Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and that an environmental impact statement is not required.

List of Subjects in 49 CFR Part 71

Time.

In consideration of the foregoing, DOT amends title 49, Code of Federal Regulations, part 71 as follows:

PART 7—[AMENDED]

(1) Authority for part 71 continues to read:

Authority: Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 15 U.S.C. 260–267.

(2) Paragraph (d) of § 71.7 is revised to read:

§ 71.7 Boundary line between central and mountain zones.

* * * * *

(d) *Kansas-Colorado.* From the junction of the west line of Hitchcock County, Nebraska, with the Nebraska-Kansas boundary westerly along that boundary to the northwest corner of the State of Kansas; thence southerly along Kansas-Colorado boundary to the north line of Sherman County, Kansas; thence easterly along the north line of Sherman County to the east line of Sherman County; thence southerly along the east line of Sherman County to the north line of Logan County; thence westerly along the north line of Logan County to the east line of Wallace County; thence southerly along the east line of Wallace County to the north line Wichita County; thence westerly along the north line of Wichita County; thence westerly along the north line of Wichita County to the east line of Greeley County; thence southerly along the east lines of Greeley County and Hamilton Counties; thence westerly along the south line of Hamilton County to the Kansas-Colorado boundary; thence southerly along the Kansas Colorado boundary to the junction of that boundary with the north boundary of the State of Oklahoma.

Issued in Washington, DC, on July 25, 1990.

Samuel K. Skinner,

Secretary.

[FR Doc. 90-17689 Filed 7-25-90; 2:04 pm]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87-08; Notice 6]

RIN 2127-AD12

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: In November 1989, this agency published a final rule mandating the installation of lap/shoulder safety belts in all forward-facing rear outboard seating positions in convertible passenger cars, light trucks and multipurpose passenger vehicles (e.g., passenger vans and utility vehicles), and small buses. This new requirement applies to all such vehicles manufactured on or after September 1, 1991. NHTSA received 14 petitions for reconsideration of this rule.

In response to these petitions, the agency is making several changes to the final rule published in November 1989.

DATES: The amendments to S7.1.1.3 and S7.1.1.5 are effective on September 1, 1991. That is the date on which the version of those requirements published in the November 1989 final rule would have become effective. The other amendments made by this rule take effect on January 28, 1991. Vehicles manufactured on or after September 1, 1991 must be certified as complying with the requirements of this rule.

Any petitions for reconsideration of this rule must be received by NHTSA no later than August 29, 1990.

ADDRESSES: Any petitions for reconsideration should refer to Docket No. 87–08; Notice 6 and be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Daniel Cohen, Chief, Occupant Protection Group, NRM–12, Room 5320, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Mr. Cohen can be reached by telephone at (202) 366–4911.

SUPPLEMENTARY INFORMATION:

Background

On November 29, 1988 (53 FR 47982), NHTSA published a notice of proposed rulemaking (NPRM) proposing to require rear seat lap/shoulder belts to be installed in certain new vehicles. Specifically, this NPRM proposed to require passenger cars (including convertibles), light trucks, light multipurpose passenger vehicles (MPVs), and small buses to be equipped with lap/shoulder safety belts at all forward-facing rear outboard seating positions. Additionally, the NPRM proposed that these rear seat lap/shoulder belts be equipped with a particular type of retractor, that such belts be integral (i.e., the shoulder belt could not be detachable from the lap belt), and that such belts comply with some of the comfort and convenience requirements in Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208).

The agency received more than 70 comments on this NPRM. The issue of whether passenger cars other than convertibles should be equipped with rear seat lap/shoulder belts was relatively straightforward and noncontroversial. The consensus of the commenters was that such a requirement would be appropriate. Hence, to ensure the earliest possible implementation of such a requirement, NHTSA published a final rule on June 14, 1989 (54 FR 25275). That rule addressed only passenger cars other than convertibles, and required that all such vehicles manufactured on or after December 11, 1989 be equipped with rear seat lap/shoulder belts. That rule also expressly deferred resolution of all of the other issues proposed in the NPRM until a later date.

NHTSA published a final rule addressing the other issues raised in the NPRM, including the other vehicle types required to have rear seat lap/shoulder belts, the types of retractors with which those safety belts should be equipped, and the other performance attributes those safety belts should have, on November 2, 1989 (54 FR 46257). The agency received 14 petitions for reconsideration of this rule. This notice responds to those petitions. For the convenience of the reader, this notice uses the same organization and format that the November 2, 1989 final rule did. When a section heading used in the November 2, 1989 preamble is not set forth in this preamble, it means that no petitions for reconsideration requested changes to the rule's provisions discussed in that section.

