

I. National Technology Transfer and Advancement Act

Section 112(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) 915 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test method, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards. The final rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. 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. The EPA will submit a report containing today's final 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 the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective on August 18, 2004.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 1, 2004.

Michael O. Leavitt,
Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of

Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart YYYY—National Emissions Standards for Hazardous Air Pollutants for Stationary Combustion Turbines

■ 2. Section 63.6095 is amended by revising paragraph (a) and by adding paragraph (d) to read as follows:

§ 63.6095 When do I have to comply with this subpart?

(a) *Affected sources.* (1) If you start up a new or reconstructed stationary combustion turbine which is a lean premix oil-fired stationary combustion turbine or a diffusion flame oil-fired stationary combustion turbine as defined by this subpart on or before March 5, 2004, you must comply with the emissions limitations and operating limitations in this subpart no later than March 5, 2004.

(2) If you start up a new or reconstructed stationary combustion turbine which is a lean premix oil-fired stationary combustion turbine or a diffusion flame oil-fired stationary combustion turbine as defined by this subpart after March 5, 2004, you must comply with the emissions limitations and operating limitations in this subpart upon startup of your affected source.

* * * * *

(d) *Stay of standards for gas-fired subcategories.*

If you start up a new or reconstructed stationary combustion turbine that is a lean premix gas-fired stationary combustion turbine or diffusion flame gas-fired stationary combustion turbine as defined by this subpart, you must comply with the Initial Notification requirements set forth in § 63.6145 but need not comply with any other requirement of this subpart until EPA takes final action to require compliance and publishes a document in the **Federal Register**.

[FR Doc. 04-15529 Filed 8-17-04; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2003-15712]

Federal Motor Vehicle Safety Standards; Glazing Materials; Low Speed Vehicles

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

ACTION: Final rule; delay of compliance date.

SUMMARY: NHTSA published a final rule in July 2003 that amended the Federal motor vehicle safety standard on glazing materials. The agency received several petitions for reconsideration of the rule. At present, the rule is to take effect on September 1, 2004. To allow for more time to respond to the petitions, this document delays the compliance date of the final rule.

DATES: This final rule becomes effective August 18, 2004. The compliance date of the final rule published on July 25, 2003 (68 FR 43964) and amended on September 26, 2003 (68 FR 55544) and on January 5, 2004 (69 FR 279) is delayed until September 1, 2006. Any petitions for reconsideration of today's final rule must be received by NHTSA not later than October 4, 2004.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues, you may call Mr. John Lee, Office of Crashworthiness Standards, at (202) 366-2264, facsimile (202) 366-4329 or Mr. Patrick Boyd, Office of Crash Avoidance Standards, at (202) 366-6346, facsimile (202) 493-2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel, at (202) 366-2992, facsimile (202) 366-3820.

You may send mail to any of these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Petitions for Reconsideration
- III. Today's Final Rule; Delay of Compliance Date
- IV. Regulatory Analyses and Notices

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 205 *Glazing Materials* specifies performance requirements for glazing installed in motor vehicles. It also specifies the

vehicle locations in which the various types of glazing may be installed. On July 25, 2003 (68 FR 43964)(DMS Docket No. NHTSA-2003-15712), NHTSA published a final rule (July 25 final rule) updating FMVSS No. 205 by incorporating by reference the 1996 version of the American National Standards Institute (ANSI) standard on motor vehicle glazing. Prior to the July 25 final rule, FMVSS No. 205 referenced the 1977 version of ANSI Standard Z26.1, "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," and the 1980 supplement to that standard.

The July 25 final rule has simplified and amended the glazing performance requirements. By incorporating by reference the 1996 version of the ANSI standard, the agency was able to remove most of the existing text in FMVSS No. 205.

In addition to incorporating the 1996 ANSI standard, the final rule addressed several issues not covered by that standard. For example, the final rule limited the size of the shade band located at the top of the windshield and clarified the meaning of the term "the most difficult part or pattern" for the fracture test in the 1996 ANSI standard. The final rule also made minor conforming amendments to the standard on low speed vehicles.

In a final rule of January 5, 2004 (69 FR 279)(DMS Docket No. NHTSA-2003-15712), NHTSA established September 1, 2004 as the effective date of the July 25, 2003 final rule. For further details on the subject final rule, please see 68 FR 43964 (July 25, 2003).

II. Petitions for Reconsideration

In response to the July 25 final rule, the agency received six petitions for reconsideration. Petitions were submitted by DaimlerChrysler, General Motors (GM), Alliance for Automobile Manufacturers (Alliance), PPG Industries (PPG), Pilkington North America (PNA), and Visteon. Petitioners have asked the agency to reconsider the following issues.

