

put those same lamps in the header area.

NHTSA's Preliminary Evaluations and Manufacturers' Responses

Based on the field survey information, we opened Preliminary Evaluations and sent information requests to eight van trailer manufacturers in November 1997. The manufacturers responded that each produces some models with identification and clearance lamps on the lower sill. Of a total production of these manufacturers totaling over 440,000 vehicles, the number with identification lamps located on the lower sill was approximately 225,000, or over half.

The manufacturers justified this location as one permitted by previous NHTSA letters and as representing "common industry practice." They also argued that conspicuity treatment provides a sufficient delineation of vehicle size. Addressing practicability, the manufacturers contended that smaller lamps such as those using light-emitting diodes (LEDs) could not be installed on narrow headers because of the lack of availability of LEDs, the difficulty of wiring them in a narrow area, and structural problems that could arise if the trailers were redesigned to accommodate lamps at the top. Some manufacturers argued that the lower sill location is needed to provide a surface that is large enough and rigid enough for the lamps. The respondents may not have been aware of very narrow lamps. Some incandescent lamps as narrow as 17.3 mm (0.68 in.) and some LED lamps as narrow as 22.4 mm (0.88 in.) are now available.

One manufacturer also commented that lamps placed on the lower sill are more conveniently replaced when replacement becomes necessary. However, replacement would be less frequent with the use of reliable, long-life LED lamps. Another mentioned that slim-line lamps do not dissipate heat as effectively as larger incandescent lamps. However, LED lamps emit only a low level of heat. Another mentioned that narrow lamps do not seal out moisture as effectively, without also noting that narrow lamps are available that are permanently sealed. None of the manufacturers indicated that they planned to change the existing location of their clearance or identification lamps.

Canada's Rear Identification and Clearance Lamp Location Requirements

On November 10, 1996, Canadian Motor Vehicle Safety Standard No. 108 was amended to require that identification and clearance lamps be

mounted above or on the rear doors when the header extends at least 25 mm (1 in.) above the rear doors. When the header extends less than 25 mm, the lamps may be mounted above, on, or below the rear doors. Since then, Canada has enforced this standard on trucks engaged in commerce within its borders, including those manufactured in the United States that operate in Canada. Some of these U.S. manufacturers have complied with Canada's upper location requirements, but have nevertheless continued to locate lamps on the lower sill of their trailers manufactured for use in the United States which have a rear door and header assembly identical to their counterparts sold for use in Canada. The Canadian practice objectively supports the view that it would have been "practicable" to locate the lamps at the top of the U.S. vehicles.

Truck Trailer Manufacturer's Association's (TTMA) Recommended Practice for Rear Identification and Clearance Lamp Placement

TTMA restates NHTSA's past approach on practicability in its recommendations to its members on location of rear identification and clearance lamps. It goes on to recommend that the lamps be on the header when the header extends at least 50 mm (2 in.) above the rear doors when there is a flat space of at least 25 mm (1 in.).

NHTSA's New Interpretive Rule

After reviewing the matter, we have concluded that clearance and identification lamps that meet the photometric requirements of Standard No. 108, and are of a size permitting mounting on the header above the rear doors of most trailers and trucks, are available in the marketplace. The prior enforcement policy has, in practice, deferred to manufacturers who exercised their discretion to decide whether to mount these lamps above the rear doors. This approach has not assured that the safety purposes of the standard are achieved. The responses to NHTSA's information requests demonstrate that many U.S. manufacturers, including some of the largest trailer manufacturers, have placed, and are continuing to place, identification and clearance lamps below the rear doors, notwithstanding the fact that the ability of many of these same manufacturers to comply with the new Canadian requirements demonstrates that it is now practicable to mount identification and clearance lamps on the rear header in most instances.

As reflected by the responses to our information requests, many manufacturers have taken advantage of the deference conferred by our longstanding enforcement policy in deciding where to locate these lamps. In recognition of this practice, we have decided that it would be preferable to provide notice that the prior policy has been changed before bringing enforcement actions against such manufacturers without providing notice that the prior policy has been changed. Accordingly, we are publishing this interpretation of the requirement in Table II of Standard No. 108 that rear clearance lamps and identification lamps must be located "as near the top thereof as practicable" to make it clear that, henceforth, manufacturers will be required to satisfy an objective standard of practicability, i.e., if under all the circumstances it would be practicable to locate the identification and clearance lamps above the rear doors, the manufacturer must do so. Moreover, based on the experiences of manufacturers who have been able to comply with the Canadian requirements, NHTSA will presume that it is practicable to locate lamps on the header of a vehicle when the header extends at least 25 mm (1 in.) above the rear doors.

This interpretive rule is effective as of its publication in the **Federal Register**. However, as a matter of enforcement discretion, we do not intend to bring enforcement actions based on this interpretive rule immediately. This will be addressed separately.

Authority: 49 CFR 1.50 and 501.8(d)(5).

Issued on: March 30, 1999.

Frank Seales, Jr.,
Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 581

[Docket No. NHTSA 99-5458]

RIN 2127-AH59

Bumper Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Final rule; technical amendment.

SUMMARY: This document amends 49 CFR Part 581 *Bumper Standard*, to update cross references in Sec.

581.5(c)(1) to Federal Motor Vehicle Safety Standard No. 108, 49 CFR 571.108, *Lamps, Reflective Devices and Associated Equipment*.

DATES: The amendment is effective April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION: Part 581 of Title 49, Code of Federal Regulations, contains the Federal bumper standard issued under the authority of 49 U.S.C. Chapter 325. At present, 49 CFR Sec. 581.5(c)(1) reads:.

