

through better crash investigation, enforcement and adjudication.

We note that we received Ms. Birnbaum's petition just after we had denied another petition making essentially the same request. Price T. Bingham, a private individual, had asked us to initiate rulemaking to require air bag sensors to be designed so that similar information is recorded during a crash and can be read by crash investigators.

In responding to Mr. Bingham's petition, we noted that the safety community in recent years has shown considerable interest in the concept of crash event recorders. Such recorders can, in conjunction with air bag and other sensors already provided on many vehicles, collect and record a variety of relevant crash data. These data include such things as vehicle speed, belt use, and crash pulse.

While we agreed with Mr. Bingham that the recording of crash data can provide information that is very valuable in understanding crashes, and which can be used in a variety of ways to improve motor vehicle safety, we nonetheless denied the petition. One reason for denying the petition was the fact that the motor vehicle industry is already voluntarily moving in the direction recommended by the petitioner. Another was our belief that this area presents some issues that are, at least for the present time, best addressed in a non-regulatory context.

We issued our denial of Mr. Bingham's petition on November 3, 1998, and published it in the November 9, 1998 edition of the **Federal Register** (63 FR 60270). Ms. Birnbaum's petition was dated November 7, 1998.

After reviewing Ms. Birnbaum's petition, we conclude that our reasons for denying Mr. Bingham's petition are also applicable to her petition. A full explanation of those reasons is provided in our November 9, 1998 **Federal Register** notice, which we incorporate by reference.

The November 1998 notice included a discussion of ongoing work in this area by NHTSA's Motor Vehicle Safety Research Advisory Committee (MVSAC). The agency noted that MVSAC had set up a working group on event data recorders under the Crashworthiness Subcommittee and that the first meeting of the working group had taken place in October 1998. Since publication of the November 1998 notice, another working group meeting has been held, and a third meeting is planned for this summer. The Event Data Recorder Working Group is considering a wide variety of subjects related to crash event recording devices

and anticipates producing a report by the end of calendar year 2000.

Minutes of the Event Data Recorder Working Group meetings are being placed in the public docket. The public may access these materials via the Web. The Docket Management Web site is at "<http://dms.dot.gov>". You should search for Docket number 5218.

For the reasons discussed above, we are denying Ms. Birnbaum's petition for rulemaking.

Authority: 49 U.S.C. 30162; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 27, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-98-4422]

RIN 2127-AE22

Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages

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

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This notice withdraws a proposed rulemaking action to amend Federal motor vehicle safety standard No. 210 Seat Belt Assembly Anchorages. The proposed amendment would require that the lap belt angle for rear adjustable seats be measured in the rearmost adjustment position. However, the agency has determined that the proposed amendment may reduce vehicle safety and affect some front adjustable anchorage locations.

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. John Lee, Office of Crashworthiness, NPS-11, Telephone (202) 366-2264. FAX number (202) 493-2739, Mr. Lee's e-mail address is: jlee@nhtsa.dot.gov.

For legal information: Mr. Otto Matheke, Office of Chief Counsel, NHTSA, (202) 366-5263 Fax number (202) 366-3820.

Both may be reached at: National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Federal motor vehicle safety standard (Standard) No. 210 Seat Belt Assembly Anchorages specifies performance requirements for safety belt anchorages to ensure their proper location for effective occupant protection and to reduce the likelihood of the anchorages' failure in a crash. The requirements of the standard apply to passenger cars, trucks, buses and multipurpose passenger vehicles (MPVs). The standard sets zones within the vehicle where the anchorage must be located. The anchorage for a lap belt or the lap portion of a lap/shoulder belt is required to meet a minimum and maximum mounting angle. The standard also sets minimum strength requirements.

On December 4, 1991, NHTSA published a notice of proposed rulemaking (NPRM) to amend the lap belt angle measurement procedure for adjustable rear seats of Standard No. 210. The current procedure measures the angle from the seat aligned with the seating reference point. The proposed procedure measured the lap belt angle with the seat in the rearmost adjustable position. The intent of the amendment was to establish a more easily identified seat position for measuring the lap belt angle of the moveable rearward seats. The agency believed the seating reference point may not have been an adequate reference point for these rearward moveable seats.

The agency received five comments to the NPRM. All were opposed to the proposal as written. One commenter, Ford Motor Company (Ford), stated, " * * * the proposal may reduce vehicle safety, by requiring that anchorages be located in positions that produce a flatter lap belt angle than is ideal when the seat is adjusted to a forward adjustment position. Ford suggest that anchorages for rear adjustable seats be located from the hip point of the template when the seat is in the middle of its adjustment range." Ford also stated, " * * * an 18 month leadtime would be insufficient if anchorages were to be relocated as proposed."

