Federal Communications Commission.

Donna R. Searcy,

Secretary.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-2; Notice 10]

RIN 2127-AD35

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Final rule.

SUMMARY: This notice requires that multipurpose passenger vehicles, trucks, and buses, whose overall width is less than 80 inches and whose GVWR is 10,000 pounds or less, be equipped with a center high-mounted stop lamp. This type of lamp has been required on new passenger cars since September 1, 1985. The agency has decided that similar crash-reduction and crash-severity reduction benefits will be attainable by extension of this requirement to other motor vehicles. The requirements are identical to those for passenger cars, except that a split CHMSL (*i.e.*, two smaller lamps meeting the requirements for a single lamp) will be allowed on vehicles whose rear vertical centerline falls between movable body panels such as doors.

DATES: The effective date is September 1, 1993. However, optional compliance may begin September 1, 1992.

Any petitions for reconsideration of this rule must be received by NHTSA not later than May 20, 1991.

ADDRESSES: Any petitions for reconsideration should refer to Docket No. 81-2; Notice 10, and be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Richard Reed, Office of Rulemaking, NHTSA (202-366-4924).

SUPPLEMENTARY INFORMATION: This rule is based upon a notice of proposed rulemaking published on May 31, 1990 (55 FR 22039). Under the proposal, the center high-mounted stop lamp, presently required only on passenger cars, would be extended to the NHTSA-defined vehicle categories of multipurpose passenger vehicles, trucks, and buses, more specifically, those whose overall width is less than 80 inches, and whose GVWR is 10,000 pounds or less. Thus, the lamp would be required on all pickup trucks, vans, buses, sport-utility vehicles, truck-based station wagons, and motor homes within these width and weight parameters, and a variety of other types of trucks as well. For purposes of further discussion, NHTSA will use the term "light truck CHMSL" to identify the subject of this rulemaking.

Comments were received from the following motor vehicle manufacturers: American Suzuki Motor Corporation, Chrysler Corporation, Ford Motor Company, General Motors Corporation, Isuzu Motors Ltd., Mazda Research and Development of North America, Inc., Nissan Research and Development, Inc., Toyota Motor Corporate Services of North America, Inc., and Volkswagen of America, Inc. Final-stage manufacturers who commented were Gem Top East, Inc., Grote Manufacturing Company, Grumman Olson, Kois Brothers Equipment Company, Meyer Products, and Tailgater, Inc. Comments were received from the following lighting manufacturers: Hella, and K. G. Hueck & Company. Trade, public interest, and governmental associations submitting comments were: American Automobile Association, Citizens Concerned for Highway Safety, National Association of Governors Highway Safety Representatives, Recreational Vehicle Industry Association, National Automobile Dealers Association, National Truck Equipment Association, Truck Safety Equipment Institute, Insurance Institute for Highway Safety, and Coalition for Consumer Safety. Finally, comments were received from Spectrum Research and Development, Inc., and from numerous individuals.

Comments identified a number of issues relevant to the rulemaking, and the agency will discuss each of these in turn.

Adequacy of Research to Show Reduction in Rear End Collisions

The agency discussed the issue of the safety need for a reduction in rear end collisions at length in the NPRM. Interested readers are referred to that document for a full discussion. In brief, NHTSA cited accident statistics, the reduction in rear end collisions that it believes is attributable to the center lamp on passenger cars, and data indicating that a similar beneficial effect can be realized through installation of the center high-mounted stop lamp ("CHMSL") on vehicles other than passenger cars.

Certain parts of that discussion elicited comments, particularly with respect to the adequacy of the agency's evaluation of passenger car CHMSL effectiveness, and the field study NHTSA performed before embarking on the rulemaking to extend the CHMSL to other vehicles.

Specifically, the most recent follow-up study (DOT HS 807 442 "An Evaluation of Center High Mounted Stop Lamps Based on 1987 Data") indicates that cars equipped with the CHMSL are 17 percent less likely to be struck in the rear while braking than cars without the lamp.

Interested in learning whether a similar reduction might occur if vehicles other than passenger cars were equipped with a CHMSL, NHTSA contracted with the National Public Services Research Institute (NPSRI) to conduct a study with respect to pickup trucks, mini vans, full size cargo type vans, and trucks with roll-back doors. A final report was rendered in May 1989, "The Effect of the Center High Mounted Stop Lamp on Vans and Trucks" (DOT HS 807 506). This report has been placed in the docket. The results of this study showed an average improvement in brake reaction time of 0.09 second when the CHMSL was used. In a related experiment with a passenger car equipped with the CHMSL, the reduction in reaction time was 0.11 second. NHTSA decided that there is no statistically significant difference between the 0.11 second reduction in response time for passenger cars and the 0.09 second reduction in response time for vans/light trucks, indicating that the CHMSL would also be effective when installed on vehicles other than passenger cars. The agency sought comment on whether these results indicate further that the level of crash prevention effectiveness of CHMSLs installed on light trucks would be similar to that found for passenger car CHMSLs.

As stated above, the conclusion that light truck CHMSL's will be effective in preventing crashes and reducing the severity of those that do occur is based on (1) results of a series of tests conducted by the NPSRI on the reduction in mean brake response time of drivers following various types of CHMSL-equipped light trucks, as compared to the same trucks without CHMSLs, (2) tests of brake reaction times of drivers following a CHMSL and non-CHMSL passenger cars that were conducted by the same company using the same procedures, and (3) the proven on-road effectiveness of passenger car CHMSLs. The test results showed that

the CHMSLs produced statistically significant reductions in following-driver brake response time of .09 second for light trucks and .11 second for passenger cars. NHTSA stated that it did not consider this to be a significant difference and concluded that there was reason to expect that CHMSL's installed on light trucks would produce results similar to those found for passenger cars.

