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Issued: August 22, 2006.

Nicole R. Nason,
Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2006-24497]

RIN 2127-AI93

Federal Motor Vehicle Safety Standards; Occupant Protection in Interior Impact

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

ACTION: Final rule; delay of compliance date.

SUMMARY: Our safety standard on occupant protection in interior impact requires, in part, that light vehicles provide head protection when an occupant's head strikes upper interior components, such as pillars, side rails, headers, and the roof during a crash. While these requirements already apply to most vehicles, the compliance date for altered vehicles and vehicles built in two or more stages is September 1, 2006. In April 2006, we responded to two petitions for rulemaking by proposing certain amendments to the head protection requirements as they apply to these vehicles. We also proposed to delay the compliance date of the requirements for these vehicles until September 1, 2008. Given the short period of time until the current September 1, 2006 compliance date, and as a partial step toward completing action on the April 2006 proposal, we are, by this final rule, delaying the compliance date for one year. This will give us time to fully analyze the comments and reach a decision on other aspects of the proposal, including the proposed additional delay in the compliance date.

DATES: The amendments made by this final rule are effective September 1, 2006. The compliance date for the head impact protection requirements for altered vehicles and vehicles built in two or more stages is delayed until September 1, 2007.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received not later than October 13, 2006.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, with a copy to Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Note that all documents received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Rulemaking Analyses and Notices.

Docket: For access to the docket to read background documents, go to <http://dms.dot.gov>, or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590:

For technical and policy issues: Lori Summers, Office of Crashworthiness Standards, telephone: (202) 366-4917, facsimile: (202) 366-4329, e-mail: Lori.Summers@dot.gov.

For legal issues: Edward Glancy, Office of the Chief Counsel, telephone: (202) 366-2992, facsimile: (202) 366-3820.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard (FMVSS) No. 201, *Occupant Protection in Interior Impact*, requires, in part, that light vehicles provide head protection when an occupant's head strikes upper interior components, such as pillars, side rails, headers, and the roof during a crash. While these requirements already apply to most vehicles, the compliance date for altered vehicles and vehicles built in two or more stages is September 1, 2006.

The Recreation Vehicle Industry Association (RVIA) and the National Truck Equipment Association (NTEA) petitioned the agency to exclude permanently certain types of altered vehicles and vehicles manufactured in two or more stages from these requirements. On April 24, 2006, NHTSA published in the **Federal Register** (71 FR 20932) a document responding to these petitions for rulemaking and proposing certain amendments to the standard.

Based on a careful consideration of both the safety benefits of the upper interior protection requirements, and practicability concerns relating to

vehicles built in two or more stages and certain altered vehicles, we proposed to limit these requirements to only the front seating positions of those vehicles. Further, we tentatively concluded that it is appropriate to exclude a narrow group of multi-stage vehicles delivered to the final stage manufacturer without an occupant compartment because of impracticability concerns.

We also proposed to delay the effective date of the head impact protection requirements as they apply to final stage manufacturers and alterers until September 1, 2008.

We received two comments on the proposal, from RVIA and NTEA. Both commenters supported delaying the existing compliance date. The two commenters also each raised a number of issues about certain aspects of our proposal, and asked the agency to provide additional relief.

Given the short period of time until the current September 1, 2006 compliance date, and as a partial step toward completing action on the April 2006 proposal, we have decided, at this time, to delay the compliance date for one year. This will give us time to fully analyze the comments and reach a decision on other aspects of the proposal, including the proposed additional delay in the compliance date.

We find good cause for making this rule delaying the current September 1, 2006 compliance date effective in less than 30 days, i.e., September 1, 2006. For reasons discussed in our April 2006 proposal, we have tentatively concluded that certain amendments should be made that would provide relief to final stage manufacturers and alterers, and also that the compliance date of the relevant requirements should be delayed. If the September 1, 2006 compliance date were not changed, it is likely that some final stage manufacturers and alterers would need to immediately stop producing or altering some of the specialty vehicles they provide.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rule was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It does not impose any new burdens on manufacturers of vehicles built in two or more stages or vehicle alterers. It only delays the compliance date for certain existing requirements as they apply to multistage vehicles and alterers.

