

redesignated paragraph (d) of § 707.60 to read as follows:

§ 707.60 Applicability and compliance.

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(c) No notice of export is required for the export of a chemical substance or mixture for which export notification is otherwise required, where such chemical substance or mixture is present in a concentration of less than 1% (by weight or volume), except that:

(1) No notice of export is required for the export of the following chemical substances or mixtures where such chemical substance or mixture is present in a concentration of less than 0.1% (by weight or volume) (The listed chemicals and mixtures are treated by EPA in paragraph (c)(1) of this section as carcinogens or potential carcinogens for the limited purpose of application of the 0.1% concentration export notification threshold.):

(i) A chemical substance or mixture listed as a “known to be human carcinogen” or “reasonably anticipated to be human carcinogen” in the Report on Carcinogens, Eleventh Edition issued by the U.S. Department of Health and Human Services National Toxicology Program,

(ii) A chemical substance or mixture classified as a Group 1, Group 2A, or Group 2B carcinogen by the World Health Organization International Agency for Research on Cancer (IARC) in the list of IARC Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements, or

(iii) Alpha-naphthylamine (Chemical Abstract Service Registry Number (CAS No.) 134-32-7) or 4-nitrobiphenyl (CAS No. 92-93-3).

(2) No notice of export is required for the export of polychlorinated biphenyl chemicals (PCBs) (see definition in 40 CFR 761.3), where such chemical substances are present in a concentration of less than or equal to 50 ppm (by weight or volume).

(d) Any person who exports or intends to export PCBs or PCB articles (see definition in 40 CFR 761.3), for any purpose other than disposal, shall notify EPA of such intent or exportation under TSCA section 12(b), except as specified in § 707.60(c)(2).

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4. By revising paragraph (a) introductory text, (a)(2), and (c) of § 707.65 to read as follows:

§ 707.65 Submission to agency.

(a) For each action under TSCA triggering export notification, exporters must notify EPA of their export or intended export of each subject

chemical substance or mixture for which export notice is required under § 707.60 in accordance with the following:

* * * * *

(2) (i) The notice must be for the first export or intended export by an exporter to a particular country in a calendar year when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(ii) The notice must be for only the first export or intended export by an exporter to a particular country when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or when the submission of data is required under TSCA section 4 or 5(b).

* * * * *

(c) *Notices shall be marked “TSCA Section 12(b) Notice” and sent to EPA by mail or delivered by hand or courier.* Send notices by mail to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001 (Attention: TSCA Section 12(b) Notice). Hand delivery of TSCA section 12(b) notices should be made to: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, Environmental Protection Agency, 1201 Constitution Ave., NW., Washington, DC (Attention: TSCA Section 12(b) Notice). The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the DCO’s normal hours of operation.

5. By adding an “and/” in front of the “or” in the first sentence of paragraph (a) and paragraph (e) of § 707.67.

6. By revising paragraph (a) of § 707.70 to read as follows:

§ 707.70 EPA notice to foreign governments.

(a)(1) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first annual notification from any exporter for each chemical substance or mixture that is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or

promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(2) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first notification from any exporter for each chemical substance or mixture that is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or for which the submission of data is required under TSCA section 4 or 5(b).

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PART 799—[AMENDED]

7. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C 2603, 2611, 2625.

8. By revising § 799.19 to read as follows:

§ 799.19 Chemical imports and exports.

Persons who export or who intend to export chemical substances or mixtures listed in subpart B, subpart C, or subpart D of this part are subject to the requirements of part 707 of this title.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2005-22895]

RIN 2127-A153

Federal Motor Vehicle Safety Standards No. 111 Rearview Mirrors

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies the petition for rulemaking submitted by Mr. Bernard Cox, requesting that NHTSA amend the Federal Motor Vehicle Safety Standard for rearview mirrors to require manufacturers to install a mirror of unit magnification (a flat mirror) on the passenger’s side of multipurpose passenger vehicles (MPVs) and trucks with a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 pounds) or less when such vehicles are equipped with a tow hitch package. Accordingly, manufacturers of

MPVs, trucks, and buses (other than school buses) with a GVWR of 4,536 kg (10,000 pounds) or less continue to have the option of installing either a flat mirror or a convex mirror on the passenger's side of the vehicle provided that either mirror meets the applicable requirements of the standard.

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Mr. John Lee, Office of Crash Avoidance Standards, NVS-123, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone number: (202) 366-2720. Fax: (202) 366-7002.

