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If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for this notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for future rulemaking. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: April 2, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96-8648 Filed 4-5-96; 8:45 am]

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49 CFR Part 571

[Docket No. 96-31; Notice 1]

RIN 2127-AF87

Federal Motor Vehicle Safety Standards; Windshield Defrosting and Defogging Systems

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

ACTION: Notice of proposed rulemaking.

SUMMARY: NHTSA sets forth alternative proposals for changing the Federal Motor Vehicle Safety Standard on windshield defrosting and defogging systems. The proposals range from applying performance requirements to the systems in light trucks and multipurpose passenger vehicles to rescinding the Standard. This action is part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative.

DATES: Comments must be received on or before May 23, 1996.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Richard Van Iderstine, Office of Vehicle Safety Standards, NPS-21, telephone (202) 366-5280, FAX (202) 366-4329.

For legal issues: Ms. Dorothy Nakama, Office of Chief Counsel, NCC-20, telephone (202) 366-2992, FAX (202) 366-3820.

Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments should not be sent or faxed to these persons, but should be sent to the Docket Section.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995, directive "Regulatory Reinvention Initiative" from the President to the heads of departments and agencies, NHTSA undertook a review of its regulations. During the course of this review, NHTSA identified regulations that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, application, or appropriateness. Among these regulations is Federal Motor Vehicle Safety Standard No. 103, *Windshield*

defrosting and defogging systems 49 CFR 571.103). After reviewing below the background of the standard, NHTSA explains why it is proposing changes to Standard No. 103.

Background of Standard No. 103

Standard No. 103 was issued in 1967 (32 FR 2408) as one of the initial Federal Motor Vehicle Safety Standards (FMVSSs). The standard, applicable to passenger cars, multipurpose passenger vehicles (MPVs), trucks, and buses, specifies in S4.1 that each of these vehicles shall have a windshield defrosting and defogging system.

Standard No. 103 specifies performance requirements for the windshield defrosting and defogging systems in passenger cars, but not for the systems in the other types of vehicles covered by the Standard. S4.2 of Standard No. 103 specifies that each passenger car windshield defrosting and defogging system shall meet specified provisions of SAE Recommended Practice J902 (SAE J902), "Passenger Car Windshield Defrosting Systems," August 1964.

SAE J902 establishes uniform test procedures and minimum performance requirements for the "critical area" of the windshield and for the "entire windshield." SAE J902 prescribes a laboratory evaluation of defroster systems during which a known quantity of water is sprayed on the windshield, forming an ice coating, to provide uniform and repeatable test results. However, while Standard No. 103 incorporates the test procedures and performance requirements of SAE J902, it does not incorporate the SAE J902's definition of "critical area" and "entire windshield." Instead, Standard No. 103 substitutes areas of the windshield determined in accordance with Standard No. 104, "Windshield Wiping and Washing Systems." It substitutes Area C from Standard No. 104 for the "critical area" and Area A for the "entire windshield."

Vehicles manufactured for sale in the "noncontinental United States," which have tropical climates and where snow and icing conditions are thus virtually unknown, have the option of either meeting S4.1 of Standard No. 103 (i.e., installing a windshield defrosting and defogging system) or installing a windshield defogging system which operates either by applying heat to the windshield or by dehumidifying the air inside the passenger compartment of the vehicle. Since air conditioners dehumidify the air in addition to cooling it, all vehicles with air conditioners have defogging capability,

whether or not they have a separate defrosting and defogging system.

Standard No. 103 has had a fairly uneventful history. Very few changes have been made to it since its promulgation, other than an amendment in 1994 to accommodate electric-powered vehicles.

NHTSA's Review of Standard No. 103 and Proposals for Change

Based on its review of Standard No. 103 under the President's Regulatory Reform Initiative, NHTSA offers three proposals for changes to the Standard and seeks public comment on each proposal. The proposals are: (1) Rescinding the Standard; (2) upgrading the light truck and MPV requirements to make them equivalent to the passenger car requirements; and (3) eliminating duplicative language by combining Standard Nos. 103 and 104 into a single safety standard and retitling it *Windshield clearance systems*, since Standard No. 103 presently references provisions in Standard No. 104.

