

(b) *Standard Report*—At a minimum, the State, the District of Columbia and Puerto Rico shall submit an error rate report to the Department, as required in § 98.100, made subsequent to the baseline submission report as set forth in § 98.102(a) which includes the following information on errors and resulting improper payments occurring in the administration of CCDF grant funds, including Federal Discretionary Funds (which includes any funds transferred from the TANF Block Grant), Mandatory and Matching Funds and State Matching and Maintenance-of-Effort (MOE Funds):

(1) All the information reported in the baseline submission, as set forth in § 98.102(a), updated for the current cycle;

(2) For each category of data listed in § 98.102(a)(1) through (5), States, the District of Columbia and Puerto Rico must include data and targets from the prior cycle in addition to data from the current cycle and targets for the next cycle;

(3) Description of whether the State, the District of Columbia or Puerto Rico met error rate targets set in the prior cycle and, if not, an explanation of why not;

(4) Discussion of the causes of improper payments identified in the prior cycle and actions that were taken to correct those causes, in addition to a discussion on the causes of improper payments identified in the current cycle and actions that will be taken to correct those causes in order to reduce the error rates; and

(5) Such other information as specified by the Secretary.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2007-29131]

RIN 2127-AI93

Federal Motor Vehicle Safety Standards; Occupant Protection in Interior Impact

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

ACTION: Final rule.

SUMMARY: Our safety standard on occupant protection in interior impact requires, in part, that light vehicles

provide head protection when an occupant's head strikes upper interior components, such as pillars, side rails, headers, and the roof during a crash. While these requirements already apply to most vehicles, the compliance date for altered vehicles and vehicles built in two or more stages is September 1, 2007. In April 2006, we responded to two petitions for rulemaking by proposing certain amendments to the head protection requirements as they apply to these vehicles. We also proposed to delay the compliance date of the requirements for these vehicles. In this document, after carefully considering both the safety benefits of the upper interior protection requirements and practicability concerns relating to vehicles built in two or more stages and certain altered vehicles, we are amending the standard to limit these requirements to only the front seating positions of those vehicles. In addition, we are excluding from the requirements a narrow group of multi-stage vehicles delivered to the final stage manufacturer without an occupant compartment. Finally, we have decided to delay the compliance date of the head impact protection requirements as they apply to final stage manufacturers and alterers until September 1, 2009.

DATES: The amendments made by this final rule are effective September 1, 2007. The compliance date for the head impact protection requirements for altered vehicles and vehicles built in two or more stages is September 1, 2009.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received not later than October 22, 2007.

ADDRESSES: Petitions for reconsideration should refer to the docket number above and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, 4th Floor, Washington, DC 20590.

See the **SUPPLEMENTARY INFORMATION** portion of this document (Section V; Rulemaking Analyses and Notices) for DOT's Privacy Act Statement regarding documents submitted to the agency's dockets.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590:

For technical and policy issues: David Sutula, Office of Crashworthiness Standards, telephone: (202) 366-3273, facsimile: (202) 366-7002, E-mail: David.Sutula@dot.gov.

For legal issues: Ari Scott, Office of the Chief Counsel, telephone: (202) 366-

2992, facsimile: (202) 366-3820, E-mail: Ari.Scott@dot.gov.

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I. Background

a. Previous History of Head Protection Requirements of FMVSS No. 201

On August 18, 1995, the National Highway Traffic Safety Administration (NHTSA) issued a final rule (August 1995) amending Federal Motor Vehicle Safety Standard (FMVSS) No. 201, "Occupant Protection in Interior Impact," to provide enhanced head impact protection.¹ The August 1995 final rule required passenger cars, and trucks, buses and multipurpose passenger vehicles (MPVs) with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less, to provide protection when an occupant's head strikes upper interior components, including pillars, side rails, headers, and the roof, during a crash. The final rule set minimum performance requirements for upper interior components by establishing target areas that must be padded or otherwise have energy absorbing properties to minimize head injury in the event of a crash. The final rule added procedures for a new in-vehicle component test in which a free-motion head form (FMH) is fired at certain target locations on the upper interior of a vehicle at an impact speed of 24 km/h (15 mph). Targets that are

¹ See 60 FR 43031, Aug. 18, 1995; Docket No. NHTSA-1996-1762-1.

located on or within 50 mm (2 inches) of dynamically deployable upper interior head protection systems (air bags systems) can, at the option of the manufacturer, be impacted at the reduced speed of 19 km/h (12 mph). Data collected from a FMH impact are translated into a Head Injury Criterion (HIC(d)) score. The resultant HIC(d) must not exceed 1000.