However, several manufacturers and a number of individuals spoke against or questioned the adequacy of the research to support requiring light truck CHMSL's. Ford disagreed with the derivation of the .09 second difference, and that company, Chrysler, and the National Truck Equipment Association questioned whether such a small improvement in mean brake response time of following drivers attributable to light truck CHMSL's was meaningful with respect to motor vehicle safety. They also noted the inconsistency of results for the different truck types and questioned the propriety of using the average result for all tests to support a CHMSL requirement pertaining to all light trucks. Ford and Chrysler also did not agree with the agency's conclusion that the similar results of the NPSRI light truck and automobile studies indicated that the benefits which could be expected from CHMSL's on light trucks would be similar to those found for passenger cars. They also stated reasons that they felt CHMSL's on light trucks would not be so effective as those on passenger cars. These reasons were related to the positions of the CHMSL and the standard brake lamps, and to the behavior of following drivers as influenced by truck rear end design, including the mounting height of standard brake lamps.

Some of the commenters remarked that there is a need for additional research because the NPSRI study stated, "No valid conclusions as to the collision-reduction benefit of the CHMSL's on vans and trucks can be offered on the basis of the data collected in this study." The agency disagrees with these comments. The NPSRI study was not designed to estimate a collision-reduction benefit. Rather, it was designed to determine the relationship between brake response time (BRT) and CHMSL's. The study accomplished this purpose, establishing a positive BRT-CHMSL relationship. The agency concludes that there is sufficient justification for issuing a requirement for CHMSL's on light trucks based on the similar braking response results found by NPSRI for CHMSL-equipped passenger cars and light trucks and the on-road benefits realized by CHMSL-equipped cars. Clearly, reductions in BRT will lead to reductions in collisions.

Several commenters questioned the accuracy and significance of the NPSRI study, stating that the BRT results were not consistent among the four vehicle types. The study clearly stated that the BRT results for each of the individual "cells" (*e.g.*, pickup trucks with triangulation, cargo vans with fixation) were not themselves statistically significant, only that their cumulative mean reduction in BRT of 0.09 second was. This overall reduction is based upon 1087 observations, 733 with the CHMSL and 354 without. Of all the studies of BRT measured in trapped car studies, the NPSRI study was the most rigorous, controlling for speed, headway, light conditions, and roadway geometry. In addition, the NSPRI study collected significantly more data than any other study, including those cited by commenters. Thus, the agency believes that CHMSL's will be effective, although not necessarily equally effective, on the various types of light trucks. In order to reflect the possibility that the CHMSL may be somewhat less effective on light trucks than on passenger cars, the agency now estimates benefits more conservatively than it first estimated them. It is assumed that light truck CHMSL effectiveness could be lower, instead of equivalent to that found for passenger cars, by an amount proportional to the difference in the effect that these technologies were found to have on the brake response times of following drivers—.09/.11, or 82% as effective as for passenger cars.

Ford and Chrysler argued that a field study, along the lines of those conducted to support the passenger CHMSL requirement, was needed to support a light truck CHMSL regulation. The agency does not believe that a field study is necessary. The concept of the center lamp has been validated by the field studies that led to its adoption for passenger cars. The BRT tests are an acceptable surrogate for a field study in demonstrating that the concept remains valid for light trucks. Further, a field study would take 2–3 years to design, conduct, and analyze before proposing a rule based on these results. This would mean that a requirement for CHMSLs on light trucks, when providing for adequate leadtime, could be delayed as much as 3 years beyond the September 1, 1993 effective date that is specified in this final rule. As stated above, the agency believes the benefits of CHMSLs have been proven. Therefore, it will not delay implementation of a light truck CHMSL requirement more than is reasonably necessary to permit manufacturers to efficiently schedule their installation in their various truck models.

Location of the Lamp on Vehicles Other Than Passenger Cars

Issues relating to location concerned mounting the lamp outside the proposed range of 34 to 84 inches above the road surface, and the alleged impracticability of mounting the lamp on vehicles with double rear doors, on pickups with caps, and on certain types of utility and open-bodied vehicles.

On passenger cars, the center high-mounted stop lamp is located on the vehicle's vertical centerline, at a height not lower than 3 inches below the rear window. In the NHTSA study of vehicles other than passenger cars, two alternative locations were chosen for each vehicle type tested. On the pickup truck involved in the study, one location of the lamp was in the center at the top of the cab, and the other was in the center at the top of the tailgate (this was a Dodge Ram vehicle, mid-size, without a cap). The minivan was a Ford Aerostar, with one location of the lamp in the center on the roof line, and with the other location of the lamp in the center below the rear window. A Ford Econoline without a rear window served as the full-size cargo van. The alternative lamp locations for this type of vehicle were in the center at the eye level of a following driver, and at a point in the center halfway between the height of the stop lamps, and the roof line. On the straight truck with a roll-back door, a lamp was centered halfway between the road surface and the top of the vehicle. The other configuration was two lamps, one at each side of the vehicle, at the same height halfway between the road surface and the height of the vehicle.

Before initiating rulemaking, the agency asked several manufacturers of light trucks to comment on potential locations for the lamp. Nissan recommended that the lamp be installed near or on the roof. Mazda suggested that there could be as many as four installation locations for pickups, including the upper part of the rear window, and between the roof and rear window. Chrysler argued that no location was acceptable for pickups, as well as expressing concern that a high position might interfere with the identification lamps that are used to indicate wide vehicles. Grumman Olson provided detailed comments on all types of vehicles.

When all the comments were collated, no consensus emerged on a location for

any type of vehicle. There appeared to be so many configurations of vehicles whose overall width is less than 80 inches, and whose GVWR is 10,000 pounds or less that the locational requirements cannot be specific. General Motors, however, provided a recommendation that afforded a basis for the eventual proposal: That a broad specification be adopted, allowing the center of the lens to be mounted at any point on the centerline from 34 to 84 inches above the road surface. The agency proposed this general requirement for the location of the lamp, believing that a minimum specification of 34 inches would enable manufacturers to install the lamp on certain vehicles where higher locations would not be practicable, and yet assure that the lamp would not be mounted much below the eye level of most drivers. NHTSA noted that vans of standard size manufactured by Ford, GM, and Chrysler are approximately 80 inches in height. With a maximum mounting height specification of 84 inches, manufacturers could install the center lamp above double rear doors on vehicles with such a rear configuration; in fact, NHTSA thought that this might be the most practicable location for the lamp.

