Analysis and Conclusion

NHTSA recognizes that current procedures do not replicate all real-world seating positions of occupants similar in size to the 5th and 50th percentile dummies. However, the agency believes that the current procedure appropriately represents positions where 5th and 50th percentile occupants may sit. NHTSA believes the full-forward position is appropriate for the 5th percentile female dummy because it best represents the worst-case scenario for air bag-induced injuries in high severity crashes. Although the full forward position does not replicate all real-world seating positions for small females, the agency believes that some drivers will position their seat full-forward, making it a realistic seating position. Likewise, the agency believes the mid-track positioning of the 50th percentile male dummy is an acceptable position that represents where an adult-sized occupant may sit. A further rearward displacement of the dummy reduces the likelihood that the dummy will significantly interact with the interior of the vehicle, particularly since braking dynamics in most real-world crashes will move the occupant forward of the pre-braking seating position. At present, the 5th and 50th percentile dummies are used in FMVSS No. 208 to assess safety protection for all sizes of occupants.

IIHS does not give compelling evidence to conclude that the UMTRI seating procedure is more reflective of real-world behavior compared to the current agency procedure. Because many results in Appendix D of the petition [2] would place the seat outside the physical limitation of the seat track, the agency believes that the UMTRI results do not accurately depict real-world behavior in many cases. Appendix D shows eight of the fifteen vehicles having seat positions that do not physically exist on the vehicle seat track. For example, according to the UMTRI results, the seating position for a midsize male in a 2001 Dodge Grand Caravan is 64 mm and −10 mm aft and above the reference positions, respectively. This seating position would place the seat vertically below the full-down position, which physically does not exist within the range of seat motion.

Furthermore, in Appendix D, IIHS presents data on the results of the UMTRI seating procedure for fifteen different vehicles. The results are shown solely as a relationship to horizontal and vertical seating reference positions, which is full-forward and down for small females, mid-track and down for midsize males, and full-rear and down for large males. IIHS does not provide any data on real-world occupant seating preferences for these specified vehicles. Therefore, without existing occupant seating preferences for the fifteen vehicles, there is no basis upon which to compare the accuracy of the UMTRI procedure to the current agency procedure.

NHTSA believes that the regression analysis used by UMTRI is an appropriate tool to observe trends in data, but is not by itself sufficient to define a procedure that will affect all vehicles under FMVSS Nos. 208 and 214. Several points support this agency belief. First, the formula representing the regression is based on a finite number of vehicles. Although different sizes of vehicles were included in the study, the formula would change as other vehicle seating positions are studied. Also, the regression formula would change as the fleet characteristics change over time. There is no guarantee that equations derived from data collected in the past would apply to vehicles in the future. Outlying data points in the data today may become more frequent, causing additional practicability issues. Lastly, using the UMTRI regression analysis as the basis for all seating procedures produces a best-fit line through all the vehicles' actual seating preference mean collected by UMTRI. Inherently, a margin of error is produced in the regression line as the actual data set becomes non-linear (scattered). This method does not necessarily provide the most accurate position for each individual vehicle.

Finally, IIHS argues that many vehicles do not meet the NHTSA recommended minimum 250 mm steering wheel hub-to-chest clearance with the current seating procedure. However, the agency has found that IIHS measurement data do not necessarily correspond to measurements taken from NHTSA's NCAP tests. For example, as described in the NCAP frontal report for the model year 2000 Ford Taurus,[3] the steering wheel hub-to-chest measurement is recorded as 298 mm. The IIHS measurement was 228 mm. According to NHTSA's NCAP test reports, the agency has not found any vehicles listed in Appendix B of the petition that have less than 250 mm of clearance, and therefore believes the current procedure is consistent with agency recommendations. Furthermore, the agency believes that some occupants may position themselves closer than the 250 mm steering wheel hub-to-chest clearance, regardless of NHTSA's recommendation.

In conclusion, NHTSA denies this petition for rulemaking based on a lack of compelling beneficial evidence supporting the UMTRI procedure and the agency's views about the adequacy of the current seating procedure. Also, NHTSA declines the suggestion to use the UMTRI procedure in its NCAP testing. The agency has no immediate plans to conduct research on an alternative seating method for either the driver or passenger positions. However, NHTSA may revisit the seat position issue at a later time depending on the agency's future research needs and priorities.

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

Issued on: February 17, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–3756 Filed 2–20–04; 8:45 am]

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[2] See Docket Number NHTSA–2002–11398–9.

