

Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 1, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1065 is revised to read as follows:

§ 180.1065 2-Amino-4,5-dihydro-6-methyl-4-propyl-s-triazolo(1,5- α)pyrimidin-5-one; exemption from the requirement of a tolerance.

The inert ingredient, 2-amino-4,5-dihydro-6-methyl-4-propyl-s-triazolo(1,5- α)pyrimidin-5-one is exempted from the requirement of a tolerance when used as an emetic at not more than 0.3 percent in formulations of paraquat dichloride. Further restrictions on this exemption are that this ingredient may not be advertised as an emetic and the paraquat product may not be promoted in any way because of the inclusion of this inert ingredient.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 586

[Docket No. NHTSA–2005–21330]

RIN 2127–AJ64

Federal Motor Vehicle Safety Standards; Fuel System Integrity

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

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document responds to a petition for reconsideration from DaimlerChrysler Corporation of a final rule relating to the agency’s upgrade of rear and side impact tests in Federal Motor Vehicle Safety Standard No. 301, *Fuel System Integrity*. Among other matters, that final rule provided manufacturers of vehicles with a gross vehicle weight rating greater than 2,722 kilograms (6,000 pounds) an additional year of lead time to certify their vehicles to the amended side impact requirements, but did not provide for a phase-in of those requirements for those vehicles. On reconsideration, NHTSA is providing manufacturers of those vehicles a two year phase-in for the side impact requirements. Ninety percent of the vehicles manufactured on or after September 1, 2005 must meet the upgraded side impact requirements, with 100 percent of the vehicles manufactured on or after September 1, 2006 meeting the requirements.

DATES: *Effective date:* The amendments made in this rule are effective August 10, 2005. Petitions for reconsideration must be received by September 26, 2005, and should refer to this docket

and the notice number of this document.

ADDRESSES: Petitions for reconsideration must be sent to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Mr. Tewabe Asebe, Office of Crashworthiness Standards, by telephone at (202) 366–2365, or by fax at (202) 366–7002. For legal issues, you may contact Ms. Deirdre Fujita, Office of Chief Counsel, at (202) 366–2992 (telephone), or at (202) 366–3820 (fax). You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

To provide occupant protection from exposure to fire that result from fuel spillage during and after crashes, Federal Motor Vehicle Safety Standard (FMVSS) No. 301 (49 CFR 571.301) specifies performance requirements for the fuel systems of vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (kg) or less (10,000 pounds (lb) or less). The standard limits the amount of fuel spillage from vehicles during and after frontal, rear, and side impact tests.

a. December 2003 Final Rule

In December 2003, NHTSA upgraded both the rear impact and lateral (side) impact test requirements in FMVSS No. 301 to increase safety and provide for more realistic testing of fuel systems (68 FR 67068, December 1, 2003, Docket 16523). The December 2003 upgrade established an offset rear impact test procedure that specifies striking the rear of the test vehicle at 50 miles per hour (mph) (80 $\pm$ 1 kilometers per hour (km/h)) with a 1,368 kg (3,015 lb) deformable barrier at a 70 percent overlap with the test vehicle. The rear impact test replaced a 30 mph (48 km/h) crash test that had used a 1,814 kg (4,000 lb) rigid moving barrier. The upgrade of the standard’s side impact test requirements replaced a lateral 20 mph (32 km/h) crash test with the side impact crash test specified in FMVSS No. 214, “Side impact protection.” FMVSS No. 214’s test specifies that the test vehicle is impacted at 33 $\pm$ 0.6 mph (53 $\pm$ 1 km/h) with a 1,368 kg (3,015 lb) deformable barrier.

The final rule provided manufacturers three years of lead time to meet the upgraded rear impact test, followed by a three year phase-in beginning

September 1, 2006, according to the percentages of production of 40%, 70% and 100%. The final rule established a September 1, 2004 effective date for the upgraded side impact requirements, and did not provide for a phase-in of the requirements. A long lead time and a phase-in for the side impact requirements were not deemed necessary by NHTSA because the agency believed that few vehicles (approximately 1%) will have to be modified to meet FMVSS No. 301 when tested to the new side impact test.

b. Alliance Petition for Reconsideration

The Alliance of Automobile Manufacturers, Inc. (Alliance)¹ petitioned for reconsideration of the December 2003 final rule, requesting: (a) A one-year extension of the compliance date for the side impact upgrade for all vehicles (from September 1, 2004 to September 1, 2005); and (b) a phase-in for vehicles greater than 2,722 kg (6,000 lb) GVWR.² The Alliance requested the phase-in to begin September 1, 2005, with 90% in the first year, and 100% in the second year. The petitioner stated that because the moving deformable barrier side impact test of FMVSS No. 214 does not presently apply to multipurpose passenger vehicles, trucks and buses with a GVWR greater than 2,722 kg, manufacturers need more time than that provided by the final rule to perform the testing necessary to ensure that the vehicles can be certified as meeting the side impact requirements, even if no modifications were required to meet the requirements.