Requirements of the Rule

Seating Positions Subject to the Requirements

The November 2, 1989 rule limited the requirement for rear seat lap/shoulder belts to outboard seating positions only. The term "outboard designated seating position" is defined at 49 CFR 571.3 as a designated seating position that, among

other things, is less than 12 inches from the inside of the vehicle. A separate definition of "outboard designated seating position" was set forth in the November 1989 final rule to exclude seating positions adjacent to aisleways running between the seating position and the near side of the vehicle, even if those seating positions were less than 12 inches from that side of the vehicle. This exclusion of aisleway seats from the rear seat lap/shoulder belt requirement reflected NHTSA's determination that the shoulder belt stretched across the aisleway of a vehicle could cause entry and exit problems for occupants of seating positions to the rear of the aisleway seating position.

The November 1989 rule excluded aisleway seats from the rear seat lap/shoulder belt requirement only if the aisleway seats were in trucks, MPVs, and buses. NHTSA did not extend this exclusion to aisleway seats in the rear of passenger cars because the agency was not aware of any passenger car designs either currently in production or to be produced in the future that incorporate aisleways next to the second row of seats so as to permit access to the third and other more rearward rows of seats.

In its petition for reconsideration, Ford Motor Company (Ford) asserted that the exclusion of aisleway seats from the rear seat lap/shoulder belt requirement should be broadened to apply to aisleway seats in passenger cars as well as the other types of vehicles. According to Ford, the reasons for exempting aisleway seats in vans from rear seat lap/shoulder belt requirements are equally applicable, irrespective of whether the vehicle is classified as a passenger car, truck, MPV, or bus. Ford is implicitly suggesting that passenger vans, especially minivans, could be classified as passenger cars, and that, if such a classification were made, the aisleway seats in the vans would be required to be equipped with lap/shoulder belts if the aisleway seats were outboard seating positions. Ford believes that such aisleway seats should continue to be excluded from the rear seat lap/shoulder belt requirement, regardless of whether the minivan is classified as a passenger car, light truck, MPV, or bus.

NHTSA agrees with Ford's point that the same safety standards should apply to light trucks, MPVs, buses, and passenger cars, as reflected in the agency's rulemaking actions extending provisions that had applied only to passenger cars so that those same provisions will now also apply to light trucks, MPVs, and buses. Accordingly, this rule includes the same definition of "rear outboard designated seating position" for passenger cars that was previously specified for trucks, MPVs, and buses.

Retractor Types Required for Rear Seat Lap/Shoulder Belts

The NPRM contained a detailed discussion of the agency's previous statements on this subject, and repeated the agency's previous conclusion that only ELRs should be permitted as the retractor for the lap belt portion of the lap/shoulder belt system. *See* 53 FR 47987–47989; November 29, 1988. This proposed requirement was based on the fact that ELRs for the lap belt made the belt system more comfortable and convenient for adult occupants, thereby tending to increase use of the belt system. Although active children can make some child restraints unstable if the child restraint is secured by a lap belt that incorporates an ELR, NHTSA knows of no data showing that this potential instability would affect the safety performance of the child restraint in a crash. Additionally, the agency stated that products called "locking clips" can be installed on the webbing of belts equipped with an ELR to prevent webbing movement.

After analyzing its proposal in response to the many comments received on this subject, NHTSA concluded that the low-speed movement of child safety seats held by safety belts that use an ELR seems to have given rise to questions and concerns about the safety and effectiveness of child seats when used with such belts. In the preamble to the final rule, NHTSA stated:

> Even if these questions and concerns have not been substantiated, the public may not be as likely to use child safety seats if there are perceived questions about the effectiveness of those seats. NHTSA has concluded that it is appropriate to take action to remove those perceived questions, so as to maintain public trust and confidence in the efficacy of child seats. 54 FR 46262; November 2, 1989.

To implement this conclusion, NHTSA devised an approach in its final rule intended to both ensure comfort for adult occupants of safety belt systems and tight securing of child safety seats by those same safety belt systems. First, the final rule required that any lap belt or lap belt portion of a lap/shoulder belt installed at an outboard seating position in compliance with Standard No. 208 be equipped with an ELR. In its petition for reconsideration, Ford correctly noted that this requirement would mean that side-facing and rear-facing outboard seating positions would be required to be equipped with ELRs for the lap belts, even though side-facing and rear-facing outboard seating positions were expressly excluded from the lap/shoulder belt requirements. Ford asserted that this was a major change from the proposal, which had been limited to forward-facing outboard seating positions, and that insufficient leadtime had been permitted to allow it to install ELRs on the lap belt in its vehicles with side-facing seats (such as extended cab pickups) and rear-facing seats (such as station wagons).

Upon reconsideration, NHTSA has decided that this provision of the final rule was overly broad. The agency will examine the issue of whether it may be appropriate to amend the retractor requirements for side-facing or rear-facing outboard seating positions. If NHTSA decides to propose such an action, that proposal will be the subject of a separate rulemaking action. For this rulemaking action, however, the agency did not intend to establish or amend any requirements, including retractor requirements, for seating positions that are not forward-facing or adjustable to a forward-facing position. *See* 54 FR 46258–46259; November 2, 1989. Therefore, in response to Ford's petition, this notice limits the retractor requirements of S7.1.1.3 to seating positions that are forward-facing or adjustable to a forward-facing position.

