

Federal Communications Commission.
William F. Caton,
Acting Secretary.
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 94-57; Notice 02]

RIN 2127-AF33

Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages

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

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 210, *Seat Belt Assembly Anchorages*, to eliminate the sole exception to the requirement in paragraph S4.1.2 for the installation of anchorages for either a Type 1 or a Type 2 seat belt assembly at any designated seating position for which Standard No. 208, *Occupant Crash Protection*, requires the installation of a Type 1 or a Type 2 seat belt. The sole exception is for passenger seats in buses. The practical effect of Standard No. 210's not requiring anchorages for the bus passenger seats is that the anchorages for the Type 1 seat belt assemblies required at passenger seats in small buses are not currently required to comply with the strength, location and other performance requirements of Standard No. 210. This final rule will correct this oversight.

DATES: Effective Date: The amendments made in this rule are effective on February 21, 1995.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than February 21, 1995.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Clarke Harper, Office of Vehicle Safety Standards, NRM-12, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366-4916.

SUPPLEMENTARY INFORMATION: On July 13, 1994, NHTSA published a notice of

proposed rulemaking (NPRM) proposing to require the installation of anchorages for either a Type 1 or a Type 2 seat belt assembly at any seating position for which Standard No. 208 requires the installation of a Type 1 or a Type 2 seat belt (59 FR 35670). As explained in the NPRM, NHTSA believed this amendment was necessary to correct an oversight in a final rule published on November 2, 1989. That final rule amended Standard No. 208, *Occupant Crash Protection*, to require, among other changes, Type 2 (lap/shoulder) seat belts at all front outboard seating positions in small buses and Type 1 (lap) seat belts at all other seating positions in small buses (54 FR 46257).

In the preamble to the final rule, the agency stated that it did not need to make corresponding amendments to Standard No. 210, *Seat Belt Assembly Anchorages*, to require the installation of anchorages. Anchorages required by Standard No. 210 must meet the strength, location and other performance requirements of that standard. In making this statement, the agency overlooked the exceptions in S4.1.2 of Standard No. 210. That section requires the installation of anchorages for a Type 1 or a Type 2 seat belt assembly for all designated seating positions, except positions required to have an anchorage for a Type 2 seat belt assembly and except for passenger seats in buses. Thus, the anchorages for the Type 1 seat belt assemblies required at passenger seats in small buses by the November 2, 1989 final rule are not currently required to comply with Standard No. 210. The NPRM was intended to correct this oversight.

The agency received three comments on this NPRM. All of the commenters concurred with the suggested amendment with one comment. The comment from Ford Motor Company concerned an error in another final rule which omitted the term "forward-facing" from section S4.1.5.1(a)(3) of Standard No. 208. That error was corrected in a separate final rule published on November 29, 1994 (59 FR 60917). As none of the comments addressed issues associated with the July 13 NPRM, NHTSA is adopting the amendments as proposed.

In the NPRM, NHTSA proposed to make the amendment effective 30 days after publication, since NHTSA believed that the anchorages currently being installed by the manufacturers comply with the requirements of Standard No. 210. One commenter specifically addressed this issue and agreed that its products already complied with Standard No. 210's requirements.

Therefore, this final rule will be effective 30 days after publication.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures and determined that the action is not "significant" under those policies and procedures. While these anchorages are not currently required to comply with Standard No. 210, commenters did not disagree with NHTSA's stated belief that manufacturers do design these anchorages to comply with these requirements. Therefore, NHTSA does not expect any impact from this rule and concludes that preparation of a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA does not anticipate any impact from this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96-511), NHTSA notes that there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety

standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 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 571.210 is amended by revising S4.1.1, removing existing S4.1.2, redesignating existing S4.1.3(a) as S4.1.2(a), and revising existing S4.1.3(b) and redesignating it as S4.1.2(b) to read as follows:

§ 571.210 Standard No. 210, Seat Belt Assembly Anchorages.

* * * * *

S4.1.1 Seat belt anchorages for a Type 1 or a Type 2 seat belt assembly shall be installed for each designated seating position for which a Type 1 or a Type 2 seat belt assembly is required by Standard No. 208 (49 CFR 571.208). Seat belt anchorages for a Type 2 seat belt assembly shall be installed for each designated seating position for which a Type 2 seat belt assembly is required by Standard No. 208 (49 CFR 571.208).

S4.1.2

* * * * *

(b) The requirement in S4.1.1 of this standard that seat belt anchorages for a Type 1 or a Type 2 seat belt assembly shall be installed for certain designated seating positions does not apply to any such seating positions that are equipped with a seat belt assembly that meets the frontal crash protection requirements of S5.1 of Standard No. 208 (49 CFR 571.208).

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Issued on January 13, 1995.

Ricardo Martinez,
Administrator.

[FR Doc. 95-1344 Filed 1-18-95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 950106004-5004-01; I.D. 121494C]

RIN 0648-AB79

Endangered Fish or Wildlife; Special Prohibitions; Approaching Humpback Whales in Hawaiian Waters

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

ACTION: Final rule.

SUMMARY: NMFS issues a rule that prohibits aircraft from approaching closer than 1,000 ft (300 m) to a humpback whale, and prohibits vessels or people from approaching by any means closer than 100 yd (90 m) to a humpback whale in Hawaiian waters. These provisions were contained in an interim rule issued in 1987. The interim rule also identified cow/calf waters and contained provisions concerning approaches to humpback whales in these areas. Section 17 of the Marine Mammal Protection Act Amendments of 1994 terminated the latter provisions. This rule implements the statutory change.

EFFECTIVE DATE: January 19, 1995.

ADDRESSES: Hilda Diaz-Soltero, Regional Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Eugene T. Nitta, Protected Species Program Manager, 808-973-2937; Dean Wilkinson, Marine Mammal Division, Office of Protected Resources, 301-713-2322; James H. Lecky, Chief, Protected Species Management Division, 310-980-4015.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 1987, NMFS published an interim rule (52 FR 44912-44915) regulating the approach to humpback whales in Hawaii (50 CFR 222.31). Paragraph (b) described certain waters as cow/calf waters and specified a minimum approach distance of 300 yd (270 m) to humpback whales in these areas. Section 17 of the Marine Mammal Protection Act Amendments of 1994 (Public Law 103-238) provides that it is legal to approach no closer than 100 yd (90 m) to a humpback regardless of whether the approach is made in waters

designated as cow/calf waters. Section 17(b) of the statute provides:

Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

This rule implements the statutory provision. The change to the regulations is nondiscretionary and technical in nature.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866. Because this rule implements a statutory determination under which the Agency has no flexibility for implementation, the Assistant Administrator for Fisheries, NOAA, under section 553(b) (B) and (d) of the Administrative Procedure Act (5 U.S.C. 553 *et seq.*) for good cause finds that it is unnecessary to provide notice and public comment on this rule, or to delay for 30 days its effective date. As NMFS is unable to consider alternatives to the statutory mandate, the preparation of an environmental assessment under the National Environmental Policy Act is not required, and none was prepared. Because this rule is being issued as a final rule without prior public comment, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, and none has been prepared. This final rule is expected to result in no economic costs to the public.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: January 12, 1995.

Charles Karnella,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 222 is amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531-1543.

2. Section 222.31 is revised to read as follows:

§ 222.31 Approaching humpback whales in Hawaii.

Except as provided in subpart C (Endangered Fish or Wildlife Permits) of this part it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause