

requiring motor vehicle manufacturers to equip new vehicles with instrumentation sufficient to alert nearby police whenever the vehicles are being operated while one or more occupants are unbelted. Mr. Boyd argued that automobile crashes are increasing and that more effort must be made to insure that "all occupants are wearing seat belts and/or wiring harness." The petitioner did not provide any data or other information relating to the cost of such devices, their effectiveness or the feasibility of such a system.

NHTSA agrees that the failure of many vehicle occupants to use safety belts is a significant concern. The agency has expended considerable effort and resources to improve the rate of safety belt use in the United States. NHTSA has prepared and distributed numerous legislative fact sheets, position papers, success stories, model laws for both seat belts and child passenger safety, and other materials on the benefits of mandatory seat belt and child passenger safety laws. Agency employees have testified, when invited by the state, at state legislative hearings for states when they were in the process of enacting the belt use laws. More recently, NHTSA employees have testified in support of attempts within various states to change secondary enforcement laws, under which police officers must observe a separate and distinct violation before stopping a vehicle where occupants are not using belts, to primary enforcement laws. Primary enforcement laws allow police officers to make stops and issue citations on the basis of observing only a seat belt violation. NHTSA has also established Cooperative Agreements with numerous states to demonstrate that publicized enforcement of a mandatory seat belt law can increase seat belt use in the state and formed formal partnerships with many national organizations for the purpose of mobilizing their membership to promote traffic safety in general, and seat belt and child safety seat use in particular. The agency has produced brochures, posters, videos, print ads, bill boards, public service announcements, and a host of other media resource materials to educate the public on the safety benefits of seat belts. Other activities pursued by the agency to improve belt use include programs to improve the training of law enforcement officers, the use of child safety seat checkpoints and other measures designed to improve belt use and enforcement of mandatory belt use laws.

Even though the benefits of increased safety belt use would be considerable,

the agency believes that requiring all vehicles to be equipped with a transmitter would, under present conditions, be unlikely to improve enforcement of mandatory safety belt laws in the majority of jurisdictions. Mandatory safety belt use laws are now in effect in 49 states, the District of Columbia, Puerto Rico and the Virgin Islands. Of these, 35 states and the District of Columbia have secondary laws. Equipping vehicles with a device which alerted police officers to a safety belt violation would be of little use in these jurisdictions. The officers would be prohibited from taking any action unless they observed a separate and distinct violation at the same time. Under those conditions, the agency believes that it is extremely unlikely that state and local governments would invest in the police car equipment necessary to implement the scheme suggested by the petitioner.

Even in those jurisdictions with primary enforcement laws, the requested amendment might not lead to increased safety belt use. In order for the transmitting device to work successfully in areas where there are large concentrations of vehicles, the device would have to do more than simply alert police officers that a safety belt violation was occurring in the vicinity. In order to allow identification of the vehicle in which an operator or occupant was not wearing a belt, the transmitting device would have to transmit sufficient specific information about the vehicle to enable police to distinguish it from other vehicles. These identifying data would, at the very least, have to include information regarding the color, manufacturer and configuration of the transmitting vehicle. The agency believes that the presence of such a device, particularly if it were to transmit such information constantly as a result of a malfunction or other circumstance, would raise potentially troublesome privacy concerns.

The agency notes that it issued a final rule in February 1972 (37 FR 3911) modifying Standard No. 208, Occupant Crash Protection, to provide manufacturers choosing not to install passive (i.e., automatic) restraints with the option to equip vehicles with a seat belt interlock device. The interlock prevented drivers from starting their car unless all front seat occupants of the vehicle had fastened their safety belts. Although the interlock device had a more direct impact on the operation of the vehicle than the device suggested by the petitioner, public reaction against this measure was strong. The interlock device option was subsequently

rescinded after Congress directed the agency to eliminate it. While the device suggested by the petitioner would not directly affect the operation of the vehicle as the interlock device did, NHTSA believes that a device having the capability to transmit the location of a vehicle to governmental entities any time a seat belt was not fastened would arouse similar public concerns.