The second prong of the final rule's approach to ensuring adult comfort and tight securing of child seats from the same belt systems was a new requirement that safety belts that incorporate an ELR in the lap belt or lap belt portion of a lap/shoulder belt shall provide some means, other than an external device requiring manual attachment or activation, that will prevent any further webbing from spooling out until that means is released or deactivated. This requirement, which was set forth in a new S7.1.1.5 of Standard No. 208, would allow safety belt systems equipped with an ELR to secure child seats as tightly as belt systems equipped with an ALR.

All but one of the fourteen petitioners for reconsideration objected to this new requirement in Standard No. 208. The two primary objections to this requirement did not relate to the merits of promoting the tight securing of child seats. First, the petitioners asserted that the NPRM had not given the public notice or opportunity to comment on such a requirement. Hence, according to this argument, the adoption of such a requirement in the final rule violated the informal rulemaking provisions set forth in the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). Second, the

petitioners asserted that the absence of any procedures for determining compliance with this requirement meant that the requirement was not stated in objective terms, as required by the National Traffic and Moter Vehicle Safety Act (15 U.S.C. 1381 *et seq.*).

NHTSA has tentatively concluded anew that it is necessary and appropriate for Standard No. 208 to include a requirement to ensure that safety belt systems are both comfortable for adult users and can tightly secure child safety seats. In the November 2, 1989, final rule, the agency sought to achieve this purpose by means of S7.1.1.5. The petitioners for reconsideration did not address the fundamental questions of the necessity for and validity of the agency's underlying purpose. Instead, the petitioners focused exclusively on the means chosen to accomplish that purpose.

NHTSA wants to focus attention on the purpose of the requirement in S7.1.1.5 and away from the details of the means chosen to achieve that purpose. To do so, this rule removes S7.1.1.5 from Standard No. 208. Elsewhere in today's edition of the Federal Register, the agency has published a proposal to readopt S7.1.1.5. The proposed S7.1.1.5 includes an objective test procedure for determining compliance. The addition of the compliance test procedure and the opportunity to comment on this new regulatory requirement will eliminate the precedural objections raised in the petitions for reconsideration. Additionally, since S7.1.1.5 as promulgated in the November 1989 final rule was not scheduled to take effect until September 1991, this new notice and opportunity for comment will not result in any needless delays in establishing a new requirement for safety belts to be both comfortable for adult occupants and able to tightly secure child safety seats.

The requirements with which rear seat lap/shoulder belts must comply for readily removable seats. The November 1989 final rule included special provisions for lap/shoulder belts installed at rear outboard seating positions on readily removable seats. Such belts are permitted to detach at the upper anchorage only. If those belts are detachable at the upper anchorage, the means of detaching cannot include any sort of pushbutton release. Ford's petition for reconsideration asked that lap/shoulder belts on readily removable seats be permitted to detach at either the upper or lower anchorage and that the means of detachment should be permitted to include a pushbutton release.

In the final rule, the agency permitted lap/shoulder belts on readily removable rear seats to be detachable only at the upper anchorage point in response to comments by Ford and GM. Those manufacturers both commented that permitting lap/shoulder belts to be detachable at the upper anchorage would ease the problems of providing lap/shoulder belts at outboard seating positions on readily removable seats. After conducting its own analysis of this question, NHTSA concurred with these comments and adopted the requested provision.

However, in its petition for reconsideration, Ford asserted that limiting the detachment point to the upper anchorage point was "overly design restrictive." This was because, according to Ford, there was no safety reason for permitting the belt system to detach at the upper, but not the lower, shoulder belt anchorage point. While the agency believes there are legitimate safety reasons for permitting the belts to be detachable at only one point, there is no apparent safety purpose served by specifying that the single detachment point must be the upper, and not the lower, shoulder belt anchorage point. Accordingly, this notice amends Standard No. 208 to permit lap/shoulder safety belt systems installed at outboard seating positions on readily removable seats to detach at either the upper or lower shoulder belt anchorage, but not both.

Ford also asked in its petition that Standard No. 208 be amended to permit the means of detachment to be a pushbutton release. In the November 1989 final rule, NHTSA noted that S7.2 of Standard No. 208 has long required safety belt systems to use a single pushbutton buckle that releases the occupant from the lap belt and the shoulder belt simultaneously. Because of this requirement, the agency explained that manufacturers could not use a pushbutton release to detach the safety belt from the vehicle at an anchorage point, because the belt system would then have two pushbutton releases. The agency explained that the requirement for a single pushbutton release helped ensure that an occupant could not easily release either the lap belt or shoulder belt portion of the safety belt system and use only the unreleased portion of the safety belt system. Instead of a pushbutton release at the anchorage point where the safety belt detaches from the vehicle, the agency indicated that manufacturers could use a slide button or slide collar as the release.

