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Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-1948 Filed 1-26-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 90-01; Notice 5]

RIN 2127-AF32

Federal Motor Vehicle Safety Standards; School Bus Pedestrian Safety Devices

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

ACTION: Final rule.

SUMMARY: This notice adopts as final the amendments made by an interim final rule to the flash rate requirement for stop signal arm lamps in Standard No. 131, School Bus Pedestrian Safety Devices. The interim final rule, which responded to a petition for rulemaking submitted by Blue Bird Bus Company, removed design restrictive language that had the effect of prohibiting strobe lamps on stop signal arms.

DATES: *Effective Date:* January 27, 1995.

Petitions for reconsideration: Any petition for reconsideration of this rule must be received by the agency not later than February 27, 1995.

ADDRESSES: Petitions for reconsideration should refer to Docket No. 90-01; Notice 5 and be submitted to the following: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Hott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366-0247.

SUPPLEMENTARY INFORMATION:

I. Background

Federal motor vehicle safety standard (FMVSS) No. 131, School Bus Pedestrian Safety Devices, requires each new school bus to be equipped with a stop signal arm. A stop signal arm is an item of school bus equipment designed to alert motorists that a school bus is stopping or has stopped. The stop signal

arm is patterned after a conventional "STOP" sign and attached to the exterior of the driver's side of a school bus. When the school bus stops, the stop signal arm automatically extends outward from the bus. The standard specifies requirements for the stop signal arm's appearance, size, conspicuity, operation and location. To enhance the conspicuity of a stop signal arm, Standard No. 131 specifies that the device must be either reflectorized or be illuminated with flashing lamps.

On February 22, 1994, Blue Bird Body Company (Blue Bird) petitioned the agency to amend the flash rate requirements in S6.2.2 of Standard No. 131 to allow the use of strobe lamps on stop signal arms. At the time, S6.2.2 stated:

S6.2.2 Flash Rate. The lamps on each side of the stop signal arm, when operated at the manufacturer's design load, shall flash at a rate of 60 to 120 flashes per minute with a current "on" time of 30 to 75 percent. The total of the percent current "on" time for the two terminals shall be between 90 and 110.

Blue Bird argued that the requirement had the effect of prohibiting the use of strobe lamps. Citing previous agency notices, Blue Bird stated its belief that NHTSA had not intended, in issuing its stop signal arm requirements, to prohibit the use of strobe lamps on stop signal arms. For instance, it stated that, in the advance notice of proposed rulemaking (ANPRM), the agency had solicited comments about whether the agency should require strobe lamps.¹

According to Blue Bird, its petition was precipitated by a letter that it received from NHTSA's Office of Vehicle Safety Compliance addressing an apparent non-compliance of school buses manufactured with stop signal arms equipped with strobe lamps. Blue Bird stated that the apparent non-compliance results from the fact that S6.2.2 sets forth restrictive design requirements based on the operating characteristics of incandescent lamps instead of more performance-oriented requirements based on visual effectiveness. The petitioner alleged that the requirement prevents the use of strobe lamps. Based on these allegations, Blue Bird stated that the apparent noncompliance results from a deficiency in the Standard and not a deficiency in its school buses. Blue Bird requested that the agency amend S6.2.2 to allow the use of strobe lamps, stating that this would be in the interests of

safety and consistent with the Standard's intent.

Blue Bird also stated that four states (Alaska, New Mexico, Washington, and West Virginia) as well as some local school districts require stop signal arms to be equipped with strobe lamps. This consideration prompted Blue Bird to request that this rulemaking take effect immediately, claiming that the production and delivery of school buses with strobe lamp equipped stop signal arms needed to continue without disruption.

On May 24, 1994, NHTSA published an interim final rule that amended the flash rate requirements to remove design restrictive language that acted to prohibit strobe lamps (59 FR 26759). The agency explained that, in establishing the flash rate requirements, the agency intended to assure the conspicuity of stop signal arms and did not intend to prohibit manufacturers from installing strobe lamps on stop signal arms to provide such conspicuity. The requirements in effect prior to the interim final rule were based upon filament type lamps, which need an extended current-on-time of 90 to 110 percent of the total flash cycle for the two terminals. This time period is needed to allow this type of lamp to come to full brilliance. In contrast, strobe lamps come to full brilliance almost immediately and could not meet the current-on-time requirements for filament type lamps. The interim final rule resolved this problem by modifying the flash rate requirements to reflect changes made to the Society of Automotive Engineers (SAE's) Recommended Practice J1133, July 1989, School Bus Stop Arms, to allow the use of strobe lights on stop arms.