However, at such a height, it might be necessary to propose additional photometric specifications for downward visibility of the lamp. At present, there is a photometric requirement only for 5 degrees down. Given the probability that lamps on vehicles other than passenger cars may be mounted at a greater height than on passenger cars, a photometric requirement for 10 degrees down, and even 15 degrees down, might be justified. NHTSA invited specific comments on this point. The agency appreciated that problems might be encountered with complex vehicle designs for which even this general specification might not allow a satisfactory location, and therefore asked for specific comments on this point.

The agency also expressed its concern that additions such as a cap to a new or used pickup truck could reduce or eliminate the benefits of the center lamp. Such an addition could also violate the prohibition in the National Traffic and Motor Vehicle Safety Act against rendering Federally-required safety equipment inoperative. If a cap were added to a pickup before its first sale for purposes other than resale and that cap rendered the center lamp noncompliant, the dealer selling the pickup would be liable for a civil penalty. If the cap were added to a pickup, after its first sale, by a vehicle manufacturer, distributor, dealer or vehicle repair business, so as to knowingly render the lamp partially or wholly inoperative, that individual or business also would be liable for a civil penalty. In view of the agency's concern about the potential reduction in benefits as a result of such installations, NHTSA sought comments on the types of additions made to completed pickup trucks that could interfere with the center lamp; whether those additions are typically made to new or used vehicles; whether those additions are typically made by vehicle dealers, cap dealers, repair businesses, vehicle owners, etc.; and the estimated percentage of pickup trucks that are likely to be equipped with caps at some point during their lifetime.

Finally, the agency asked that manufacturers, in commenting on the location aspects of the proposal, keep in mind the apparent reasons for the center lamp's effectiveness in reducing rear end collisions for passenger cars: it provides an unambiguous stop signal; it is in the line of sight of following drivers; and it creates a triangular effect, or cue, to the eye because it has been higher than the stop lamps mounted on each side of the vehicle (though there is no specific requirement that it be). NHTSA noted that the configuration on vehicles other than passenger cars may differ in some respects. For example, the stop lamps may be mounted higher than on passenger cars, and in some instances in the same horizontal plane as a prospective center lamp, thus creating a linear rather than triangular effect.

Grumman Olson and others commented that the upper limit of 84 inches was an impractical limitation for installing CHMSL's on vehicles that have walk-in bodies with hinged, split, or roll-up rear doors. Grumman Olson requested exempting such vehicles, or barring that, extending the height limitation and modifying the photometric specifications, as appropriate. The agency agrees that an 84 inch mounting height is impractical for some vehicles and, therefore, is not specifying a maximum mounting height in the final rule. However, it is not excluding any categories of light trucks from the CHMSL requirement.

The NPRM requested comment on whether higher mounting heights necessitated additional photometric requirements beyond the current 5 degree down specification for passenger cars. General Motors commented it did not believe an additional down-angle photometric specification was needed: however, if one were prescribed, it recommended that it apply only to CHMSL's installed above 66 inches. Chrysler, Isuzu, Hella and Volkswagen recommended a 5 degree down angle as the maximum requirement. Ford recommended a 10 degree down angle for lamps mounted at 84 inches, and TSEI and Grote recommended adding a 10 degree down requirement for all light truck CHMSL's. Volkswagen argued that a 5 degree down specification was adequate for an 84 inch mounting height, given the observation angles of following drivers for typical following distances and driver eye heights. In response to these comments, NHTSA, is specifying only a 5 degree down angle for light truck CHMSL's, irrespective of mounting heights, the same requirement as for passenger cars. No convincing argument has been made that a 10-degree down photometric specification will enhance safety over a 5-degree down one at mounting heights above 84 inches for the relatively small number of vehicles on which such high mountings might occur. Further, adoption of the 5-degree requirement for all light trucks will mean that vehicle manufacturers may use a single lamp design of all their production.

Mazda requested that the minimum mounting height be set below the proposed 34 inches, saying that such a height would be design restrictive. Alternatively, it recommended that the CHMSL locational requirements be related to the rear window as it is for passenger cars, but with an exception for pickups specifying that no portion of the lens shall be lower than 10 inches below the top of the tailgate. These recommendations were made to accommodate CHMSL installation by Mazda on its mini-pickup for which it concluded that the best location for a CHMSL would be in the lower part of the tailgate, 31 inches above the ground. This location was selected to prevent the lamp from being obscured by cargo and caps that might be added, and to position the CHMSL below the tailgate latch lever mechanism.

In addition, for those vehicles without a rear window, Mazda recommended language permitting a CHMSL to be mounted at the same height as the required stop lamps. However, if this suggestion were adopted, the lamps could be as low as 15 inches, the minimum mounting height for conventional outboard stop lamps. The agency is not adopting this recommendation since it would permit CHMSL's to be so low as to be ineffective for safety purposes, and

substantially below CHMSL's already in the passenger car fleet. For the final rule, the required minimum mounting height remains at 34 inches.

Volkswagen and General Motors proposed allowing the CHMSL to be located within 6 inches of the centerline of the vehicle and allowing the CHMSL to be divided so as to be positioned on both sides of split rear doors. The commenters said that this would provide for an aesthetically acceptable mounting location when a vehicle's split rear doors extended to the top of the vehicle. Chrysler and Suzuki mentioned that their on/off road multipurpose passenger vehicles (MPV's) are designed for high ground clearance and have minimal interior storage space for the spare tire. The tire is, therefore, mounted on the tailgate and covers the center of the sheet metal there. These companies stated that an offset CHMSL mounting would facilitate CHMSL installation on these and similar vehicles.