Ford asked for reconsideration of this requirement, asserting that a slide button or slide collar release "tends to rattle and provides less control over * * * the fit of the shoulder belt." Even accepting these assertions as correct, NHTSA does not believe they are sufficient reason to permit the use of a pushbutton release as the means for detaching the lap/shoulder belt from the vehicle. As explained in the final rule and above, a pushbutton mechanism that detached a safety belt assembly from the vehicle at an anchorage point would increase the ease with which an occupant could detach either the lap belt or shoulder belt portion of the belt system and use only one part of the safety belt. The agency again concludes that a slide button or slide collar used as the means of detaching a shoulder belt will permit the belt to be detached when the readily removable seat is removed, and minimize the possibility that an occupant will detach a portion of the lap/shoulder belt system when the readily removable seat is in place in the vehicle. To emphasize the agency's intent, express language has been added to the standard prohibiting the use of pushbutton mechanisms to detach lap/shoulder belt systems installed for readily removable seats. With respect to Ford's assertions that slide button or collar releases tend to rattle and present more problems for proper shoulder belt fit, NHTSA concludes that the manufacturers have sufficient engineering expertise to resolve such issues.

Ford asked in its petition for an additional year of leadtime for installing rear seat lap/shoulder belts at outboard positions on readily removable seats, if its request to use a pushbutton release to detach safety belts at such positions were denied. Ford stated that this extra leadtime was needed because it would now be required to make changes to its safety belt systems, the anchorages for those systems, and the seat structure of the readily removable seats to comply with the requirement for a single pushbutton release on a belt system. NHTSA believes that this request is reasonable. Ford's vehicles represent an appreciable percentage of the total number of vehicles equipped with readily removable seats, most notably the Aerostar and Econoline vans. These vehicles do not currently use, nor did Ford plan to begin using, a release mechanism that complies with the requirements that are scheduled to take effect on September 1, 1991. Accordingly, Ford will need to make the changes described in its petition. NHTSA has concluded that an

additional year of leadtime is needed to allow Ford to make the necessary changes. Therefore, this notice delays the requirement for rear seat lap/shoulder belts to be installed at outboard seating positions on readily removable seats for one year, so that it now applies to vehicles manufactured on or after September 1, 1992.

Economic and Other Impacts of the November 1989 Final Rule

The Recreation Vehicle Industry Association (RVIA) filed a petition for reconsideration of the November 1989 final rule, based on the economic impacts that rule would have on vans, especially vans modified by final stage manufacturers and alterers. RVIA asked that vans with a gross vehicle weight rating (GVWR) of more than 6000 pounds be excluded from the requirement for rear seat lap/shoulder belts, instead of the 10,000 pound GVWR cap that was established in the November 1989 final rule. The basis for this request was that there would be lesser safety benefits resulting from rear seat lap/shoulder belts in these vehicles (because the vehicles are "structurally stronger, larger and heavier than passenger cars") and higher costs to install those belts (because of the necessary structural modifications).

NHTSA has reexamined its previous decision in response to this request and determined that RVIA has not presented any reasons for changing the requirements of the previously published rule. Notwithstanding RVIA's general assertions about the differences between large vans and passenger cars, the 1988 fatality rate for large vans was slightly higher than the fatality rate for large cars. These comparative fatality rates show that RVIA's assertion that occupants of large vans have a lesser need for safety protection because of the structural differences between vans and cars is not borne out by real world experience.

The agency has acknowledged that the costs of installing rear seat lap/shoulder belts in vans will be greater than the costs of installing those safety belts in passenger cars, because vehicles other than passenger cars may need structural modifications to accommodate the shoulder belt portion of lap/shoulder belts at rear seating positions. However, the agency has concluded that the structural modifications generally do not pose any serious technical difficulties and that the safety benefits that would result from rear seat lap/shoulder belts in these vehicles were more than sufficient to justify the additional burden. *See* NHTSA's Final Regulatory Evaluation of this rule in Docket No. 87-08; Notice 5 and the discussion in the NPRM for this rule at 53 FR 47986; November 29, 1988. These agency conclusions were reached after a thorough consideration of all available data. RVIA's petition sets forth no additional evidence or other reasons to believe that the agency conclusions were wrong, so NHTSA has no basis for changing those conclusions in response to the RVIA petition.

Alternatively, RVIA asked that the rear seat lap/shoulder belt requirement be limited to vans that are within the weight limits established for dynamic testing of manual safety belts, i.e., a GVWR of 8500 pounds or less than an unloaded vehicle weight of 5500 pounds or less. The justification for this request was the costs and burdens that would be imposed on van converters to equip rear outboard seating positions with lap/shoulder safety belts.

