standards described in the Head Start Act; and

(ii) Was the basis for the termination or denial of refunding described in § 1302.30 of this part.

(b) The responsible HHS official shall determine whether an employee was responsible for a deficiency within the meaning and context of this section.

[FR Doc. 98–16826 Filed 6–23–98; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–3968, Notice 1]

RIN 2127–AG14

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Response to petitions for reconsideration.

SUMMARY: This action denies four petitions for reconsideration of NHTSA's final rule and correcting amendments concerning air bag warning labels. The rule requires vehicles with air bags to bear three new, attention-getting warning labels. Two of the labels replace previous labels on the sun visor and the third is a new temporary (i.e., removable) label located on the vehicle dash.

SUPPLEMENTARY INFORMATION:

I. Background

NHTSA published a final rule amending Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection'', on November 27, 1996 (61 FR 60206). The rule requires vehicles with air bags to bear three new, attention-getting warning labels. Two of the labels replace previous labels on the sun visor and the third is a new removable label located on the vehicle dash. Under the final rule, the labels on the sun visors in vehicles produced after February 25, 1997, are required to state:

WARNING: DEATH or SERIOUS INJURY can occur. Children 12 and under can be killed by the air bag. The BACK SEAT is the SAFEST place for children. NEVER put a rear-facing child seat in the front (unless air bag is off)[1]. Sit back as far as possible from the air bag. ALWAYS use SEAT BELTS and CHILD RESTRAINTS.

The removable label on the dash must state:

WARNING: Children May Be KILLED or INJURED by Passenger Air Bag. The back seat is the safest place for children 12 and under. Make sure all children use seat belts or child seats.

The rule excludes vehicles with smart passenger air bags, as those devices are defined in the regulatory text made part of the final rule.[2]

Subsequent to the final rule, NHTSA published three correcting or technical amendments. On December 4, 1996, the agency published a correcting amendment allowing manufacturers of vehicles without passenger-side air bags to omit the required warning language concerning hazards to children from air bags (61 FR 64297). A second correcting amendment was issued on December 11, 1996 that allowed manufacturers of vehicles with no back seat to omit the required warning language stating that children are safest in the back seat (61 FR 57187). On January 2, 1997, NHTSA published a technical amendment correcting a typographical error by changing the word ''may'' to ''can'' in the temporary warning label (62 FR 31).

II. Summary of Petitions

NHTSA received three petitions for reconsideration of the November 27, 1996 final rule. Meyercord, a label manufacturer, petitioned for a definition of the term ''permanently affixed'' as used in the standard. The Parent's Coalition for Air Bag Warnings asked for the definition of ''smart passenger air bag'' to be refined to include air bags that do not deploy if the passenger seat is occupied by an individual weighing 130 pounds or less rather than 66 pounds or less. AAMA requested an amendment allowing the new air bag warning label and the utility vehicle rollover warning label required under 49 CFR section 575.105 to be on the same side of the sun visor.

The agency received one petition for reconsideration of the December 11, 1996 correcting amendment. AAMA asked that the required warning language regarding children and the back seat be changed from ''The BACK SEAT is the SAFEST place for children'' to ''If the vehicle has a BACK SEAT, that seat is the SAFEST place for children''. Under AAMA's petition, all vehicles, including those without a back seat, would be required to use its proposed language in the warning labels.

III. Discussion of Issues

A. Petitions for Reconsideration of the November 27, 1996 Final Rule

1. Meyercord

Meyercord petitioned the agency to ''require that the air bag warning graphics pass specifications to ensure that the important message does in fact remain ''permanently affixed.'' Meyercord maintains that there is consensus in the automotive industry that labels which are ''permanently affixed'' ''should last the life of the vehicle and that any attempt to remove it would result in the base material being cut or gouged in some way.'' According to Meyercord, only heat transfer graphics can meet this definition of ''permanently affixed''. Sticker graphics, Meyercord avers, can be peeled away. The company included in its petition a photograph of a sun visor with a peeling sticker graphic and Ford's 15-page Engineering Material Specification No. WSS–M7G7–B1, which it believes will assist the agency in defining a level of adhesiveness.

Meyercord's petition is denied. Following its practice in other NHTSA regulations where the term ''permanently affixed'' is also used, NHTSA did not define ''permanently affixed'' when it added the term to Standard No. 208. NHTSA has not found a definition necessary in those other regulations. When asked, NHTSA has issued an interpretation of the term.[3] Specifically, NHTSA has said that a label is permanent if it cannot be removed without destroying or defacing it and that the label should remain legible for the expected life of the product under normal conditions.