The 1995 final rule provided manufacturers with three alternate phase-in schedules for complying with the FMH impact requirements. At this time, all vehicles except altered vehicles and vehicles manufactured in two or more stages are required to comply with the FMH impact requirements. The compliance date for altered vehicles and vehicles manufactured in two or more stages to comply with these requirements has been delayed several times, and is presently September 1, 2007.²

b. Petitions for Rulemaking and Agency Response

This rulemaking was initiated in response to petitions for rulemaking submitted by the Recreation Vehicle Industry Association (RVIA) and the National Truck Equipment Association (NTEA). The member companies of RVIA and NTEA are generally considered final stage manufacturers and alterers. That is, they purchase incomplete vehicles from major manufacturers to serve as the basis for specialty vehicles (manufactured in two or more stages) for certain uses and markets, or alter completed vehicles prior to first retail sale. As such, the petitioners' members face a variety of challenges in certifying that their vehicles meet applicable safety standards. We note that with respect to vehicles manufactured in two or more stages, some multi-stage vehicles are built from chassis-cabs with a completed occupant compartment. Others are built from less complete vehicles, sometimes necessitating the addition by the final stage manufacturer of its own occupant compartment. The final stage manufacturer is responsible for certification of the completed vehicle, although certification can often "pass-through" from the incomplete vehicle manufacturer.

RVIA and NTEA petitioned the agency to permanently exclude certain types of altered vehicles and vehicles manufactured in two or more stages from these requirements. On April 24, 2006, the agency published in the **Federal Register** (71 FR 20932) a response to petitions for rulemaking;

notice of proposed rulemaking (NPRM)³ in response to those petitions. NHTSA granted the petitions in part and denied them in part, and proposed certain amendments to the standard.

II. Summary of the Notice of Proposed Rulemaking

As indicated above, the agency published its April 2006 NPRM in response to the RVIA and NTEA petitions. The NPRM proposed to limit the occupant compartment area subject to the FMH impact requirements in ambulances, motor homes, and other vehicles manufactured in two or more stages, as well as altered vehicles. Furthermore, the NPRM proposed to exclude from the requirements a narrow group of multi-stage vehicles delivered to the final stage manufacturer without an occupant compartment. Finally, the NPRM proposed to delay the effective date of the requirements to September 1, 2008.

a. Proposal To Limit the Area Subject to the FMH Impacts in Certain Vehicles

In ambulances and motor homes, the current standard excludes the occupant compartment area located more than 600 mm (24 inches) behind the seating reference point of the driver's seating position from the FMH impact requirements. For all other vehicles, the occupant compartment area located more than 600 mm (24 inches) behind the seating reference point of the rearmost designated seating position is similarly excluded from the FMH impact requirements.

For altered vehicles and vehicles manufactured in two or more stages, including motor homes and ambulances, we proposed to limit the area subject to the FMH impact requirements to not more than 300 mm (12 inches) behind the seating reference point of the driver's seating position. We stated that this would have the effect of limiting the FMH impact requirements to the front seating positions for these vehicles. We stated our belief that the distance reduction to 300 mm (12 inches) is more representative of the distance between the seating reference point and the upper seat back/head restraint location where the occupant's head is located. We also stated that because of the front head restraint height requirements, we believe it is unlikely that the head of a seated occupant would come in contact with bulkheads, partitions, or overhead cabinets and storage shelves located further than 300 mm (12 inches) behind

the seating reference point (SgRP) of the driver's seating position.

