

(1) Enter into negotiations with the highest ranked offeror. If a mutually satisfactory contract cannot be negotiated, the contracting officer shall terminate negotiations with the highest ranked offeror and enter into negotiations with the next highest, or;

(2) Enter into negotiations with all qualified offerors and select on the basis of qualifications and rates, fees, or other costs.

(e) In the event only one individual responds to an advertised requirement, the contracting officer is authorized to negotiate the contract award. In this case, the individual must still meet the minimum qualifications of the requirement and the contracting officer must be able to make a determination that the price is fair and reasonable.

(f) If a fair and reasonable price cannot be obtained from a qualified individual, the requirement should be canceled and acquired using procedures other than those set forth in this section.

(g) The total amount paid to an individual in any year for health care services under a personal services contract shall not exceed the paycap in COMDTINST M4200.19 (series), Coast Guard Acquisition Procedures.

(h) The contract may provide for the same per diem and travel expenses authorized for a Government employee, including actual transportation and per diem in lieu of subsistence for travel between home or place of business and official duty station and only for travel outside the local area in support of the statement of work.

(i) Coordinate benefits, taxes and maintenance of records with the appropriate office(s).

(j) The contracting officer shall insure that contract funds are sufficient to cover all contingency items that may be cited in the statement of work for health care services.

#### **PART 1246—QUALITY ASSURANCE**

16. Section 1246.705 is amended by revising paragraph (a)(3) to read as follows:

##### **§ 1246.705 Limitations.**

(a) \* \* \*

(3) Any warranty obtained shall specifically exclude coverage of damage in time of war or national emergency.

#### **PART 1252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

17. Section 1252.223–70, 1252.228–70, 1252.228–72 are revised to read as follows and 1252.225–90 and 1252.225–91 are removed

##### **§ 1252.223–70 Removal or disposal of hazardous substances—applicable licenses and permits.**

As prescribed in (TAR) 48 CFR 1223.303, insert the following clause:

Removal or Disposal of Hazardous Substances—Applicable Licenses and Permits (Dec. 1997)

The Contractor must have all licenses and permits required by Federal, state, and local laws to perform hazardous substance(s) removal or disposal services. If the Contractor does not currently possess these documents, it must obtain all requisite licenses and permits within \_\_\_ days after date of award. The Contractor shall provide evidence of said documents to the Contracting Officer or designated Government representative prior to commencement of work under the contract. (End of clause)

##### **§ 1252.228–70 Loss of or damage to leased aircraft.**

As prescribed in (TAR) 48 CFR 1228.306–70 (a) and (b), insert the following clause:

Loss of or Damage to Leased Aircraft (Dec. 1997)

(a) The Government assumes all risk of loss of, or damage (except normal wear and tear) to, the leased aircraft during the term of this lease while the aircraft is in the possession of the Government.

(b) In the event of damage to the aircraft, the Government, at its option, shall make the necessary repairs with its own facilities or by contract, or pay the Contractor the reasonable cost of repair of the aircraft.

(c) In the event the aircraft is lost or damaged beyond repair, the Government shall pay the Contractor a sum equal to the fair market value of the aircraft at the time of such loss or damage, which value may be specifically agreed to in clause 1252.228–71, "Fair Market Value of Aircraft," less the salvage value of the aircraft. However, the Government may retain the damaged aircraft or dispose of it as it wishes. In that event, the Contractor will be paid the fair market value of the aircraft as stated in the clause.

(d) The Contractor agrees that the contract price does not include any cost attributable to hull insurance or to any reserve fund it has established to protect its interest in the aircraft. If, in the event of loss or damage to the leased aircraft, the Contractor receives compensation for such loss or damage in any form from any source, the amount of such compensation shall be:

(1) Credited to the Government in determining the amount of the Government's liability; or

(2) For an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss of or damage to the aircraft, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and the Contractor shall promptly assign such rights in writing to the Government. (End of clause)

##### **§ 1252.228–72 Risk and indemnities.**

As prescribed in (TAR) 48 CFR 1228.306–70(a) and (d), insert the following clause:

Risk and Indemnities (Dec. 1997)

The Contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents or employees) arising out of the operation of the aircraft. In the event the Contractor holds or obtains insurance in support of this covenant, evidence of insurance shall be delivered to the Contracting Officer. (End of clause)

#### **TAR MATRIX**

18. In Part 1253, subpart 1253.3, is amended by removing the entries for "FAA 1252.225–90" and "FAA 1252.225–91" from the TAR matrix.