NHTSA received comments about the interim final rule from the National School Transportation Association (NSTA) and Specialty Manufacturing Company (Specialty) which manufactures stop signal arms. NSTA stated that the interim final rule should be made permanent.

Specialty also stated that the interim final rule should be made permanent, provided that the agency adopts an industry practice which treats a double flash strobe pattern to be a single flash cycle. It explained that both single and double flash strobe lamps are available, but that the secondary flash of a double strobe pattern will occur approximately 0.17 seconds after the initial flash. According to the commenter, the industry considers this double flash pattern to be a single flash since they occur in rapid succession.

NHTSA agrees with Specialty that multiple flash patterns that occur

¹The agency notes that there was no ANPRM addressing stop signal arms. The discussion described by Blue Bird was contained in the NPRM (55 FR 3624, February 2, 1990).

rapidly should be considered to be a single flash. In a March 29, 1994 interpretation letter to the Connecticut Department of Motor Vehicles, NHTSA stated that the light emanating from a strobe lamp that flashes repeatedly in rapid succession will be considered a single flash of varying intensity and not as multiple flashes, when determining the flash rate and flash cycle for alternatively flashing lights required by Standard No. 108, Lamps, Reflective Devices, and Associated Equipment, for school buses. The agency believes that it is appropriate to apply the same principle to school bus stop arms equipped with multiple flash strobe lamps on stop arms. Accordingly, NHTSA considers strobe lamps on school bus stop arms that have multiple flashes of a single lamp and then remain off while the other lamp flashes to be a single flash cycle.

Based on the reasons set forth in the interim final rule and those set forth above, NHTSA has decided to adopt the amendments in the interim final rule on a permanent basis. NHTSA determined that there is good cause to establish an immediate effective date for the final rule to avoid disrupting compliance with the Standard as explained in the interim final rule.

Regulatory Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking and determined that it is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The agency has determined that the economic effects of the amendment are so minimal that a full regulatory evaluation is not required. Since the amendment imposes no new requirement but simply allows for an alternative design, any cost impacts will be in the nature of slight, nonquantifiable cost savings.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this rulemaking on small entities. Based on this evaluation, I hereby certify that the amendments will not have significant economic impact on a substantial number of small entities. Few of the school bus manufacturers qualify as small entities. In addition, manufacturers of motor vehicles, small businesses, small organizations, and small governmental units that purchase motor vehicles will not be significantly affected by the slight cost savings

resulting from the amendments. Accordingly, a regulatory flexibility analysis has not been performed.

C. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Nevertheless, NHTSA notes that the laws of various local jurisdictions and four States (Alaska, New Mexico, Washington, and West Virginia) require stop signal arms to be equipped with strobe lamps and thus would have been preempted without this amendment.

D. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this rule. The agency has determined that this rule will not have a significant effect on the quality of the human environment.

E. Civil Justice Reform

This final rule does not have any 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 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

Accordingly, the interim rule amending 49 CFR part 571 which was published at 59 FR 26759 on May 24, 1994, is adopted as a final rule without change.

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

Issued on: January 23, 1995.

Ricardo Martinez,
Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 941249-4349; I.D. 012095A]

Groundfish of the Gulf of Alaska; Inseason Action

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim 1995 initial specification for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), January 24, 1995, until 12 noon A.l.t., April 1, 1995, unless superseded by the final 1995 specifications in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Michael L. Sloan, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive 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 Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The interim specification of pollock total allowable catch in Statistical Area 62 was established by interim specifications (59 FR 65975, December 22, 1994) as 3,827 metric tons (mt), determined in accordance with § 672.20(c)(1)(ii)(A).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the 1995 interim specification of pollock in Statistical Area 62 soon will be reached. The Regional Director established a directed fishing allowance of 2,800 mt, and has set aside the remaining 1,027 mt as bycatch to support other anticipated groundfish fisheries. Because of the low directed fishing allowance and high interest in the fishery, there will be insufficient time to collect and analyze catch data and take appropriate action to ensure the directed fishing allowance is not exceeded. Therefore, based on the best available data, the Regional Director has determined that the pollock directed