

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571****Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards**

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies Thomas Built Buses, Inc., petition to change the head protection zone requirements in FMVSS No. 222. Thomas stated in the petition that it felt that the head protection zones referenced in S5.3.1.1 were defined by NHTSA with a square school bus body in mind. Thomas requested that S5.3.1.1(c) be changed to allow for differences in design.

NHTSA is denying this petition. Thomas offered no justification for changing the standard other than that they perceived that the standard was developed with a square school bus body in mind. The history of FMVSS No. 222 clearly indicates that the head protection zones were established with the bus occupant's head in mind and not the bus body as Thomas believes. In fact the statement in S5.3.1.1 that "The head protection zones in front of each school bus seat which are not occupied by the bus sidewall, window, or door structure * * *" indicates that the standard specifically considered the possibility of non-square bus bodies. Changing the standard, as proposed in the Thomas petition, would allow manufacturers to install unpadded objects in locations where the bus occupant's head is likely to come in contact with them in a frontal collision.

FOR FURTHER INFORMATION CONTACT: Charles Hott, Office of Crashworthiness Standards, NPS-12, NHTSA, 400 7th Street, SW, Washington, DC 20590 (telephone 202-366-0247, Fax: 202-366-4329).

SUPPLEMENTARY INFORMATION: Thomas Built Buses, Inc., petitioned the agency to change the head protection zone requirements in FMVSS No. 222, S5.3.1.1. Thomas stated that it felt that the zones referenced in S5.3.1.1 were defined by NHTSA with a square school bus body in mind. Thomas also stated that its school bus body design has a 2.25 degree inward taper from the beltline of the bus upward to the point where the bus sidewall ends. Thomas

stated that over the 28 inch span of head protection zone, the taper reduces the 3.25 inch dimension referenced in S5.3.1.1(c) to approximately 2.25 inches on the interior of the bus sidewall. Thomas requested that S5.3.1.1(c) be changed to allow for differences in design. Thomas stated that this change will not affect the impact testing required by S5.3.1.2 and it will still meet the intent of the standard. Thomas requested that the wording in S5.3.1.1(c) be changed to the following:

S5.3.1.1(c) A longitudinal plane 3.25 inches inboard of and parallel to the bus sidewall, window, or door structure. *FMVSS No 222; HEAD PROTECTION ZONE REQUIREMENTS:* The head protection zone requirements are specified in S5.3.1 of the standard and are as follows:

S5.3.1 Head protection zone. Any contactable surface of the vehicle within any zone specified in S5.3.1.1 shall meet the requirements of S5.3.1.2 and S5.3.1.3. However, a surface area that has been contacted pursuant to an impact test need not meet further requirements contained in S5.3.

S5.3.1.1 The head protection zones in each vehicle are the spaces in front of each school bus passenger seat, which are not occupied by the bus sidewall, window, or door structure and which, in relation to that seat and its seating reference point, are enclosed by the following:

(a) Horizontal planes 12 inches and 40 inches above the seating reference point;

(b) A vertical longitudinal plane tangent to the inboard (aisle side) edge of the seat;

(c) A vertical longitudinal plane 3.25 inches inboard of the outboard edge of the seat, and

(d) Vertical transverse planes through and 30 inches forward of the reference point.

S5.3.1.2 specifies the head form requirement and

S5.3.1.3 specifies the head form force distribution requirement.

The history of rulemaking on FMVSS No. 222 shows that the head impact zone requirements of the standard go back to the original proposal published February 22, 1973. In that proposal the agency stated:

"To eliminate the exposed metal bars and similar designs and to make the seat itself a significant energy absorber, the NHTSA proposes to require all surfaces within a specified area ahead of the seat to meet a head impact criterion similar to the one included in Standard 208, occupant crash protection. * * * Most types of metal surface would be too hard and would therefore not meet the requirements of the proposed standard."

In a subsequent proposal dated July 30, 1974, the agency stated the following:

"The proposal again specifies two zones in which impact by a head form or knee form must conform to specified force distribution and certain force or acceleration levels. The head protection zone is somewhat smaller than earlier proposed to accommodate tumble-home construction in side windows. * * *

These zones and many of the other requirements are based on location of the seating reference point, * * * The definition also specifies that the point have coordinates established relative to the designed vehicle structure, to permit the point to be located with certainty for enforcement purposes. * * * Because of the particular seat installation methods used in school buses, NHTSA would interpret "designed vehicle structure" to include the seat structure itself as mounted in the bus. The bus designer would therefore be able to specify the point coordinates from the seat structure alone."

In yet another subsequent proposal dated October 8, 1975, the agency stated the following:

"The NHTSA has carefully calculated its impact requirements to reflect the fact that a crash from any direction can cause the occupant to impact any part of the adjacent seats or protruding objects from any direction."

Standard No. 222 defines contactable surface as follows:

Contactable Surface is defined as any surface within the zone specified in S5.3.1.1 that is contactable from any direction by the test device described in the standard, except any surface on the front of a seat back or restraining barrier 3 inches or more below the top of the seat back or restraining barrier.

The final rule was published January 28, 1976. As a result of a petition for reconsideration from Sheller Globe Corporation, the agency modified the head protection zone requirements in the standard so that the bus body side panels, window or door structure would not be considered part of the head protection zone. This was modified because the construction of some buses allowed those elements of the bus body to be in the head protection zone. In allowing this change the agency stated:

"As Sheller noted, the agency has never intended to include the body side panels and glazing in the protection zone. The roof structure and overhead projections from the interior are included in this area of the zone."