We stated that in developing this proposal, we had carefully considered both the safety benefits of the FMH requirements and practicability concerns relating to multistage vehicles. Based on previous estimates of the benefits of the FMVSS No. 201 final rule, and estimates from the National Automotive Sampling System, Crashworthiness Data System of the percent of injuries occurring to light truck occupants in multi-stage vehicles, the agency derived the following estimate of safety benefits. Requiring all multi-stage manufactured vehicles to meet FMVSS No. 201 would have annual benefits in the front seat of 16–22 fewer fatalities and 19–22 fewer AIS 2–5 injuries. However, in the rear seats, the benefits were estimated to be less than 1 fatality (which would round down to 0) and 1 AIS 2–5 injury. Thus, based on this analysis, excluding multi-stage vehicles from targets that could not be struck by the front row occupants would have a very small impact on safety.

Given the small safety benefits associated with the FMH impact requirements for rear seating positions and practicability concerns, we tentatively concluded that the FMH impact requirements should be limited to the front seating positions for these vehicles.

We noted that, as indicated in its petition, many commercial vehicles manufactured by NTEA members feature bulkheads or partitions located less than 600 mm (24 inches) behind the rearmost designated seating position. Bulkheads or partitions are used in a variety of work vehicles that haul odd-shaped objects that cannot be readily secured in the cargo area. These structures protect the driver and passenger from loose or shifting cargo or work equipment. NTEA had argued that the installation of bulkheads or partitions would likely require relocation of target areas originally certified by the incomplete vehicle manufacturer, thus significantly adding to the compliance burden.

We also noted that RVIA had argued that most conversion vans (CVs) and motor homes feature unique interior designs. Specifically, these vehicles include overhead cabinets, side valances, raised roof structures, and other unusual interior components. Among other things, RVIA stated that cooperative testing, suggested by NHTSA as a way to lessen compliance costs associated with FMH requirements, is not practicable because each RVIA member manufactures

² See 71 FR 51121, August 29, 2006.

³ Docket No. NHTSA–2006–24497.

unique vehicles, each substantially different from its competitors. RVIA argued that cooperative testing would eliminate interior customization, which would in turn result in a loss of market for CVs and motor homes.

We stated that we believed our proposal to effectively limit the FMH impact requirements to the front seating positions for these vehicles would provide appropriate relief to the industries represented by NTEA and RVIA, while continuing to meet the need for safety.

We noted that NTEA and RVIA members can ordinarily purchase incomplete vehicles that are already designed to meet the FMH impact requirements for the front seating positions. Under our proposal, final stage manufacturers would ordinarily be able to take advantage of pass-through certification by not changing the upper interior portions of the front of the vehicle.

We also stated that we believe the requirements are justified by safety. As indicated above, we estimate that requiring all multi-stage manufactured vehicles to meet FMVSS No. 201 would have annual benefits in the front seat of 16–22 fewer fatalities and 19–22 fewer AIS 2–5 injuries. We stated that given the safety significance of these requirements, we believed, in situations where final stage manufacturers use incomplete vehicles that have occupant compartments that either are designed to meet the FMH impact requirements for the front seating positions or can be purchased in a configuration that is designed to meet those requirements, it would be inconsistent with the need for safety to generally exclude the vehicles from these head impact protection requirements. We also noted that while final stage manufacturers will be able to submit petitions under subpart B of part 555, it is unlikely in this type of situation that the agency would find it in the public interest to exclude final stage manufacturers from the front seat head impact protection requirements of FMVSS No. 201 to facilitate customization of the upper interior portions of the front of the vehicle.

We noted that the proposal would, however, facilitate customization of the rear of vehicles, including conversion vans, where there would be no significant impact on safety. We also stated that we continue to believe that final stage manufacturers can use cooperative testing to determine the types of changes that can be made while enabling vehicles to continue to comply with the FMH requirements, including ones related to use of overhead cabinets, raised roof structures, and so forth. We

stated that while customization of the front portion of occupant compartments will be more difficult and may be more limited, it will by no means be eliminated.

b. Proposal To Exclude Vehicles Without a Finished Occupant Compartment From the FMH Impact Requirements

We tentatively concluded that a narrow group of multi-stage vehicles contains physical attributes that make compliance with the FMH impact requirements impracticable. These are vehicles built on a “stripped” chassis; i.e., an incomplete vehicle without an occupant compartment. The manufacturers of these vehicles would not be able to rely on pass-through certification. This is because these vehicles are highly customized and produced in quantities that would make compliance prohibitively expensive. Further, these vehicles are often equipped with partitions and bulkheads that present a further impediment to the compliance efforts. We noted that for vehicles manufactured from stripped chassis, the cost of meeting the FMH impact requirements could be substantial because alternative means of compliance such as pass-through certification are not available.