NHTSA has often acknowledged that final stage manufacturers and alterers lack the technical expertise and financial resources of the larger manufacturers. Because of the lesser technical and financial capabilities of the final stage manufacturers and alterers, the burdens associated with NHTSA's regulatory requirements will always be proportionally larger for these small entitites than for the larger manufacturers. Thus, the relevant question is not whether the burden is proportionally larger for these small entities, but instead whether the burden imposed by a new regulatory requirement is excessive for small entities.

When developing the final rule for rear seat lap/shoulder belts to be installed by small entities like van converters, NHTSA carefully considered the potential burdens the rule would impose on small businesses and determined that any such burdens would be relatively minor. All rear outboard seating positions already installed in the vehicles delivered to van converters for conversion must be equipped with rear seat lap/shoulder safety belts. Thus, if the van converter is not making any modifications to the seating position, it can simply leave in place the rear seat lap/shoulder belt assembly and anchorages installed by the original manufacturer of the vehicle. This imposes no burdens on the van converter.

If the van converter is adding a new rear outboard seating position, or modifying an existing outboard seating position, the van converter will be subject to some additional burdens, but those burdens are far from excessive. For all types of motor vehicles other than buses, manufacturers (including van converters) have long been required to install lap-only belts and anchorages for those belts at each designated seating position. To certify compliance with these requirements, van converters must now add two weldments or make some simple structural modifications for the lap belt anchorages and install a lap-only belt at every rear outboard seating position it adds to a conversion van. To install lap/shoulder belts, instead of lap-only belts, at those seating positions, the van converter must add an additional weldment or make an additional simple structural modification and install a lap/shoulder belt in place of the lap-only belt. This added burden does not require any additional engineering expertise or crash testing. In the Final Regulatory Evaluation that accompanied the November 1989 final rule, NHTSA estimated that the rear seat lap/shoulder belt requirement would increase costs by $13 for each rear outboard seating position in these vehicles. NHTSA concluded that these burdens are not excessive, and RVIA provided no information indicating either that this previous agency conclusion was wrong or that NHTSA has failed to consider some relevant information in reaching conclusion. Accordingly, RVIA's petition to amend the rear seat lap/shoulder belt requirements is denied.

RVIA also challenged NHTSA's certification that the rear seat lap/shoulder belt rule will not have a significant economic impact on a substantial number of small entities. RVIA noted that a publication identifies more than 2600 van converters in the United States. However, NHTSA's certification was based upon the fact that the rear seat lap/shoulder belt requirements will not have a significant economic impact on small entities, as explained above, regardless of the number of small entities that will be affected.

Economic and Other Impacts of This Rule

NHTSA has analyzed this notice responding to the petitions for reconsideration of the rear seat lap/shoulder belt requirements and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The exclusion of aisleway seats in passenger cars from the rear seat lap/shoulder belt requirements may result in some minor cost savings, if more vehicle manufacturers classify

their minivans as passenger cars and if those minivans are equipped with aisleway seats less than 12 inches from the inside of the vehicle. Limiting the retractor requirements to forward-facing outboard seating positions simply corrects an error in the previous final rule. The decision to address the lockability requirements in a separate rulemaking should not affect the anticipated impacts or benefits of such a requirement. Allowing the belts for rear outboard seating positions on readily removable seats to detach at the lower anchorage and granting an additional year of leadtime before those seats must be equipped with lap/shoulder belts should result in a minor cost savings for the manufacturers. Because these impacts are so minimal, NHTSA has determined that it is not necessary to prepare a full regulatory evaluation.

Additionally, the agency has analyzed the effects of this rule on small entities, in accordance with the Regulatory Flexibility Act. Based on that analysis, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, the economic impact of this rule is insignificant.

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

This rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.208 [Amended]

2. S4.1.4 of Standard No. 208 is amended by revising S4.1.4.2(b), adding a new S4.1.4.2(c), and revising S4.1.4.2.2, to read as follows:

S4.1.4 *Passenger cars manufactured on or after September 1, 1989.*

* * * * *

S4.1.4.2(a) * * *

(b) Except as provided in S4.1.4.2.1 and S4.1.4.2.2, each passenger car, other than a convertible, manufactured on or after September 1, 1990 and each convertible passenger car manufactured on or after September 1, 1991 shall be equipped with an integral Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 an S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

(c) As used in this section, "rear outboard designated seating position" means any "outboard designated seating position" (as that term is defined at 49 CFR 571.3) that is rearward of the front seat(s), except any designated seating position adjacent to a walkway that is located between the seat and the near side of the vehicle and is designed to allow access to more rearward seating positions.