NHTSA does not know the context under which the label depicted in the photograph submitted by Meyercord began to peel away from the sun visor. NHTSA surmises that the vehicle was probably within its expected lifespan, given the time when such labels were first required on motor vehicles. Absent the existence of abnormal conditions in the history of the vehicle, the photograph might be an indication of a noncompliance with Standard No. 208. In such an instance, the existence of a performance test is not necessary to enforce the requirement for permanently affixing a label.

[1] Parenthetical text is only appropriate for vehicles with a factory-installed on-off switch.

[2] While the final rule includes a definition of ''smart passenger air bags'', the agency is currently working on a rulemaking which will replace this definition with a definition of ''advanced air bags''.

[3] *Cf.*, letter to Hank Thorp, Inc., August 7, 1973 (FMVSS No. 211); letter to Joseph Lucas North America, Inc., October 6, 1975 (FMVSS No. 106).

2. Parents' Coalition for Air Bag Warnings

The Parents' Coalition for Air Bag Warnings (Coalition) requested that NHTSA amend the provision which excludes a ''smart passenger air bag'' from the requirement for a warning label on the above sun visor. Currently, in order to qualify as a smart air bag, a passenger air bag must not deploy if the passenger seat is occupied by a child or child and car seat (if applicable) having a total mass of 30 kg (approximately 66 lbs) or less. The Coalition would like to revise the exclusion so that in order to qualify as a smart passenger air bag, an air bag must not deploy if the passenger seat is occupied by a child weighing 130 pounds or less. The Coalition notes that the average 12 year old boy weighs 99 pounds and the average 12 year old girl weighs 102 pounds. The Coalition also notes that 90th percentile male and female 12 year old children weigh 130 pounds and 133 pounds, respectively. The Coalition believes that amending the criteria for a smart passenger air bag is necessary to make them consistent with the warning label requirement that states all children 12 years and under should ride in the back seat.

The petition is denied. The warning label requirement and the smart passenger air bag exclusion serve two separate functions. The warning label advises parents and other adult drivers of the risks involved in allowing a child to ride in the front seat. The smart passenger air bag exclusion is intended to encourage the installation of smart passenger air bags by relieving a vehicle manufacturer from complying with some of the labeling requirements if the manufacturer installs such a passenger air bag. The criteria for a smart passenger air bag were selected to ensure that a qualifying air bag would not injure two specially at-risk groups of children (i.e., infants in rear facing child restraints or children weighing less that 30 kg). Most of the child deaths have involved children weighing less than 60 pounds and significantly younger than twelve. Smart air bag technology based on weight classifications is an absolute measure which would deactivate the air bag regardless of who is sitting in the front seat. The agency believes that the air bag should remain operable for occupants who do not fall within the narrowly prescribed risk group. An upper weight limit of 130 pounds would be overly broad since it would deactivate the air bag for a large portion of the adult population as well as most children.

Additionally, NHTSA noted in the preamble to the notice of proposed rulemaking issued in August 1996 that the definition of a smart passenger air bag was very general and would be refined in future rulemaking. In the more recent (November 1997) final rule permitting retrofit on-off switches for air bags, the agency stated that the definition would be addressed in the forthcoming proposal on advanced air bags (the current name of smart air bags).

3. AAMA

AAMA petitioned the agency to permit the new air bag warning labels and the utility vehicle rollover warning label required by 49 CFR section 595.105 to be on the same side of a utility vehicle's sun visor. As was the case prior to the publication of the final rule, the utility vehicle label is prohibited from being placed on the same side of the sun visor as the air bag warning label. The vehicle rollover warning label can be placed on the front of sun visors that have an air bag alert label with the actual air bag warning label on the back of the visor.

AAMA stated that the language proposed in the August 1996 NPRM did not include the prohibition against having the vehicle rollover warning label and the air bag warning label on the front side of the visor. This omission was corrected in the final rule. Additionally, AAMA noted that the size and number of the required air bag alert labels will lead many manufacturers to place an air bag warning label on the front of the visor only. AAMA contended that there is no good location for the utility vehicle label other than the front of the sun visor. It also maintained that the two labels, coexisting on the same side of the sun visor, will not distract people's attention from the air bag warning given ''the number and prominence of those labels''.