One of the most fundamental aspects of the CHMSL has been its center location. The value of any signal lamp depends significantly on its ability to provide unambiguous information about the intent or action of the driver to other drivers, in this case, that the driver is applying the brakes. All CHMSL's are presently mounted on the vehicle's centerline, and changing the lamp's center location may reduce its benefit to following drivers. Therefore, the agency is requiring light truck CHMSL's to be mounted on the vehicle centerline. However, to facilitate mounting on vehicles with split rear doors, the agency is permitting two identical CHMSL's of a minimum luminous effective lens area of 2¼ inches each to be mounted at the same height and adjacent to each other where the doors close. When photometered together they are required to meet the minimum photometrics of Figure 10, and when viewed together, to provide signal visibility through a continuous angle from 45 degrees to the right to 45 degrees to the left. However, this configuration will be allowed only if there is no room on the body structure above the doors to install a single lamp. In addition, CHMSL's can still be installed on vehicles with some centerline obstruction in other locations such as the roof, tailgate, roll bar, soft top frame, or, as Suzuki proposes for the Sidekick, on a pedestal located on the tailgate behind the spare tire.

Twenty-one individuals suggested that an alternative location for the CHMSL be the widest part of the vehicle, most recommending near the side view mirrors. Commenters suggested this alternative location for the CHMSL on light trucks because they felt the research results were not conclusive and that this location would be a good alternative to that which was proposed. However, as the agency has stated in the past year in corresponding with various proponents of this type of proposal, there was no evidence showing any improvement in safety from this concept. Further, given the resulting close proximity of the CHMSL's and mirrors, the effectiveness of the mirrors could be significantly diminished, should glare from the lamps shine into the driver's eyes. Therefore, the agency is not adopting this mounting location.

Finally, there was no consensus among the commenters regarding triangulation, i.e., whether the effectiveness of the center lamp on passenger cars is due, in part, to the fact that it is mounted higher than the standard stop lamps.

Practicability and Utility of a CHMSL on Some Vehicle Types

The NPRM requested comments on whether certain vehicle types or configurations presented problems with respect to the installation and operation of CHMSL's. Chrysler, Ford, and Isuzu argued that pickup trucks have no practicable location for CHMSL's. It was stated that if a CHMSL were placed on the cab, cargo could block its view from following drivers and cargo shifts could subject it to damage. Further, if the CHMSL were placed on the tailgate, it would be subject to damage and obscuration if the gate were lowered. The agency recognizes that CHMSL's might not be seen by following drivers in such situations, but it believes that these situations will occur relatively infrequently and that pickup trucks will be driven the great majority of the time without obscuration of CHMSL's mounted on the cab or tailgate. The safety benefits to be realized when the CHMSL's are visible easily justify requiring them.

The Recreational Vehicle Industry Association, National Automobile Dealers Association, and Chrysler expressed concern that CHMSL's mounted on pickup trucks would be obscured by aftermarket slide-in campers or caps (depending on the location of the CHMSL). Under the Vehicle Safety Act, manufacturers, dealers, distributors, or motor vehicles repair businesses may not install campers or other equipment on new or used vehicles that would obscure the original mandated CHMSL without providing an auxiliary CHMSL, as this obscuration would be "rendering inoperative" a mandated safety device. However, this prohibition does not apply to vehicle owners. Therefore, they could use slide-in campers or caps that obscure the original CHMSL. However, the agency believes that slide-in campers, which are not part of the original pickup design and hence are accessory equipment, are typically intended for occasional use, and the CHMSL would only be obscured for a relatively short period of time on those vehicles whose owners have purchased them. More importantly, if owners of these vehicles perceived the additional safety protection offered by CHMSL's, they might demand that manufacturers of campers equip them with CHMSL's. The marketplace, together with the render inoperative prohibition, should induce manufacturers of campers to equip them with CHMSL's.

In accordance with the existing provisions of 49 CFR parts 567 and 568, those who alter vehicles completed by others, and final-stage manufacturers of multi-stage vehicles, must assure that the CHMSL requirement is met. The National Truck Equipment Association and some final-stage vehicle manufacturers (Kois Brothers Equipment Company, Meyer Products, and Tailgater, Inc.) argued that there was no practical location for CHMSL's on many of the types of equipment and body types added by final-stage manufacturers to pickups and incomplete vehicles. These commenters provided examples and illustrations of such vehicles including dump bodies, hydraulic liftgates, utility body toppers, salt spreaders, stake trucks, and wreckers, among others. They stated that special wiring and locational considerations would make CHMSL's on many of the vehicles they produce substantially more costly than that estimated by the agency. Further, not only would CHMSL's be very difficult to install, the wiring and lamps would be subjected to abuse in heavy work and recreational situations; consequently, durability and maintenance would be a problem.

Despite their comments, data sheets provided by Kois, Meyer, and the NTEA show that installation of CHMSLs would not be as difficult as they believe. For example, the literature related to stake bodies (*i.e.*, platform bodies with removable vertical side and rear panels) indicated that they are equipped with clearance and identification lamps on the rear frame of the platform. CHMSLs could be used in place of the center-located identification lamps, since these vehicles, less than 80 inches wide, are

not required by Standard No. 108 to carry identification lamps.

It was also stated that the salt spreader would not be capable of having a CHMSL, because of difficulty in providing electrical power to the lamp through the spreader structure. However, one of the models comes complete with a cab-mounted electrical control panel. Certainly, the spreader could have a CHMSL with wiring and power provided by this in-cab panel. Based on the data sheets provided by Kois, Meyer, and the NTEA data sheets for many different bodies and equipment, it appears that many other multi-stage vehicles have similar convenient means of providing the necessary electrical hook-up. The agency is presenting below possible CHMSL locations for each of the rear end configurations provided by Kois, Meyer, and/or the NTEA in their comments:

- LIFT GATES: The rear face of the cab, top of the cab or (with more difficulty) on a protected or recessed portion of the lift gate.
- SERVICE BODIES: The rear face of the cab, top of the cab, the tail gate, or on an overhead ladder or pipe rack, if so equipped.
- COVERED UTILITY BODY: The tailgate, the rear gate, the rear face of the body compartment, or on the top of the body compartment.
- SPREADERS: Depending upon the spreader dimensions, the CHMSL could be located on the rear face of the cab, the top of the cab, or the spreader frame. In addition, as suggested by Suzuki for open-bodied vehicles, CHMSL could be mounted on a bracket which positions the CHMSL at the proper height on the vehicle centerline.
- TIPPERS—DUMP BODIES: The rear gate, the rear face of the tipper's forward bulkhead, the rear edge of the cab shield, or below the rear gate on the rear face of the dump body.
- STAKE BODIES: The rear face of the platform, where Kois presently positions identification lamps which are not required.
- "PANEL BODIES" WITH SLIDING OR HINGED DOORS: For each of the eight configurations presented by Kois and NTEA, the CHMSL could be substituted for the existing identification lamps that are not required by Standard No. 108.
- BUCKET—CHERRY PICKER TRUCKS: The CHMSL could be located on the rear tailgate (if so equipped), or on the bucket itself.