[FR Doc. 97–33688 Filed 12–29–97; 8:45 am]

BILLING CODE 4910–62–P

#### **DEPARTMENT OF TRANSPORTATION**

##### **National Highway Traffic Safety Administration**

##### **49 CFR Part 595**

[Docket No. NHTSA–97–3111]

RIN 2127–AG61

##### **Air Bag On-Off Switches**

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

**ACTION:** Final rule, correcting amendment.

**SUMMARY:** This document amends a final rule which allows motor vehicle dealers and repair businesses to install retrofit manual on-off switches for air bags in motor vehicles. The rule requires the on-off switch to be key operated and requires a telltale that indicates the operating status of the air bag. NHTSA has determined that the language of the regulatory text could be mistakenly interpreted to require a key specifically matched to the on-off switch and that the rule was ambiguous as to how the readiness indicator should function when one or both air bags have been deactivated by means of the on-off

switch. This rule revises the language of the regulatory text to clarify these issues. It also corrects a clerical error found in the original regulatory text.

**DATES:** *Effective Date:* The amendments made to this final rule are effective December 18, 1997. *Petitions:* Petitions for reconsideration must be received by February 13, 1998.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number of this rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

For information about air bags and related rulemaking: Visit the NHTSA web site at <http://www.nhtsa.dot.gov> and click on the icon "Air Bag Page".

For legal issues: Ms. Rebecca MacPherson, Office of Chief Counsel, NCC-20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 366-2992. Fax: (202) 366-3820.

**SUPPLEMENTARY INFORMATION:** On November 21, 1997, NHTSA published in the **Federal Register** (62 FR 62406) a final rule which allows motor vehicle dealers and repair businesses to install retrofit manual on-off switches for air bags in vehicles owned by or used by persons whose requests for switches have been approved by the agency. Among the provisions of the final rule was a requirement that the on-off switch be operable solely by means of a key. Shortly after publication, the Ford Motor Company contacted NHTSA and stated that its existing on-off switch could be operated by means other than a key specifically designed for the switch. Ford requested clarification that its design would conform with the criteria set forth in the final rule.

NHTSA's purpose in requiring operation by a key was to ensure that the on-off switch could not be inadvertently triggered, thereby turning an air bag on or off without the conscious intent to do so. The concept of using of a key designed specifically to work with a particular on-off switch, was considered and rejected when the agency drafted the final rule. What the Agency intended was an instrument that must be inserted into the on-off switch mechanism and turned to change the status of an air bag, as opposed, for example, to a knob that could be turned by an occupant. Such an instrument need not be a "key" as that term is used in everyday speech, even though it falls within the dictionary definition (cf, Webster's Third New International

Dictionary, etc.) Accordingly, the rule is being amended to require the use of a "key or a key-like object" to operate.

A sentence has been added to the end of section 595.5(b)(3)(i) to parallel the language concerning the air bag readiness indicator found in S4.5.2 of FMVSS 208. The addition of this sentence does not change the substantive requirements of the final rule.

This rule also corrects a clerical error found within section 595.5(b)(3) of the regulatory text. NHTSA notes that these changes to the final rule are minor changes which do not substantively impact the final rule as issued on November 18, 1997. Accordingly, NHTSA finds that the issuance of this rule does not require a prior period of notice and comment. NHTSA also finds for good cause that this final rule can be made effective in less than thirty days. An immediate effective date will allow switch manufacturers to design on-off switches in a manner which they find to be the most effective without fear of inconsistency with the regulatory requirements.

**Rulemaking Analyses and Notices**

*Executive Order 12866 and DOT Regulatory Policies and Procedures*

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866, "Regulatory Planning and Review." This document amends an action that was determined to be "significant" under the Department of Transportation's regulatory policies and procedures because of the degree of public interest in this subject. However, this rule does not impose any new requirements on manufacturers. It simply clarifies the existing requirements.