S4.1.4.2.1 * * *

S4.1.4.2.2 Any rear outboard designated seating position on a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) in a vehicle manufactured on or after September 1, 1992 shall meet the requirements of S4.1.4.2 and may use an upper torso belt that detaches at either its upper or lower anchorage point, but not both anchorage points, to meet those requirements. The means for detaching the upper torso belt shall not use any pushbutton action.

3. S4.2.4 of Standard No. 208 is amended by revising the introductory text and S4.2.4.3 to read as follows:

S4.2.4 *Trucks and multipurpose passenger vehicles manufactured on or after September 1, 1991 with a GVWR of 10,000 pounds or less.* Except as provided in S4.2.4.2 and S4.2.4.3, each truck and each multipurpose passenger vehicle, other than a motor home, manufactured on or after September 1, 1991 that has a gross vehicle weight rating of 10,000 pounds or less shall be equipped with an integral Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

* * * * *

S4.2.4.3 Any rear outboard designated seating position on a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) in a vehicle manufactured on or after September 1, 1992 shall meet the requirements of S4.2.4 and may use an upper torso belt that detaches at either its upper or lower anchorage point, but not both anchorage points, to meet those requirements. The means for detaching the upper torso belt shall not use any pushbutton action.

4. S4.4.3 of Standard No. 208 is amended by revising S4.4.3.2 and S4.4.3.2.3 to read as follows:

S4.4.3 *Buses manufactured on or after September 1, 1991.*

* * * * *

S4.4.3.2 Except as provided in S4.4.3.2.2 and S4.4.3.2.3, each bus with a gross vehicle weight rating of 10,000 pounds or less, except a school bus, shall be equipped with an integral Type 2 seat belt assembly at the driver's designated seating position and at the front and every rear forward-facing outboard designated seating position, and with a Type 1 or Type 2 seat belt assembly at all other designated seating positions. Type 2 seat belt asemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

* * * * *

S4.4.3.2.3 Any rear outboard designated seating position on a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) in a vehicle manufactured on or after September 1, 1992 shall meet the requirements of S4.4.3.2 and may use an upper torso belt that detaches at either its upper or lower anchorage point, but not both anchorage points, to meet those requirements. The means for

detaching the upper torso belt shall not use any pushbutton action.

* * * * *

5. S7.1.1.3 of Standard No. 208 is revised to read as follows:

S7.1.1.3 A Type 1 lap belt or the lap belt portion of any Type 2 seat belt assembly installed at any forward-facing outboard designated seating position of a vehicle with a gross vehicle weight rating of 10,000 pounds or less to comply with a requirement of this standard, except walk-in van-type vehicles and school buses, shall meet the requirements of S7.1 by means of an emergency locking retractor that conforms to Standard No. 209 (49 CFR 571.209).

6. S7.1.1.5 of Standard No. 208 is removed and reserved.

Issued on July 25, 1990.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90-17686 Filed 7-27-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 900512-0192]

Subsistence Taking of North Pacific Fur Seals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Final notice of harvest levels.

SUMMARY: Regulations on subsistence taking of North Pacific fur seals require the National Marine Fisheries Service (NMFS) to publish a summary of the previous year's fur seal harvest and a projection of the number of seals expected to be taken in the current year to meet the subsistence needs of the Aleut residents of the Pribilof Islands, Alaska. NMFS published this notice on May 25, 1990. Following a 30-day public comment period and two public meetings, NMFS is publishing a final notice of expected harvest levels for 1990, as follows:

St. George Island: 181–500

St. Paul Island: 1,145–1,800

EFFECTIVE DATE: June 30, 1990.

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SUPPLEMENTARY INFORMATION:

I. Background

The subsistence harvest of North Pacific fur seals, *Callorhinus ursinus*, on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 215, subpart D—Taking for Subsistence Purposes. These regulations were published under the authority of the Fur Seal Act, 15 U.S.C. 1151 *et seq.*, and the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 *et seq.* (see 51 FR 24828, July 9, 1986). The purpose of these regulations is to limit the take of fur seals to a level providing for the legitimate subsistence needs of the Pribilovians using humane harvesting methods, and to restrict taking by sex, age, and season for herd management purposes.

The following subsistence harvest levels have been recorded on the Pribilof Islands since 1985:

	St. Paul Island	St. George Island	Total
1985	3,384	329	3,713
1986	1,299	124	1,423
1987	1,710	92	1,802
1988	1,145	113	1,258
1989	1,340	181	1,521

II. Response to Public Comments

Public meetings were held on June 7, at the request of the Humane Society of the United States and on June 18, at the request of the Aleut Community Council of St. Paul. The following organizations were represented at these meetings:

American Humane Association
Humane Society of the United States
Aleut Community Council of St. Paul
International Wildlife Coalition
Tanadgusix Corporation
Traditional Council of St. George
Greenpeace
The Fund for Animals
Friends of Animals

In addition, the following groups submitted written comments by June 25, the end of the 30-day public comment period, concerning the appropriate level of the subsistence harvest and related issues:

Humane Society of the United States, with International Wildlife Coalition and Sea Shepherd Conservation Society
Aleut Community Council, St. Paul Island
St. George Traditional Council
Friends of Animals

1. Subsistence Harvest Levels

Aleut representatives reported the results of a survey on St. Paul that indicated a need for at least 1,700 seals or 10 per household. They are asking for a subsistence harvest level of 2,500 on St. Paul and 500 on St. George.

