderstine, Office of Vehicle Safety Standards, NPS-11, telephone (202) 366-5280, FAX (202) 366-4329.

For legal issues: Ms. Dorothy Nakama, Office of Chief Counsel, NCC-20, (202) 366-2992, FAX (202) 366-3820.

SUPPLEMENTARY INFORMATION:**Background***President's Regulatory Reinvention Initiative*

Pursuant to the President's March 4, 1995, directive, "Regulatory Reinvention Initiative," to the heads of departments and agencies, NHTSA undertook a review of all its regulations and directives. During the course of this review, the agency identified not only those rules or portions of rules that might be deleted or rescinded but also those rules that could be consolidated to avoid duplication or be redrafted to make them easier to comprehend. In reviewing Federal Motor Vehicle Safety Standard No. 112, *Headlamp concealment devices* (49 CFR 571.112), the agency tentatively decided that a separate standard for headlamp concealment devices is not necessary since its essential provisions could be transferred to Standard No. 108, *Lamps, reflective devices, and associated equipment*, without affecting safety.

Standard No. 112

Standard No. 112 specifies requirements for headlamp concealment devices, which is defined in S3 of the standard as "a device with its operating system and components, that provides concealment of the headlamp when it is not in use, including a movable headlamp cover and a headlamp that displaces for concealment purposes." Headlamp concealment devices are usually rotating or pop-up headlamp mounts that appear to be part of an uninterrupted body surface when the headlamps are not positioned for use. Only a small percentage of vehicles has ever incorporated them. More extensive use of them in the future is not anticipated since the trend toward aerostyled headlamps has reduced their role in styling.

Standard No. 112 requires that fully opened headlamp concealment devices must remain fully opened whenever there is a loss of power to or within the device and whenever any malfunction occurs in components that control or conduct power for the operation of a concealment device. The standard also has safety performance criteria to increase the safe and reliable operation of headlamp concealment devices. Means for fully opening each headlamp concealment device must be provided to guard against the possibility of a malfunction occurring in components that control or conduct power for the actuation of the concealment device. A single mechanism must be provided for actuating the headlamp concealment

devices and illuminating the lights. Each headlamp concealment device must be designed such that no component of the device, other than components of the headlamp assembly, need be removed when mounting, aiming and adjusting the headlamps. Finally, within specified temperature ranges, headlamp concealment devices must fully open in three seconds after actuation of the appropriate mechanism, except in the event of a power loss.

Notice of Proposed Rulemaking

On April 11, 1996, NHTSA published a notice of proposed rulemaking (NPRM) (61 FR 16073) to transfer most of the requirements of Federal motor vehicle safety standard on headlamp concealment devices to the safety standard on lamps, reflective devices and associated equipment. The agency proposed to rescind remaining requirements of the standard on headlamp concealment devices. NHTSA proposed to either rescind or transfer Standard No. 112's provisions as follows. NHTSA proposed that the definitions of "headlamp concealment device" and "fully opened" (presently in S3 of Standard 112) be transferred to S4 of Standard 108. NHTSA proposed to rescind the definition of "power" ("any source of energy that operates the headlamp concealment device") since NHTSA believed it is obvious from the context of the requirements that "power" includes electrical, pneumatic, vacuum, mechanical, hydraulic or any other source of energy chosen to operate the headlamp concealment devices.

NHTSA proposed that S4, S4.1, S4.2, S4.4 and S4.5 of Standard No. 211 be transferred to Standard No. 108 and redesignated as S12, S12.1, S12.2, S12.3 and S12.4, respectively. NHTSA proposed to rescind S4.3's requirement that both headlamp concealment devices be operated by a single switch, expressing its belief that S4.3 relates more to convenience than to safety.

NHTSA further proposed that Standard No. 108's new S12 be a simplified version of Standard No. 112. NHTSA noted that S4.1(a) of Standard No. 112 (proposed as S12.1 of Standard No. 108), requires that when the headlamps are operating with the concealment devices in the fully opened position, they must remain fully open in the event of "any loss of power to or within the headlamp concealment device." S4.1(b) provides that the requirement for remaining open applies in any situation in which there is a "disconnection, restriction, short-circuit, circuit time delay, or other similar malfunction in any wiring, tubing, hose, solenoid or other

component that controls or conducts power for operating the concealment device." Since S4.1(b) is merely a more detailed statement of requirement in S4.1(a), NHTSA tentatively concluded that it was unnecessary to include S4.1(b) in S12 of Standard No. 108.

NHTSA also noted that S4.2 of Standard 112 requires that if the power to a concealment device is lost when the device is closed, the device "shall be capable of being fully opened (a) by automatic means, (b) by actuation of a switch, lever, or other similar mechanism; or (c) by any other means not requiring the use of any tools." Because conditions (a) and (b) are examples of "means not requiring the use of any tools" as specified in (c), NHTSA tentatively determined that they need not be expressly set forth. Therefore, NHTSA proposed that S4.2 paragraphs (a) and (b) of Standard No. 112 not be included in S12.2 of Standard 108.