The agency believes that this impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their rules on small businesses, small organizations and small governmental jurisdictions. I have considered the effects of this rulemaking action under the Regulatory Flexibility Act and certify that it will not have a significant economic impact on a substantial number of small entities.

Under 13 CFR 121.201, the Small Business Administration (SBA) defines small business (for the purposes of receiving SBA assistance) as a business with less than 750 employees. Most of the manufacturers of recreation vehicles, conversion vans, and specialized work trucks are small businesses that alter completed vehicles or manufacture vehicles in two or more stages. While the number of these small businesses is substantial, the economic impact upon these entities will not be significant because this document only delays the compliance date of certain existing requirements as they apply to multistage vehicles and alterers.

C. National Environmental Policy Act

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The agency has determined

that implementation of this action will not have any significant impact on the quality of the human environment. Accordingly, no environmental assessment is required.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The rule will not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. However, 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.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (\$120.7 million as adjusted annually for inflation with base year of 1995). The assessment may be combined with other assessments, as it is here.

This rule will not result in expenditures by State, local or tribal governments or automobile manufacturers and/or their suppliers of more than \$120.7 million annually. It will not impose any new burdens on manufacturers of vehicles built in two or more stages or vehicle alterers.

F. Executive Order 12988 (Civil Justice Reform)

This rule will not have any retroactive effect. As noted above in the discussion of Executive Order No. 13132, 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 a suit in court.

G. Paperwork Reduction Act

There are no information collection requirements in this rule.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

I. Privacy Act

Anyone is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

Regulatory Text

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

■ In consideration of the foregoing, NHTSA amends chapter V of title 49 of the Code of Federal Regulations by amending 49 CFR part 571 as follows:

PART 571—[AMENDED]

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

Authority: 49 U.S.C. 322, 2011, 30115, 30166 and 30117; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.201 is amended by revising S6.1.4 through S6.1.4.2 to read as follows:

§ 571.201 Standard No. 201; Occupant protection in interior impact.

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S6.1.4 *Phase-in Schedule #4.* A final stage manufacturer or alterer may, at its option, comply with the requirements set forth in S6.1.4.1 and S6.1.4.2.

S6.1.4.1 Vehicles manufactured on or after September 1, 1998 and before September 1, 2007 are not required to comply with the requirements specified in S7.

S6.1.4.2 Vehicles manufactured on or after September 1, 2007 shall comply with the requirements specified in S7.

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Issued on: August 22, 2006.

Nicole R. Nason,

Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 404

[Docket No. 060824225-6225-01]

RIN 0648-AU82

Northwestern Hawaiian Islands Marine National Monument

AGENCIES: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC); United States Fish and Wildlife Service (USFWS), Department of the Interior (DOI).

ACTION: Final rule.

SUMMARY: NOAA and the USFWS are issuing final regulations for the Northwestern Hawaiian Islands Marine National Monument. This action codifies the prohibitions and management measures set forth in Presidential Proclamation 8031 establishing the Monument. The rule is effective immediately.

DATES: *Effective date:* These regulations are effective August 25, 2006. Written comments on the information collection requirement must be received by October 30, 2006.

ADDRESSES: Submit written comments regarding the burden-hour estimates or other aspects of the information collection requirements contained in this proposed rule by e-mail to Diana Hynek at dHynek@noaa.gov.

Coordinates for the outer boundary of the Monument, the Special Preservation Areas, the Ecological Reserves, and the Midway Atoll Special Management Area can be found at: <http://hawaiireef.noaa.gov/management/>.

FOR FURTHER INFORMATION CONTACT:

NOAA contact: T. Aulani Wilhelm, Monument Superintendent (NOAA); 6600 Kalanianaʻole Highway, #300, Honolulu, HI 96825; (808) 397-2657.