1. The Up-Angle of the Windshield Shade Band

DaimlerChrysler, GM, PPG, PNA, and Visteon have asked that the agency reconsider its decision to change the visibility up-angle from 5 degrees to 7 degrees. Specifically, petitioners note that NHTSA has not demonstrated a safety need for this technical modification, and that the up-angle change was not discussed in the NPRM. DaimlerChrysler estimates that 25% of vehicles currently in production would not comply with the 7-degree up-angle

requirement. Accordingly, petitioners contend that the change in the up-angle would place a significant burden on the manufacturers. Additionally, Visteon commented that the change in up-angle would necessitate a costly redesign of aftermarket replacement glazing.

2. The Terms "Most Difficult Part or Pattern" and "Day Light Opening"

GM, DaimlerChrysler, PPG and PNA have asked the agency to clarify or reconsider the meaning of the phrase "most difficult part or pattern" in the context of the fracture test provisions of ANSI Z26. Specifically, petitioners contend that the preamble to the final rule, S5.2 of the regulatory text, and NHTSA's previous interpretations on the issue, are inconsistent as to the use of the phrase.

DaimlerChrysler and PPG have also asked the agency to formally define the term "Day Light Opening" and rescind a previously issued interpretation letter on the subject.

3. Soldered Terminals

DaimlerChrysler, GM, PPG, PNA and Alliance have asked the agency to reconsider its position with respect to soldered terminals. Specifically, petitioners ask that compliance fracture testing be conducted without soldered terminals being attached to glazing. According to petitioners, a prior interpretation letter on the issue, coupled with the language in the final rule created confusion as to whether fracture testing would be conducted with the terminals attached. Petitioners ask that NHTSA clarify both the new testing procedure and also a distinction between conductors and terminals.

4. Effective Date

Petitioners, including PNA, GM, DaimlerChrysler, PPG and Visteon, have asked the agency to delay the effective date of the updated FMVSS No. 205 by up to 3 years. In support of their request, DaimlerChrysler argued that glazing manufacturers would need to perform extensive testing to demonstrate compliance with the updated requirements of FMVSS No. 205. Further, some glazing manufacturers might need to add additional equipment in order to perform the necessary testing.

5. Aftermarket Parts

DaimlerChrysler, PNA, GM and PPG have asked that the agency also consider permitting compliance with the old requirements of FMVSS No. 205 for the manufacture of aftermarket replacement glazing. According to the petitioners, it would not be feasible to redesign

replacement glazing such that it would meet the updated requirements of FMVSS No. 205. Similarly, Visteon commented that the final rule necessitates a redesign of aftermarket glazing that may be time-consuming because the necessary vehicle data is not readily available to glazing manufacturers.

III. Today's Final Rule; Delay of Compliance Date

Previously, NHTSA has established September 1, 2004 as the compliance date for the July 25, 2003 final rule. In six petitions for reconsideration, NHTSA has been asked to reconsider several aspects of the July 25, 2003 final rule. NHTSA is in the process of considering all six petitions. Given the imminence of the September 1, 2004 compliance date, the agency has decided to delay the compliance date of the July 25, 2003 final rule until September 1, 2006. The issues raised in the petitions for reconsideration will be addressed by the agency in a separate document.

The agency believes that a delay is necessary to ensure that glazing and automobile manufacturers do not face substantial economic hardship associated with certain new requirements of the amended FMVSS No. 205. As discussed in the petitions, the updated requirements of FMVSS No. 205 may necessitate extensive testing and compliance costs by glazing manufacturers.

NHTSA expects that all the issues raised in the petitions will be fully addressed prior to the new, September 1, 2006 compliance date. If these issues have not been resolved by the new compliance date, all affected manufacturers will be required to meet the new requirements. Compliance dates of agency final rules are not stayed due to outstanding petitions for reconsideration of those rules.

IV. Regulatory Analyses and Notices

A. Executive Order, 12866 Regulatory Planning and Review

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the

economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It does not impose any burden on manufacturers, and extends the compliance date of a final rule amending FMVSS No. 205 for two years. The agency believes that this impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

B. Environmental Impacts

We have not conducted an evaluation of the impacts of this final rule under the National Environmental Policy Act. This rulemaking action extends the date by which the manufacturers must comply with the newly upgraded requirements of FMVSS No. 205. This rulemaking does not impose any change that would have any environmental impacts. Accordingly, no environmental assessment is required.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rulemaking action will have on small entities (5 U.S.C. 601 *et seq.*). I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act.

