

Commodity	Parts per million
* * * *	*
Egg	0.01
* * * *	*
Poultry, meat byproducts	0.01
* * * *	*

(b) Section 18 emergency exemptions.
[Reserved]

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[FR Doc. 2012-28472 Filed 11-27-12; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2010-0032]

RIN 2127-AK82

Federal Motor Vehicle Safety Standards; Side Impact Protection

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

ACTION: Final rule; correcting amendments.

SUMMARY: On August 24, 2011 we published a final rule responding to a petition for reconsideration of a final rule on the Federal motor vehicle safety standard for side impact protection. In today’s document, we correct a minor error in that rule. The agency is also correcting several typographical errors in the standard.

DATES: This rule is effective November 28, 2012.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Louis N. Molino, NHTSA Office of Crashworthiness Standards, telephone 202-366-1740. For legal issues, you may call Deirdre Fujita, NHTSA Office of Chief Counsel, telephone 202-366-2992. You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This document makes two corrections to Federal Motor Vehicle Safety Standard (FMVSS) No. 214, “Side impact protection,” 49 CFR 571.214.

On September 11, 2007, NHTSA published a final rule adopting a pole test into FMVSS No. 214. Later, NHTSA published responses to petitions for reconsideration of parts of that rule, including a final rule published August 24, 2011 (76 FR 52880).¹ The August 24, 2011, document had a minor error, which we are correcting today. We are also making corrections to typographical errors in FMVSS No. 214 which occurred previously in the FMVSS No. 214 rulemaking.

Correcting Amendments

This notice makes minor corrections to FMVSS No. 214 in two areas. First, it removes S12.3.4(i) from the regulatory text of FMVSS No. 214. S12.3.4(i) contains obsolete instructions for leveling the head of a test dummy. In the preamble of the August 2011 final rule, NHTSA explained that it was moving head-leveling instructions contained in S12.3.4(i) to paragraph (h).² As a result of that move, S12.3.4(i) was no longer needed, but NHTSA inadvertently did not remove S12.3.4(i) from the regulatory text. To correct that error, we are removing and reserving S12.3.4(i), and making a conforming change to S12.3.4(j).

Second, the agency has identified minor typographical errors in several sections of FMVSS No. 214 that occurred in the past. These errors are related to the positioning of the 5th percentile adult female dummy. In three of the five sections, S12.3.2(c), S12.3.3(c) and S12.3.4(l), the “±” symbols for the discrete arm position settings were not set forth correctly, and in some instances extraneous text was inadvertently added when the amendments were printed in the Code of Federal Regulations. In S12.3.3(a)(4), the ± symbol was incorrectly represented by just a plus sign for the longitudinal centerline tolerance, and in S12.3.4(c), the metric unit of millimeters (mm) was used in both the metric tolerance of the seating reference point (SgRP) and its English conversion. This document corrects these errors.

This document also amends the authority citation for 49 CFR Part 571,

¹ See also 73 FR 32473 (June 9, 2008), and 75 FR 12123 (March 15, 2010).

² Note that a sentence in the preamble of the August 2011 final rule (76 FR at 52882, col. 2) stated: “Yet, as noted above for S12.3.2(a)(10), the instruction that was in S12.3.3(a)(9) and S12.3.4(h) (to ‘minimize the angle’) [emphasis added] has not been deleted but is now integrated into the procedures of S12.3.3(a)(9) and S12.3.4(h).” This sentence referred to incorrect section numbers and should have stated “Yet, as noted above for S12.3.2(a)(10), the instruction that was in S12.3.3(a)(10) and S12.3.4(i) [emphasis added] (to ‘minimize the angle’) has not been deleted but is now integrated * * *.”

by changing the citation to the DOT regulation setting forth delegations made by the Secretary to Departmental officials.³

List of Subjects in 49 CFR Part 571

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

Accordingly, 49 CFR part 571 is corrected by making the following correcting amendments:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

- 1. The authority citation for part 571 of title 49 is revised to read as follows:
 - Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.
- 2. Section 571.214 is amended by:
 - a. Revising S12.3.2(c), S12.3.3(a)(4), S12.3.3(c), S12.3.4(c);
 - b. Removing and reserving S12.3.4(i) and
 - c. Revising S12.3.4(j) and S12.3.4(l).
 The revisions read as follows:

§ 571.214 Standard No. 214; Side impact protection.

* * * * *

S12.3.2 * * *

(c) *Driver arm/hand positioning.* Place the dummy’s upper arm such that the angle between the projection of the arm centerline on the midsagittal plane of the dummy and the torso reference line is 45° ± 5°. The torso reference line is defined as the thoracic spine centerline. The shoulder-arm joint allows for discrete arm positions at 0, ± 45, ± 90, ± 135, and 180 degree settings where positive is forward of the spine.

* * * * *

S12.3.3 * * *

(a) * * *

(4) Bench seats. Position the midsagittal plane of the dummy vertical and parallel to the vehicle’s longitudinal centerline and the same distance from the vehicle’s longitudinal centerline, within ± 10 mm (± 0.4 in), as the midsagittal plane of the driver dummy.

* * * * *

(c) *Passenger arm/hand positioning.* Place the dummy’s upper arm such that the angle between the projection of the arm centerline on the midsagittal plane of the dummy and the torso reference line is 45° ± 5°. The torso reference line is defined as the thoracic spine centerline. The shoulder-arm joint allows for discrete arm positions at 0, ±

³ See 77 FR 49964, August 17, 2012. Final rule updating Office of the Secretary of Transportation regulations delegating authority from the Secretary to Departmental officers.