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

SUPPLEMENTARY INFORMATION:

Background

On June 5, 2004, Mr. Bernard Cox submitted a petition for rulemaking¹ requesting that NHTSA amend Federal Motor Vehicle Safety Standard (FMVSS) No. 111, *Rearview Mirrors*, to require original equipment manufacturers (OEMs) to install a mirror of unit magnification (called a "flat" mirror) on the passenger's side of MPVs and trucks with a GVWR of 4,536 kg (10,000 pounds) or less when such vehicles are equipped with a tow hitch package, thereby eliminating the current option for vehicle manufacturers to install either a flat mirror or a convex mirror in that location. The petitioner expressed his belief that when the vehicle's interior flat rearview mirror is obstructed by an object in tow, it is unsafe to make a lane change relying solely on an exterior passenger-side convex rearview mirror. Mr. Cox stated that he attempted to replace the outside passenger side convex mirror with a flat mirror and was told by his local automobile dealership that a flat mirror was unavailable for that application. The petitioner did not provide any data in support of his recommended amendments to Standard No. 111.

Agency Analysis

Under paragraph S6, *Requirements for multipurpose passenger vehicles, trucks, and buses, other than school buses, with GVWR of 4,536 kg or less*, FMVSS No. 111 currently requires such vehicles to be equipped with either with: (1) Mirrors that conform to the requirements of S5, or (2) outside mirrors of unit magnification, each with

not less than 126 cm² of reflective surface, installed with stable supports on both sides of the vehicle, located so as to provide the driver a view to the rear along both sides of the vehicle, and adjustable in both the horizontal and vertical directions to view the rearward scene (see S6.1 of FMVSS No. 111).

S5.3, Outside rearview mirror passenger's side, permits either a mirror of unit magnification or a convex mirror to be installed in that location. Thus, Standard No. 111 provides a choice to vehicle manufacturers in terms of the type of passenger-side mirror that they install on MPVs, trucks, and buses (other than school buses) within the above-referenced weight class, which is the subject of the present petition.

That portion of the vehicle fleet currently covered by S6 of the standard reflects a mix of convex mirrors and mirrors of unit magnification on the passenger's side of the vehicle. Each type of mirror has its advantages. Convex mirrors have the advantage of providing a wider field of view than a mirror of unit magnification of the same size. However, convex mirrors tend to provide an image that causes objects to appear further away and to be moving more slowly than they actually are. In contrast, mirrors of unit magnification generally provide a realistic rendering of approaching vehicles, although a narrower field of view and a larger "blind spot."

Consumer preferences also vary in terms of the type of rearview mirror installed on the passenger's side of vehicles. The agency has received complaints from some vehicle owners who find convex mirrors annoying when trying to back up and maneuver trailers. However, others have asked the agency to allow convex mirrors in situations in locations where only a mirror of unit magnification is permitted (e.g., driver-side outside rearview mirrors).

The critical question posed by Mr. Cox's petition is whether there is evidence that use of a convex mirror at the passenger's side location on the vehicles in question has a negative impact on vehicle safety. To examine this issue, we reviewed the available research, including a relevant, agency-sponsored fleet study whose results were reported in a DOT research report titled, "Field Test Evaluation of Rearview Mirror Systems for Commercial Vehicles."² This study involved a two-year field examination of fleets of telephone company repair vans, some using passenger-side mirrors of unit magnification and others using

passenger-side convex mirrors. In that study, the convex mirrors had a 40-inch radius of curvature, similar to the OEM supplied passenger-side mirrors that the petitioner is seeking to have changed. Although those vans were not pulling trailers, such cargo vans generally have poor direct rear visibility, so the situations are generally analogous. The study reported that vans equipped with passenger-side convex mirrors had a lower crash rate than vans equipped with passenger-side mirrors of unit magnification. Thus, the available safety data do not demonstrate adverse safety consequences associated with the use of passenger-side convex mirrors. As noted previously, the petitioner did not provide any data, to demonstrate a safety problem that would be remedied by his requested amendments to the standard.

Furthermore, consumers who experience difficulty adjusting to the field of view provided by a passenger-side convex mirror, including on vehicles towing a trailer, have a readily available alternative. There are currently many mirrors available in the aftermarket specifically designed to improve the visibility for drivers towing trailers, the majority of which are inexpensive and do not require significant vehicle modification.