The following is our statement providing the factual basis for the certification (5 U.S.C. 605(b)). The final rule affects manufacturers of motor vehicles and motor vehicle glazing. According to the size standards of the Small Business Association (at 13 CFR 121.601), manufacturers of glazing are considered manufacturers of "Motor Vehicle Parts and Accessories" (SIC Code 3714). The size standard for SIC Code 3714 is 750 employees or fewer. The size standard for manufacturers of "Motor Vehicles and Passenger Car Bodies" (SIC Code 3711) is 1,000 employees or fewer. This Final Rule will not have any significant economic

impact on a substantial number of small businesses in these industries because the rule only delays by two years, the compliance date of the previously published final rule. Small organizations and governmental jurisdictions that purchase glazing will not be significantly affected because this rulemaking will not cause price increases. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

D. Executive Order 13132, Federalism

E.O. 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." E.O. 13132 defines the term "Policies that have federalism implications" to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under E.O. 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires 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 annually. This action, which extends the compliance date of a final rule amending FMVSS No. 205, will not result in additional expenditures by state, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared

an economic assessment pursuant to the Unfunded Mandates Reform Act.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)(PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Since it only delays the compliance date of a final rule, this final rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained.

G. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a Federal motor vehicle safety standard only if the standard is identical to the Federal standard. However, the United States Government, a state, or political subdivision of a state, may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings are not required before parties file suit in court.

H. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

Comment is solicited on the extent to which this final rule effectively uses plain language principles.

I. National Technology Transfer and Advancement Act

Under the National Technology and Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104-113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments."

Certain technical standards developed by the American National Standards Institute (ANSI) and Society of Automotive Engineers (SAE) have been considered and incorporated by reference in the final rule published on July 25, 2003, which upgraded the requirements of FMVSS No. 205. This final rule extends the compliance date of that final rule to September 1, 2006.

J. Privacy Act

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

K. Executive Order 13045, Economically Significant Rules Disproportionately Affecting Children

This rule is not subject to E.O. 13045 because it is not "economically significant" as defined under E.O. 12866, and does not concern an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

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, 30166 and 30177; delegations of authority at 49 CFR 1.50 and 501.8.

■ 2. Section 571.205 is amended by adding a second sentence to S3.1 to read as follows:

§ 571.205 Glazing Materials

* * * * *

S3.1 *Application.* * * * For motor vehicles and glazing equipment manufactured before September 1, 2006,

the manufacturer may, at its option, comply with 49 CFR 571.205 revised as of October 1, 2003 instead of this version.

* * * * *

Issued on: August 3, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04-18209 Filed 8-17-04; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040112010-4114-02; I.D. 081204C]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Implementation of the Yellowtail Flounder Landing Limit for Western and Eastern U.S./Canada Areas

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

ACTION: Implementation of the Yellowtail Flounder Landing Limit for Western and Eastern U.S./Canada Areas.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has projected that 70 percent of the total allowable catch (TAC) of Georges Bank (GB) yellowtail flounder that may be harvested from the Western and Eastern U.S./Canada Areas will be harvested by August 18, 2004. The Regional Administrator, therefore, is implementing a yellowtail flounder trip limit of 1,500 lb (680.4 kg) per day, and 15,000 lb (6,804.1 kg) per trip for NE multispecies vessels fishing in both the Western and Eastern U.S./Canada Areas, effective August 18, 2004.

DATES: Effective 0001 hrs local time, August 18, 2004.

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, Fishery Policy Analyst, (978) 281-9141, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the yellowtail flounder landing limit within the Western and Eastern U.S./Canada Areas are found at 50 CFR 648.85(a)(3)(iv)(C). The regulations authorize vessels issued a valid limited access NE multispecies

permit and fishing under a NE multispecies day-at-sea (DAS) to fish in the U.S./Canada Management Area, under specific conditions. The TAC allocation for GB yellowtail flounder for the 2004 fishing year was specified at 6,000 mt in the final rule implementing Amendment 13 to the NE Multispecies Fishery Management Plan (FMP) (April 27, 2004, 69 FR 22906). Section 648.85(a)(3)(iv)(C)(2) authorizes the Regional Administrator to implement and/or adjust the yellowtail flounder landing limit for NE multispecies vessels fishing in both the Western and Eastern U.S./Canada Areas to 1,500 lb (680.4 kg) per day, and 15,000 lb (6,804.1 kg) per trip when 70 percent of the GB yellowtail flounder TAC is projected to be harvested.

Based upon Vessel Monitoring System reports and other available information, the Regional Administrator has determined that 70 percent (4,200 mt) of the GB yellowtail flounder TAC of 6,000 mt will be harvested by August 18, 2004. Based on this information, the trip limit of 1,500 lb (680.4 kg) per day, and 15,000 lb (6,804.1 kg) per trip, is implemented effective August 18, 2004, for NE multispecies vessels fishing in both the Western and Eastern U.S./Canada Areas.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: August 12, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04-18930 Filed 8-13-04; 2:34 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 040521156-4228-02; I.D. 051704E]

RIN 0648-AS10

Fisheries of the Exclusive Economic Zone Off Alaska; Removal of a Harvest Restriction for the Harvest Limit Area Atka Mackerel Fishery in the Aleutian Islands Subarea

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