[3] See Docket Number NHTSA–1999–4962–67.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH93

Revisions to the Regulations Applicable to Permits Issued Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period for the proposed rule to revise our regulations pertaining to permits issued under the Endangered Species Act. Apparent confusion on the part of the public regarding the scope of this proposed rule has prompted us to reopen the comment period to allow for additional comment. Comments previously submitted need not be resubmitted, as they will be incorporated into the public record and considered in the preparation of the final rule.

DATES: Comments and information will be accepted from all interested parties until 5 p.m. on March 9, 2004. No comments will be accepted after this date.

ADDRESSES: (1) You may submit comments on the proposed rule to Chief, Division of Conservation and

Classification, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 420, Arlington, VA 22203; or (2) you may send comments by electronic mail (e-mail) to *fw9comments@fws.gov.* These comments should not contain any attachments, as they may be stripped from the e-mail. (*See* ''Public Comments Solicited'' section below.)

Comments received will be made available to the public and become part of the file for the proposal. You may examine comments and materials received during normal business hours at the above address in Arlington, VA, after the close of the comment period. You must make an appointment to examine these materials.

FOR FURTHER INFORMATION CONTACT: Chris Nolin, Division of Conservation and Classification, telephone 703/358–2171.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service is reopening the comment period for the proposed rule titled ''Revisions to the Regulations Applicable to Permits Issued Under the Endangered Species Act'' (68 FR 53327, September 10, 2003) (''proposed rule''). The comment period for the proposed rule overlapped part of the comment period on a notice on a different subject, entitled ''Draft Policy for Enhancement-of-Survival Permits for Foreign Species Listed Under the Endangered Species Act'' (68 FR 49512, August 18, 2003) (''draft policy''). This overlap in public comment periods resulted in some apparent confusion among the public on the scope and intent of the proposed rule.

The principal purpose of the proposed rule was to more explicitly describe and accommodate the domestic application of different types of enhancement activities that can be permitted by the Service under authority of section 10(a)(1)(A) of the Act. The Service recognizes that its existing regulations at sections 17.22(a) and 17.32(a) do not clearly describe the full range of activities that enhance species survival, especially those activities which relate to domestic species. Accordingly, we proposed to revise sections 17.22(a) and 17.32(a) to clarify the range of actions that may be permitted. The proposed rule was also intended to clarify that these permits may also be issued in conjunction with Candidate Conservation Agreements with Assurances and Safe Harbor Agreements that contemplate intentional take.

The proposed rule was not intended to make any changes to the regulations for the purposes of administering the draft policy. The proposed rule does not affect or facilitate the procedures described in the draft policy notice, and the status of the proposed rule has no bearing on any subsequent action under the draft policy. At this time, we continue to review the comments received on the draft policy and will determine how to proceed on that policy upon completion of our review of those comments. This determination will be independent of any final action on the proposed rule.

Public Comments Solicited

We are soliciting written comments on the proposed rule from the public, other concerned governmental agencies, the scientific community, industry or any other interested party. Verbal comments will not be accepted. Comments previously submitted on the proposed rule need not be resubmitted, because they will be incorporated into the public record as part of this reopening of the comment period and will be fully considered in the final rule. It is our intent that any final action resulting from our proposed rule be as accurate as possible. As indicated above, comments on the draft policy are not solicited as part of the reopening of the comment period on the proposed rule; only comments addressing the proposed rule will be considered under this open comment period.

If you submit comments by electronic mail (e-mail) please submit them as an ASCII file and avoid the use of special characters, or any form of encryption. In addition, we request that you do not include any attachments as these may get accidentally stripped from your message during the review process. You must also include your name and address in your e-mail message. You will not receive a confirmation from the system.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you would like us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

Dated: February 13, 2004.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–3869 Filed 2–18–04; 4:57 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 04020949–4049–01 ; I.D. 012204B]

RIN 0648–AR83

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed rule; proposed changes to the Catch Sharing Plan and to domestic Area 2A halibut management measures.

SUMMARY: NMFS proposes, under authority of the Northern Pacific Halibut Act (Halibut Act), to approve and implement changes to the Area 2A Pacific Halibut Catch Sharing Plan (Plan) to: provide more flexibility for Washington inseason sport fishery management; revise the public announcement process for the Puget Sound sport fishery (Washington's inside waters subarea); revise season dates for the Washington North Coast and South Coast sport fisheries; combine the Oregon North Central and South Central subareas; revise the ''additional fishing days'' season structure for Oregon's spring and summer sport fisheries; extend the season closing date for Oregon/California sport fisheries in the South of Humbug Mountain subarea; and change the depth restriction for Oregon's nearshore sport fishery. NMFS also proposes to approve and implement changes to the annual domestic management measures to revise the closed area to non-treaty commercial halibut fishing in Area 2A. NMFS is