In August 2004, NHTSA published a final rule that responded to the petition (69 FR 51393, August 19, 2004, Docket 18900). The August 2004 final rule decided against extending the September 1, 2004 compliance date for vehicles with a GVWR less than 2,722 kg (6,000 lb). NHTSA explained that those vehicles are already subject to the FMVSS No. 214 side impact test and there was no indication that there would be difficulty in certifying these vehicles to the upgraded fuel system integrity requirements. On the other hand, the August 2004 final rule extended the compliance date a year for vehicles with a GVWR greater than 2,722 kg (6,000 lb). NHTSA explained that the vehicles have not previously been subject to the FMVSS No. 214 side

impact test. While the agency continued to believe that less than one percent of vehicles required modification to comply with the side impact upgrade, an additional year was provided manufacturers to determine what changes, if any, need to be made. The request for a phase-in of the side impact requirements was not granted.

c. DaimlerChrysler Petition for Reconsideration

DaimlerChrysler Corporation ("DCC") petitioned for reconsideration of the agency's decision in the August 2004 final rule not to provide a two-year phase-in of the FMVSS No. 301 side impact requirements for vehicles with a GVWR greater than 2,722 kg (6,000 lb). In its petition (Document NHTSA-2004-18900-2), DCC stated that NHTSA reached its decision on the Alliance petition when NHTSA "was not aware of the burdens that its decision would impose with regard to the Sprinter van." DCC stated:

The Sprinter is a vehicle with a GVWR in excess of 6,000 lb. As such, it has not been subject to the FMVSS 214 dynamic side impact test, and DCC had not tested it to determine whether it would comply with dynamic FMVSS 214. When the agency published the new FMVSS 301 requirements in December 2003, DCC conducted an analysis of the current vehicle and concluded that it would not meet the new FMVSS 301 side impact requirement based on the current design. [Footnote omitted.]

DCC had not brought its concerns about the Sprinter van to NHTSA earlier in the rulemaking proceeding because DCC had not tested the Sprinter for compliance with FMVSS No. 214's side impact test. DCC submitted information to NHTSA regarding the modifications and costs that would be necessary to modify the vehicle to meet the side impact requirements.³ DCC stated that the necessary modifications would be "complicated and expensive, and would involve additional tooling, material, and assembly costs." The petitioner further stated:

The magnitude of the fixed costs would be particularly onerous because they would be spread across a relatively small number of vehicles. This is attributable to the fact that the current version of the Sprinter is scheduled to cease production in September 2006—one year after vehicles with a GVWR in excess of 6,000 lb are required under S6.3(c) to begin complying with the new FMVSS 301 side impact requirement. Thus, if FMVSS 301 is not amended as requested herein, the Sprinter will be subject to the new FMVSS 301 requirements for only one year, and the costs of modifying the Sprinter

to comply with the new FMVSS 301 requirements would be spread out over only one year's production. * * *

In light of the exorbitant costs that the final rule would necessitate for the production of the current Sprinter during its remaining production life, DCC respectfully requests that the agency reconsider the final rule and amend S6.3(c) to provide a two-year phase-in with an implementation schedule of 90% by September 1, 2005 and 100% by September 1, 2006.

Discussion

DCC has provided cost and production information regarding a specific vehicle that DCC is discontinuing in 2006. The Sprinter was heretofore excluded from the FMVSS No. 214 dynamic crash test; information about its inability to meet the new fuel leakage requirement when tested laterally was not previously available.

In issuing the final rule on the FMVSS No. 301 upgrade, NHTSA did not believe that modifications will involve structural changes. The agency stated: "Since most vehicles readily pass the fuel leakage requirements using the Standard No. 214 side impact test, we do not believe modifications will be required which are not minor." (68 FR 67079.) The cost data provided by the petitioner indicate that the Sprinter will require more substantial modifications than those envisioned by the agency. Instituting a two-year, 90%–100% phase-in provides a reasonable period of time for manufacturers to adjust to the burdens of the upgrade and reduce the costs of the rulemaking. While NHTSA believed that the adopted FMVSS No. 214 test was somewhat stricter than the existing lateral impact test of FMVSS No. 301, NHTSA could not quantify the benefits of adopting the FMVSS No. 214 test. Accordingly, the agency does not believe that there will be any quantifiable loss of benefits associated with phasing in the side impact requirement over two years, particularly if 90% of the vehicles in question (GVWR greater than 2,722 kg) must comply in the first year.

