

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 18, 2011.

**Lois Rossi,**

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.557 is amended by:

- i. Revising the introductory text in paragraph (a);
- ii. Removing the commodity “Grape” from the table in paragraph (a);
- iii. Revising the tolerance level for these commodities: “Cattle, fat” “Cattle, liver” “Cattle, meat byproducts, except liver” “Goat, fat” “Goat, liver” “Goat, meat byproducts, except liver” “Horse, fat” “Horse, liver” “Horse, meat byproducts, except liver” “Milk” “Milk, fat” “Poultry, meat byproducts” “Sheep, fat” “Sheep, liver” and “Sheep, meat byproducts, except liver” in the table in paragraph (a); and
- iv. Alphabetically adding the following commodities: “Corn, field, forage” “Corn, field, grain” “Corn, field, stover” “Corn, pop, grain” “Corn, pop stover” “Low growing berry subgroup 13–07G, except cranberry;” and “Small fruit vine climbing, except fuzzy kiwifruit, subgroup 13–07F” to the table in paragraph (a) to read as follows:

**§ 180.557 Tetraconazole; Tolerances for residues.**

(a) *General.* Tolerances are established for residues of tetraconazole, including its metabolites and degradates, in or on the commodities listed below. Compliance with the following tolerance levels is to be determined by measuring only tetraconazole (1-[2-(2,4-dichlorophenyl)-3-(1,1,2,2-tetrafluoroethoxy)propyl]-1H-1,2,4-triazole), in or on the following commodities.

Commodity	Parts per million
Cattle, fat	0.15
Cattle, liver	1.50

Commodity	Parts per million
Cattle, meat byproducts, except liver	0.15
Corn, field, forage	1.1
Corn, field, grain	0.01
Corn, field, stover	1.7
Corn, pop, grain	0.01
Corn, pop, stover	1.7
Goat, fat	0.15
Goat, liver	1.50
Goat, meat byproducts, except liver	0.15
Horse, fat	0.15
Horse, liver	1.50
Horse, meat byproducts, except liver	0.15
Low growing berry subgroup 13–07G, except cranberry	0.25
Milk	0.03
Milk, fat	0.75
Poultry, meat byproducts	0.05
Sheep, fat	0.15
Sheep, liver	1.50
Sheep, meat byproducts, except liver	0.15
Small fruit vine climbing, except fuzzy kiwifruit, subgroup 13–07F	0.20

[FR Doc. 2011–21947 Filed 8–26–11; 8:45 am]  
**BILLING CODE 6560–50–P**

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. NHTSA–2008–0149]

RIN 2127–AK25

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

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Federal motor vehicle safety standard (FMVSS) on occupant crash protection to remove the sunset of a requirement that a vehicle’s lap belt must be lockable, without the use of special tools, to tightly secure a child restraint system (CRS). We refer to this as the “lockability” requirement. Under the current standard, the lockability requirement ceases to apply to seating positions that are equipped with a child restraint anchorage system (commonly referred to as a “LATCH” system) on vehicles manufactured on or after September 1, 2012. Because data indicate that motorists are still using lockable belts to install CRSs even in seating positions with LATCH, there is a continuing need for the lockability requirement even in seating positions with LATCH. Thus, this final rule ensures that the lockability requirement continues in effect for all seating positions past September 1, 2012.

**DATES:** *Effective date:* The final rule is effective December 27, 2011. Petitions for reconsideration of the final rule must be received not later than October 13, 2011.

**ADDRESSES:** Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Ms. Carla Rush, Office of Crashworthiness Standards, Light Duty Vehicle Division (Phone: 202–366–4583; fax: 202–493–2739). For legal issues, you may call Mr. Thomas Healy, Office of the Chief Counsel (Phone: 202–366–2992; fax: 202–366–3820). You may send mail to these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** This final rule amends FMVSS No. 208 to retain the lockability requirement, which is slated to sunset September 1, 2012. The agency is issuing this final rule because data indicate that motorists are still using vehicle belts to a large degree to attach CRSs to the vehicle seats. The NPRM preceding this final rule was published September 12, 2008 (73 FR 52939, Docket No. NHTSA–2008–0149).