The agency observes that installation and successful use of such a device would require installation of additional equipment beyond that which the petitioner may have envisioned. The transmitting device would have to be coupled with belt use sensors at all seating positions. The belt use sensors, in order to be effective, would have to have features that would make it difficult to circumvent the system as in the instance in which an occupant would sit on a fastened belt instead of wearing it. The transmitting device would similarly have to be designed so that it could not be readily disabled and would have to work reliably and without emitting false signals. Police vehicles would need to have a reliable receiving device equipped with a display or other means to provide specific identifying information about the vehicle emitting the signal. The cost of this additional equipment, when added to that of the transmitter, would be considerable.

For the reasons stated above, NHTSA concludes that it is unlikely that a rulemaking proceeding to require the transmitter suggested by the petitioner would result in the issuance of a rule requiring such a device. Accordingly, the petition is denied.

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

Issued on February 5, 1999.

**Stephen P. Kratzke,**

*Acting Associate Administrator for Safety Performance Standards.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants

**AGENCY:** Fish and Wildlife Services, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The Fish and Wildlife Service (Service) provides notice that the public

comment period on the proposed list or the Pecos pupfish (*Cyprinodon pecosensis*) as an endangered species is reopened. The Service, in cooperation with the New Mexico Department of Game and Fish, New Mexico Division of State Parks, Texas Parks and Wildlife Department, and Bureau of Land Management, has formulated a Conservation Agreement that may provide significant new information concerning the threats to the survival of the species. The comment period was reopened from December 28, 1998, to January 27, 1999, to allow all interested parties to submit comments on the proposal and the draft Conservation Agreement. Comments were received on the last day of the public comment period from the Office of the Lieutenant Governor of New Mexico that would add a signatory entity to the agreement, the New Mexico Department of Agriculture. Reopening the public comment period will allow sufficient time for all entities involved with the Conservation Agreement to sign the document.

**DATES:** The comment period for this proposal and the Conversation Agreement will be reopened February 24, 1999 and will close on March 26, 1999.

**ADDRESSES:** Written comments and materials should be sent to the Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna 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:**

Jennifer Fowler-Propst, Field Supervisor, New Mexico Ecological Services Field Office, at the above address (505) 346-2525.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Pecos pupfish was proposed for listing as an endangered species on January 30, 1998 (63 FR 4608). A public hearing on the proposal was held in Carlsbad, New Mexico on April 9, 1998. During the extended public comment period (January 30 to November 20, 1998) we contacted state and Federal land and resource management agencies in New Mexico and Texas to determine if adequate protections could be implemented through a Conservation Agreement. The Conservation Agreement was made available for public review from December 28, 1998, to January 27, 1999. This comment period did not allow sufficient time for the signatory entities to fully execute the document.

The Conservation Agreement sets forth the commitments of state and Federal agencies to control nonnative competing species and to protect and manage the Pecos pupfish and its

habitat to ensure its survival and promote its conservation. The Agreement addresses the significant threats to the species arising from its small, isolated populations and from the potential for hybridization with the sheepshead minnow (*Cyprinodon variegatus*). The signatory agencies to the Agreement have made commitments protect known extant populations of pure Pecos pupfish, expand the distribution of the species within its native range by establishing new population, and to prohibit the use of sheepshead minnow through revision of baitfish regulations in New Mexico and Texas. If these commitments are adequate in removing the identified threats to the Pecos pupfish, listing of the species may not be required.

**Author**

The primary author of this document is Jennifer Fowler-Propst, New Mexico Ecological Services Field Office (see **ADDRESSES** section).

**Authority**

The authority for this action is the Endangered Species Act (16 U.S.C. 1532 *et seq.*).

Dated: February 18, 1999.

**Nancy M. Kaufman,**

*Regional Director, Fish and Wildlife Service.*

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