We stated that in the context of serving niche markets demanding specialized work vehicles that are not delivered to the final stage manufacturers with an intact occupant compartment (unlike for example, chassis cabs and cutaway vans), we believed that the physical limitations of these vehicles can adversely affect the ability of multi-stage manufacturers to design safety performance into their completed vehicles. Accordingly, we believed it appropriate to exclude this narrow group of vehicles from FMH impact testing.

c. Question Regarding Multi-Stage Vehicles With Raised Roofs

The NPRM also raised the issue of offering a manufacturer alternative for vehicles with raised roofs. This would allow the final stage manufacturer to certify that the vehicle meets the FMH impact requirements in either the original or altered configuration. The reasoning behind this was that while some test points have been altered due to the raised roof, those points are very unlikely to be impacted by a seated occupant.

d. Change of Effective Date

The NPRM proposed to delay the effective date of the FMH impact requirements as they apply to final stage

manufacturers and alterers until September 1, 2008.

III. Public Comments

Both NTEA and RVIA submitted comments generally supportive of the NPRM. Both entities supported the proposal to delay the effective date for compliance with the requirements to September 1, 2008. In addition, NTEA suggested that the date be extended further if the delay is not published by January 2007. The proposal to limit the area that is subject to the FMH impact requirements was also supported by both commenters. Finally, both parties were generally supportive of the proposal to exclude vehicles delivered to a final stage manufacturer without an occupant compartment from the FMH requirements.

While generally supportive of the NPRM, both entities suggested expanding the scope of vehicles excluded from the FMH impact requirements beyond that which was proposed by NHTSA. Citing the small size and economic difficulties of the recreational vehicle industry, RVIA stated that NHTSA should consider excluding CVs and motor homes from the FMH impact requirements. It argued that given the numerous interior layouts for these vehicles, a large number of tests would need to be performed, burdening the industry disproportionately. RVIA also reiterated its original cost estimates presented in its petition, stating that interior designs and layouts can change every year, thus making the industry unable to amortize testing costs over a number of years.

NTEA also supported expanding the scope of the FMH impact requirement exclusion to additional vehicles. In addition to vehicles delivered without an occupant compartment, NTEA suggested that multi-stage vehicles built from “chassis cutaways,” i.e., incomplete vehicles delivered with an occupant compartment but without the rear part of the chassis, should be excluded as well. NTEA stated that the occupant compartment in these vehicles is not delivered “intact,” because there is no rear wall. NTEA also requested clarification regarding which vehicles would be excluded.

Finally, NTEA provided comments concerning the testing of vehicles with bulkheads and partitions in relation to the FMH impact requirements. Specifically, it expressed concern that partition, bulkheads, and B-pillars on the majority of vehicles used commercially with a GVWR of 10,000 lbs. or less would fall within the proposed testing area. This, NTEA stated, would lead to high testing and

compliance costs for small manufacturers. In addition, NTEA asked for clarification on whether secondary headform hits would count towards the overall HIC(d) value, suggesting that they should not. NTEA also suggested that areas located less than 300 mm (12 inches) from the forward seating position, but behind bulkheads or partitions, should not be tested under the impact requirements.

IV. The Final Rule and Response to Public Comments

a. Limitation of the Areas Subject to FMVSS No. 201

The agency is adopting its proposal to limit, for multi-stage vehicles, the FMH impact requirements to the front of vehicles, i.e., we are excluding targets more than 300 mm (12 inches) behind the driver's SgRP. This change will maintain the vast majority of the safety benefits for multi-stage vehicles, while facilitating customization of the rear of vehicles.

As the cited safety data indicate, the vast majority of the safety benefits of the FMH impact accrue mainly in the front portions of the vehicle. Because of the front head restraint height requirements, we believe it is unlikely that the head of a seated occupant would come in contact with bulkheads, partitions, or overhead cabinets and storage shelves located further than 300 mm (12 inches) behind the seating reference point of the driver's seating position. Therefore, we believe that this final rule preserves the vast majority of the safety benefits provided by the FMH impact requirements for multistage vehicles.

