

NHTSA to reflect changes in the titles of two agency officials. The official formerly known as the Associate Administrator for Rulemaking is now the Associate Administrator for Safety Performance Standards. The NHTSA official formerly known as the Associate Administrator for Enforcement is now the Associate Administrator for Safety Assurance.

EFFECTIVE DATE: March 24, 1995.

FOR FURTHER INFORMATION CONTACT: Dorothy Nakama, Office of the Chief Counsel, NHTSA, 400 Seventh Street, SW, Room 5219, Washington, DC 20590. Ms. Nakama's telephone number is: (202) 366-2992.

SUPPLEMENTARY INFORMATION: This final rule revises the regulations on the organization of and delegations of powers and duties within the National Highway Traffic Safety Administration (NHTSA) to reflect changes in the titles of two agency officials. The official formerly known as the Associate Administrator for Rulemaking is now the Associate Administrator for Safety Performance Standards. The official formerly known as the Associate Administrator for Enforcement is now the Associate Administrator for Safety Assurance. Accordingly, all references in part 501 to "Associate Administrator for Rulemaking" are revised to read "Associate Administrator for Safety Performance Standards." All references in part 501 to "Associate Administrator for Enforcement" are revised to read "Associate Administrator for Safety Assurance."

These amendments relate solely to changes in titles of NHTSA officials, and have no substantive effect. As matters relating to agency management, they are not covered by the notice and comment or the effective date requirements of the Administrative Procedure Act. In addition, they are not covered by Executive Order 12866 or the Department of Transportation's regulatory policies and procedures. Notice and the opportunity for comment are, therefore, not required, and these amendments are effective immediately upon publication in the **Federal Register**.

List of Subjects in 49 CFR Part 501

Authority, Delegations.

In consideration of the foregoing, 49 CFR 501 is amended as follows:

PART 501—[AMENDED]

1. The authority citation for Part 501 continues to read as follows:

Authority: 49 U.S.C. sections 105 and 322; delegation of authority at 49 CFR 1.50.

§§ 501.3, 501.4, 501.8 [Amended]

2. In 49 CFR part 501, remove the words "Associate Administrator for Rulemaking" and add, in their place, the words "Associate Administrator for Safety Performance Standards" in the following places:

(a) Section 501.3(c)(1) paragraph heading;

(b) Section 501.4(d);

(c) Section 501.8(f) paragraph heading; and

(d) Section 501.8(f).

3. In 49 CFR part 501, remove the words "Associate Administrator for Enforcement" and add, in their place, the words "Associate Administrator for Safety Assurance" in the following places:

(a) Section 501.3(c)(2) paragraph heading;

(b) Section 501.4(e);

(c) Section 501.8(f);

(d) Section 501.8(g) paragraph heading; and

(e) Section 501.8(g).

Issued on: March 20, 1995.

Ricardo Martinez,
Administrator.

[FR Doc. 95-7349 Filed 3-23-95; 8:45 am]

BILLING CODE 4910-59-P

49 CFR Part 571

[Docket No. 93-78, Notice 02]

RIN No. 2127-AE96

Federal Motor Vehicle Safety Standards; Designated Seating Position

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

ACTION: Final rule.

SUMMARY: This final rule amends the definition of "designated seating position" found in 49 CFR 571.3, *Definitions*, to provide that for the sole purpose of determining the vehicle type classification of a vehicle sold to transport school children, any location in the vehicle intended for securement of an occupied wheelchair during vehicle operation will be regarded as 4 designated seating positions. NHTSA is issuing this rule to ensure that smaller school buses remain classified as school buses, and thus subject to the comprehensive school bus safety standards, when seats are removed to install wheelchair securement locations. This rule will assure that students being transported in vehicles accommodating wheelchairs will be afforded the same level of occupant protection as other students transported in school buses.

DATES: The amendment promulgated by this final rule will become effective March 25, 1996.

Manufacturers may voluntarily comply with the amendment promulgated by this final rule on or after April 24, 1995.