**I. Background**

On October 13, 1993, NHTSA amended FMVSS No. 208, *Occupant Crash Protection*, to require all passenger cars, trucks, buses, and

multipurpose passenger vehicles with a gross vehicle weight rating of 4,536 kilograms (kg) (10,000 pounds (lb)) or less to have a seat belt assembly with a lockable lap belt at each forward-facing designated seating position (DSP), except the driver's position and any right-front DSP equipped with an automatic belt.<sup>1</sup> The means provided to lock the lap belt could not require the use of a locking clip<sup>2</sup> or any other device that attached to the vehicle's seat belt webbing, nor could it require the user to twist, invert, or otherwise deform the webbing. This requirement is referred to by the agency as the "lockability" requirement or the "lockable belt" requirement.

FMVSS No. 208 also requires vehicles to be equipped with an emergency locking retractor (ELR) for Type 2 (lap/shoulder) seat belt assemblies.<sup>3</sup> To meet the lockability and ELR requirements, vehicle manufacturers commonly use a switchable seat belt retractor (ELR/automatic locking retractor (ALR)) that can be converted from an ELR to an ALR. An ELR/ALR retractor can be converted from an ELR to an ALR by slowly pulling all of the webbing out of the retractor and then letting the retractor wind the webbing back up. In the ALR mode, the seat belt is lockable for use with CRSs.

The lockability requirement was meant to ease the installation of CRSs. However, motorists still found the installation of CRSs using a lockable seat belt to be difficult and the compatibility of a CRS with vehicle seats frequently challenging. Because of these difficulties, NHTSA published a final rule on March 5, 1999, establishing FMVSS No. 225, *Child Restraint Anchorage Systems*.<sup>4</sup> That final rule required motor vehicle manufacturers to install Lower Anchors and Tethers for Children (LATCH)<sup>5</sup> systems in their

vehicles, and also amended FMVSS No. 213, *Child Restraint Systems*, to require CRS manufacturers to install components on most CRSs to allow the CRS to connect to a LATCH system on a vehicle.

When NHTSA published the final rule, the agency anticipated that all vehicles would be LATCH-equipped by September 1, 2012, ten years after the implementation date of the final rule. Because LATCH was intended to replace lockable belts as the means for installing CRSs in vehicles, the agency believed that there would be a time when lockable belts were no longer needed for LATCH-equipped seating positions. Accordingly, the final rule also amended FMVSS No. 208, to rescind the lockability requirement for each rear designated seating position equipped with LATCH. The sunset of the lockability requirement was set as September 1, 2012.

In 2005, NHTSA conducted a survey to assess consumer response to LATCH.<sup>6</sup> The survey sought to determine whether drivers of vehicles equipped with a LATCH system were using LATCH to secure LATCH-equipped CRSs to their vehicles, and to see if those CRSs were properly installed. The survey found that in 13 percent of the LATCH-equipped vehicles in which there was a child restraint, the restraint was placed in a seat position not equipped with lower anchors (the vehicle seat belt was used to secure the restraint to the vehicle). Among the 87 percent who placed the child restraint at a position equipped with lower anchors, only 60 percent used the lower attachments to secure the restraint to the vehicle. Of the child restraints located in a seating position equipped with an upper tether anchor, 55 percent were attached to the vehicle using the upper tether. Sixty-one (61) percent of upper tether nonusers and 55 percent of lower attachment nonusers cited their lack of knowledge—not knowing what the anchorages were, that they were available in the vehicle, the importance of using them, or how to use

can be attached. The bars are located at the intersection of the vehicle seat cushion and seat back. The top tether anchorage is a fixture to which the tether of a child restraint system can be hooked. FMVSS No. 225 required the 3-point LATCH system at two rear seating positions, and a top tether anchorage at a third rear seating position when a third rear seating position is provided in the vehicle.

