indicated that they will continue to rely on the sled test option while it remains available.

The March 19, 1997, final rule provided that the sled test option would expire on September 1, 2001. Several petitions for reconsideration have been filed requesting the agency to extend that date or to make the option permanent. NHTSA is currently considering those petitions. In addition, as part of its advanced air bag rulemaking, the agency is considering the possibility of requiring some form of barrier test.

Based on these understandings, NHTSA is terminating rulemaking to exclude from Standard No. 204 vehicles that comply with Standard No. 208. Given that the vehicle manufacturers are expected to rely on the sled test (to meet Standard No. 208 requirements) for the next several years, there is no need during that period for an exclusion from Standard No. 204 for vehicles certified to Standard No. 208 based on the barrier test. If circumstances change in the future, the agency will consider appropriate action at that time.

(Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 14, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–19217 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

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), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition by Whizzer Motorbike Company for rulemaking which would exclude it and other motorized bicycles from all DOT regulations. Petitioner argued that the vehicle's low speed and small size justified such exclusion. However, the agency found this conclusion unsupported and denies the petition. Motorized bicycles, which may have a maximum speed of up to 25 miles per hour and are found on the public streets, must be afforded the same level of protection that now exists for their category under the Federal motor vehicle safety standards where they are defined as ''motor driven cycles,'' which are ''motorcycles with a motor which produces 5 brake horsepower or less.''

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Safety Performance Standards, NHTSA (202–366–5276).

SUPPLEMENTARY INFORMATION:

Introduction

The agency wishes to use this forum to reiterate its long-standing policy on the regulatory treatment of powered bicycles.

On October 2, 1997, the Whizzer Motorbike Company of Orange, California, petitioned the Administrator of the National Highway Traffic Safety Administration (NHTSA) for ''*relief* from meeting DOT regulations'' (petitioner's emphasis). The basis of its petition was that its product is ''a motor-assisted bicycle, requiring human power to start from a static position,'' designed to carry one person, has less than 2 horsepower, weighs ''less than 60 lbs. GVWR,'' and ''will not exceed 25 miles per hour.'' In Whizzer's opinion, the vehicle may be used for ''very limited transportation,'' but ''it is not practical for utility purpose other than very short distances.''

NHTSA advised Whizzer on November 17, 1997, that it viewed the petition as one for rulemaking that would exclude the Whizzer and other vehicles in its class from DOT requirements. One week later, Whizzer assented to this treatment, adding the justification that its product was a nostalgia vehicle and its engine a design of 1930s technology.

Background

Over the years, NHTSA has been asked about the applicability of the Federal motor vehicle safety standards (FMVSSs) to bicycles with small motors attached. In responding to these requests, the agency has begun by deciding whether the vehicle for which an interpretation was sought was, in fact, a motor vehicle subject to NHTSA's jurisdiction. NHTSA's enabling statute, 49 U.S.C. Chapter 301, defines a motor vehicle in pertinent part as ''a vehicle driven or drawn by mechanical power and manufactured primarily for use on the public streets, roads, and highways * * *.'' (49 U.S.C. 30102(a)(6)). Since a bicycle that does not have any motor is a vehicle driven by muscular power instead of mechanical power, such a bicycle is not a ''motor vehicle'' regulated by NHTSA.

However, the addition of a motor to a bicycle may create a motor vehicle. Whether the motor in fact does so depends upon the extent to which it propels the bicycle to which it has been attached. Some motors are characterized as providing a ''power assist'' to the bicycle operator. Within this category of motorized bicycle, the agency has decided that if the motor is sufficient to propel the bicycle without any muscular input from the operator, even though at a diminished speed, then the bicycle is driven by mechanical power within the meaning of the definition and is a motor vehicle. On the other hand, if the power assist is insufficient alone to propel the bicycle, and therefore only supplements muscular power (as in helping traverse hilly terrains), the bicycle is not a motor vehicle under NHTSA regulations.

If a motorized bicycle is treated as a motor vehicle, it is classified, in the first instance, as a ''motorcycle'' for the purposes of the FMVSSs. Under 49 CFR Sec. 571.3(b), a motorcycle is defined as a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. As a motorcycle, a motorized bicycle may also be classified as a ''motor driven cycle.'' A motor-driven cycle is defined as a motorcycle with a motor that produces five brake horsepower or less. Certain FMVSSs, such as the lighting standard, FMVSS No. 108, specify less stringent requirements for motor-driven cycles than for other motorcycles. FMVSS No. 108 allows motor-driven cycles to have a headlamp with a single beam, but requires other motorcycles to have a headlight with upper and lower beams). Other standards specify lesser requirements for motor driven cycles of limited performance, e.g., ''a motor-driven cycle whose speed attainable in 1 mile is 30 mph or less * * *'' (FMVSS No. 122, establishing motorcycle braking requirements). FMVSS No. 123, which specifies requirements for motorcycle controls and displays, allows a motor-driven cycle the alternative of a rear wheel brake control located on the left handlebar rather than on the right foot control.