For the aforementioned reasons, NHTSA is providing manufacturers of multipurpose passenger vehicles, trucks and buses with a GVWR greater than 2,722 kg (6,000 lb) an additional year, for a few model lines, to assess whether the vehicles meet the side impact requirements and to make necessary changes to meet the requirements. Ninety (90) percent of the vehicles they manufacture on or after September 1, 2005 and before September 1, 2006 must be certified as meeting the upgraded side impact fuel system integrity requirements. One hundred (100) percent of the vehicles manufactured on

¹ The Alliance is a trade association of motor vehicle manufacturers including BMW group, DaimlerChrysler, Ford Motor Company, General Motors, Mazda, Mitsubishi Motors, Porsche, Toyota, and Volkswagen.

² The agency also received petitions from others, but only the Alliance petition is discussed here because of its relevancy to this rulemaking action.

³ The agency granted confidentiality of the provided cost data and production information.

or after September 1, 2006 must be certified as meeting the requirements. These phase-in requirements are set forth in S6.3(c) of FMVSS No. 301, as revised. Reporting and recordkeeping requirements implementing the phase-in are also added to Part 586.

Effective Date

The amendments are effective upon publication in the **Federal Register**. An effective date less than 180 days after date of publication of this rule is in the public interest because these amendments affect an upcoming September 1, 2005 compliance date for the side impact upgrade of FMVSS No. 301 for vehicles with a GVWR greater than 2,722 kg (6,000 lb). This rule provides an additional year to manufacturers to certify a few model lines. The effective date provides relief and allows manufacturers to make informed decisions regarding the upcoming September 1, 2005 compliance date.

Rulemaking Analyses and Notices

A. 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 under E.O. 12866, "Regulatory Planning and Review." The rulemaking action has been determined to not be significant under the Department's regulatory policies and procedures. The amendments made in this final rule do not significantly impact the costs and benefits of the December 2003 final rule. The agency has concluded that the impacts of today's amendments are so minimal that a regulatory evaluation is not required.

In response to a petition for reconsideration of the final rule published August 19, 2004, we are providing a short phase-in of the side impact requirements for manufacturers of multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 2,722 kg (6,000 lb). The phase-in permits these manufacturers to comply with the side impact upgrade with the percentages of production of 90% of vehicles manufactured on or after September 1, 2005 and 100% of vehicles manufactured on or after September 1, 2006. The phase-in allows manufacturers an additional year to assess whether their vehicles meet the requirements and to make necessary changes to meet the requirements.

NHTSA estimates that most vehicles already meet the upgraded side impact requirements of FMVSS No. 301.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The December 2003 final rule, and the August 2004 final rule which this document amends, were certified as not having a significant economic impact on a substantial number of small entities. The amendments made by today's final rule affect manufacturers of multipurpose passenger vehicles, trucks and buses with a GVWR or more than 2,722 kg (6,000 lb) by providing an additional year to meet the side impact requirements of the upgraded FMVSS No. 301 for a few model lines. NHTSA believes that most of these vehicles already meet the requirements at issue.

C. National Environmental Policy Act

NHTSA has analyzed these amendments for the purposes of the National Environmental Policy Act and determined that they will not have any significant impact on the quality of the human environment.

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 federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule has no substantial effects

on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal 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 in any one year (adjusted for inflation with base year of 1995). This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Consequently, no Unfunded Mandates assessment has been prepared.

F. Executive Order 12988 (Civil Justice Reform)

This final rule does not have any retroactive effect. Under section 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.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the

agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: Final rule, response to a petition for reconsideration; Phase-in reporting requirements.

OMB Control Number: None.

Affected Public: Manufacturers of passenger cars, and trucks and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 2,722 kilograms (6,000 pounds) or more but not more than GVWR of 4,536 kilograms (10,000 pounds).

Form Number: None.

Number of Respondents: No more than 21.

Estimated Annual Burden: Since almost all of the information required is already recorded by the manufacturers as part of their production control and tracking systems, a nominal assessment of 24 total burden hours per respondent is estimated for data retrieval and report preparation. The estimated cost per hour in dollars is \$45. Based on this estimate, the total annual burden for manufacturers would be: (21 respondents) $\times$ (24 total burden hours per respondent) $\times$ (\$45 per hour) = \$22,680.