<sup>6</sup> Decina, L.E., Lococo, K.H., and Doyle, C.T., *Child Restraint Use Survey: LATCH Use and Misuse*. NHTSA Publication No. DOT HS 810 679, National Highway Traffic Safety Administration, Washington, 2006. [http://www.nhtsa.dot.gov/static/files/DOT/NHTSA/Communication%20%20Consumer%20Information/Articles/Associated%20Files/LATCH\\_Report\\_12-2006.pdf](http://www.nhtsa.dot.gov/static/files/DOT/NHTSA/Communication%20%20Consumer%20Information/Articles/Associated%20Files/LATCH_Report_12-2006.pdf).

them properly—as the reason for not using them. While the LATCH survey found that consumers who have experience with LATCH like the system and that LATCH is helping to reduce the insecure installation of child restraints, the report also indicated that proper use of LATCH is not inherently evident to parents. Many parents do not use LATCH; they may not know about it or understand its importance, or may have difficulties using it.

In response to the survey's findings, NHTSA held a public meeting February 8, 2007, to discuss the effectiveness of the LATCH system, posing questions to vehicle manufacturers, CRS manufacturers, and public interest groups about improvements to the LATCH system and educating the public about LATCH.<sup>7</sup> Among the issues raised at the meeting was whether the lockability requirement should be retained, given the results of the survey.

On January 22, 2007, SafetyBeltSafe U.S.A. (SafetyBeltSafe) and Safe Ride News petitioned the agency to remove the sunset clause for the lockability requirement in FMVSS No. 208. The petitioners believed that the agency should retain the lockable belt requirement for LATCH-equipped DSPs because many parents and caregivers still rely on lockable belts to keep their children safely secured while riding in a vehicle. In response to the petition and the comments received at the public meeting, NHTSA published an NPRM on September 12, 2008, proposing to remove the sunset on the belt lockability requirement for LATCH-equipped DSPs.<sup>8</sup>

## II. Public Comments on NPRM

NHTSA received 154 comments in response to the NPRM. All of the comments received by the agency's expressed support for the agency's proposal in the NPRM to retain the lockability requirement. The agency received comments from motor vehicle manufacturers, insurance groups, CRS manufacturers, child advocacy groups, highway and traffic consumer organizations, child passenger safety (CPS) technicians, physicians, health and medical organizations, emergency responders and private individuals.<sup>9</sup>

<sup>7</sup> Notice of public meeting, request for comments, 72 FR 3103, (Jan. 24, 2007). A transcript of the public meeting is available at <http://www.regulations.gov>, Docket No. NHTSA-2007-2683.

<sup>8</sup> 73 FR 52939, (Sept. 12, 2008), *supra*.

<sup>9</sup> Groups that submitted comments included General Motors Corporation (GM), the Association of International Automobile Manufacturers, Inc. (AIAM), the American Automobile Association (AAA), the Insurance Institute for Highway Safety

Continued

<sup>1</sup> 58 FR 52922, (Oct. 13, 1993).

<sup>2</sup> A locking clip is a flat H-shaped metal clip intended to fasten together belt webbing (lap and shoulder portion) at a sliding latch plate, to prevent the webbing from sliding through.

<sup>3</sup> An ELR is a seat belt retractor that locks only in response to the rapid deceleration of the vehicle or rapid spooling out of the seat belt webbing from the retractor, and increases the comfort of the seat belt assembly as compared to an automatic locking retractor (ALR). An ALR is a seat belt retractor that locks when the continuous motion of spooling the belt out is stopped. From that point, the seat belt cannot be pulled out further without first letting the belt fully retract into the retractor housing.

<sup>4</sup> 64 FR 10786, (Mar. 5, 1999).