With some of the different types of light trucks and vans, it may be more difficult for the manufacturer to comply with this regulation. However, NHTSA believes that the perceived installation difficulties are surmountable. The agency believes that the final-stage manufacturers can conquer the apparent difficulties. For example, as mentioned above, Kois already provides stake trucks with identification lamps which could easily be replaced by a CHMSL.

There are also practicable CHMSL mounting locations on open-bodied, sport-utility vehicles, as discussed above (e.g., Jeep Wrangler, Geo Tracker, Suzuki Sidekick). These open-bodied vehicles have roll bars, tailgates, and top superstructures available for CHMSL mounting. These solutions may be somewhat more complex and costly than for vanbodied vehicles, but they are still practicable.

Other Performance Requirements

Other requirements are similar to those specified for passenger car CHMSL's. The lamp lens area must be a minimum of 4½ square inches and, if mounted inside the rear glazing, means must be provided to minimize reflections from the light of the lamp upon the rear window glazing that might be visible to the driver when viewed directly or indirectly in the rearview mirror. As discussed above, the photometric requirements are those specified for passenger cars in Figure 10 of Standard No. 108.

Combining the Center Lamp With Other Vehicle Equipment

Chrysler, Ford, and General Motors requested the CHMSL be permitted to be combined with the cargo-bed lamp typically found on the rear of the cab of pickup trucks. They reasoned that despite the specific prohibition in S5.4 against the combining of a CHMSL with any other lamp, the combination of CHMSL with a cargo lamp would have absolutely no negative safety effect because of the nature and use of the two lamps. However, because the notice of proposed rulemaking did not propose a variance from the general prohibition, NHTSA cannot at this time adopt a final rule based upon the comments requesting it. Accordingly, it is publishing a supplemental notice of proposed rulemaking elsewhere in this issue of the **Federal Register** to permit the physical combination of cargo-bed lamps with light truck CHMSL's.

Effective Dates

In proposing an effective date for vehicles other than passenger cars, the agency followed the example it set in the passenger car rulemaking. There, the agency adopted a mandatory effective date that was approximately 2½ years after the issuance of the final rule, allowing two full model years for manufacturers to achieve compliance. NHTSA has determined that installation of the lamp on some designs of multipurpose passenger vehicles and buses is no less complex than installation on cars, and that mandatory compliance should not be required for the next model years (1992 and 1993). Accordingly, it is hereby found that good cause is shown for an effective date of the final rule later than one year after its issuance. The effective date of the final rule is September 1, 1993.

NHTSA allowed passenger car manufacturers optional use of the center lamp in the year preceding the mandatory effective date. The agency has decided to allow manufacturers of vehicles other than passenger cars to install the center lamp in the year preceding the mandatory effective date, provided that the lamp meets all requirements. Because this step may affect manufacturers who are presently installing the center lamp on vehicles other than passenger cars, and whose designs may not meet the requirements of the final rule, it is hereby found that good cause is shown for an effective date later than one year after issuance of the final rule. The effective date for optional compliance is September 1, 1992.

Manufacturers presently installing conforming center lamps on vehicles other than passenger cars, or who wish to do so before September 1, 1992, are subject only to the general prohibition of paragraph S5.1.3 that no additional lighting equipment may be installed that impairs the effectiveness of lighting equipment required by Standard No. 108.

Costs

The cost of installing a CHMSL on a light truck depends on the type of lamp assembly selected by the manufacturer, the nature of any necessary modifications to the vehicle's electrical system, and the nature of any other vehicle modifications that might be necessary to provide a suitable location for the lamp to be mounted. Manufacturer and dealer markup and taxes must be added to calculate the consumer purchase price increase due to the addition of CHMSL's. In the agency's evaluation of passenger car CHMSL performance, the 1987 sales-weighted price increase attributable to a CHMSL was estimated to be $9.05. Increasing this value to account for inflation in 1988 and 1989 produces an estimated consumer price increase for a passenger car CHMSL of about $9.50.

In addition to the cost of installing the CHMSL, a lifetime fuel penalty due to the slight increase in vehicle weight must be accounted for. Historically, the agency has assumed that each incremental pound of light truck weight would increase lifetime fuel consumption costs by $1.14. It is impossible to make a reliable prediction at this time when oil prices are fluctuating widely on a daily basis, but given the almost indiscernible impact of the lamp on lifetime fuel consumption, the agency does not believe that the lifetime fuel consumption costs would exceed $1.30. NHTSA's studies estimate the average weight of passenger car CHMSL's to be 0.95 pound. Assuming a similar weight for light truck CHMSL's, the estimated increase in the lifetime fuel consumption costs for a light truck CHMSL would be about $1.25. Finally, about $0.50 (present value) must be added to the cost of operating a CHMSL for bulb replacement purposes. Thus, the lifetime consumer cost per truck CHMSL in 1989 dollars is estimated to be $11.25.

This is believed to be a reasonable estimate in those cases where the CHMSL installation on light trucks is a fairly simple procedure, similar to that for passenger cars. This would appear to be the case for most light trucks. However, the cost of a CHMSL on many of the more complex vehicle configurations in use (those produced by multi-stage manufacturers) will probably be higher. The agency estimated that the cost of the more complex configurations would average 50% higher and requested comments on the specific types of trucks (e.g., wrecker, stake, dump, tall vans with split or roll-up doors), on which mounting a CHMSL would be more difficult and the associated additional expense. The sales volumes of these vehicles were also requested so that the agency could adjust its cost estimates, as appropriate.