Any petitions for reconsideration must be received by NHTSA not later than April 24, 1995.

ADDRESSES: Petitions for reconsideration should refer to the docket and number of this document and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, D.C., 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Hott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5320, Washington, DC 20590. Telephone: (202) 366-0247.

SUPPLEMENTARY INFORMATION:

Background

This rule amends the definition of "designated seating position" found in 49 CFR 571.3, *Definitions*, to respond to an issue that arose in a rulemaking concerning a Federal motor vehicle safety standard (Standard) applying to school buses. The rulemaking amended Standard No. 222, School Bus Passenger Seating and Crash Protection, to require school buses designed to transport persons in wheelchairs to have wheelchair securement devices (wheelchair restraints) and wheelchair occupant restraint systems meeting specified performance requirements (58 FR 4586; January 15, 1993). School bus manufacturers typically remove seats from a vehicle to install wheelchair restraints. Removing seats can affect a vehicle's classification and the standards that apply to it.

One of the important factors used by NHTSA in classifying vehicles is seating capacity. For example, NHTSA determines whether a vehicle is a "bus" or a "multipurpose passenger vehicle" (MPV) based primarily on passenger seating capacity. The definition of a bus is found in title 49 CFR 571.3, "Definitions." In that section, a bus is defined as a passenger motor vehicle designed to carry more than 10 persons (i.e., 10 or more passengers and a driver). An MPV is designed to carry 10 or fewer persons.

The agency determines a vehicle's seating capacity by counting the number of "designated seating positions" in the vehicle. That term is defined in section 571.3 as follows:

Designated seating position means any plan view location capable of accommodating a person at least as large as a 5th percentile adult female, if the overall seat configuration and design and vehicle design is such that the position is likely to be used as a seating position while the vehicle is in motion, except for auxiliary seating accommodations such as temporary or folding jump seats. Any bench or split-bench seat in a passenger car, truck or multipurpose passenger vehicle with a GVWR less than 10,000 pounds, having greater than 50 inches of hip room (measured in accordance with SAE Standard J1100(a)) shall have not less than three designated seating positions, unless the seat design or vehicle design is such that the center position cannot be used for seating.

NHTSA has interpreted this definition to mean that each position for securing a wheelchair is one designated seating position. This interpretation has a significant impact on whether some vehicles are classified as an MPV or as a school bus.

NHTSA determines whether a vehicle is a "school bus" by first determining whether the vehicle is a bus. In 49 CFR section 571.3, a school bus is defined as a "bus" that is sold for purposes that include carrying students to and from school or related events. When seats are removed from a bus for any reason, including placing wheelchair securement devices on the vehicle, so that the seating capacity of the vehicle is reduced to 10 or fewer persons, the classification of the vehicle changes from a bus to an MPV. The vehicle would be an MPV and not a school bus even if sold for public transportation purposes, and even if the vehicle had been originally "designed" as a bus and outwardly resembled a conventional bus. Thus, as a result of the seat removal, the vehicle would be subject to the standards for MPVs, and not the standards for school buses.

In the rulemaking that set performance requirements for wheelchair restraints, both the NPRM and final rule for that rulemaking raised the issue of whether it would be desirable for a vehicle that was originally manufactured as a school bus remain a school bus, even if its seating capacity were reduced to that of an MPV. In that NPRM, NHTSA discussed the decision of the Eleventh National Conference on School Transportation (NCST) to answer that issue in the affirmative. The NCST requires any vehicle that changes classification from a school bus to an MPV due to the installation of wheelchair restraints to comply with the school bus standards. The NPRM requested comments on the issue.

The Washington Superintendent of Public Instruction (WSPI) submitted the only comment on the issue (Docket No. 90-05-N03-051). WSPI supported the idea that the determination of whether a vehicle should be classified as a school bus should be based on the vehicle's theoretical or design maximum capacity. In other words, WSPI believed that a school bus should remain a school bus even when enough seats are removed to reduce the seating capacity to 10 or fewer persons.