We note that NTEA and RVIA members can ordinarily purchase incomplete vehicles that are already designed to meet the FMH impact requirements for the front seating positions. Thus, under our proposal, final stage manufacturers would ordinarily be able to take advantage of pass-through certification by not changing the upper interior portions of the front of the vehicle.

NTEA expressed concern about the installation of partitions and bulkheads behind the occupant seating compartment. It was concerned that the 300 mm (12 inches) distance from the driver's SgRP could include the B-pillar of the majority vehicles used commercially with a GVWR of 10,000 lbs. or less. It indicated that partitions and bulkheads could fall within the detailed area, and themselves become subject to testing.

NHTSA notes, as a general matter, that while partitions are not necessarily targeted by the FMH requirements,

secondary impacts⁴ on partitions are permitted as well as relocation of a targeted area in accordance with S10(b). In these cases, any secondary impacts would be incorporated into the total HIC(d) value, and any target areas that are relocated may fall upon a bulkhead or partition provided that the contact area is not specifically excluded from the test.

As indicated above, the purpose of excluding targets more than 300 mm (12 inches) behind the driver's SgRP is to address the special circumstances of final stage manufacturers, while maintaining the vast majority of the benefits from the FMH requirements. To the extent that bulkheads, partitions or other items located more than 300 mm (12 inches) behind the driver's SgRP could contribute to the HIC(d) value, final stage manufacturers could potentially need to add countermeasures to comply with FMVSS No. 201, as well as engage in testing, engineering analysis, or other means to have a basis for certifying compliance.

To ensure that the change we are making provides the intended accommodation for final stage manufacturers, we are providing that tests for altered vehicles and vehicles built in two or more stages do not include, within the time period for measuring HIC(d), any FMH contact with components rearward of the plane 300 mm (12 inches) behind the driver's SgRP. Of course, if it is possible to strike an intended target within the range of permissible approach angles without FMH contact with components rearward of that plane, the agency will test the target in that fashion. We note that the position we are taking on this specific issue should not be viewed as an indication of how we might address the issue of secondary impacts for other portions of FMVSS No. 201.

In order to take full advantage of this accommodation, a final stage manufacturer or alterer adding a partition or bulkhead needs to ensure that it is rearward of the plane 300 mm (12 inches) behind the driver's SgRP. NHTSA notes that it has surveyed several vehicles with partitions,⁵ and the closest partition was approximately 380 mm behind the driver's SgRP. We believe that partitions are ordinarily located more than 300 mm (12 inches)

⁴ Secondary impacts occur when part of the FMH (usually the chin) strikes in the vicinity of the intended target at or near the time that the forehead impact zone contacts that target, more specifically, within the HIC(d) calculation time period specified in S7.

⁵ We are placing in the docket a memorandum that discusses that survey.

behind the driver's SgRP in order to permit the seat to recline. Therefore, we believe the change we are adopting provides appropriate accommodation for final stage manufacturers and alterers.

We note, however, that if a final stage manufacturer or alterer wishes to add a partition or bulkhead closer than 300 mm (12 inches) behind the driver's SgRP, it can add any needed countermeasures (e.g., padding) to comply with FMVSS No. 201, and conduct testing, engineering analysis, or other means to have a basis for certifying compliance. It could do this on its own, in conjunction with the partition manufacturer, or as part of cooperative testing.

b. Areas Behind the Partition

In its comments, NTEA asserted that it is not practical to include targets that are behind the forward surface of a partition or bulkhead. NTEA argued that these targets could not possibly be contacted by the head of an occupant seated forward of the partition. The agency believes, for reasons discussed earlier, that partitions are ordinarily located more than 300 mm (12 inches) behind the driver's SgRP. Therefore, this issue would affect few vehicles. In any event, barring a particularly rare series of events (which would be unlikely to be alleviated by the installation of additional interior padding), the agency concurs that these areas are unlikely to be impacted by a person in the front occupant compartment, and it is therefore not appropriate to test areas behind such partitions or bulkheads. NHTSA is adjusting the rule to exclude these areas from the FMH impact requirements as well.

c. Conversion Vans and Recreational Vehicles

RVIA expressed concern that, given the small size of the manufacturers of these products, as well as the declining size of the market, meeting the FMH impact requirements is impractical. It requested that CVs and motor homes be completely excluded from the FMH impact requirements. While NHTSA recognizes that most manufacturers represented by RVIA meet the Small Business Administration (SBA) definition for small businesses, we do not believe that this should preclude these manufacturers from being required to meet the FMH impact requirements for the front seats.