Three commenters disagreed with the agency's cost estimate for CHMSL's on multi-stage vehicles. Gem Top, which manufactures truck tops for commercial fleet users, said that some of its customers ordered "a collision avoidance light" (third stop lamp), centered above the rear door. The company said $40 was a far more realistic price for this lamp. Kois Brothers Equipment Company, a truck equipment supplier, said the average price for installation in its shop would be $57.50. The third commenter, NTEA, provided illustrations of multi-stage vehicles for which CHMSL installation would be more difficult, and stated that modifications by cap manufacturers on some vehicles where an original CHMSL was obscured by a cap would cost $50–$200. These commenters, however, did not provide any detailed information explaining their cost figures, e.g., information identifying the portion attributable to additional wiring, body modification, or more costly CHMSL design. Therefore, the agency has no basis for judging the merit of these figures.

At the same time, the agency agrees that installing CHMSL's on some vehicle types that are produced by final-stage manufacturers will be more difficult and costly. However, as these manufacturers gain more experience in installing CHMSL's, in selecting the optimal designs and mounting locations determined for the various types of vehicle bodies and equipment, and as the lamps are produced and installed in quantity, prices should drop markedly. Further, the agency notes that many multi-stage vehicles, including many vans, utility caps, and a variety of other pickup-based bodies, have readily accessible mounting locations, such as on the cab, above or on split van doors, and on tailgates. The agency concludes that an estimated average consumer cost of installing CHMSL's on multi-stage manufactured vehicles would be 50 percent higher than for other light trucks, or $17.00, is reasonable. The agency emphasizes that this is an average cost, and that some CHMSL installations will cost more; others will cost about the same as those installed by the single-stage manufacturers. Indeed, the originally installed CHMSL may be effective on many multi-stage vehicles.

Impact Analyses

NHTSA has considered the impacts of this rulemaking action and has determined that it is major within the meaning of Executive Order 12291 "Federal Regulation," and significant under Department of Transportation regulatory policies and procedures. The agency has estimated that a center highmounted stop lamp would add about $11.25 to the lifetime cost of owning and operating a vehicle that is presently not so equipped. The annual cost of implementing this requirement is estimated to be $58 million. When all vehicles covered by the rule are equipped with the lamp, NHTSA estimates there will be an annual rear-end accident reduction in the range of 65,000 to 90,000 crashes, and a corresponding reduction in injuries of 19,200 to 27,400. In addition, property damage costs could be reduced by $103 to $143 million annually. The agency has prepared a Final Regulatory Impact Analysis and placed it in the docket. In the Analysis, NHTSA has adjusted the benefits to account for the fact that, by 1992, head restraints will be required on light trucks, thereby reducing the injuries that would occur in the absence of CHMSL's.

NHTSA has analyzed this rule for purposes of the National Environmental Policy Act. The rule will not have a significant effect upon the environment as the increase in materials required by the manufacture of the lamp is not deemed significant.

The agency has also considered the effects of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic effect upon a substantial number of small entities. Lamp and vehicle manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions will not be significantly affected as the price of new vehicles should not be more than minimally impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism." It has been determined that the 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

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

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.

2. S5.1.1.27 is revised to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5.1.1.27 (a) Except as provided in paragraph (b) of this section, each passenger car manufactured on or after September 1, 1985, and each

multipurpose passenger vehicle, truck, and bus, whose overall width is less than 80 inches, whose GVWR is 10,000 pounds or less, manufactured on or after September 1, 1993, shall be equipped with a high-mounted stop lamp which:

(1) Shall have an effective projected luminous area not less than 4½ square inches.

(2) Shall have a signal visible to the rear through a horizontal angle from 45 degrees to the left to 45 degrees to the right of the longitudinal axis of the vehicle.

(3) Shall have the minimum photometric values in the amount and location listed in Figure 10.

(4) Need not meet the requirements of paragraphs 3.1.6 Moisture Test, 3.1.7 Dust Test, and 3.1.8 Corrosion Test of SAE Recommended Practice J186a, Supplemental High-Mounted Stop and Rear Turn Signal Lamps, September 1977, if it is mounted inside the vehicle.

(5) Shall provide access for convenient replacement of the bulb without the use of special tools.

(b) Each multipurpose passenger vehicle, truck and bus whose overall width is less than 80 inches, whose GVWR is 10,000 pounds or less, whose vertical centerline, when the vehicle is viewed from the rear, is not located on a fixed body panel but separates one or two movable body sections, such as doors, which lacks sufficient space to install a single high-mounted stop lamp on the centerline above such body sections, and which is manufactured on or after September 1, 1993, shall have two high-mounted stop lamps which:

(1) Are identical in size and shape and have an effective projected luminous area not less than 2¼ inches each.

(2) Together have a signal to the rear visible as specified in paragraph (a)(2) of this S5.1.1.27.

(3) Together have the minimum photometric values specified in paragraph (a)(3) of this S5.1.1.27.

(4) Shall provide access for convenient replacement of the bulbs without special tools.

* * * * *

3. S5.1.1.30 and S5.1.1.31, as they were added effective December 1, 1991 (55 FR 20161, May 15, 1990; 55 FR 50184, Dec. 5, 1990), are redesignated as S5.1.1.31 and S5.1.1.32, respectively.

4. S5.1.1.28 and S5.1.1.29 are redesignated as S5.1.1.29 and S5.1.1.30, respectively.

5. New S5.1.1.28 is added and S5.3.1.8 is revised to read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5.1.1.28 A multipurpose passenger vehicle, truck, or bus, whose overall width is less than 80 inches, and whose GVWR is 10,000 pounds or less, that is manufactured between September 1, 1992 and September 1, 1993, may be equipped with a high-mounted stop lamp or, in the case of vehicles subject to S5.1.1.27(b), two high-mounted stop lamps, that conform to S5.1.1.27 and S5.3.1.8.