<sup>5</sup> The term LATCH was developed by child restraint manufacturers and retailers to refer to the standardized child restraint anchorage system required to be installed in vehicles by FMVSS No. 225. The LATCH system is comprised of two lower anchorages and one top tether anchorage. Each lower anchorage includes a rigid round rod or bar onto which the connector of a child restraint system

In expressing support for the agency's proposal, the commenters raised many similar arguments for retaining the lockability requirement in FMVSS No. 208. Many of the commenters submitted comments derived from the same template. Commenters believed that the agency should retain the lockability requirement because some motorists prefer to use belts to attach CRSs, or must use belts instead of LATCH for a variety of reasons, including those raised by petitioners SafetyBeltSafe and Safe Ride News in support of retaining the lockability requirement. See NPRM, 73 FR at 52940.

### III. Agency Decision

After reviewing the comments, NHTSA has concluded that a safety need exists to retain the lockability requirement in FMVSS No. 208, to facilitate the ease-of-use of seat belts in attaching CRSs to vehicles. The agency is adopting this final rule for the reasons stated in the NPRM. Specifically, the agency's LATCH survey (Decina, L.E., Lococo, K.H., and Doyle, C.T., *Child Restraint Use Survey: LATCH Use and Misuse*, supra) indicates that many motorists are continuing to use the vehicle's belt system to install child restraints, even when attaching a LATCH-equipped child restraint to a LATCH-equipped vehicle seat.

NHTSA's observational survey of the use, misuse, and consumer reaction to LATCH found that drivers who preferred installing a CRS with seat belt as opposed to LATCH indicated that they knew what to do with the seat belt. These drivers who preferred to install CRSs with seat belts also suggested it was easier and quicker to use the seat belt, and without the seat belt they could not get the CRS installed tight enough. While a majority of those surveyed in the NHTSA observational study preferred to install CRSs using LATCH, some parents and caregivers continued to demonstrate a preference for lockable belts. We are also concerned that, having become accustomed to the availability and use of lockable belts, some may continue to use seat belts to install CRSs even if

(IHHS), the Juvenile Products Manufacturers Association, Inc. (JPMA), Dorel Juvenile Group (DJG), several Safe Kids Worldwide coalitions, SafetyBeltSafe U.S.A., Safe Ride News Publications, the Car Seat Lady, the New York Governor's Traffic Safety Committee, Illinois Traffic Safety Leaders, the Vermont Governor's Highway Safety Program, Advocates for Highway and Auto Safety (Advocates), the Utah Highway Safety Office, Traffic Safety Projects (TSP), University of North Carolina Highway Safety Research Center (HSRC), Crash Survivors Network, the American Association for Justice (AAJ), and the Texas Agri-Life Extension-Texas A&M System.

they could not lock the belt and even when LATCH is available at the seating position. We believe that the continued availability of lockable belts provides parents and caregivers the flexibility needed to ensure that everyone can readily and safely install a CRS in their vehicle, whether they choose to use LATCH or the belts.

Many commenters elaborated on reasons some motorists choose to use the seat belts instead of LATCH to attach CRSs.<sup>10</sup>

Many commenters noted that LATCH anchors in some vehicles can be difficult to access, which can complicate installation of CRSs. We recognize there continue to be challenges in fitting some CRSs in a particular vehicle, notwithstanding improvements LATCH has made to vehicle-CRS compatibility. Accordingly, NHTSA has developed a new Vehicle-CRS fit program through the New Car Assessment Program that will provide caregivers with information about which CRSs fit their vehicles best. We anticipate this program will further minimize incompatibility issues and improve consumers' familiarity and comfort with installing CRSs using LATCH over time.<sup>11</sup> We are also undertaking a program to assess whether some improvements to LATCH are needed.<sup>12</sup> At the same time, we believe that retaining the lockable belt requirement in FMVSS No. 208 is also needed to facilitate an easy installation of a CRS in a vehicle when the belts are used, and a secure fit of the CRS to the vehicle seat.