Due to the relative simplicity of the proposals, the agency is not setting forth precise regulatory language for implementing the proposals.

In addition to seeking comments on each of the three proposals, the agency also seeks comment on the option of making no changes to the Standard.

1. Proposal One—Rescind Standard No. 103

NHTSA's first alternative proposal is to rescind Standard No. 103. To adopt this proposal, NHTSA would conclude that even if Standard No. 103 should be rescinded, manufacturers would continue to provide means to defrost and defog windshields. It is widely recognized that, in icing or highly humid conditions, a motor vehicle must have some means for keeping the windshield clear so that the driver can view the road ahead. More important, the fact that light trucks and MPVs provide defrosting and defogging performance comparable to that in passenger cars, despite the absence of performance requirements for light trucks and MPVs, could be said to indicate that passenger cars would continue to provide that level of performance in the absence of performance requirements.

Market forces (in the form of customer demand) would be highly likely to ensure that most vehicle manufacturers continue to provide windshield defrosting and defogging systems in motor vehicles. Customer magazines and consumers themselves would be likely to react negatively to vehicles that do not have adequate windshield

defrosting and defogging systems. It should also be noted that nearly 75 percent of all cars have a rear defroster, although this is not required by Standard No. 103, indicating the working of market forces in this area.

NHTSA notes that if Standard No. 103 were rescinded, some States might adopt regulations requiring windshield defrosting and defogging systems or even regulate their performance. Were the States to adopt such regulations, there would not be any express preemption under 49 U.S.C. section 30103(b), Preemption, of State requirements dissimilar to those currently in Standard No. 103. It also does not appear likely that a court would find any implied Federal preemption of State requirements, regardless of whether they are similar or dissimilar to those in the Standard. A State regulation addressing the same subject as a rescinded Federal regulation would be impliedly preempted only if the State regulation conflicted with or otherwise frustrated achieving the purposes of the Federal statute. Even if the agency were to conclude that no regulation, Federal or State, of windshield defrosting and defogging is necessary, it is not readily apparent how State regulations, even ones differing from those of another State, on this subject would conflict with Federal law or have a deleterious effect on motor vehicle safety.

2. Proposal Two—Upgrading the MPV and Light Truck Requirements to Make Them Equivalent to the Passenger Car Requirements

In the last decade, sales of light trucks and multipurpose passenger vehicles (MPV) have increased substantially. In addition, these vehicles have been increasingly used to transport passengers. As a result, the numbers of deaths and injuries associated with those vehicles have substantially increased.

In response, NHTSA has amended some FMVSSs to ensure that the public is afforded the same level of protection whether they ride in a passenger car, light truck, or MPV. For example, by model year 1998, the requirements for key FMVSSs such as Standard No. 208, *Occupant crash protection*, and Standard No. 214, *Side impact protection*, will be virtually identical for passenger cars, light trucks, and MPVs.

In keeping with the trend to make FMVSS requirements uniform for all three of these types of vehicles, under this proposal NHTSA would specify performance requirements in Standard No. 103 for light trucks and MPVs. As noted above, Standard No. 103 presently

specifies no requirements for light trucks and MPVs, other than that they have a windshield defrosting and defogging system. This proposal would establish minimum performance requirements for windshield defrosting and defogging systems in light trucks and MPVs, including minimum requirements regarding the portions of the windshield that must be defrosted.

As part of this proposal, the agency would extend passenger car requirements for light trucks and MPVs, by extending S4.3's *Demonstration procedure* to light trucks and MPVs. However, the minimum windshield areas to be defrosted for light trucks and MPVs may differ somewhat than those for passenger cars, since the windshields of these various vehicle types differ, and the driver views different windshield areas of each vehicle type while viewing the road ahead. Because of potential differences in windshield viewing areas between the passenger cars and other vehicle types, NHTSA seeks public comment on extending S.4.3 to light trucks and MPVs.