The efficiency of the subsistence harvest and the appropriate numbers of seals needed for subsistence were the major topics of discussion at the meetings and in written comments. In the Proposed Notice of Harvest Levels (55 FR 21630, May 25, 1990), NMFS provided a table of harvest data, 1985–89, on St. Paul Island. The percent-use of the seal carcasses for subsistence was 43.5 in 1988 and 38.2 in 1989. Although the amount of seal meat harvested both years was equivalent (approx. 26,500 lbs), almost 200 more seals were killed to provide the subsistence meat in 1989.

One commenter is unconvinced that subsistence needs exist for seal meat on the Pribilof Islands because alternative food sources, especially halibut, are readily available. This commenter suggests amendment of 50 CFR part 215 to strengthen the subsistence definition. Another commenter calls on NMFS to suspend the 1990 harvest because of the wasteful manner of taking in 1989. If the 1990 harvest does proceed, this commenter asks that NMFS suspend the harvest on any day that the average percent-use falls below 60 percent.

Regulations under 50 CFR part 215 subpart D, which implement subsistence provisions of the Fur Seal Act and the MMPA, require that any subsistence killing of North Pacific fur seals be carried out in a non-wasteful manner. The regulations define wasteful manner as "any taking or method of taking which is likely to result in the killing of fur seals beyond those needed for subsistence uses or which results in the waste of a substantial portion of the fur seal* * *" (50 CFR 215.2(h)(2)(i)).

In 1987, NMFS calculated a range of percent-use estimates to guide our subsequent determinations of non-wasteful taking. A total of 101 fur seals were weighed before and after minimum butchering (i.e., only the heart, liver, flipper, shoulder, and breast were taken). A mean 29.1 percent-use of each animal was calculated under these circumstances. An additional 83 seals were weighed before and after virtually all consumable parts of the seals had been removed (i.e., all parts except the pelt, blubber, skull, neck, and body fluids). A mean 53.3 percent-use resulted.

In our 1989 report on the 1988 subsistence harvest, NMFS determined that the 43.5 percent-use estimated for the 1988 harvest constituted substantial use consistent with the requirement in 50 CFR 215.31(b) that the taking of seals not be accomplished in a wasteful manner. However, we encouraged greater utilization because higher efficiency had been reported in 1985–86.

It should be noted that the average percent-use for the entire 1986 harvest was significantly higher than 1988 or 1989, i.e., 47.2 percent-use. Thus, in 1986, 5,100 more pounds of meat were available for consumption compared to 1989, but fewer seals were taken. Also, based on a review of daily percent-use calculations from 1985–89, much higher percent-use has been achieved, up to almost 60 percent.

Aleut representatives complained that reports of percent-use in 1989 unfairly represented their actual take because smaller animals were taken and less meat was available. They were also critical of the publication of 38.2 percent as an estimate of their harvesting efficiency since they had actually taken 38.2 out of a possible 53.3, or 71.7 percent. Using these proportions, the St. Paul harvest was 81.6 percent efficient in 1988. Neither the age nor the size of the animals taken has changed significantly since 1988. NMFS believes that the "butterfly" butchering technique, where only shoulder and breast meat is taken, was used more extensively in 1989 and is responsible for an actual decrease in percent-use between 1988 and 1989.

Based on the amount of meat used for subsistence for the last 2 years, the average weight of seals harvested and a 60 percent-use, one commenter recommended a harvest level on St. Paul of 830 seals. Alternatively, this commenter notes that subsistence needs on St. Paul can be based on the 1989 experiences on St. George Island. St. George residents took only 181 seals in 1989. If this represents their subsistence needs, and if the Aleut population on St. Paul is approximately three times St. George's population, then 543 seals should meet the subsistence needs of St. Paul, according to this commenter. NMFS believes that the 60 percent-use requirement is unreasonably high but finds merit in the comparisons between subsistence needs on St. George and estimates on St. Paul. However, there appear to be ongoing changes in the comparative Aleut populations of these islands, according to Aleut comments, and the proportion of Aleut subsistence harvesters on St. Paul and St. George Islands may no longer be 3:1. Additionally, it appears that economic conditions and availability of alternative food sources may not be the same on both islands.