Some commenters indicated that some consumers use the belts because they do not have a choice in using LATCH. Some commenters noted that since the time that LATCH was adopted, CRSs have evolved so that more and more of them are designed to accommodate heavier children. Several CRS manufacturers now offer

<sup>10</sup> Some elaborated on reasons for supporting lockability that were unrelated to the use of the belts to attach CRSs. Some commenters stated that lockable lap belts are used to prevent children in a booster seat or children with behavioral problems or special needs, who cannot sit still, from manipulating the seat belt. Some noted that locking the belts adjacent to a restrained child passenger prevents children from playing with the belt and wrapping it around their neck. With regard to the latter point, we note that NHTSA recommends that if a child has an unused seat belt within reach, the caregiver should buckle unused seat belt and lock the seat belt using the lockability feature. <http://www.nhtsa.gov/Driving+Safety/Child+Safety/Keeping+Kids+Safe+-+Seat+Belt+Entanglement>.

<sup>11</sup> 76 FR 10637, (Feb. 25, 2011).

<sup>12</sup> See NHTSA 2011–2013 Rulemaking and Research Priority Plan, p. 16, [http://www.nhtsa.gov/staticfiles/rulemaking/pdf/2011-2013\\_Vehicle\\_Safety-Fuel\\_Economy\\_Rulemaking-Research\\_Priority\\_Plan.pdf](http://www.nhtsa.gov/staticfiles/rulemaking/pdf/2011-2013_Vehicle_Safety-Fuel_Economy_Rulemaking-Research_Priority_Plan.pdf).

harnessed-CRSs for children with weights above 40 lb. The harnessed-CRSs must be attached to the vehicle seat by some means. Yet, many vehicle manufacturers have specified a maximum load of 40 lb to 48 lb for the LATCH anchors in their vehicles. Commenters requested that the agency retain the belt lockability requirement, despite the existence of LATCH, to accommodate children weighing more than the manufacturer-recommended weight limit for LATCH anchors of vehicles in which they ride. When the child's weight bypasses the weight limit, the caregiver will have to detach the CRS from the LATCH anchors and re-attach the CRS using the seat belt. In that event, it would facilitate the installation if the belt were lockable. Similarly, some commenters pointed out that retaining the lockability requirement provides flexibility to caregivers in deciding where car beds and harnesses could be installed. These CRSs are not required by FMVSS No. 213 to have LATCH attachments.

The agency acknowledges that caregivers need to use seat belts to install the above CRSs. Retaining the lockability requirement will provide caregivers the greatest flexibility to choose a DSP where they could achieve an easy and secure installation.

### Conclusion

The agency has decided to retain the belt lockability requirement for LATCH-equipped DSPs and is rescinding the belt lockability sunset in this final rule. We believe that retaining the lockable belt requirement in FMVSS No. 208 will help caregivers to properly and securely install CRSs in vehicles.

### Rulemaking Analyses and Notices

#### A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the DOT's regulatory policies and procedures. This final rule was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866, "Regulatory Planning and Review." It is not considered to be significant under E.O. 12866 or the Department's regulatory policies and procedures. The agency is seeking to ensure that lap belts continue to be lockable in vehicles manufactured on or after September 1, 2012. The rulemaking would not affect current costs of manufacturing lap belt systems. The minimal impacts of today's amendment do not warrant preparation of a regulatory evaluation.

### B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this action on small entities. I hereby certify that this rule would not have a significant impact on a substantial number of small entities. The final rule would affect motor vehicle manufacturers, multistage manufacturers and alterers, but the entities that qualify as small businesses would not be significantly affected by this rulemaking because they are already required to comply with the lockability requirements and have been since 1995. This final rule removes the sunset of the requirement to ensure that lap belts continue to be lockable in vehicles manufactured on or after September 1, 2012. The rulemaking would not affect current costs of manufacturing lap belt systems.

### C. Executive Order 13132

NHTSA has examined today's rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule would 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."