*Regulatory Flexibility Act*

NHTSA has considered the effects of this rulemaking action 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 explained above, this rule will not have an economic impact on any manufacturer or other entity.

*Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), there are no requirements for information collection associated with this final rule.

*National Environmental Policy Act*

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

*Executive Order 12612 (Federalism)*

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

*The Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) 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. This rule does not meet the definition of a Federal mandate, because it adds no additional cost to the completely permissive final rule which it is clarifying.

*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 595**

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA amends 49 CFR part 595, which becomes effective on December 18, 1997, as follows:

1. The authority citation for part 595 will continue to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, 30122 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 595.5 is amended by revising paragraph (b)(3) introductory

text and paragraph (b)(3)(i) to read as follows:

#### **PART 595—RETROFIT ON-OFF SWITCHES FOR AIR BAGS**

\* \* \* \* \*

##### **§ 595.5 Requirements.**

\* \* \* \* \*

(b) \* \* \*

(3) The on-off switch meets all of the conditions specified in paragraphs (b)(3)(i) and (ii) of this section.

(i) The on-off switch is operable solely by a key or a key-like object. The on-off switch shall be separate from the ignition switch for the vehicle, so that the driver must take some action other than inserting the ignition key or turning the ignition key in the ignition switch to turn off the air bag. Once turned off, the air bag shall remain off until it is turned back on by means of the device. If a single on-off switch is installed for both air bags, the on-off switch shall allow each air bag to be turned off without turning off the other air bag. The readiness indicator required by S4.5.2 of § 571.208 of this chapter shall continue to monitor the readiness of the air bags even when one or both air bags has been turned off. The readiness indicator light shall not be illuminated solely because an air bag has been deactivated by means of an on-off switch.

\* \* \* \* \*

Issued on: December 18, 1997.

**Ricardo Martinez,**

*Administrator.*

[FR Doc. 97-33956 Filed 12-29-97; 8:45 am]

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#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

##### **50 CFR Part 648**

[Docket No. 961210346-7035-02; I.D. 122297F]

##### **Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Virginia**

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

**ACTION:** Commercial quota harvest.

**SUMMARY:** NMFS announces that the summer flounder commercial quota available to the Commonwealth of Virginia has been harvested. Vessels

issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Virginia for the remainder of calendar year 1997, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notice to advise the Commonwealth of Virginia that the quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in Virginia.

**DATES:** Effective December 23, 1997, through December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Regina Spallone, Fishery Policy Analyst, 978-281-9221.

##### **SUPPLEMENTARY INFORMATION:**

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The initial total commercial quota for summer flounder for the 1997 calendar year was set equal to 11,111,298 lb (5,040,000 kg) (March 7, 1997, 62 FR 10473). The percent allocated to vessels landing summer flounder in Virginia is 21.31676 percent, or 2,368,569 lb (1,074,365 kg).

Section 648.100(d)(2) stipulates that any overages of commercial quota landed in any state be deducted from that state's annual quota for the following year. In the calendar year 1996, a total of 2,274,457 lb (1,031,676 kg) were landed in Virginia. The amount allocated for Virginia landings in 1996 was 2,200,681 lb (998,212 kg), creating a 73,776 lb (33,464 kg) overage that was deducted from the amount allocated for landings in the Commonwealth during 1997 (July 15, 1997, 62 FR 37742). The resulting quota for Virginia is 2,294,793 lb (1,040,901 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state's commercial quota is harvested. The Regional Administrator is further required to publish a notice in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. Because the available information indicates that the Commonwealth of

Virginia has attained its quota for 1997, the Regional Administrator has determined based on dealer reports and other available information, that the Commonwealth of Virginia's commercial quota has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours December 23, 1997, further landings of summer flounder in Virginia by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1997 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective the date above, federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in Virginia for the remainder of the calendar year, or until additional quota becomes available through a transfer.

##### **Classification**

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12886.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: December 22, 1997.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97-33889 Filed 12-23-97; 3:51 pm]

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#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

##### **50 CFR Part 679**

[Docket No. 971208296-7296-01; I.D. 121997A]

##### **Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specified Groundfish Fisheries in the Bering Sea and Aleutian Islands**

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing specified groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the prohibited species bycatch allowances and directed fishing allowances specified for the