In the preamble to the final rule on wheelchair restraints, NHTSA again expressed concern about how removing seats from a bus can change a vehicle's classification from a school bus to an MPV. The agency decided, however, not to address the issue in that final rule but to address it in a separate rulemaking action where it could receive more focused attention.

Proposal for This Rule

On October 28, 1993, NHTSA published the NPRM (58 FR 57975) that provides the basis for today's rule on school bus classification. NHTSA proposed to amend the definition of "designated seating position" in 49 CFR 571.3 to specify that, for the sole purpose of classifying school vehicles, any vehicle location intended for securing an occupied wheelchair during vehicle operation would be counted as 4 designated seating positions. The intent of the NPRM was to ensure that if a vehicle would have been classified as a school bus had it been fully equipped with bench seats, it would still be regarded as a school bus if it were equipped with fewer bench seats so that it could transport students in wheelchairs. "By requiring [seating restricted] vehicles to comply with all school bus standards, NHTSA believes that all student users of wheelchairs transported in those vehicles would be provided the same level of occupant protection as students transported in other school buses." *Id.*

NHTSA selected the 4-to-1 ratio of designated seating positions to wheelchair positions based on the comment that the WSPI submitted to the rulemaking on wheelchair restraints. The WSPI submitted information on the number of wheelchair locations that can be installed on a bus when a specified number of bench seats have been removed to accommodate those locations. WSPI defined "bench seats" as those with two designated seating positions, and stated that the average ratio of seating positions on bench seats to wheelchairs is 4-to-1 if the wheelchair is forward-facing or 3-to-1 if the wheelchair is side-facing. In the

final rule for wheelchair restraints, NHTSA mandated that wheelchair restraints be situated so as to secure a wheelchair in a forward-facing position (see S5.4.1.2(a) of Standard No. 222). Given that requirement, NHTSA proposed the 4-to-1 seats-to-wheelchair ratio for wheelchair locations.

Evaluation of Comments

Two state agencies (Delaware Department of Public Instruction, California Highway Patrol), one trade association (National School Transportation Association), one charter bus company (D.B. Fisher Inc.), and one school bus manufacturer (Mid Bus Inc.) commented on the NPRM. Except for D.B. Fisher, Inc., commenters generally supported the intent of the NPRM, although some expressed concern about how the proposal could affect the use of school vehicles. Some commenters made suggestions about issues that were outside the scope of the NPRM.

Proposed 4-to-1 Ratio

Commenters addressed NHTSA's proposal that each location intended to secure a wheelchair would be counted as four designated seating positions. Mid Bus Inc. and the National School Transportation Association (NSTA) supported that proposal. The Delaware and California state agencies expressed concern about it.

The Delaware Department of Public Instruction (DDPI) was concerned that the proposal could unnecessarily restrict the seating capacity of school buses. The commenter believed that the proposal equates a wheelchair position with too many seating positions, which would not be space efficient. "That [4 to 1] ratio is translated into fifty inches (50") per wheelchair space. Several manufacturers allow that forty-four inches (44") is adequate." DDPI said it did not want to lose more space than is necessary. "Anytime more space per pupil is required, more school buses are needed." DDPI suggested that a per-inch spacing formula would be more space-efficient than the 4-to-1 or even 3-to-1 ratios.

NHTSA does not agree that this rule unnecessarily restricts the seating capacity of school buses. The 4-to-1 ratio of designated seating positions to wheelchair positions was based on a finding that, on average, four is the number of seating positions typically removed when a single securement location is installed. However, this rule does not require four conventional designating seating positions to be removed and used for each wheelchair position. Instead, the rule simply requires four positions to be counted for

each wheelchair position. Since the rule does not require any specific amount of space to be devoted to a wheelchair position, the substitution of a per-inch approach for this rule's approach would have no effect on the amount of space used for a wheelchair position.