From May 1977 until September 1981, NHTSA made at least four interpretations pertaining to the head protection zone requirement in the standard that show the bus sidewall extending in the head protection zone specified in the standard. Those interpretations dealt mainly with where the sidewall ends and the roof structure begins. Roof structures are required to meet the contactable surface requirements if they fall within the head protection zone. None of the manufacturers, Mid Bus, Collins, Coach and Equipment, and The Coachette Company, questioned whether the intent of the standard was based on a square bus body.

While there is no reason specified in the early rulemakings for the 3.25 inch dimension from the outboard edge of the school bus seat, NHTSA believes that this was considered to be a limitation caused by the size of the head form used for impact testing. The head form has a radius of 3.25 inches. Thus, there would be a 3.25 inch area from 12 inches above the seating reference point to the top of the seat back where the head form could not impact.

As can be seen by the history of the rulemaking, the head protection zones were included to prevent manufacturers from installing objects that the bus occupant's head may come in contact with during a collision. Those objects included the seat backs, luggage racks, and other items that were sometimes placed above the seats on the pre-standard school buses.

Thomas' assertion that changing the standard would not affect the impact testing requirement of the standard is incorrect. In fact, changing the head protection zone specified in S5.3.1.1(c) to a longitudinal plane 3.25 inches inboard of and parallel to the bus sidewall, window, or door structure would allow manufacturers to place objects that protrude outward from the bus body side panels 3.25 inches in an area that a school bus occupant's head is likely to strike if the bus is involved in a collision. These items would not have to meet the requirements for contactable surfaces and therefore would increase the potential for head injuries during a collision. Thomas offered no justification for changing the standard other than that they *perceived* that the standard was developed with a square school bus body in mind. The history of FMVSS No. 222 clearly indicates that the head protection zones were established with the bus occupant's head in mind and not the bus body as Thomas stated.

In accordance with 40 CFR part 552, this completes the agency's review of

the petition. The agency has concluded that there is no reasonable possibility that the specified action requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. Accordingly, it denies the Thomas Built Buses, Inc. petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued: September 19, 1996.

L. Robert Shelton,

Acting Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 091096A]

Gulf of Mexico Fishery Management Council; Public Hearings

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

ACTION: Public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene 14 public hearings on Draft Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) and its draft supplemental environmental impact statement (draft SEIS).

DATES: Written comments will be accepted until November 1, 1996. The hearings will be held from October 7 to October 17, 1996. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Written comments should be sent to and copies of the draft amendment and SEIS are available from Dr. Richard L. Leard, Senior Fishery Biologist, Gulf of Mexico Council, 5401 West Kennedy Boulevard, Tampa, FL 33609.

The hearings will be held in FL, AL, MS, LA and TX. See **SUPPLEMENTARY INFORMATION** for locations of the hearings and special accommodations.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Leard, 813-228-2815; Fax: 813-225-7015.

SUPPLEMENTARY INFORMATION: The Council will hold public hearings on Draft Amendment 9 to the FMP and the associated draft SEIS. The purpose of

Amendment 9 is to reduce the bycatch mortality of juvenile red snapper from shrimp trawling to a level that will allow the red snapper stock in the Gulf of Mexico to recover from its present overfished state. Under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, the red snapper stock must be rebuilt to a level of 20-percent spawning potential ratio by the year 2019. This rebuilding program is based on achieving a 50-percent reduction in bycatch mortality of juvenile red snapper in the Gulf shrimp fishery, beginning in 1997.

Amendment 9 would require the installation of NMFS-approved Bycatch Reduction Devices (BRDs) in all nets used by vessels trawling for shrimp in specified areas of the Gulf of Mexico exclusive economic zone (EEZ). Vessels trawling for royal red shrimp beyond the 100-fathom (183 m) contour and vessels trawling for groundfish or butterfish would be exempted. A single try net with a headrope length of 16 ft (4.9 m) or less per vessel would also be exempted. Amendment 9 also contains alternative areas where BRDs might be required in shrimp trawls: (1) In the EEZ of the Gulf of Mexico within the 100-fathom contour; (2) in the EEZ of the Gulf of Mexico within the 100-fathom contour west of Cape San Blas, FL; (3) in the EEZ of the Gulf of Mexico between the 10- and 100-fathom contours; and (4) in the EEZ of the Gulf of Mexico between the 10- and 100-fathom contours and west of Cape San Blas, FL.

In order for a BRD to be certified, the amendment would establish bycatch reduction criteria that would require the reduction of the bycatch of juvenile red snapper (age 0 and age 1) by a specified percentage from the average level of mortality on those age groups during the years 1984-1989. The amendment would also establish framework procedures for modifying bycatch reduction criteria, establishing BRD certification criteria, and a BRD testing protocol.

The hearings are scheduled from 7 p.m. to 10 p.m., as follows:

1. Monday, October 7, 1996—Holiday Inn Beachside, 3841 North Roosevelt Boulevard, Key West, FL 33040

2. Monday, October 7, 1996—Lake Charles Civic Center, 900 Lakeshore Drive, Lake Charles, LA 70602

3. Tuesday, October 8, 1996—Thibodaux Civic Center, 310 North Canal Boulevard, Thibodaux, LA 70301