

purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

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

§ 571.209 [Amended]

2. Section 571.209 would be amended by removing S4.2(g), S4.2(h), S5.1(g) and S5.1(h).

3. Section 571.213 would be amended by revising S5.4.1(b) to read as follows:

§ 571.213 Standard No. 213; Child restraint systems.

* * * * *

S5.4.1 * * *

(b) Meet the requirements of S4.2 (e) and (f) of FMVSS No. 209 (§ 571.209); and

* * * * *

Issued on: June 14, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95-14901 Filed 6-16-95; 8:45 am]

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49 CFR Part 571

[Docket No. 95-48; Notice 1]

RIN 2127-AF71

Federal Motor Vehicle Safety Standards; Wheel Nuts, Wheel Discs, and Hub Caps

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

ACTION: Notice of proposed rulemaking.

SUMMARY: NHTSA proposes to rescind Federal Motor Vehicle Safety Standard No. 211, *Wheel Nuts, Wheel Discs, and Hub Caps*. This proposed action is part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative to remove unnecessary regulations. The agency has tentatively concluded that Standard No. 211 is unnecessarily design-restrictive. Moreover, to the extent that there are safety concerns in this area, the agency believes they are more appropriately addressed by State laws concerning vehicle use than by a Federal motor vehicle safety standard.

DATES: Comments must be received on or before August 3, 1995.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested, but not required, that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret Gill, Office of Vehicle Safety Standards, Office of Rulemaking, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Gill's telephone number is (202) 366-6651. The FAX number is (202) 366-4329.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995 directive "Regulatory Reinvention Initiative" from the President to the heads of departments and agencies,

NHTSA has undertaken a review of its regulations and directives. During the course of this review, NHTSA identified certain regulations that could be rescinded as unnecessary. Among these regulations is Federal Motor Vehicle Safety Standard No. 211, *Wheel Nuts, Wheel Discs, and Hub Caps* (49 CFR 571.211). After a background review, NHTSA explains why it believes Standard No. 211 is unnecessary, and thus proposes to rescind the Standard.

Background

Standard No. 211 was issued in 1967 (32 FR 2408) as one of the initial Federal Motor Vehicle Safety Standards. Since Standard No. 211 applies to motor vehicles and motor vehicle equipment, both vehicle manufacturers and manufacturers of motor vehicle equipment must meet the requirements of Standard No. 211. For many years, Standard No. 211 prohibited all wheel nuts, wheel discs, and hub caps (referred to generically hereafter as "hub caps") that incorporate "winged projections," based on a concern that such projections can pose a hazard to pedestrians and cyclists.

On January 15, 1993, NHTSA published in the **Federal Register** (58 FR 4582) a final rule amending Standard No. 211 to permit "winged projections" on hub caps if, when installed on a wheel rim, the projections do not extend beyond the plane of the wheel rim. NHTSA amended Standard No. 211 after concluding that "winged projections" that do not extend beyond the plane on hub caps do not compromise pedestrian or cyclist safety. Persons who are interested in a more detailed explanation for that conclusion are referred to the January 1993 final rule and the preceding notice of proposed rulemaking (57 FR 24207, June 8, 1992).

The rulemaking which culminated in the January 1993 amendment was initiated in response to a petition submitted by several hub cap manufacturers. After the amendment was published, however, NHTSA received information indicating that the amendment did not provide the regulatory relief that had been requested by the petitioners and anticipated by the agency in issuing the amendment.

John Russell Deane III, an attorney representing the petitioners, wrote to express concern about certain language in the preamble to the January 1993 final rule. NHTSA had stated:

The agency's intent [in the proposed regulatory text] was to prohibit winged hub caps only if, when the hub cap is installed on any wheel rim/axle combination on which the hub cap fits, the projections extend

beyond the plane described in S4. NHTSA chose the language "physically compatible" instead of "designed to fit" to emphasize that manufacturers must take into consideration not only the specific wheel rim/axle combination(s) on which the hub cap was envisioned or intended to be used, but also any other combinations that the hub cap can fit.

Mr. Deane stated that this preamble language suggests manufacturers may manufacture and distribute hub caps incorporating winged projections only if the manufacturer is sure the product does not fit "any other combinations" which would result in the projections extending beyond the plane of the wheel. He noted, however, that decorative knock-off hub caps have a standardized design which consists of a two-inch long hub adapter to which a cap is installed. This design could be installed on any wheels, both deep wheels, on which the winged projections would not extend beyond the plane of the wheel, and shallower wheels on which the projections would extend beyond such plane. Mr. Deane therefore concluded that complying with the preamble's language would be virtually impossible for nearly all manufacturers of these products, and that the practical effect is to continue to prevent the manufacture and distribution of knock-off hub caps.

Mr. Deane believed that the language of the amendment itself did not create this result and requested a letter of clarification. On review, however, NHTSA concluded that the result at issue is a direct consequence of the regulatory language. That text reads as follows:

Requirements. As installed on any physically compatible combination of axle and wheel rim, wheel nuts, wheel discs, and hub caps for use on passenger cars and multipurpose passenger vehicles shall not incorporate winged projections that extend beyond the plane that is tangent to the outboard edge of the wheel rim at all points around its circumference. * * * (Emphasis added.)

The usage of the term "any" is explained in 49 CFR 571.4 as follows:

The word "any," used in connection with a range of values or set of items in the requirements, conditions, and procedures of the standards or regulations in this chapter, means generally the totality of the items or values, any one of which may be selected by the Administration for testing, except where clearly specified otherwise.

Therefore, the regulatory language requires that each hub cap with winged projections, as used in each and every *physically compatible* combination of axle and wheel rim, may not be located such that the winged projections extend beyond the plane of the wheel.