Proposed Retention of Timing of Opening and Temperature Requirements

S4.5 of Standard No. 112 requires that each headlamp concealment device be capable of opening within 3 seconds of the actuation of its switch, lever or similar mechanism. It specifies that the capability must exist over a temperature range of -20 °F to +120 °F. In the NPRM, NHTSA tentatively concluded that transferring the S4.5 language to Standard No. 108 would be necessary to assure a minimum level of safety.

The 3 second actuation time limit was the basis for a 1987 amendment to the standard removing a restriction on the opening path of headlamp concealment devices bearing lighted headlamps. Until 1987, Standard No. 112 required that the headlamps not be illuminated until they were in their operating position if the concealment devices moved through intermediate positions in which the headlamps could produce more glare than permitted in their operating position. Chrysler petitioned for changes to make the provision less restrictive. The agency decided that the requirement for full opening of concealment devices in 3 seconds already limited the glare in intermediate positions to no greater duration than the usual glare observed by drivers viewing oncoming vehicles on curves or hills ahead. Therefore, all requirements at intermediate positions were eliminated. (52 FR 35709; September 23, 1987).

The actuation time limit has also become the basis for industry design standards of high intensity discharge (HID) lamps used as headlamps. HID lamps for other applications have long

warm-up cycles before achieving their steady intensity, but HID headlamps use special designs to attain a near steady output within 3 seconds.

The importance of rapid headlamp warm-up and concealment device opening is illustrated by the example of vehicles exiting lighted tunnels in which headlamp use is prohibited. Drivers who exit such tunnels at night would face an obvious hazard if they could not restore headlamp illumination quickly. Likewise, drivers entering unlighted tunnels in the daytime would face an obvious hazard if they could not illuminate their headlamps quickly.

NHTSA proposed to retain and transfer the operating temperature requirements of Standard No. 112 because they reflect drivers' needs. The operation of moveable headlamp panels could be easily affected by lubricants that thicken in cold temperature or by changes in the clearance between sliding or rotating parts in response to extreme temperatures.

Other Proposed Changes and Proposed Effective Date

In addition to proposing to add S12 to Standard No. 108, NHTSA also proposed to take the necessary steps to ensure that S11 and S12 are placed to follow S10 in the published Code of Federal Regulation version of Standard No. 108. In Title 49 of the Code of Federal Regulations (CFR) Parts 400–999, revised as of October 1, 1995, in Standard No. 108 (49 CFR 571.108), more than 70 pages of figures separate S10 from S11. NHTSA has received numerous complaints about S11's out-of-sequence placement in the CFR.

Finally, NHTSA tentatively determined that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest and proposed that, if adopted in a final rule, the amendments take effect 30 days after the Federal Register publication of the final rule.

Public Comments and NHTSA Response

In response to the NPRM, NHTSA received comments from the American Automobile Manufacturers Association (AAMA), Chrysler Corporation, and the Advocates for Highway and Auto Safety (Advocates). AAMA and Chrysler concurred with NHTSA's proposal to transfer Standard No. 112's essential provisions to Standard No. 108.

Chrysler stated that the action "seems logical and reasonable." Advocates expressed the general view that none of NHTSA's proposed changes would make the requirements "easier to understand or to apply," and thus

"nothing of substance is achieved by such action."

In NHTSA's view, requirements for headlamp concealment devices are properly part of the standard on lamps, reflective devices and associated equipment, and would be easier to find if included in that safety standard. Further, streamlining the transferred requirements by removing unnecessary or repetitive language would facilitate reading of the headlamp concealment requirements.

Advocates strongly opposed NHTSA's proposal to remove the requirement (in S4.3 of Standard No. 112) that both headlamp concealment devices be operated by a single switch. Advocates characterized the requirement as a "central safety feature of headlamp concealment device operation," and suggested instances in which, if both headlamps were not simultaneously lighted, a crash or other accident might occur.

Advocates stated that "the various forms of disablement in many thousands of drivers" might make it difficult or impossible for some drivers to activate a second headlamp with a second switch shortly after activating the first headlamp. Advocates also stated that there are numerous highway operating situations in which a driver's safety might be seriously compromised if the deployment of the second headlamp were unnecessarily delayed. The commenter stated that highway construction areas that use temporary traffic control devices, such as retroreflective cones, may have abrupt curves or horizontal sight restrictions which would make being able to obtain quick, ample illumination below the horizon, by both headlamps, crucial for a driver.

NHTSA has decided not to rescind the requirement of S4.3 as proposed. As Advocates' comment makes clear, while a single switch may be a convenience to many drivers, it is a necessity for other drivers. Further, the requirement may promote vehicle safety under some driving conditions. Since S4.3 is a longstanding provision in Standard No. 112, transferring S4.3 to Standard No. 108 would not impose an additional regulatory burden on industry. The provisions of S4.3 are thus transferred to Standard No. 108.