FWS contact: Barry Stieglitz, Monument Project Leader (USFWS); Hawaiian and Pacific Islands NWR Complex, 300 Ala Moana Boulevard, Box 50167, Honolulu, HI 96850-5000; 808-792-9540.

State of Hawaii contact: Athline Clark, Special Projects Manager, Department of Land and Natural Resources, Division of Aquatic Resources; 1151 Punchbowl Street, Room 330, Honolulu, HI 96813; (808) 587-0099.

SUPPLEMENTARY INFORMATION: On June 15, 2006, President Bush established the Northwestern Hawaiian Islands Marine National Monument by issuing Presidential Proclamation 8031 (71 FR 36443, June 26, 2006) under the authority of the Antiquities Act (Act) (16 U.S.C. 431). The Proclamation reserves all lands and interests in lands owned or controlled by the Government of the United States in the Northwestern Hawaiian Islands (NWHI), including emergent and submerged lands and waters, out to a distance of approximately 50 nautical miles (nmi) from the islands. The outer boundary of the Monument is approximately 100 nmi wide and extends approximately 1200 nmi around coral islands, seamounts, banks, and shoals. The area includes the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, the Midway Atoll National Wildlife Refuge/Battle of Midway National Memorial, and the Hawaiian Islands National Wildlife Refuge.

The Proclamation appropriated and withdrew the area from all forms of entry, location, selection, sale, or leasing or other disposition under the public land laws, including, but not limited to, withdrawal from location, entry, and patent under mining laws, and from disposition under all laws relating to mineral and geothermal leasing.

The Proclamation provides that the Secretary of Commerce, through NOAA, has primary responsibility regarding the management of the marine areas of the Monument, in consultation with the Secretary of the Interior. The Secretary of the Interior, through the USFWS, has sole responsibility for management of the areas of the Monument that overlay the Midway Atoll National Wildlife Refuge, the Battle of Midway National Memorial, and the Hawaiian Islands National Wildlife Refuge, in consultation with the Secretary of Commerce. Further, the Proclamation

provides that nothing in the Proclamation diminishes or enlarges the jurisdiction of the State of Hawaii. The Monument includes state waters, including the Northwestern Hawaiian Islands State Marine Refuge and Kure Atoll Wildlife Sanctuary. The State currently holds the submerged and ceded lands of the NWHI in trust. This public trust is overseen by the Office of Hawaiian Affairs through an amendment to the Constitution of the State of Hawaii. The State of Hawaii has primary responsibility for managing the State waters of the Monument.

The three principal entities with responsibility for managing lands and waters of the Monument—NOAA, USFWS, and the State of Hawaii (collectively, the Co-Trustees)—are working cooperatively and will consult to administer the Monument. The Co-Trustees have established a goal to provide unified management in the spirit of cooperative conservation. This relationship will be further described in a Memorandum of Agreement among the Co-Trustees.

The Proclamation requires restrictions and prohibitions regarding activities in the Monument consistent with the authority provided by the Act. The Proclamation shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law. NOAA and USFWS are promulgating as final regulations the management measures and prohibitions set forth in the Proclamation to codify them in the Code of Federal Regulations. This action will provide additional notice to the public and other interested parties of the terms of the Proclamation and activities that are prohibited or regulated and thereby facilitate improved compliance. Interested parties may view Hawaii Administrative Rules also applicable within the Monument at http://www.hawaii.gov/dlnr/dar/fish_regs/nwhi.htm.

These regulations address the requirement in the Proclamation that the Secretaries shall ensure, in addition to other things, that commercial fishing for bottomfish and other associated pelagic species may continue in the Monument for no more than 5 years. Section 404.10 sets out the conditions under which such fishing may continue to be conducted. However, commercial fishing remains prohibited in areas of the Monument not open to such fishing prior to issuance of the Proclamation.