Ford, Chrysler, Toyota and GM were concerned about the proposed wording of S4.3.1.1(b) in which " * * * a line 2.5 inches forward of and 0.375 inches above the seating reference point * * *" is replaced by " * * * a line from the seating reference point to the contact point of the belt with the anchorage * * *" would be a substantial rulemaking. The change could affect the dummy kinematics during Standard No. 208 testing as well as the anchorage location at front adjustable seats, not just the rear adjustable seats. Chrysler stated, "As

written, the amendment would substantially change the anchorage location requirements for lap belts or the lap portion of the lap/shoulder belts at front adjustable seats, not just those at rear adjustable seats. Since the agency did not present an argument to support changing the location requirements for anchorages at front center seating positions, we conclude that the modification to the existing language to that end was inadvertent. In any event, we would not support such a change if it were proposed." GM stated, "GM supports the agency's intent to clarify any ambiguity in the standard regarding adjustable rear seat positions, but can not support the actual proposal because of its effect on the front seating position requirements."

Volkswagen of America, Inc. (Volkswagen) recommends that the proposed amendment be revised to change the words "rearmost position" to "rearmost normal design driving or riding position as designated by the manufacturer." The reference to "rearmost position" could create difficulties with regard to special seats such as those in the rear seat of passenger cars or MPVs where a storage compartment or battery might be located under the seat and in which case the seat track is provided with special extended travel to permit access to such a compartment. Such a change would also make the wording of Standard No. 210 consistent with the definition of the seating reference point in § 571.3. VW stated that a lead time of 18 months after publication of the final rule is acceptable.

After reviewing the public comments, the agency has decided to withdraw this rulemaking. The intent of the proposed rulemaking was to clarify the lap belt angle measurement test procedure for rear adjustable seats by measuring the lap belt angle in the rearmost position. The agency did not intend to decrease vehicle safety. As pointed out by Ford, the NPRM could cause lower or flatter lap belt angles and could increase the likelihood of occupant submarining. The proposed amendment could also affect the front anchorage locations and the dummy kinematics during Standard No. 208 full barrier testing.

In conclusion, the proposed rulemaking could decrease vehicle safety and affect the front anchorage locations without providing any significant benefit. This was not the intent of this rulemaking and the agency is withdrawing this rulemaking action.

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

Issued on: May 27, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 990525143-9143-01; I.D. 120197A]

RIN 0648-AM41

Designated Critical Habitat; Proposed Revision of Critical Habitat for Snake River Spring/Summer Chinook Salmon

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to revise critical habitat for Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*), pursuant to the Endangered Species Act (ESA) of 1973. After a review of the best available scientific information, NMFS concludes that Napias Creek Falls constitutes a naturally impassable migrational barrier for Snake River spring/summer chinook salmon. Therefore, NMFS proposes to exclude areas above Napias Creek Falls from designated critical habitat because such areas are outside the species' current and historic range.

DATES: Comments must be received by August 2, 1999. Requests for additional public hearings must be received by July 19, 1999.

ADDRESSES: Requests for information concerning this action should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Protected Resources Division, Northwest Region, (503) 231-2005 or Chris Mobley, Office of Protected Resources, (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 1991, NMFS proposed the listing of Snake River spring/summer chinook salmon as a threatened species under the ESA (56 FR 29542). The final determination listing Snake River spring/summer chinook salmon as a threatened species was published on

April 22, 1992 (57 FR 14653), and corrected on June 3, 1992 (57 FR 23458). Critical habitat was designated on December 28, 1993 (58 FR 68543). In that document, NMFS designated all river reaches presently or historically accessible to listed spring/summer chinook salmon (except river reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) in various hydrologic units as critical habitat (58 FR 68543). Napias Creek, the area in question, occurs within one of these designated hydrologic units (Middle Salmon-Panther, USGS Hydrologic Unit 17060203).

On January 6, 1997, the Secretary of Commerce (Secretary) received a petition from Meridian Gold Company (Meridian) to revise critical habitat for Snake River spring/summer chinook salmon in Napias Creek, a tributary to Panther Creek which flows into the Salmon River in central Idaho. In accordance with section 4(b)(3)(D) of the ESA, NMFS issued a determination on April 28, 1997, that the petition presented substantial scientific information indicating that a revision may be warranted (62 FR 22903). In that document, NMFS solicited information and comments from interested parties concerning the petitioned action.

On September 16, 1997, Meridian submitted additional information in support of its petition. Specifically, Meridian submitted three new reports entitled: (1) "Ability of Salmon and Steelhead to Pass Napias Creek Falls"; (2) "Investigation of Physical Conditions at Napias Creek Falls"; and (3) "Historical and Ethnographic Analysis of Salmon Presence in the Leesburg Basin, Lemhi County, Idaho." This new information was added to the administrative record and was considered by NMFS in its 12-month determination published on January 30, 1998 (63 FR 4615).

On January 30, 1998, NMFS determined the petitioned action was not warranted since available information indicated the falls was likely passable to chinook salmon at some flows and that the presence of relict indicator species indicated historical usage by anadromous species (63 FR 4615). NMFS also concluded that habitat above Napias Creek Falls contained unique features that may aid in the conservation and recovery of listed salmonid species (63 FR 4615). However, NMFS did not address the question of whether or not habitat above the falls was essential for recovery of the species since it concluded that the area was within the species' current range (63 FR 4615; see also 50 CFR 424.12(e) which states that areas outside of the