

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final without change, the proposed rule published in the **Federal Register** on May 21, 2004. This final rule amends the NASA FAR Supplement (NFS) by removing from the Code of Federal Regulations (CFR) those portions of the NFS containing information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. This change is consistent with the guidance and policy in FAR Part 1 regarding what comprises the Federal Acquisition Regulations System and requires publication for public comment. The NFS document will continue to contain both information requiring codification in the CFR and internal Agency guidance in a single document that is available on the Internet. This change will reduce the administrative burden and time associated with maintaining the NFS by only publishing in the **Federal Register** for codification in the CFR material that is subject to public comment.

**DATES:** Effective October 14, 2004.

**FOR FURTHER INFORMATION CONTACT:** Celeste Dalton, NASA, Office of Procurement, Contract Management Division (Code HK); (202) 358-1645; e-mail: *Celeste.M.Dalton@nasa.gov*.

**SUPPLEMENTARY INFORMATION:****A. Background**

Currently the NASA FAR Supplement (NFS) contains information to implement or supplement the FAR. This information contains NASA's policies, procedures, contract clauses, solicitation provisions, and forms that govern the contracting process or otherwise control the relationship between NASA and contractors or prospective contractors. The NFS also contains information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. Regardless of the nature of the information, as a policy, NASA has submitted to the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) and published in the **Federal Register** all changes to the NFS. FAR 1.101 states in part that the "Federal Acquisition Regulations System consists of the Federal Acquisition Regulation (FAR), which is the primary document, and agency acquisition regulations that implement or supplement the FAR. The FAR System does not include internal

agency guidance of the type described in 1.301(a)(2)." FAR 1.301(a)(2) states in part "an agency head may issue or authorize the issuance of internal agency guidance at any organizational level (e.g., designations and delegations of authority, assignments of responsibilities, work-flow procedures, and internal reporting requirements)." Further, FAR 1.303 states that issuances under FAR 1.301(a)(2) need not be published in the **Federal Register**. Based on the foregoing, NASA is not required to publish and codify internal Agency guidance.

This final rule modifies the existing practice by only publishing those regulations which may have a significant effect beyond the internal operating procedures of the Agency or have a significant cost or administrative impact on contractors or offerors.

The NFS will continue to integrate into a single document both regulations subject to public comments and internal Agency guidance and procedures that do not require public comment. Those portions of the NFS that require public comment will continue to be amended by publishing changes in the **Federal Register**. NFS regulations that require public comment are issued as Chapter 18 of Title 48, CFR. Changes to portions of the regulations contained in the CFR, along with changes to internal guidance and procedures, will be incorporated into the NASA-maintained Internet version of the NFS through Procurement Notices (PNs). The single official NASA-maintained version of the NFS will remain available on the Internet. NASA personnel must comply with all regulatory and internal guidance and procedures contained in the NFS.

This change will result in savings in terms of the number of rules subject to publication in the **Federal Register** and provide greater responsiveness to internal administrative changes.

NASA published a proposed rule in the **Federal Register** on May 21, 2004 (69 FR 29256). No comments were received in response to the proposed rule. Therefore, the proposed rule is being converted to a final rule without change.

**B. Regulatory Flexibility Act**

NASA certifies that this final rule does not have a significant economic impact on a substantial number of small entities with the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because this final rule would only remove from the CFR information that is considered internal Agency administrative procedures and guidance. The information removed

from the CFR will continue to be made available to the public via the Internet.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR Parts 1852, 1853, and 1872**

Government Procurement.

**Tom Luedtke**

*Deputy Chief Acquisition Officer/Director for Procurement.*

■ Accordingly, 48 CFR Parts 1852, 1853, and 1872 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 1852, 1853, and 1872 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

**PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 2. Amend part 1852 by—  
■ A. Removing subpart 1852.1; and  
■ B. In the introductory text of section 1852.223–74, removing "1823.570–3" and adding "1823.570–2" in its place.

**PART 1853—FORMS**

■ 3. Remove and reserve part 1853.

**PART 1872—ACQUISITIONS OF INVESTIGATIONS**

■ 4. Remove and reserve part 1872.

[FR Doc. 04-22967 Filed 10-13-04; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. NHTSA 2004-18813]

**Federal Motor Vehicle Safety Standards; Occupant Crash Protection**

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

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** On September 26, 2003, NHTSA received a petition for rulemaking from Mr. Warren Howard requesting that the agency amend Federal Motor Vehicle Safety Standard

(FMVSS) No. 208, "Occupant crash protection," to allow for "the installation and standard feature" of his patented device. The patented device would prevent the radio sound system of a vehicle from operating unless the safety belts are fastened. Based on the analysis of available information, NHTSA is denying the petition for rulemaking.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues: Mr. John Lee, Office of Crashworthiness Standards, NVS-112, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366-2264. Fax: (202) 493-2290.

For legal issues: Mr. Chris Calamita, Office of Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-2992. Fax: (202) 366-3820.

**SUPPLEMENTARY INFORMATION:** On September 26, 2003, Mr. Warren Howard submitted a petition for rulemaking requesting that NHTSA amend S7.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, "Occupant crash protection," to allow for "the installation and standard feature" of his patented device. The patented device would prevent the radio or sound system of a vehicle from emitting any sound or power unless the occupants of all designated seating positions have their seat belts fastened. According to the petitioner, the Audio System Seat Belt Safety Device would be installed in the seat and connected to the audio system of the vehicle. The system would sense when a person was seated and the audio system would not have power until the seat belt for that seated person was engaged. Once the seat belt was engaged, power would then be applied to the audio system. The petitioner further noted that this system could be installed on all seats within the same vehicle and not interfere with the audible and visual warning system required in FMVSS No. 208. The petitioner believed that such a device would encourage people to wear their safety belts and save thousands of lives each year, and billions of dollars in insurance costs.