* * * * *

S5.3.1.8 (a) Each high-mount stop lamp installed in or on a vehicle subject to S5.1.1.27(a) shall be located as follows:

(1) With its center at any place on the vertical centerline of the vehicle, including the glazing, as the vehicle is viewed from the rear.

(2) If the lamp is mounted below the rear window, no portion of the lens shall be lower than 6 inches below the rear window on convertibles, or 3 inches on other passenger cars.

(3) If the lamp is mounted inside the vehicle, means shall be provided to minimize reflections from the light of the lamp upon the rear window glazing that might be visible to the driver when viewed directly, or indirectly in the rearview mirror.

(b) The high-mounted stop lamps installed in or on a vehicle subject to S5.1.1.27(b) shall be located at the same height, with one vertical edge of each lamp on the vertical edge of the body section nearest the vertical centerline.

* * * * *

§ 571.108 [Amended]

6. In the second column of Table III to § 571.108, for the entry "High-mounted stoplamp", the text "1 red, for passenger cars only" is revised to read "1 red".

7. In the second column of Table IV to § 571.108, for the entry "High-mounted stoplamp", the text "On the rear, on the vertical centerline [See S4.3.1.8], effective September 1, 1985, for passenger cars only" is revised to read "On the rear, on the vertical centerline [See S5.1.1.27, S5.3.1.8, and Table III]".

8. In the fourth column of Table IV to § 571.108, for the entry "High-mounted stoplamp", the text "[See S5.3.1.8]" is revised to read "See S5.3.1.8 for passenger cars. Not less than 34 inches for multipurpose passenger vehicles, trucks, and buses".

Issued on: April 11, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91-9220 Filed 4-16-91; 3:05 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the plant Schoepfia arenaria

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Schoepfia arenaria* (no common name), a small evergreen tree, to be a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended. Historically, *Schoepfia arenaria* was known from the coastal forests of northern Puerto Rico. Deforestation for industrial and urban development has extirpated the species from most of these areas. This endemic plant is currently threatened by proposed development projects in Isabela and by land invasion for house construction in Piñones. This final rule will implement the Federal protection and recovery provisions afforded by the Act for *Schoepfia arenaria*.

EFFECTIVE DATE: May 20, 1991.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622, and at the Service's Southeast Regional Office, suite 1282, 75 Spring Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Marelisa T. Rivera at the Caribbean Field Office address (809/851-7297) or Mr. Dave Flemming at the Atlanta Regional Office address (404/331-3583 or FTS 841-3583).

SUPPLEMENTARY INFORMATION:

Background

Schoepfia arenaria was first collected in Puerto Rico by Amos Arthur Heller in 1899 from sandy coastal thickets at San José Lagoon, Santurce (Little et al. 1974), but it was described by Britton (Urban 1907). San José Lagoon was the source of specimens collected by Holdridge in 1939 and by L.E. Gregory in 1939. However, urban and industrial expansion has resulted in the elimination of this population. Today it is known from Isabela, Piñones, Fajardo and the Río Abajo Commonwealth Forest. The species may also exist in the

Tortuguero Lagoon Natural Reserve (Vicente Quevedo, Department of Natural Resources, *in litt.* 1990).

Schoepfia arenaria is an evergreen shrub or small tree up to 20 feet (6 m) tall and with several trunks from the base reaching 4 inches (10 cm) in diameter. The leaves are simple, alternate, without stipules, with petioles ⅛ inch (4 mm) long; the upper surface is green and slightly shiny, and the lower surface is light green. *Schoepfia arenaria* has been observed with flowers mainly in spring and fall, and with fruits in summer and winter. Usually two or three light yellow tubular-shaped flowers are borne on the end of the stalk in the leaf bases. The fruit is elliptic, one-seeded, shiny red, and ½ inch (12 mm) in diameter. The wood is light brown and hard.

Schoepfia arenaria is found in low elevation evergreen and semi-evergreen forests (subtropical moist forest life zone) of the limestone hills of northern Puerto Rico. In the Isabela area approximately 100 individuals are known from the wooded upper slopes of the hills to the west of the mouth of the Guajataca Gorge. Individuals of all size classes have been reported. Hills in this area were destroyed for the construction of Highway 2 and the area is under intense development pressure for both rural and urban development. The construction of a resort development, including 7 hotels, 5 golf courses, 36 tennis courts and 1,300 housing units, threatens the area.

In the area near the Piñones Commonwealth Forest about 30 mature plants and numerous saplings and seedlings of *Schoepfia arenaria* are known from Punta Maldonado. The land invasion for house construction, the encroachment of the illegal dumping of trash and the introduction of domestic animals threatens the area. In the same general vicinity, this species was also known from Punta Vacía Talega, but was last seen by Woodbury in 1981 (Department of Natural Resources 1990).

This species is also found in limestone hills at El Convento, Fajardo (property owned by the Commonwealth of Puerto Rico for the governor's beach house). In this area approximately 50 individuals were estimated. Recent searches indicated that 10 to 12 individuals are present on one limestone hill in this property. In the Río Abajo Commonwealth Forest one individual was found in 1985 at "cuesta de los perros" (C. Laboy, pers. comm.).

Schoepfia arenaria was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plants being considered as endangered or threatened species by the Service, as published in the **Federal Register** (45 FR 82480) dated December 15, 1980; the November 28, 1983, update (48 FR 53680) of the 1980 notice; and revised notices of September 27, 1985 (50 FR 39526) and February 21, 1990 (55 FR 6184). The species was designated category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the four notices.

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service subsequently made petition findings in each October from 1983 through 1989 that listing *Schoepfia arenaria* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. A proposed rule to list *Schoepfia arenaria*, published September 17, 1990 (55 FR 38102), constituted the final 1-year finding in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the September 17, 1990, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were requested to comment. A newspaper notice inviting general public comment was published in *El Dia* on October 2, 1990, and in the San Juan Star on September 30, 1990. Three letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The Puerto Rico Department of Natural Resources, Natural Heritage Division, supported the listing of *Schoepfia arenaria* as a threatened species. The Department also pointed out that a reported occurrence of the species in the Tortuguero Lagoon Natural Reserve was missing from the Service's data, and that contrary to the proposed rule, the two sites indicated as being in the Piñones Commonwealth Forest are actually on private lands. This information has been incorporated into the final rule.