We believe that the safety benefits of FMVSS No. 201 can be maintained without substantial burdens being imposed on multi-stage manufacturers. Much like other vehicles, CVs and

motor homes in this category are typically manufactured from an Original Equipment Manufacturer (OEM) chassis product that has a completed front passenger compartment. Most of these have Incomplete Vehicle Documents (IVDs), so that the final stage manufacturer has the option of purchasing an OEM incomplete vehicle that is pre-certified to meet the FMH impact requirements.⁶

While the RVIA states that small motor home and CV manufacturers expect to have to conduct substantial compliance testing at high costs, we do not believe that this is necessarily the case. Under our rule, as long as the final stage manufacturers preserve the OEM specifications in the forward area subject to the FMH impact requirements, they can customize the rear portion of the interior. By not changing the upper interior portions of the vehicle, they will be able to take advantage of pass-through certification. We continue to believe that these requirements are justified by the safety benefits cited above and discussed in the NPRM.

Moreover, as discussed in the NPRM, final stage manufacturers can use cooperative testing to determine the types of changes that can be made while enabling vehicles to continue to comply with the FMH requirements, including ones related to use of overhead cabinets, raised roof structures, and so forth. Thus, while customization of the front portion of occupant compartments will be more difficult and may be more limited, it is by no means eliminated.

d. Multi-Stage Vehicles Completed From a Cutaway Chassis

As part of the final rule, we have decided to adopt our proposal to exclude from the FMH requirements a narrow group of multi-stage vehicles delivered to the final stage manufacturer without an occupant compartment. However, we are not extending that exclusion to vehicles completed from a "chassis cutaway." A chassis cutaway consists of part of a chassis, which is delivered to a final stage manufacturer without a back wall. In its comments, NTEA suggested that a chassis cutaway is not "intact," and therefore should be excluded from the FMH impact requirements. NTEA stated that it would

not be able to certify a vehicle built from a chassis cutaway using pass-through certification because the OEM provides no guidelines for maintaining "vital spatial clearance." This lack of guidelines, NTEA claims, prohibit the use of reasonable engineering analysis for pass-through compliance with FMVSS No. 201.

NHTSA does not accept NTEA's argument in this area for several reasons. First, provided no changes have been made to the portion of the occupant compartment forward of the rearmost part of the B-pillar (and if located 300 mm rearward of the driver's SGRP), it is reasonable for a manufacturer to assume that all "vital spatial clearances" will have been maintained. Therefore, in these situations, the final stage manufacturer can take advantage of the available pass-through certification.

Second, we are aware of the availability of some cutaway chassis vehicles that can be used in this manner by final stage manufacturers. NHTSA is aware of cutaway vehicles manufactured by Ford and Daimler-Chrysler that are provided with IVDs certifying that the vehicle will meet the FMH impact requirements of FMVSS No. 201 forward of the cut point in the forward occupant compartment.⁷ This includes compliance with all applicable spatial clearance requirements. Because these vehicles are available to second stage manufacturers, we do not believe that compliance will be overly burdensome, and cutaway vehicles do not merit additional compliance relief.

e. Delay of Compliance Date

Both commenters supported NHTSA's proposal to delay the implementation date of the FMH impact requirements. NTEA further requested that NHTSA delay the implementation date until September 1, 2009 if the final rule is not published prior to January 2007. NHTSA agrees with the commenters that the extension is necessary to provide manufacturers of altered vehicles sufficient time to comply with the FMH impact requirements. Considering the timing of this final rule, we are delaying the implementation until September 1, 2009.

f. Miscellaneous Issues

NHTSA makes note of two additional issues that were addressed in the NPRM. First, in the NPRM, we requested comments on an issue related to multistage vehicles with raised roofs. We stated that we were considering

⁷ We are placing in the docket a memorandum that discusses some of these vehicles.

permitting manufacturers to meet requirements for either the target locations as calculated for the original configuration or changed configuration. We did not receive comments on this issue, and have decided not to adopt such a provision.