2. Economic Conditions

In the notice of proposed harvest levels, we indicated that economic conditions did not appear to have changed on the Pribilofs since 1988. However, St. Paul and St. George Island commenters said that unemployment is 90 percent this year vs. 75 percent in 1989 and that the Community Councils are no longer subsidizing the grocery stores on the islands. Money from a trust fund established by the 1983 amendments to the Fur Seal Act, and augmented in subsequent years, has apparently been exhausted on St. Paul and city workers have lost their jobs. St. Paul representatives also indicated that people have moved to St. Paul from St. George and other areas. However, they did not give a current estimate of Aleut residents. Clearly, many of the immigrants are non-Native and involved in the harbor and fishing development activities. Only Native Alaskan residents of the Pribilof Islands may participate or benefit from the subsistence harvest. St. George Island' harbor development has apparently reached an impasse and only 140 residents remain on the island, according to St. George representatives at the June 18 public meeting.

One commenter charged that Filipino nationals were working on St. Paul Island this summer and asked NMFS to investigate. We understand that over 50 Filipino workers were imported to work in St. Paul's fish processing plant in 1990, presumably because local labor was not available. NMFS believes that the economic conditions on the Pribilof Islands are changing and that private development is replacing government subsidies, especially on St. Paul. However, St. George Island's development is lagging because of the lack of harbor completion.

3. Use of Subsistence Harvest By-Products

Two commenters questioned the St. Paul Island representatives' assertion that no "seal sticks" were taken last year. Seal sticks (or bacula) are possible commercial by products of the subsistence harvest that may not be traded or sold. There is a market for seal sticks in Asia as aphrodisiacs. NMFS representatives reported the widespread practice of removal of seal sticks and related organs from discarded carcasses on St. Paul Island in 1989. St. Paul Island residents will be asked to account for seal sticks removed in previous harvests, and NMFS representatives on the Pribilofs will continue to advise subsistence harvesters that these parts cannot be sold and have no known handicraft or subsistence use.

4. Changes in Subsistence Regulations

Pribilof Island representatives have asked for amendments to the subsistence rule (50 CFR part 215, subpart D) to change the start of the harvest season from June 30 to June 15. The halibut fishing season usually starts in late June and this conflicts with the subsistence harvest since most of the harvesters are involved in halibut fishing operations, according to St. Paul Islanders. One commenter objects to this change and questions whether there is a need for seal meat under these circumstances. A number of commenters have asked each year for changes to the regulations to eliminate the option of extending the harvest season past August 8. No extensions have been granted since 1987. NMFS intends to publish a proposed rule to eliminate the extension option since its use has resulted in the taking of high numbers of female seals. In addition, we will propose a change in the harvest season since, in our view, it is not likely to result in adverse effects on population size or structure.

III. Subsistence Harvest Levels for 1990

In the May 25 proposed notice, NMFS proposed harvest levels to coincide with actual take in 1989, with the understanding that no significant changes had occurred in economic conditions that might result in greater need for seal meat in 1990. Based on a review of all comments received on this issue, NMFS believes that 1988 is a more appropriate choice on which to base the lower end of the range of harvest levels on St. Paul Island in 1990. About the same amount of meat was taken in 1988 and 1989, but in 1988 fewer seals were taken and butchered more efficiently. Thus the lower bound is set at 1,145. Since island residents have reported a need for at least 1,700 seals this year, we are setting the upper bound at 1,800 to accommodate possibly changing economic conditions.

On St. George Island there is no information on harvest efficiency and little other information on which to base harvest estimates. However, last year's harvest (181 seals) was the highest recorded since 1985 and appears to be the best choice for the lower bound of their subsistence need estimate. Since St. George Island representatives have asked for 500 seals, we will make this the upper bound of the harvest estimate. Thus, harvest levels in 1990 are set as follows:

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Once the lower bound is reached, the harvest must be suspended for up to 48 hours, under 50 CFR 215.32(e)(1)(iii), pending a review of the harvest data to determine if the subsistence needs of island residents have been met. Criteria

on which to base a decision on whether or not to resume the harvest and allow additional taking for subsistence purposes include assessments of available information on: (1) Percent-use of seal carcasses taken to date, (2) number of subsistence users needing additional meat, (3) the number of additional seals requested, (4) disposition of previously harvested seal meat, and (5) disposition of harvest by-products.

Aleut representatives are concerned that these assessments may not be accomplished within the 48-hour period allowed by regulation. They believe that the distance between the Pribilofs and the Washington, DC area, the difference in time zones, and the possibility that decision-makers may be away from the office, could cause delays that may result in the loss of some part of their subsistence harvest. To ensure that any decision on a new harvest estimate is reached as soon as possible, the Alaska Regional Director, with the concurrence of the Assistant Administrator, shall be responsible for making any such determinations. Should these determinations be made and harvest estimates revised during the course of the 1990 season, this information along with the reasons for such determinations will be included in the **Federal Register** notice required in 50 CFR 215.32(b).

Dated: July 23, 1990.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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