45, \pm 90, \pm 135, and 180 degree settings where positive is forward of the spine.

* * * * *

S12.3.4 * * *

(c) Place the dummy on the seat cushion so that its midsagittal plane is vertical and coincides with the vertical longitudinal plane through the center of the seating position SgRP within \pm 10 mm (\pm 0.4 in).

* * * * *

(j) Measure and set the dummy's pelvic angle using the pelvic angle gauge. The angle is set to 20.0 degrees \pm 2.5 degrees. If this is not possible, adjust the pelvic angle as close to 20.0 degrees as possible while keeping the transverse instrumentation platform of the head as level as possible, as specified in S12.3.4(h).

* * * * *

(l) *Passenger arm/hand positioning.* Place the rear dummy's upper arm such that the angle between the projection of the arm centerline on the midsagittal plane of the dummy and the torso reference line is $45^\circ \pm 5^\circ$. The torso reference line is defined as the thoracic spine centerline. The shoulder-arm joint allows for discrete arm positions at 0, \pm 45, \pm 90, \pm 135, and 180 degree settings where positive is forward of the spine.

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Issued on: November 20, 2012.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 0912161432-2630-04]

RIN 0648-XT37

Endangered and Threatened Wildlife and Plants; Endangered Status for the Main Hawaiian Islands Insular False Killer Whale Distinct Population Segment

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

ACTION: Final rule.

SUMMARY: In response to a petition from the Natural Resources Defense Council, we, the NMFS, issue a final determination to list the Main Hawaiian Islands insular false killer whale (*Pseudorca crassidens*) distinct

population segment (DPS) as an endangered species under the Endangered Species Act (ESA). We intend to consider critical habitat for this DPS in a separate rulemaking. The effect of this action will be to implement the protective features of the ESA to conserve and recover this species.

DATES: This final rule is effective on December 28, 2012.

ADDRESSES: National Marine Fisheries Service, Pacific Islands Regional Office, Protected Resources Division, 1601 Kapiolani Blvd., Suite 1110, Honolulu HI, 96814.

FOR FURTHER INFORMATION CONTACT: Krista Graham, NMFS, Pacific Islands Regional Office, 808-944-2238; Lisa van Atta, NMFS, Pacific Islands Regional Office, 808-944-2257; or Dwayne Meadows, NMFS, Office of Protected Resources, 301-427-8403. The final rule, references, and other materials relating to this determination can be found on our Web site at http://www.fpir.noaa.gov/PRD/prd_false_killer_whale.html.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2009, we received a petition from the Natural Resources Defense Council requesting that we list the insular population of Hawaiian false killer whales as an endangered species under the ESA and designate critical habitat concurrent with listing. The petition considered the insular population of Hawaiian false killer whales and the Hawaii insular stock of false killer whales recognized in the 2008 Stock Assessment Report (SAR) (Carretta *et al.*, 2009) (available at <http://www.nmfs.noaa.gov/pr/pdfs/sars/>), which we completed as required by the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*), to be synonymous. However, in light of new information in the draft 2012 SAR (Carretta *et al.*, 2012b) that identifies a third stock of false killer whales associated with the Northwestern Hawaiian Islands (discussed later), for the purposes of this listing decision we now refer to the Hawaiian insular false killer whale as the Main Hawaiian Islands (MHI) insular population of false killer whales.

On January 5, 2010, we determined that the petitioned action presented substantial scientific and commercial information indicating that the petitioned action may be warranted, and we requested information to assist with a comprehensive status review of the species to determine if the MHI insular false killer whale warranted listing under the ESA (75 FR 316). A biological

review team (BRT; Team) was formed to review the status of the species and the report (Oleson *et al.*, 2010) (hereafter "status review report") was produced and used to generate the proposed rule. Please refer to our Web site (see **FOR FURTHER INFORMATION CONTACT**) for access to the status review report and the reevaluation of the DPS designation (discussed later), which details MHI insular false killer whale biology, ecology, and habitat, the DPS determination, past, present, and future potential risk factors, and overall extinction risk.

On November 17, 2010, we proposed to list the MHI insular false killer whale DPS as an endangered species under the ESA (75 FR 70169), and solicited comments from all interested parties including the public, other governmental agencies, the scientific community, industry, and environmental groups. Specifically, we requested information regarding: (1) Habitat within the range of the insular DPS that was present in the past, but may have been lost over time; (2) biological or other relevant data concerning any threats to the MHI insular false killer whale DPS; (3) the range, distribution, and abundance of the insular DPS; (4) current or planned activities within the range of the insular DPS and their possible impact on this DPS; (5) recent observations or sampling of the insular DPS; and (6) efforts being made to protect the MHI insular false killer whale DPS. The proposed rule also provides background information on the biology and ecology of the MHI insular false killer whale.

Since the publication of the proposed rule in November 2010, we have identified a previously unrecognized Northwestern Hawaiian Islands (NWHI) population of false killer whales and have received updated satellite tagging information and other new research papers on the MHI insular population. The new NWHI population has been identified as a separate stock for management purposes in the draft 2012 SAR (Carretta *et al.*, 2012b). Because this new information could be relevant to the final determination of whether the MHI insular false killer whale qualifies as a DPS for listing under the ESA, on September 18, 2012, we published a Notice of Availability in the **Federal Register** (77 FR 57554) announcing the availability of this new information and the reopening of public comment for a 15-day period pertaining to the new information. We received comments from 15 commenters during this reopened period. Summaries of these comments are included below