Second, we proposed to extend the scope of the agency's new more streamlined temporary exemption procedures such that multistage manufacturers would be able to petition NHTSA for an exemption from the FMH impact requirements. See 71 FR at 20936. The new procedures streamline the temporary exemption process by allowing an association or another party representing the interests of multiple manufacturers to bundle exemption petitions for a specific vehicle design, thus permitting a single explanation of the potential safety impact and good faith attempts to comply with the standards. We noted, however, that the same issue was also before the agency in another proceeding. In a final rule published in the **Federal Register** (71 FR 28179) on May 15, 2006, this procedure was extended to final stage manufacturers in relation to the FMH requirements of FMVSS No. 201. Therefore, this final rule does not specifically address that issue. We also note that the May 2006 final rule addressed a number of other relevant issues relating to final stage manufacturers and alterers.

g. Effective Date

We find good cause for making this rule effective in less than 30 days, i.e., September 1, 2007. As discussed above, we have concluded that certain amendments should be made that will provide relief to final stage manufacturers and alterers, and also that the compliance date of the relevant requirements should be delayed to September 1, 2009. If the September 1, 2007 compliance date were not changed, it is likely that some final stage manufacturers and alterers would need to immediately stop producing or altering some of the specialty vehicles they provide.

V. Regulatory Analyses and Notices

a. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant

⁶ We also note that the agency has created a temporary exemption process for multi-stage vehicles by which intermediate and final stage manufacturers and alterers can obtain temporary exemptions from dynamic performance requirements based on financial hardship. The agency also allows associations or multiple manufacturers to "bundle" temporary exemption petitions for specific vehicle designs. See 70 FR 7414.

regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

This final rule was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It does not impose any new burdens on manufacturers of vehicles built in two or more stages or vehicle alterers. Further, this rule limits certain existing requirements as they apply to multi-stage vehicles, and excludes a narrow group of multi-stage vehicles manufactured from chassis without occupant compartments from the same requirements. The agency believes that this impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

b. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must either prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions)⁸ or certify that the rule will not have a significant economic impact on a substantial number of small entities. In order to make such a certification, the agency must conduct a threshold analysis. The results of that analysis must be included in a statement that accompanies the certification and provides the factual basis for making it. I hereby certify that this final rule will not have a significant economic impact

on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. While it is true that the vast majority of intermediate and final stage manufacturers of vehicles built in two or more stages and alterers have 1,000 or fewer employees, we believe the impact of this final rule will not be detrimental. This final rule permits these companies to comply with the FMH impact requirements of FMVSS No. 201 for the front occupant compartment only, as opposed to the requirements that must be met by original manufacturers. Final stage manufacturers and alterers can either rely on the original equipment manufacturer’s certification (using pass-through certification) or install interior padding and undertake available compliance testing. Also, final stage manufacturers and alterers using a “stripped chassis” vehicle are exempt from the FMH impact requirements. Finally, this rule delays the effective date of the requirements until September 1, 2009. Accordingly, there will be no significant economic impact on small businesses, small organizations, or small governmental units by these amendments. For these reasons the agency has not prepared a regulatory flexibility analysis.

c. National Environmental Policy Act

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment. Accordingly, no environmental assessment is required.

d. Executive Order 13132 (Federalism)

NHTSA has examined today’s final 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 federalism implications because a final rule, if issued, 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.”

Further, no consultation is needed to discuss the preemptive effect of today’s rulemaking. NHTSA rules can have preemptive effect in at least two ways. First, the National Traffic and Motor

Vehicle Safety Act contains an express preemptive 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 that preempts State law, not today’s rulemaking, so consultation would be inappropriate.

In addition to the express preemption noted above, the Supreme Court has also recognized that State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict is discerned, the Supremacy Clause of the Constitution makes their State requirements unenforceable. See *Geier v. American Honda Motor Co.*, 529 U.S.C. 861 (2000). NHTSA has not outlined such potential State requirements in today’s rulemaking, however, in part because such conflicts can arise in varied contexts, but it is conceivable that such a conflict may become clear through subsequent experience with today’s standard and test regime. NHTSA may opine on such conflicts in the future, if warranted. See *id.* at 883–86.

e. Executive Order 12988 (Civil Justice Reform)

This final 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.

f. Unfunded Mandates 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

⁸ The Small Business Administration’s regulations at 13 CFR part 121 define a small business, in part, as a business entity “which operates primarily within the United States.” (13 CFR 121.105(a)).