Any minimum requirements for windshield defrosting in light trucks and MPVs would likely be based on the defrosted areas specified in SAE Recommended Practice J382 (SAE J382) "Windshield Defrosting Systems Performance Requirements—Trucks, Buses, and Multipurpose Vehicle" (January 1971). Paragraph 3.1 of SAE J382 describes the portions of the windshield that must be defrosted as follows: Area A (the largest area, encompassing both the driver's and front passenger's view), Area B (an area somewhat smaller than Area A) and Area C (the smallest area, in front of the driver), described in Table 1 of SAE J382.

NHTSA believes that if requirements concerning minimum windshield defrosted areas were to be adopted for light trucks and MPVs, the costs, if any, incurred by manufacturers would be slight. It appears that virtually all light trucks and MPVs already meet SAE J382's minimum defrosted area requirements, thus eliminating any possibility of a need for design changes. Nevertheless, NHTSA seeks public comment on cost increases. The potential for a slight cost increase comes from the possibility that the manufacturers may not currently be doing as much performance testing as they would if those requirements were adopted.

The agency does not propose to extend Standard No. 103 to heavier trucks and buses, as it is not aware of an SAE or other standard for windshield

defrosting and defogging systems on heavier trucks and buses. NHTSA therefore requests information whether there are any industry (or other) standards for windshield defrosting and defogging systems on trucks and buses with a gross vehicle weight rating (GVWR) over 10,000 lbs. If such a standard exists, should NHTSA consider including it in Standard No. 103, making Standard No. 103 apply to trucks and buses with a GVWR over 10,000 lbs.?

Consistent with the agency's intent to make Standard No. 103 as uniform as possible for all vehicle types, if Proposal Two is adopted, NHTSA also proposes to remove from Standard No. 103, S4.(b) that applies to vehicles sold in the "noncontinental United States." As earlier described, S4.(b) provides that each passenger car, multipurpose passenger vehicle, truck and bus manufactured for sale in the noncontinental U.S. may, at the option of the manufacturer, have a windshield defogging system which operates differently than the generally applicable requirements. NHTSA requests public comment whether S4.(b) should be removed.

3. Proposal Three—Combining Standard Nos. 103 and 104

NHTSA's third alternative proposal is to combine Standards Nos. 103 and 104 to make the standards easier to comprehend and apply. The two standards are already substantially interconnected. Standard No. 103 references tables in Standard No. 104 to establish the angles used in locating the defrosted areas. If the two standards were combined, the single standard would be titled as a standard on windshield clearance systems. In addition to seeking comments on this proposal, NHTSA would entertain comments on combining this proposal with the preceding proposal.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures.

For Proposal One, NHTSA tentatively concludes that if that proposal were adopted as a final rule, there may be slight cost savings to industry, since manufacturers would no longer need to

test vehicles for compliance with Standard No. 103. The cost savings would be so minimal that NHTSA is unable to quantify them. NHTSA tentatively believes manufacturers likely would continue to provide essentially the same level of defrosting and defogging capability as they currently provide.

With respect to Proposal Two, it is NHTSA's tentative conclusion that adoption of that proposal might result in only slightly increased costs to industry, due to testing to new specifications. However, these potential increased costs are so minimal that NHTSA is unable to quantify them.

If Proposal Three were adopted as a final rule, NHTSA anticipates no changes in costs to industry, since no substantive changes to Standard No. 103 would be made.

Based on the foregoing, the agency concludes that the potential impacts are so minimal as not to warrant preparation of a full regulatory evaluation.

2. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rule under the Regulatory Flexibility Act. I hereby certify that this rule would not have a significant economic impact on a substantial number of small entities. As noted above, NHTSA tentatively concludes that only Proposal Two, if adopted as a final rule, might result in slightly increased costs to manufacturers, due to testing to new specifications. Since the cost of new motor vehicles would not be affected, small entities which purchase motor vehicles would similarly not be affected. Therefore, an initial regulatory flexibility analysis has not been prepared.

3. National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

4. Executive Order 12612 (Federalism)

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

5. Civil Justice Reform

This proposed rule would 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.

Procedures for Submitting Comments

Interested persons are invited to submit comments on this notice of proposed rulemaking. It is requested but not required that 10 copies be submitted.