The California Highway Patrol (CHP) asserted that allowing only 4 designated seating positions for each wheelchair location did not go far enough. CHP stated that the California definition of a school bus is similar to the Federal definition, but it also includes a vehicle transporting 2 or more pupils confined to wheelchair location as 4 seating positions would require California to change its law in that a vehicle with 2 wheelchair positions and a bench seat with 2 designated seating positions would, under the Federal criteria, be classified as an MPV, while, under the California definition, it would be classified as a school bus. CHP suggested, therefore, that NHTSA amend its definition of a school bus to include a vehicle designed to carry 2 or more wheelchair positions or one that would carry 6 seated passengers and 1 wheelchair passenger.

CHP is mistaken in suggesting that a school vehicle designed to carry six seated passengers and one wheelchair passenger would be classified as an MPV under today's rule. Such a vehicle would be a school bus under today's amendment, since its number of designated seating positions would be 10, plus the driver (a school bus has a carrying capacity of more than 10 persons).

In any event, CHP's suggestion that NHTSA amend the agency's school bus definition is outside of the scope of this rulemaking. NHTSA proposed to amend the "designated seating position" definition, not the school bus definition. NHTSA believes there is insufficient notice for it to adopt the suggestion to amend the school bus definition at this time, even if the agency wished to do so.

NHTSA offers the following observations about CHP's suggestion. To the extent that CHP is impliedly suggesting that each location intended to secure a wheelchair should be counted as five designated seating positions (DSP's), the commenter did not provide and NHTSA does not know of any reason for equating a wheelchair position with five DSP's. Accordingly, NHTSA declines to pursue making the suggested change.

The agency further notes that NHTSA is considering an issue related to CHP's comment about vehicles designed to carry only two students in wheelchairs. As discussed below in the "Other issues" section of this preamble, some

commenters suggested that a wheelchair lift should be counted as four DSP's since a lift typically uses the space of four DSP's. NHTSA is studying this matter to decide whether an NPRM should be issued to amend the DSP definition to incorporate this idea. If the agency issued the NPRM, the agency might decide, after notice and comment on the issue, that a lift ought to be equated with four DSP's. If that were to occur, a vehicle designed to carry two wheelchair positions and a wheelchair lift as four, for a total of 12 DSP's for passengers.

The D.B. Fisher Charter Bus Company, Inc. (Fisher) opposed the 4 designated seating positions per wheelchair location proposal, since it would result in more vehicles being designated school buses than is presently the case. Fisher asserted that this would convert a "non-commercial" vehicle into a "commercial" vehicle (Fisher's terms) required to have lighting systems to control traffic. Fisher argued that the extra time it takes to stop a school bus in the roadway, which also stops traffic, in order to load and unload wheelchair passengers would cause serious traffic delays, especially in cities. The commenter believed that that would inconvenience the public and make them unwilling to stop and wait for these vehicles. As a result, Fisher argued, children would be exposed to increased risk from general traffic.

NHTSA does not believe that the amendment adopted in this final rule would be detrimental to motor vehicle safety, as Fisher believes. It is true that crediting each wheelchair location as being equal to four designated seating positions could result in a vehicle's being classified as a school bus instead of an MPV as under the current regulations. It is also true, that since more vehicles would be school buses, more vehicles would be required to have school bus lamps under NHTSA's safety standard for vehicle lighting systems (Standard No. 108, 49 CFR § 571.108). However, the requirements mandating the use of school bus lamps, and how and where a school bus operator must maneuver a vehicle in traffic to load or unload students, are state law requirements, not those of NHTSA. There is no Federal requirement regarding school buses stopping on public roadways for the pickup and discharge of children, nor is there a Federal requirement that traffic in both directions stop for the loading and unloading of school buses. Such requirements are matters of state rather than Federal authority.

While NHTSA does not have the authority to regulate the use of school buses, the agency recognizes that safe driving practices by motorists around an operating school bus are crucial to school bus safety. Accordingly, the agency has issued Highway Safety Program Guideline No. 17, "Pupil Transportation Safety" (23 CFR Part 1204), which recommends that states develop plans for minimizing highway use hazards to students, including providing loading and unloading zones off the main traveled part of highways, whenever it is practicable to do so. In addition, Guideline No. 17 recommends that states require motorists meeting or overtaking a school bus that is loading or unloading passengers and which is operating red warning lights, to stop their vehicles before reaching the school bus and not proceed until the warning signals are deactivated. Guideline No. 17 is not binding on the states.