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: "When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter." 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision set forth above is subject to a savings clause under which "[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a

person from liability at common law." 49 U.S.C. 30103(e) Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (e.g., the language and structure of the regulatory text) and objectives of today's rule and finds that this rule, like many NHTSA rules, prescribes only a minimum safety standard. As such, NHTSA does not intend that this rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard announced here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.<sup>13</sup>

<sup>13</sup> We note that AAJ submitted a comment to the September 12, 2008 NPRM questioning the agency's inclusion of a discussion of the preemptive effect of the rule in the preamble of the NPRM. A June 14, 2010 final rule on FMVSS No. 305, *Electric-powered vehicles: electrolyte spillage and electrical*

### D. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

### E. Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995, 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. This final rule would not establish any new information collection requirements.

### F. National Technology Transfer and Advancement Act

Under the National Technology 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." There are no voluntary consensus standards pertaining to the lockability requirements addressed today.

### G. Civil Justice Reform

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this final rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue

*shock protection*, has previously responded to AAJ's concerns about the agency's discussion of the preemptive effect of safety standards. See, 75 FR 33515, at 33524–33525 (Jun. 12, 2010). That discussion and this discussion here should fully respond to AAJ's concerns.

other administrative proceeding before they may file suit in court.

#### H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 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 (adjusted for inflation with base year of 1995). This final rule would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of \$100 million annually.

##### I. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. This rulemaking is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866.

##### J. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

##### K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

##### L. 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).

#### List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as set forth below.

#### 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 and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.208 is amended by; revising the introductory paragraph of S7.1.1.5 and removing S7.1.1.5(d).

The revision reads as follows:

##### § 571.208 Standard No. 208; Occupant crash protection.

\* \* \* \* \*

S7.1.1.5 Passenger cars, and trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 1995 shall meet the requirements of S7.1.1.5(a), S7.1.1.5(b) and S7.1.1.5(c).

\* \* \* \* \*

Issued on: August 22, 2011.

**David L. Strickland,**  
Administrator.

[FR Doc. 2011-21946 Filed 8-26-11; 8:45 am]

**BILLING CODE 4910-59-P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 635

[Docket No. 110120049-1485-02]

RIN 0648-BA69

##### Atlantic Highly Migratory Species; Atlantic Shark Management Measures

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

**ACTION:** Final rule.

**SUMMARY:** NMFS hereby implements the International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations 10-07 and 10-08, which prohibit the retention, transshipping, landing, storing, or

selling of hammerhead sharks in the family *Sphyrnidae* (except for *Sphyrna tiburo*) and oceanic whitetip sharks (*Carcharhinus longimanus*) caught in association with ICCAT fisheries. This rule affects the commercial HMS pelagic longline (PLL) fishery and recreational fisheries for tunas, swordfish, and billfish in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico. This action implements ICCAT recommendations, consistent with the Atlantic Tunas Convention Act (ATCA), and furthers domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective September 28, 2011.

**ADDRESSES:** Supporting documents, including the Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis (EA/RIR/FRFA), are available from Peter Cooper, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East West Highway, Silver Spring, MD 20832. These documents and others, such as the Fishery Management Plans described below, also may be downloaded from the HMS Web site at <http://www.nmfs.noaa.gov/sfa/hms/>.

**FOR FURTHER INFORMATION CONTACT:** Peter Cooper, Michael Clark, or Karyl Brewster-Geisz by phone: 301-427-8503 or by fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The U.S. Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The U.S. Atlantic tuna and tuna-like species fisheries are managed under the dual authority of the Magnuson-Stevens Act, and ATCA, 16 U.S.C. 971 *et seq.* ATCA authorizes the Secretary of Commerce (Secretary) to promulgate such regulations as necessary and appropriate to carry out ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries (AA), NOAA.

On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, that implemented the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). This FMP consolidated management of all Atlantic HMS (*i.e.*, sharks, swordfish, tunas, and billfish) into one comprehensive FMP. The implementing regulations for Atlantic HMS are at 50 CFR part 635.

ICCAT is responsible for the conservation of tuna and tuna-like