NHTSA has denied petitions for rulemaking in the past that were very similar in nature to that of Mr. Howard's petition. On November 5, 1999 (64 FR 60625), the agency denied a petition for rulemaking submitted by Mr. Carl Nash and Mr. Donald Friedman. The petitioners requested an amendment to FMVSS No. 208 to "require effective belt use inducement." The petitioners stated that the inducements could

include, among other things, a disruption of electrical power to such "non-essential" accessories as the radio, tape or CD player, and air conditioning. The petitioners argued that a safety belt use inducement would have the potential to save a minimum of 7,000 additional lives per year. In denying the petition, the agency stated it considered whether the new requirements would (1) likely result in additional safety benefits, (2) be acceptable to the public, and (3) be within our statutory authority. NHTSA stated that none of the petitioners' recommended inducements met all of these criteria.

In response to the denial, Mr. Nash and Mr. Friedman resubmitted their petition request to the agency. The agency denied the second request in the preamble to the Advanced Air Bag Final Rule, published May 12, 2000 (65 FR 30680, 30733). The agency stated its belief that we do not have the statutory authority to require such devices; however we also stated that we would continue to monitor the level of public acceptance and effectiveness of systems that manufacturers are placing in their vehicles to encourage safety belt use. We stated that if it appeared that these systems were working, it might be appropriate to seek to have the 1974 amendment to the Motor Vehicle Safety Act, that prohibits NHTSA from requiring interlocks, either changed or repealed.

In the House Report, 107-108, to the Department of Transportation and Related Agencies Appropriations Act 2002 (Pub. L. 107-87), Congress directed a study to examine the potential benefits of technologies to increase safety belt use, determine how drivers view the acceptability of the technologies, and consider whether legislative or regulatory actions were necessary to enable their installation on passenger vehicles.<sup>1</sup> In response to this directive, NHTSA contracted with the Transportation Research Board of the National Academy of Sciences (NAS) to complete this study. Their report was published on October 14, 2003.<sup>2</sup>

Among their conclusions, the NAS report found that "entertainment interlocks" (e.g., devices that render the sound system inoperable until the driver buckles up) are "perceived to be effective," but fewer than half of the respondents found them "acceptable." The report also noted that some people might not experience an entertainment

interlock (i.e., older people who do not use the radio, drivers on short trips, etc.), and it also noted that such interlocks could be circumvented (e.g., by installing an aftermarket stereo). The NAS study found that other less-intrusive technologies, such as non-interlock systems, present greater opportunities for increasing safety belt use without the negative public reaction of interlocks. For entertainment interlock systems, such as that provided by Mr. Howard, the NAS report concluded that they would be most effective for younger drivers and not very effective at increasing belt use among hard-core nonusers and other high-risk groups. NHTSA generally concurs with this assessment.

We note that a device that would disable a vehicle's radio or sound system if occupants are not belted is currently allowed to be installed in motor vehicles in addition to, but not in place of, the warning system required by S7.3 of FMVSS No. 208. Motor vehicle manufacturers may offer the device as optional or standard equipment at their discretion. In an April 11, 2003 letter to Mr. Howard, the agency stated that such a device may be offered either as an original equipment option or an aftermarket item, but it must be configured such that it can be differentiated from the warning system required by S7.3. A copy of this letter was included in Mr. Howard's petition. (See docket for this notice).

The agency has denied similar petitions for rulemaking on entertainment interlocks within the past five years. With regard to Mr. Howard's device, the agency has provided the petitioner with a legal interpretation letter that stated that the voluntary installation of his specific patented device discussed in this petition is permitted. Given the agency's lack of authority to mandate interlock systems as a means of compliance with FMVSS No. 208 and the conclusions of the NAS report regarding public acceptability and effectiveness of these systems, the agency concludes that there is no basis for further rulemaking action on this issue nor any basis for considering seeking authority to require these interlock systems. This completes the agency's review of the petition for rulemaking. Accordingly, the petition for rulemaking is denied.

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30162; delegation of authority at 49 CFR 1.50.

<sup>1</sup> House of Representatives Report 107-108, Department of Transportation and Related Agencies Appropriation Bill, 2002, June 22, 2001.

<sup>2</sup> "Buckling Up, Technologies to Increase Seat Belt Use," Special Report 278, Committee for the Safety Belt Technology Study, [www.TRB.org](http://www.TRB.org).

Issued on: October 6, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04-23079 Filed 10-13-04; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 031126297-3297-01; I.D. 100704A]

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska**

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

**ACTION:** Modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA) for 24 hours. This action is necessary to fully use the 2004 total allowable catch (TAC) of pollock specified for Statistical Area 610.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 10, 2004, through 1200 hrs, A.l.t., October 11, 2004.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone 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-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.

NMFS closed the directed fishery for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on October 6, 2004 (filed for public inspection with the Office of the Federal Register on October 6, 2004, and is scheduled for publication in the **Federal Register** on October 12, 2004).

NMFS has determined that approximately 1,100 mt of pollock remain in the 2004 directed fishing allowance. This amount is large enough to provide for a manageable directed pollock fishery in Statistical Area 610. Therefore, in accordance with 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the 2004 TAC of pollock specified for Statistical Area 610, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 24 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the

GOA effective 1200 hrs, A.l.t., October 11, 2004.

#### **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 opening of pollock in Statistical Area 610.

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: October 7, 2004.

**Alan D. Risenhoover,**

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

[FR Doc. 04-23057 Filed 10-8-04; 1:42 pm]

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