The petition is denied. NHTSA believes that AAMA may be correct that manufacturers will place a single warning label on the front of the visor and will discard the air bag alert label. The agency also acknowledges that the new air bag warning labels are more eye-catching than existing utility vehicle labels which only have a required text and not required size, color, or layout. However, on April 13, 1998, NHTSA proposed changes to the utility vehicle label that would make it nearly as eye catching as the air bag warning labels (63 FR 17974). That rulemaking specifically asks for comments on the location of the proposed label, including whether it should be allowed on the same side of the sun visor as the air bag label. Accordingly, NHTSA intends to address AAMA's concerns in that rulemaking.

B. Petition for Reconsideration of the December 11, 1996 Correcting Amendment

AAMA petitioned NHTSA to amend the warning label language applicable to children and a vehicle's rear seat. The current language states that ''The BACK SEAT is the SAFEST place for children.'' AAMA suggested changing the language to read: ''If the vehicle has a BACK SEAT, that seat is the SAFEST place for children.'' A corresponding change was suggested for the temporary dashboard label. AAMA also suggested that the current exclusion from the required language for vehicles with no back seat be eliminated.

AAMA maintained that the post-final rule amendments allow up to eight possible labels, a situation which it regards as confusing and expensive for manufacturers. It contended that its suggestion would eliminate the need for two separate labels (one for vehicles with a back seat and a different one for vehicles without a back seat). It also argued that absence of a labeling requirement for vehicles without a back seat may encourage adults to place children in those vehicles instead of in vehicles in which the children can be placed in the back seat, away from the passenger air bag.

The petition is denied. NHTSA finds no support for AAMA's contention that people would be more likely to transport their children in a vehicle without a back seat than in a vehicle with a back seat under the current labeling requirements. Accordingly, the agency believes that this contention is incorrect.

NHTSA notes that AAMA member companies were among the manufacturers recommending the amendments which allow for multiple labeling options, depending on vehicle type. The original warning label, without any exclusions based on vehicle type, is appropriate for any vehicle regardless of the existence of a back seat. Indeed, NHTSA is concerned that AAMA's suggested language could lead a consumer to believe that the front seat of vehicles without a back seat are somehow safer than the front seat of vehicles with a back seat. The original label clearly states that back seats are safest. Additionally, NHTSA notes that the AAMA's recommended language increases the length and wordiness of the warning label. Focus groups indicated that the messages on the label should be concise.

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

Issued on: June 18, 1998.

L. Robert Shelton,

Associate Administrator for Performance Standards.

[FR Doc. 98–16824 Filed 6–23–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 061898A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock inStatistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second seasonal apportionment of pollock total allowable catch (TAC) in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 19, 1998, until 1200 hrs, A.l.t., September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOAexclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of pollock TAC has been changed to 35 percent of the annual TAC (63 FR 31939, June 11, 1998) plus a proportionate amount of any unharvested first seasonal apportionment of TAC or minus a proportionate amount of TAC harvested in excess of the first seasonal apportionment (§ 679.20 (a)(5)(ii)(B)). This action was taken to limit potential impacts of pollock fishing on Stellar sea lions and their critical habitat during the fall months. The notice of Final 1998 Harvest Specifications (63 FR 12027, March 12, 1998) established a pollock TAC of 29,790 metric tons (mt) in Statistical Area 610 for the entire 1998 fishing year and apportioned 7,978 mt of that pollock TAC as the second seasonal apportionment. The Administrator, Alaska Region, NMFS (Regional Administrator), established a directed fishing allowance of 7,478 mt and set aside the remaining 500 mt as bycatch in support of other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator found that the directed fishing allowance would soon be reached and NMFS closed the directed fishery for pollock in Statistical Area 610 of the GOA on June 3, 1998 (63 FR 30644, June 5, 1998). The fishery was reopened on June 8, 1998 (63 FR 31938, June 11, 1998) to fully utilize a revised second seasonal apportionment equal to 35 percent of the annual of pollock TAC. The revised second seasonal apportionment of the pollock TAC in Statistical Area 610 is now 10,605 mt.

The Regional Administrator is establishing a directed fishing allowance of 10,105 mt and setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the second seasonal apportionment of pollock TAC in Statistical Area 610 will be reached. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 until 1200 hrs, A.l.t., September 1, 1998.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the second seasonal TAC limitations and other restrictions on the fisheries established in the Final 1998 Harvest Specifications for Groundfish for the GOA. It must be implemented immediately to prevent overharvesting the second seasonal apportionment of pollock TAC in Statistical Area 610 of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: June 19, 1998.

Gary C. Matlock,

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

[FR Doc. 98–16833 Filed 6–19–98; 4:51 pm]

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