Dr. José L. Vivaldi from the National Park Service provided comments, but he did not indicate either support or objection to listing the species.

Costa Isabela Partners commented and supported the listing of the species. They mentioned that all of the identified *Schoepfia arenaria* trees on their property are located on cliffs that are to be donated to the Puerto Rico Department of Natural Resources in order to ensure their protection and preservation.

Summary of Factors Affecting the Species

After the thorough review and consideration of all information available, the Service has determined that *Schoepfia arenaria* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Schoepfia arenaria* Urban & Britton are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range.

Destruction and modification of habitat have been, and continue to be, significant factors reducing the numbers of *Schoepfia arenaria*. Deforestation for construction, including urban, industrial and tourist development, the leveling of limestone hills for construction material, random cutting and yam harvesting have all contributed to the species' decline.

B. Overutilization For Commercial, Recreational, Scientific, or Educational Purposes

Taking for these purposes has not been a documented factor in the decline of this species. However, its ornamental potential could result in future taking.

C. Disease or Predation

Disease and predation have not been documented as factors in the decline of this species.

D. The Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Schoepfia arenaria* is not yet on the Commonwealth list. Federal listing would provide immediate protection

and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. Other Natural or Manmade Factors Affecting its Continued Existence

One of the most important factors affecting the continued survival of *Schoepfia arenaria* is its limited distribution.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Schoepfia arenaria* as threatened. The species is restricted to only a few sites in coastal thickets and limestones hills of northern Puerto Rico, most of which are subject to habitat destruction and modification by development projects. However, because plants of all sizes and ages have been observed, it appears that the species is not in imminent danger of becoming extinct. Threatened status, therefore, seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for *Schoepfia arenaria* are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. The number of individuals of *Schoepfia arenaria* is sufficiently small that vandalism could seriously affect the survival of the species. Publication of critical habitat descriptions and maps would only tend to make the species more vulnerable. The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being designated for *Schoepfia arenaria*, as discussed above. Federal involvement is not anticipated where the species is known to occur.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulations. This protection may apply to threatened plants once revised regulations are promulgated. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. However, it is anticipated that few trade permits for *Schoepfia arenaria* will ever be sought or issued, since the species is not known to be in cultivation and is uncommon in the wild. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358–2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ayensu, E.S., and R. A. Defilipps. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, DC xv + 403 pp.

Department of Natural Resources. 1990. Natural Heritage Program, San Juan, P.R.

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Little, E.L., R.O. Woodbury, and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands. U.S. Department of Agriculture, Washington, DC 1024 pp.

Urban, I. 1907. Symb. Ant. 5:181.

Author

The primary author of this final rule is Ms. Marelisa Rivera, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and

recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

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.

2. Amend § 17.12(h) by adding the following, in alphabetical order, under Olacaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species			Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*	*	
Olacaceae—Olax family:							
Schoepfia arenaria	None		U.S.A. (PR)	T	420	NA	NA
*	*	*	*	*	*	*	

Dated: April 2, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91–9193 Filed 4–18–91; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 901184–1042]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure to directed fishing in the Gulf of Alaska; request for comments.

SUMMARY: The Regional Director, Alaska Region, NMFS, (Director), is establishing a directed fishing allowance and prohibiting directed fishing for the shortraker-rougheye rockfish species group in the Central Regulatory Area of the Gulf of Alaska. This action is necessary to prevent the total allowable catch (TAC) for shortraker-rougheye rockfish in the Central Regulatory Area of the Gulf of Alaska from being exceeded before the end of the fishing year. The intent of this action is to promote optimum use of groundfish while conserving shortraker-rougheye rockfish stocks.

DATES: Effective 12 noon on April 15, 1991, Alaska local time (A.l.t.), for the remainder of the fishing year. Comments are invited for 15 days following the effective date of this notice.

ADDRESSES: Comments should be mailed to Dale R. Evans, Chief, Fisheries Management Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668, or be delivered to 9109 Mendenhall Mall Road, Federal Building Annex, suite 6, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

In accordance with § 672.20(c)(2), if the Director determines that the amount of a target species category apportioned to a fishery is likely to be reached, the Director may establish a directed fishing allowance for that species or species group. In establishing a directed fishing allowance, the Director shall consider the amount of that target species or species group that will be taken as incidental catch in directed fishing for other species in the same regulatory area or district. If the Director establishes a directed fishing allowance and that allowance is or will be reached, he will prohibit directed fishing for that species or species group in the specified regulatory area or district.

The amount of a species or species group apportioned to a fishery is TAC, as defined in § 672.20(c)(1). The 1991 TAC for shortraker-rougheye rockfish species group in the Central Regulatory Area of the Gulf of Alaska is 1,320 mt (56 FR 8723; March 1, 1991). The Director has determined that 816 mt of the shortraker-rougheye rockfish species group is necessary as bycatch to support anticipated groundfish fisheries. The Director is establishing a directed fishing allowance of 504 mt for shortraker-rougheye rockfish in the Central Regulatory Area. He has determined that the allowance will be reached on April 15, 1991, and is prohibiting directed fishing for shortraker-rougheye rockfish in that area, effective 12 noon, A.l.t., April 15, 1991.

After 12 noon, A.l.t., April 15, 1991, in accordance with § 672.20(g)(3), amounts of shortraker-rougheye rockfish retained on board vessels in the Central Regulatory Area at any time during a trip must be less than 20 percent of the amount of all other fish species retained by the vessel at any time during the same trip as measured in rough weight equivalents. This closure will remain in effect for the remainder of the fishing year.

Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

Immediate effectiveness of this notice is necessary to prevent wastage of groundfish that will occur if TACs are exceeded and retention of shortraker-rougheye rockfish is prohibited. Therefore, the Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment on this notice or to delay its effective date. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.