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Issued on: April 2, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96-8647 Filed 4-5-96; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AD20

Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of Public Comment Period.

SUMMARY: The Service issued a Draft Environmental Alternatives Analysis (EAA) for the proposed special rule for the conservation of the northern spotted owl on non-Federal lands in California and Washington, which is currently out for public comment. The proposed special rule was published in the Federal Register on February 17, 1995 (60 FR 9484). The comment period for both documents was scheduled to end on April 8, 1996. The intent of this document is to extend the comment period to June 3, 1996.

The Service has received numerous requests to extend the comment period for these documents from state regulatory agencies, conservation groups and industry officials in both Washington and California. In addition, the State of Washington has prepared a proposed rule under authority of the Washington Timber Practices Board that would address impacts of forest practices to the northern spotted owl. The state has asked the Service to consider their proposed state rule as a possible alternative to the current special rule proposed by the Service. The Service seeks additional comments from the interested public, agencies, and interest groups on the Draft EAA, the

proposed special rule, and on the State of Washington's proposed rule as a possible alternative to the rule currently proposed by the Fish and Wildlife.

DATES: The comment period for written comments is extended until June 3, 1996.

ADDRESSES: Comments and materials concerning this Draft Environmental Alternatives Analysis and the proposed rule should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181. The complete file for this proposed rule will be available for public inspection, by appointment during normal business hours, at the U.S. Fish and Wildlife Service, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, 4th Floor, Portland, Oregon 97204, (503/326-6218).

FOR FURTHER INFORMATION CONTACT: Mr. Curt Smith, Assistant Regional Director, Region 1, U.S. Fish and Wildlife Service, 3704 Griffin Lane S.E., Suite 102, Olympia, Washington 98501, (206/534-9330); or Ron Crete, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, Portland, Oregon 97232-4181, (503/326-6218).

SUPPLEMENTARY INFORMATION: The Service has prepared a draft document called an Environmental Alternatives Analysis (EAA) that describes and analyzes the potential environmental effects of the proposed special rule and six alternatives for the conservation of the northern spotted owl on non-Federal lands in Washington and California. Each alternative would revise to varying degrees the Federal prohibitions and exceptions regarding the incidental take of spotted owls on non-Federal lands in California and Washington. The proposed rule, analyzed in the Draft EAA as Alternative 3, was published in the Federal Register on February 17, 1995 (60 FR, No. 33, Page 9484).

In addition, the State of Washington has prepared a proposed rule to address the impacts of forest practices on northern spotted owls in that state. The state's proposed rule is similar in many ways to the Service's proposed 4(d) rule, although there are some differences. The state has asked the Service to consider the state rule as an alternative to the Service's current proposed rule.

The Service is in the process of analyzing the state rule, and plans to publish in the Federal Register within two weeks a summary of the state's rule and a comparison of that rule with the Service's proposed rule. The state's comment period for their proposed rule has expired, however, the Service is interested in receiving comment from

the interested public regarding the possibility of the Washington state rule as an alternative to the Service's currently proposed special rule. To receive a copy of the State of Washington proposed rule and the state's Draft Environmental Impact Statement, write to Washington State Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, Attn: Judith Holter.

The Service's Draft EAA, including all maps, tables, charts, and graphs, remains available on the Internet's World Wide Web at <http://www.r1.fws.gov/4deaa/welcome.html>.

Dated: April 3, 1996.

Don Weathers,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 96-8766 Filed 4-5-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 960401094-6094-01; I.D. 022296D]

RIN 0648-AI32

Western Pacific Crustacean Fisheries; Amendment 9

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement Amendment 9 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). The rule would establish a new annual harvest limitation program for the Northwestern Hawaiian Islands (NWHI) lobster fishery based on the status of stocks and an explicit level of risk of overfishing. This would eliminate operational problems with the current quota system. Current prohibitions on retaining juvenile lobsters and berried lobsters would be eliminated. The rule would establish framework procedures to implement regulatory changes if needed in the future. The rule is intended to maintain the productivity of the stocks while providing a reasonable opportunity for permit holders to participate in the fishery and to maintain their markets. The changes also would improve the