NHTSA's Review of Standard No. 211 and Proposal to Rescind

In reviewing Standard No. 211 under the President's directive, NHTSA was thus faced with a regulation that has the practical effect of preventing the manufacture of all hubcaps with winged projections, notwithstanding the fact that the agency has concluded that such hubcaps only pose a safety concern if the winged projections extend beyond the plane of the wheel. NHTSA strongly believes that its safety standards should not be unnecessarily design-restrictive and therefore considered whether the current standard, or any safety standard, is the best means of addressing the safety concern of winged projections that extend beyond the plane of the wheel.

NHTSA has tentatively concluded that this safety concern primarily relates to how hubcaps with winged projections are used, rather than how they are manufactured, and that the issue is therefore more appropriately addressed by the States than by a Federal motor vehicle safety standard. The agency is therefore proposing to rescind Standard No. 211 for reasons discussed below.

First, NHTSA believes that, because of product liability considerations, it is in the interest of vehicle manufacturers not to place unsafe hubcaps, such as those with winged projections extending beyond the plane of the wheel, on their vehicles. Vehicle manufacturers can ensure that winged hub caps are not used in unsafe hub cap/wheel combinations since they can control which combinations are authorized. The relevant safety concern therefore relates to the availability of such hubcaps in the aftermarket.

As discussed above, the regulatory dilemma facing NHTSA is that hubcaps with winged projections that are safe for one vehicle, since the projections do not extend beyond the plane of the wheel, might be unsafe on other vehicles with more shallow wheels. While the agency recognizes that a total ban on hubcaps with winged projections would ensure safety in this area, it would also unnecessarily restrict vehicle and hubcap design.

The agency believes that the solution to this dilemma is to leave the regulation of hubcaps with winged projections to the States. The relevant safety problem is not how such hubcaps are manufactured but instead how they are used; i.e., whether they are placed on vehicles in such a manner that the winged projections extend beyond the plane of the wheel. While NHTSA does not have the authority to regulate the

use of vehicles, the States do. Moreover, all States already regulate the use of vehicles and, to the extent that the States determine that regulations are needed in this area, they can issue ones which are not unnecessarily design-restrictive. They can do this by simply prohibiting the installation of a hub cap with winged projections so that the projections extend beyond the plane of the wheel.

NHTSA believes that rescission of Standard No. 211 would not compromise safety. The potential safety problem addressed by the standard has always been a small one. Moreover, the agency believes that, should there be any significant trend toward vehicle owners installing hubcaps with winged projections in a manner that causes injuries to pedestrians, the States could address that problem through their motor vehicle use regulations.

Proposed Effective Date

Because the proposed rescission of Standard No. 211 would relieve restrictions without compromising safety, the agency tentatively has determined that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Accordingly, the agency proposes that, if adopted, the effective date for the final rule be 30 days after its publication in the **Federal Register**.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The proposed rule would not impose any costs or yield any significant savings. It would instead relieve a restriction and thereby provide vehicle and equipment manufacturers with greater flexibility in the design and installation of wheel nuts, wheel discs, and hub caps. Moreover, consumers would likely have a greater choice of hub cap styles. For these reasons, the impacts would be so minimal that they would not warrant preparation of a full regulatory evaluation.

2. Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on

a substantial number of small entities. As explained above, the rule would not impose any new requirements but would instead relieve a restriction for hubcaps with winged projections. The proposed rule, if made final, would likely have a small beneficial effect on small manufacturers and dealers of motor vehicle equipment, since they would have greater flexibility in the types of hub caps they may manufacture and sell. Similarly, persons who purchase aftermarket hubcaps would likely have greater choice. For these reasons, small businesses, small organizations and small governmental units which purchase motor vehicles would not be significantly affected by the proposed rule. Accordingly, an initial regulatory flexibility analysis has not been prepared.

3. Executive Order 12612 (Federalism)

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The agency has determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

4. National Environmental Policy Act

The agency also has analyzed this proposed rule for the purpose of the National Environmental Policy Act, and determined that it would not have any significant impact on the quality of the human environment.

5. Executive Order 12778 (Civil Justice Reform)

The proposed rule would 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.

Procedures for Filing Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, tires.

In consideration of the following, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

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

§ 571.211 [Removed]

2. Section 571.211 would be removed.

Issued on: June 14, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95-14902 Filed 6-16-95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 646 and 659

[I.D. 060695D]

Shrimp and Calico Scallop Fisheries Off the Southern Atlantic States and the Snapper-Grouper Fishery of the South Atlantic; Public Scoping Meetings and Public Hearing

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

ACTION: Notice of public scoping meetings and public hearing.

SUMMARY: The South Atlantic Fishery Management Council (Council) is holding public scoping meetings to solicit comments on the following issues: Sale of fish caught under the recreational bag limit (all species); Amendment 2 to the Fishery Management Plan (FMP) for the Shrimp Fishery of the South Atlantic Region (Shrimp FMP) dealing with fishery bycatch issues; the development of an FMP for the calico scallop fishery; and the issue of recreational catch and the commercial bycatch of wreckfish under the FMP for the Snapper-Grouper Fishery of the South Atlantic. The Council is also holding a public hearing to solicit comments on management options for Amendment 1 to the Shrimp FMP that would add rock shrimp to the management unit, prohibit shrimp trawling in certain areas, and establish permitting and reporting requirements for this fishery. See the **SUPPLEMENTARY INFORMATION** section for additional information on the hearing and scoping meetings.

DATES: The public scoping meetings are scheduled to begin at 7 p.m. on Monday, June 19, 1995, at Palm Beach Gardens, FL.

The hearing is scheduled to begin at 1:45 p.m. on Thursday, June 22, 1995, at Palm Beach Gardens, FL.

ADDRESSES: The public scoping meetings and public hearing will be held in conjunction with the South