In summary, the petitioner has not demonstrated and the agency's own research has not revealed the existence of a safety problem, as would justify amending FMVSS No. 111. People's attitudes regarding side-mounted rearview mirrors may vary based upon physiological differences or personal preference. For those consumers who desire a passenger-side mirror of unit magnification, aftermarket equipment is available to effectuate such a change. Accordingly, we do not see any reason to diminish the range of choice which FMVSS No. 111 currently provides to manufacturers to equip the vehicles in question with either a passenger-side convex mirror or mirror of unit magnification which meets the requirements of the safety standard.

Decision To Deny the Petition

In accordance with 49 CFR part 552, this completes the agency's review of the petition for rulemaking. In light of the considerations discussed above, the agency has concluded that agency resources should be spent addressing higher priority safety issues. Therefore, the petition for rulemaking is denied.

Authority: 49 U.S.C. 332, 30111, 30115, 30117; and 30166; delegation of authority at 49 CFR 1.50.

¹ Docket No. NHTSA-2004-16856-61.

² DOT HS 806 948 (Sept. 1985).

Issued on: February 3, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Petition To List the Polar Bear as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the polar bear (*Ursus maritimus*) as threatened under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action of listing the polar bear may be warranted. We, therefore, are initiating a status review of the polar bear to determine if listing under the Act is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species.

DATES: We must receive your comments on or before April 10, 2006.

ADDRESSES: If you wish to comment, you may submit your comments and/or information concerning this species and the status review by any one of the following methods:

1. You may submit written comments and information to the Supervisor, U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503.
2. You may hand-deliver written comments to our office at the address given above.
3. You may send your comments by electronic mail (e-mail) directly to the Service at AK_Polarbear@fws.gov, or to the Federal eRulemaking Portal at <http://www.regulations.gov>. Your submission must include "Attn: Polar Bear" in the beginning of your message, and you must not use special characters or any form of encryption. Electronic attachments in standard formats (such as .pdf or .doc) are acceptable, but please name the software necessary to open any attachments in formats other than those given above. Also, please include your name and return address

in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please submit your comments in writing using one of the alternate methods described above. In the event that our Internet connection is not functional, please submit your comments by one of the alternate methods mentioned above.

FOR FURTHER INFORMATION CONTACT:

Scott Schliebe (see **ADDRESSES**), telephone, 907-786-3800; facsimile, 907-786-3816.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this status review will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or any other interested party. We are opening a 60-day public comment period to allow all interested parties an opportunity to provide information on the status of the polar bear throughout its range, including:

- (1) Information on taxonomy, distribution, habitat selection (especially denning habitat), food habits, population density and trends, habitat trends, and effects of management on polar bears;
- (2) Information on the effects of climate change and sea ice change on the distribution and abundance of polar bears and their principal prey over the short- and long-term;
- (3) Information on the effects of other potential threat factors, including oil and gas development, contaminants, hunting, poaching, and changes of the distribution and abundance of polar bears and their principal prey over the short and long term;
- (4) Information on management programs for polar bear conservation, including mitigation measures related to oil and gas exploration and development, hunting conservation programs, anti-poaching programs, and any other private, tribal, or governmental conservation programs which benefit polar bears, and
- (5) Information relevant to whether any populations of the species may qualify as distinct population segments.

We will base our finding on a review of the best scientific and commercial information available, including all information received during the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review

during regular business hours.

Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

All comments and materials received will be available for public inspection, by appointment, during normal business hours at our Anchorage, Marine Mammals Management Office (see **ADDRESSES**).

Background

We received a petition from the Center for Biological Diversity dated February 16, 2005, to list the polar bear as threatened throughout its range with critical habitat in the United States. The petition, which was clearly identified as such, contained detailed information on the natural history and biology of the polar bear, and the current status and distribution of the species. It also contained information on what they reported as potential threats to the species from climate change, oil and gas development, contaminants, hunting, and poaching. The petition also discussed existing regulatory mechanisms and their perceived inadequacy. In a letter dated July 5, 2005, the petitioners informed us that two additional parties were joining as petitioners: The Natural Resources Defense Council and Greenpeace, Inc. In the same letter, the petitioners informed us of two new scientific articles, Henson *et al.* 2005, and Stroeve *et al.* 2005, that they wanted us to take into consideration when conducting our evaluation on the petition to list the polar bear. The petitioner further submitted new information in a letter received on December 27, 2005, to be considered, along with the information in the initial petition, in making our 90-day finding.

Subsequent to the filing of the initial petition with the Service, a petitioner may submit additional information relevant to the petitioned action. If the petitioner requests that the Service consider the information in making the 90-day finding on the petition, the Service will treat the new information,