Abstract: In August 2004, NHTSA published a final rule to upgrade Federal motor vehicle safety standard No. 301, "Fuel system integrity," in response to petitions for reconsideration (69 FR51393, August 19, 2004). On October 4, 2004, DaimlerChrysler Corporation petitioned to reconsider the August 2004 final rule. The petitioner requested a two-year phase-in of the upgraded fuel system integrity side impact requirements for vehicles with a gross vehicle weight rating (GVWR) in excess of 2,722 kg (6,000 pounds). DaimlerChrysler Corporation requested an implementation schedule of 90 percent by September 1, 2005, and 100 percent by September 1, 2006. This action responds to the petition.

This final rule gives vehicle manufacturers an additional year for vehicles above GVWR of 2,722 kg and up to 4,536 kg to comply with the FMVSS No. 301 side impact test requirement. Ninety (90) percent of these vehicles must be certified as meeting the FMVSS No. 301 side impact test requirement before September 1, 2005. One hundred (100) percent of the vehicles manufactured on or after September 1, 2006 must be certified as meeting the requirements. The collection of information is used for recordkeeping to keep track of covered vehicles, and for reporting to the agency the covered vehicles that comply with the requirements.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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. Executive Order 13045

Executive Order 13045 applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us. This rulemaking does not involve decisions about health risks that disproportionately affect children.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs NHTSA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This final rule does not address matters such as performance requirements or test conditions, procedures or devices. It addresses compliance schedules only. There are no voluntary consensus standards applicable to this final rule.

K. Privacy Act

Anyone is able to search the electronic form of all submissions received into any of our dockets by the name of the individual submitting the comment or petition (or signing the comment or petition, 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>.

List of Subjects in 49 CFR Parts 571 and 586

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

■ In consideration of the foregoing, NHTSA is amending 49 CFR part 571 and part 586 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 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 571.301 is amended by revising S6.3(c) to read as follows.

§ 571.301 Standard No. 301; Fuel system integrity.

* * * * *

S6.3 * * *

(c)(1) Notwithstanding S6.3(b) of this standard, vehicles having a GVWR greater than 6,000 lb (2,722 kg) may meet S6.3(a) instead of S6.3(b) of this standard until September 1, 2005.

(2) Notwithstanding S6.3(b) of this standard, vehicles having a GVWR greater than 6,000 lb (2,722 kg) manufactured on or after September 1, 2005 must meet the requirements of S6.3(b) of this standard unless they are excluded from S6.3(b) under the phase-in specified in this paragraph. Excluded vehicles must meet the requirements of S6.3(a) of this standard. For vehicles having a GVWR greater than 6,000 lb (2,722 kg) manufactured on or after September 1, 2005 and before September 1, 2006, the number of vehicles complying with S6.3(b) shall be not less than 90 percent of:

(i) The manufacturer's average annual production of vehicles with a GVWR greater than 6,000 lb (2,722 kg) manufactured on or after September 1, 2002 and before September 1, 2005; or

(ii) The manufacturer's production of vehicles with a GVWR greater than 6,000 lb (2,722 kg) on or after September 1, 2004 and before September 1, 2005.

(iii) Vehicles that have a GVWR greater than 6,000 lb (2,722 kg) and that are manufactured on or after September 1, 2006 must meet the requirements of S6.3(b) of this standard.

(3) *Vehicles produced by more than one manufacturer.* For the purpose of calculating average annual production of vehicles for each manufacturer and the number of vehicles manufactured by each manufacturer under S6.3(c)(2)(i) and S6.3(c)(2)(ii) of this standard, a vehicle produced by more than one manufacturer shall be attributed to a single manufacturer as follows, subject to S6.3(c)(4).

(i) A vehicle which is imported shall be attributed to the importer.

(ii) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer that markets the vehicle.

(4) A vehicle produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR 568.6, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S6.3(c)(3).

* * * * *

PART 586—FUEL SYSTEM INTEGRITY UPGRADE PHASE-IN REPORTING REQUIREMENTS

■ 3. The authority citation for Part 586 continues to read as follows:

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

■ 4. Sections 586.5, 586.6 and 586.7 are revised to read as follows:

§ 586.5 Response to inquiries.

At any time during the production years ending August 31, 2006, August 31, 2007, August 31, 2008 and August 31, 2009, each manufacturer must, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles (by make, model and vehicle identification model) that have been certified as complying with S6.2(b) and S6.3(b) of Standard No. 301 (49 CFR 571.301). The manufacturer's designation of a vehicle as a certified vehicle is irrevocable.