(c) *Protective criteria.* (1) Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S4.3.1.1 of Standard No. 108 (sec. 571.108 of this part). The aim of each headlamp shall be adjustable to within the beam aim inspection limits specified in Table 2 of SAE Recommended Practice J599b, July 1970, measured with a mechanical aimer conforming to the requirements of SAE Standard J602a, July 1970.

We amended Standard No. 108 several years ago to renumber its paragraphs. At that time, S4.3.1.1 became S5.3.1.1. However, we did not make a corresponding change in Sec. 581.5(c)(1). This amendment makes the change. We are also amending the standard to substitute the August 1997 version of SAE Recommended Practice J599 for the July 1970 version. Further, mechanical aimers are no longer required to aim all headlamps under Standard No. 108 as they once were. The method of aiming now depends upon the type of headlamp that the manufacturer chooses for its vehicle. We are changing Sec. 581.5(c)(1) to reflect these amendments as well.

Accordingly, we are updating Sec. 581.5(c)(1) by making these technical amendments. Because these amendments create no burdens on any person, we are not required to give notice and afford an opportunity to comment on this rulemaking action. The amendments are effective upon their publication in the **Federal Register**.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures. This rulemaking action was not reviewed under Executive Order 12866. Further, it has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rulemaking action is to correct outdated references. Since the final rule will not impose or reduce costs, preparation of a full regulatory evaluation is not warranted. Vehicles

subject to both Part 581 and Standard No. 108 are presumed to comply with both the new and old requirements.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. This final rule will not have a significant effect upon the environment. The composition of passenger motor vehicle bumpers will not change from those presently in production.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.*). For the reasons stated above in the paragraph on Executive Order 12866 and the DOT Regulatory Policies and Procedures, I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The amendment primarily affects manufacturers of motor vehicles. Manufacturers of motor vehicles are generally not small businesses within the meaning of the Regulatory Flexibility Act.

The Small Business Administration's regulations define a small business in part as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC), SIC Code 3711 "Motor Vehicles and Passenger Car Bodies" has a small business size standard of 1,000 employees or fewer.

For manufacturers of passenger cars and light trucks, NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Since each manufacturer services a niche market, often specializing in replicas of "classic" cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most 500 cars manufactured per year by U.S. small businesses.

In contrast, in 1998, there are approximately nine large manufacturers producing passenger cars, and light trucks in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks per year. NHTSA does not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

Further, small organizations and governmental jurisdictions are not significantly affected as the price of motor vehicles ought not to change as the result of this final rule.

Executive Order 12612 (Federalism)

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice

This final rule does not have any retroactive effect. Under 49 U.S.C. 32511, whenever a Federal bumper standard is in effect, a state may not adopt or maintain a bumper standard which is not identical to the Federal standard. 49 U.S.C. 32503 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal bumper standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the cost, 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. Because this final rule does not have a \$100 million effect, no Unfunded Mandates assessment has been prepared.

List of Subjects in 49 CFR Part 581

Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 581 is amended as follows:

PART 581—BUMPER STANDARD

1. The authority citation for Part 581 is revised to read as follows:

Authority: 49 U.S.C. 32502; 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 581.5(c)(1) is revised to read as follows:

§ 581.5 Requirements.

* * * * *

(c) *Protective criteria.* (1) Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S5.3.1.1 of Standard No.

108 (§ 571.108 of this chapter). The aim of each headlamp installed on the vehicle shall be adjustable to within the beam aim inspection limits specified in Table 2 of SAE Recommended Practice J599 AUG97, measured with the aiming method appropriate for that headlamp.

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Issued on March 30, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99-8185 Filed 4-2-99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259-8312-02; I.D. 032699A]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Maine

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 State of Maine has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Maine for the remainder of calendar year 1999, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notice to advise the State of Maine that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in Maine.

DATES: Effective 0001 hours, March 30, 1999, through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281-9273.

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 coastal 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 1999 calendar year was set equal to 11.11 million lb (5,039 kg) (63 FR 72203, December 31, 1998). The percent allocated to vessels landing summer flounder in Maine is 0.04756 percent, or 5,285 lb (2,397 kg).

Section 648.100(e)(4) 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 1998, a total of 5,168 lb (2,344 kg) were landed in Maine, creating a 377 lb (171 kg) overage that was deducted from the amount allocated for landings in the state during 1999 (64 FR 5196, February 3, 1999). The resulting quota for Maine was 4,908 lb (2,226 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 notification 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. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of Maine has attained its quota for 1999.

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, March 30, 1999, further landings of summer flounder in Maine by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1999 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective March 30, 1999, federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in Maine 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. 12866.

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

Dated: March 30, 1999.

George H. Darcy,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259-8312-02; I.D. 032699B]

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for Winter I Period

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

ACTION: Commercial quota harvested for Winter I period.

SUMMARY: NMFS announces that the scup commercial quota available in the Winter I period to the coastal states from Maine to North Carolina has been harvested. Commercial vessels may not land scup in the northeast region for the remainder of the 1999 Winter I quota period (through April 30, 1999). Regulations governing the scup fishery require publication of this notice to advise the coastal states from Maine to North Carolina that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing scup in these states.

DATES: Effective 0001 hours April 1, 1999, through April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281-9273.

SUPPLEMENTARY INFORMATION:

Regulations governing the scup fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into three quota periods, based upon percentages of the annual quota. The Winter I commercial quota (January through April) is distributed to the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.120.

The initial total commercial quota for scup for the 1999 calendar year was set equal to 2,534,000 lb (1,149,403 kg) (63 FR 72203, December 31, 1998). The Winter I period quota, which is equal to 45.11 percent of the annual commercial