State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation). The assessment may be combined with other assessments, as it is here.

This final rule is not likely to result in expenditures by State, local or tribal governments or automobile manufacturers and/or their suppliers of more than \$100 million annually. If adopted, it would not impose any new burdens on manufacturers of vehicles built in two or more stages or vehicle alterers. Further, this final rule limits certain existing requirements as they apply to multistage vehicles, and exclude a narrow group of multistage vehicles manufactured from chassis without occupant compartments from the same requirements.

g. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 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 contains no reporting requirements or requests for information.

h. 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.

i. 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) or you may visit <http://dms.dot.gov>.

VI. Regulatory Text

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

■ In consideration of the foregoing, NHTSA amends chapter V of title 49 of the Code of Federal Regulations by amending 49 CFR § 571.201 to read as follows:

PART 571—[AMENDED]

■ 1. The authority citation of Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 2011, 30115, 30116 and 30117; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.201 is amended by revising S6.1.4 through S6.1.4.2, S6.3(b) and S6.3(c) to read as set forth below:

§ 571.201 Standard No. 201; Occupant protection in interior impact.

* * * * *

S6.1.4 *Phase-in Schedule #4* A final stage manufacturer or alterer may, at its option, comply with the requirements set forth in S6.1.4.1 and S6.1.4.2.

S6.1.4.1 Vehicles manufactured on or after September 1, 1998 and before September 1, 2009 are not required to comply with the requirements specified in S7.

S6.1.4.2 Vehicles manufactured on or after September 1, 2009 shall comply with the requirements specified in S7.

* * * * *

S6.3 * * *

(b) Any target located rearward of a vertical plane 600 mm behind the seating reference point of the rear-most designated seating position. For altered vehicles and vehicles built in two or more stages, including ambulances and motor homes, any target located rearward of a vertical plane 300 mm behind the seating reference point of the driver's designated seating position (tests for altered vehicles and vehicles built in two or more stages do not include, within the time period for measuring HIC(d), any free motion headform contact with components rearward of this plane). If an altered vehicle or vehicle built in two or more stages is equipped with a transverse vertical partition positioned between the seating reference point of the driver's designated seating position and a vertical plane 300 mm behind the seating reference point of the driver's designated seating position, any target located rearward of the vertical partition is excluded.

(c) Any target in a vehicle manufactured in two or more stages that is delivered to a final stage manufacturer without an occupant compartment. Note: Motor homes, ambulances, and other vehicles manufactured using a chassis cab, a cut-away van, or any other incomplete vehicle delivered to a final stage manufacturer with a furnished front compartment are not excluded under this S6.3(c).

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Issued: August 30, 2007.

Nicole R. Nason,
Administrator.

[FR Doc. 07-4324 Filed 8-30-07; 4:52 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 660

[Docket No. 070323069-7117-02; I.D. 031907A]

RIN 0648-AV46

Pacific Coast Groundfish Fishery

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to establish catch accounting requirements for persons who receive, buy, or accept Pacific whiting deliveries of 4,000 pounds (lb) (1.18 mt) or more from vessels using midwater trawl gear during the Pacific whiting primary season for the shore-based sector. This action is intended to improve NMFS's ability to effectively monitor the Pacific whiting shoreside fishery such that catch of Pacific whiting and incidentally caught species, including overfished groundfish species, do not result in a species' optimum yield (OY), harvest guideline, allocations, or bycatch limits being exceeded. This action is also intended to provide for timely reporting of Chinook salmon take as specified in the Endangered Species Act (ESA) Section 7 Biological Opinion for Chinook salmon catch in the Pacific groundfish fishery. This action is consistent with the conservation goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP).

DATES: Effective October 5, 2007.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), Finding of No Significant Impact (FONSI), Initial Regulatory Flexibility Analysis (IRFA), Final Regulatory Flexibility Analysis (FRFA), and the Small Entity Compliance Guide are available from D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, phone: 206-526-6150.