§ 586.6 Reporting requirements.

(a) *Phase-in reporting requirements.* (1) Within 60 days after the end of the production years ending August 31, 2006, each manufacturer must submit a report to the National Highway Traffic Safety Administration concerning its compliance with S6.3(b) of Standard No. 301 (49 CFR 571.301) for its multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating (GVWR) greater than 2,722 kg (6,000 pounds) produced in that year.

(2) Within 60 days after the end of the production years ending August 31, 2007, August 31, 2008, and August 31, 2009, each manufacturer must submit a report to the National Highway Traffic Safety Administration concerning its compliance with S6.2(b) of Standard No. 301 (49 CFR 571.301) for its passenger cars, multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating of less than 4,536 kilograms (10,000 pounds) produced in that year.

(3) Each report must—

(i) Identify the manufacturer;

(ii) State the full name, title, and address of the official responsible for preparing the report;

(iii) Identify the production year being reported on;

(iv) Contain a statement regarding whether the manufacturer complied with the requirements of S6.2(b), S6.2(c) if applicable, or S6.3(b) of Standard No. 301 (49 CFR 571.301) for the period covered by the report and the basis for that statement;

(v) Provide the information specified in paragraph (b) of this section;

(vi) Be written in the English language; and

(vii) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(b) *Phase-in report content—*(1) *Basis for statement of compliance with side impact test requirements.* (i) Each manufacturer must provide the number of multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 2,722 kilograms (6,000 pounds) manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the previous production year. A new manufacturer that has not previously manufactured these vehicles for sale in the United States must report the number of such vehicles manufactured during the current production year.

(ii) *Production.* Each manufacturer must report for the production year for which the report is filed: the number of multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 2,722 kilograms (6,000 pounds) that meets S6.3(b) of Standard No. 301 (49 CFR 571.301).

(2) *Basis for statement of compliance with rear impact test requirements.* (i) Each manufacturer must provide the number of passenger cars, multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating of 4,536 kilograms (10,000 pounds) or less manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the previous production year. A new manufacturer that has not previously manufactured these vehicles for sale in the United States must report the number of such vehicles manufactured during the current production year.

(ii) *Production.* Each manufacturer must report for the production year for which the report is filed: the number of passenger cars, multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating of 4,536 kilograms (10,000 pounds) or less that meet S6.2(b) of Standard No. 301 (49 CFR 571.301).

(3) *Vehicles produced by more than one manufacturer.* Each manufacturer whose reporting of information is affected by one or more of the express written contracts permitted by S6.3(c)(4) and S8.3.2 of Standard No. 301 (49 CFR 571.301) must:

(i) Report the existence of each contract, including the names of all parties to the contract, and explain how the contract affects the report being submitted.

(ii) Report the actual number of vehicles covered by each contract.

* * * * *

§ 586.7 Records.

Each manufacturer must maintain records of the Vehicle Identification Number (VIN) for each vehicle for which information is reported under § 586.6(b)(1)(ii) until December 31, 2007. Each manufacturer must maintain records of the VIN for each vehicle for which information is reported under § 586.6(b)(2)(ii) until December 31, 2010.

Issued on: August 3, 2005.

Jeffrey W. Runge,
Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332-5039-02; I.D. 080405C]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear to catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using pot or hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). These actions are necessary to allow the 2005 B season total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective August 5, 2005, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2005 B season allowance of the Pacific cod TAC specified for vessels using jig gear in the BSAI is 762 metric tons (mt) as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005), for the period 1200 hrs, A.l.t., April 30, 2005, through 1200 hrs, A.l.t., August 31, 2005. See § 679.20(c)(3)(iii), (c)(5), and (a)(7)(i)(A). The 2005 Pacific cod TAC specified for catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI is 2,854 mt as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005), the reallocation on April 13, 2005 (70 FR 19708, April 14, 2005) and the reallocation on May 17, 2005 (70 FR 28486, May 18, 2005).

The Administrator, Alaska Region, NMFS, has determined that jig vessels will not be able to harvest 500 mt of the B season apportionment of Pacific cod allocated to those vessels under § 679.20(a)(7)(i)(A) and (a)(7)(iii)(A)(3). Therefore, in accordance with § 679.20(a)(7)(ii)(C)(1), NMFS apportions 500 mt of Pacific cod from the B season jig gear apportionment to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005) are revised as follows: 262 mt to the B season apportionment for vessels using jig gear and 3,354 mt to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified for jig vessels to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 1, 2005.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 4, 2005.

Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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