Petitioner's Argument

As noted in the Introduction, Whizzer bases its argument for relief on the extremely low level of performance of its motorized bicycle. The petitioner claims that this is essentially a bicycle assisted by a small motor, less than two horsepower, and that while it may be used for very limited transportation, it is not practical for utility purposes other than very short distances. The petition

requests relief from meeting the FMVSS because the Whizzer requires human power to start from a static position, it will not exceed 25 mph., it is extremely light weight, and is designed to accommodate one person only. In its October 2, letter, the petitioner argued that it should be allowed to offer the Whizzer without lighting, so as to deter night riding. Recognizing that some riders will still go out at night, the petitioner offered to provide a large prominent warning decal with the advisory ''not approved for night riding''.

Finally, the petitioner claims that the Whizzer is a nostalgia vehicle. The petitioner did not elaborate on this point. NHTSA assumes that the petitioner is arguing that since its goal is to produce a replica of a 1940s style vehicle, it should not be required to depart from the original design in order to conform the bicycle to standards intended for vehicles manufactured a half century later.

Discussion and Decision

NHTSA concludes that the Whizzer is a motor vehicle. This conclusion is based on the information presented by the petitioner that the Whizzer is fully capable of 25 mph sustained speed without pedal assist. Since the Whizzer has two wheels and its motor is less than 2 horsepower, it is classified not only as a motorcycle, but also as a motor-driven cycle.

The petitioner has provided no justification for excepting the Whizzer and other motorized bicycles from compliance with the FMVSS. Although the Whizzer is intended to replicate a design of the 1940s, the public expects, and is entitled to, a greater degree of safety on the road than was available 50 years ago. Federal motor vehicle safety standards are now in place for the purpose of protecting the operators of two-wheeled vehicles in an environment of heavier road traffic than existed half a century past. For 30 years, motor-driven cycles have been built and certified to comply with FMVSS addressing not only lighting, braking, and controls and displays as discussed, but also with FMVSS covering brake hoses, mirrors, tires and rims, and glazing if provided. Over the years, NHTSA has learned the importance of ensuring that small vehicles are detectable by larger users of the roadway. Detectability is enhanced by a vehicle's lamps and reflectors. Whizzers of the 1940s were equipped with a magneto and no electrical generating capability, and the only lamps available were add-on lamps powered by self-contained batteries. Today, motor-driven cycles have either generators or alternators to provide power for Federally required headlamps, taillamps, turn signals and stop lamps. Congress expected NHTSA to promulgate standards that would continue to allow the public a wide choice of vehicles, but it did not intend that NHTSA do so at the expense of safety. Therefore, the agency does not accept the petitioner's argument that it should be allowed to produce a motor-driven cycle without the safety equipment found on other motor-driven cycles, simply because to require compliance might detract from the authenticity of the vehicle.

NHTSA has completed its technical review pursuant to 49 CFR Sec. 552.6, and, taking into account other appropriate factors as discussed above, denies the petition by Whizzer Motorbike Company.

Authority: Delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 15, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–19216 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC21

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for Puccinellia Parishii (Parish's Alkali Grass)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of public comment period.

SUMMARY: The Fish and Wildlife Service provides notice that the public comment period is reopened for the proposal to list *Puccinellia parishii* (Parish's alkali grass) as an endangered species pursuant to the Endangered Species Act of 1973, as amended. This small annual grass occurs near desert springs, seeps, and seasonally wet areas in Apache, Coconino, and Yavapai counties, Arizona; San Bernardino County, California; and Catron, Cibola, Grant, Hidalgo, McKinley, Sandoval, and San Juan counties, New Mexico.

DATES: This comment period closes on August 19, 1998.

ADDRESSES: Written comments and materials should be sent to the Field Supervisor, New Mexico Ecological Services Field Office, U.S. Fish and Wildlife Service, 2105 Osuna Road, NE., Albuquerque, New Mexico 87113. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Charlie McDonald at the above address or telephone (505) 346–2525.

SUPPLEMENTARY INFORMATION:

Background

Puccinellia parishii (Parish's alkali grass) was proposed for designation as an endangered species under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) on March 28, 1994 (59 FR 14378). A 60-day public comment period was provided on the proposal. All interested parties were requested to submit factual reports or information that might contribute to the accuracy and effectiveness of any final action resulting from the proposal. The U.S. Fish and Wildlife Service (Service) received one request for a public hearing, and a notice announcing the public hearing and reopening the comment period was published in the **Federal Register** on August 30, 1994 (59 FR 44700). The public hearing was held on September 15, 1994, in Tuba City, Arizona.

Following the initial and reopened comment periods and public hearing, the Service received additional information on the distribution, abundance, habitat requirements, and threats for Parish's alkali grass. This new information is summarized in the following paragraphs.

Parish's alkali grass is now known from 29 sites as opposed to the 10 sites reported in the proposed rule. The known sites in New Mexico have increased to 16 from the 1 that was reported in the proposed rule. The new sites for New Mexico are in Catron (1), Cibola (1), Hidalgo (1), McKinley (6), Sandoval (4), and San Juan (2) counties. The 1 site reported in the proposed rule is in Grant County. The known sites in Arizona have increased to 11 from the 7 that were reported in the proposed rule. The new sites for Arizona are in Apache (3) and Yavapai (1) Counties. The 7 sites reported in the proposed rule are in Coconino County.

The known sites in California have decreased to 1 from the 2 that were reported in the proposed rule. Dr. Andrew Sanders of the University of California, Riverside identified the