Final Rule

As discussed above, the final rule adopts the regulatory text proposed in the NPRM, except that the text of S4.3 of Standard No. 112 is also transferred to Standard No. 108 and designated as S12.3. To accommodate the addition of

S12.3, the other S12 provisions are renumbered accordingly.

NHTSA has taken the necessary steps to ensure that S11 and S12 are placed immediately after S10 in the published version in Standard No. 108. NHTSA has received oral assurance from an editor at the Office of the Code of Federal Regulations that in the October 1, 1996 edition of 49 CFR 571.108, S11 will be placed immediately after S10. Similarly, S12 will be placed immediately after S11.

To make Standard No. 108 easier to understand, NHTSA adds a heading "Figures and Tables to § 571.108" after S12. NHTSA also places the following figures in their logical sequence: Figures 1a, 1b, and 1c (which at present follow S5.1.1.6) and Figure 2 (which at present follows S5.1.1.18) are moved to follow the new heading for Standard No. 108 figures, and to precede Figure 4–1.

NHTSA received no comment on its proposal that the final rule take effect 30 days after it is published. NHTSA adopts as final its tentative conclusion that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest. This rule will not compromise safety and will not make substantive changes to the present requirements for headlamp concealment devices. This final rule takes effect 30 days after its publication in the Federal Register.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." NHTSA has analyzed the impact of this rulemaking action and determined that it is not "significant" under the Department of Transportation's regulatory policies and procedures. This final rule does not impose any additional costs and yields no savings because this rule makes no substantive changes in requirements for headlamp concealment devices and only makes administrative changes. Since there are no impacts, preparation of a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As noted above, this final rule simplifies the language and requirements of the standard and results in all of the headlamp provisions being grouped

together in one standard. It does not affect any costs associated with the manufacture or sale of vehicles. Accordingly, a final regulatory flexibility analysis has not been prepared.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this final rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that it will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule has no 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, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the state's use. 49 U.S.C. 30161 sets forth a procedure 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 vehicles, Motor vehicle safety, Rubber and rubber products, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

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

2. Section 571.108 is amended by adding in S4, in alphabetical order, definitions of "Fully opened" and "Headlamp concealment device," and adding S12 and S12.1 through S12.5 after S11, to read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S4. Definitions.

* * * * *

Fully opened means the position of the headlamp concealment device in which the headlamp is in the design open operating position.

Headlamp concealment device means a device, with its operating system and components, that provides concealment of the headlamp when it is not in use, including a movable headlamp cover and a headlamp that displaces for concealment purposes.

* * * * *

S12. Headlamp Concealment Devices.

S12.1 While the headlamp is illuminated, its fully opened headlamp concealment device shall remain fully opened should any loss of power to or within the headlamp concealment device occur.

S12.2 Whenever any malfunction occurs in a component that controls or conducts power for the actuation of the concealment device, each closed headlamp concealment device shall be capable of being fully opened by a means not requiring the use of any tools. Thereafter, the headlamp concealment device must remain fully opened until intentionally closed.

S12.3 Except for malfunctions covered by S12.2, each headlamp concealment device shall be capable of being fully opened and the headlamps illuminated by actuation of a single switch, lever, or similar mechanism, including a mechanism that is automatically actuated by a change in ambient light conditions.

S12.4 Each headlamp concealment device shall be installed so that the headlamp may be mounted, aimed, and adjusted without removing any component of the device, other than components of the headlamp assembly.

S12.5 Except for cases of malfunction covered by S12.2, each headlamp concealment device shall, within an ambient temperature range of -20° F. to +120° F., be capable of being fully opened in not more than 3 seconds after the actuation of a driver-operated control.

* * * * *

§ 571.108 [Amended]

3. In § 571.108, a new heading is added following S12.5 and preceding the figures and tables, to read "Figures and Tables to § 571.108".

4. In § 571.108, Figures 1a, 1b and 1c which follow S5.1.1.6, and Figure 2 which follows S5.1.1.18, are moved to

appear in numerical order after the heading "Figures for § 571.108" and before Figure 4-1.

§ 571.112 [Removed]

5. Section 571.112 is removed in its entirety and reserved.

Issued on: September 11, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96-23795 Filed 9-23-96; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN 1018-AB49

Importation, Exportation, and Transportation of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations which were published June 21, 1996, (61 FR 31850). The regulation related to Import Declaration Requirements contained at § 14.61 is corrected.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Marks, Special Agent in Charge, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, (703) 358-1949.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections supersede 50 CFR § 14.61 on the effective date and affect persons or businesses required to file the Declaration for Importation or Exportation of Fish or Wildlife (Declaration Form 3-177). The June 21, 1996 final rule incorrectly allowed importers or their agents to file either a Declaration Form 3-177 with the Service or an electronic Declaration Form 3-177 through the United States Customs Service Automated Commercial System (ACS). The Service's pilot program for allowing the filing of an electronic Declaration Form 3-177 through the Automatic Commercial System, Automated Broker Interface (ABI) began on October 29, 1990, in the Port of New York.

Need for Correction

The ACS system for filing electronic versions of Declaration Form 3-177 has