Individual states have decided to adopt some or all of the guideline, as best serves the needs of their pupil transportation program. Since Fisher's safety concerns relate to the use of the vehicles, the commenter should address those concerns to state authorities, who can best decide which transportation practices would achieve the highest level of safety possible for its pupils.

Nevertheless, NHTSA considered Fisher's comment to assess perceived safety effects of the rule. NHTSA concludes that Fisher's predictions are unsupported at this time. Further, the agency does not anticipate that those predictions will be borne out. This rule will only slightly increase the number of vehicles classified as school buses, and is thus unlikely to have a significant effect on the public's willingness to stop their vehicles for loading and unloading students. NHTSA believes the matter will be ultimately resolved through on-road experience. It will bear out whether school vehicles accommodating wheelchairs cause the inordinate traffic delays and associated problems that Fisher fears, and whether some action on NHTSA's part to address the alleged problems would be appropriate.

Costs

The October 1993 NPRM included a comprehensive discussion of estimated costs associated with this rulemaking action. The agency estimated that approximately 520 vehicles per year would be affected by this rulemaking. This estimate was based on sales data indicating that 15.2 percent of the 38,000 school buses sold annually are small buses, and that about 9 percent of these are lift equipped. The agency believes that each of those lift-equipped

buses has one or more wheelchair positions. The NPRM stated that while not all these vehicles might have their seating capacity reduced to that of an MPV, there will probably be other vehicles outside this class that will be affected, such as MPV's that are not lift-equipped. The agency does not know how many of these vehicles are currently sold as MPVs, but believes that the number is probably very small.

DDPI believed NHTSA underestimated the number of buses that would be affected by the proposed change. NHTSA believes that 520 is valid estimate of the approximate number of new school buses affected annually by this amendment. That value is based on annual sales of small school buses and the proportion of such buses that are currently equipped with wheelchair lifts. Not all these vehicles would have their seating capacities reduced to the point of becoming MPVs. NHTSA believes that DDPI may be erroneously including existing school buses in their calculations. This final rule, as with all NHTSA's rules, affects only new vehicles and is effective only prospectively. There is no requirement to retrofit existing vehicles.

The NPRM also contained a detailed analysis of the cost impacts for the affected vehicles. None of the commenters discussed those impacts. The agency is not aware of information indicating the assumptions underlying the cost estimates are incorrect. However, the estimated total cost savings was inaccurate. Instead of the \$390 to \$580 range in the NPRM, the total cost savings should have been estimated to be approximately \$90 per vehicle. The cost impacts of this rule are discussed in detail in the "Rulemaking Analyses and Notices" section of this preamble.

Other Issues

Compatibility with compartmentalization. As noted above, DDPI believed that one wheelchair position should be equated with fewer than four seating positions. DDPI was primarily concerned about unnecessarily restricting the seating capacity of school buses. However, DDPI also believed that excessive space allowed for wheelchair locations would conflict with the principles of compartmentalization.

NHTSA emphasizes that this rule does not require any specific amount of space to be set aside for each wheelchair position. This rule only requires that 4 designated seating positions be counted for each wheelchair position in determining vehicle classification. Accordingly, NHTSA believes that the compartmentalization requirements of

Standard No. 222, School bus passenger seating and crash protection, will not be affected by this rulemaking.

Wheelchair lifts. As noted above, some commenters suggested that, on a school vehicle, the DSP's removed for installation of a wheelchair lift be counted toward a determination of a vehicle's passenger capacity. Mid Bus and NSTA suggested that if wheelchair securement positions are installed in a vehicle, a lift mechanism of some type must also be present. Therefore, both suggested that the wheelchair lift also be credited with 4 designated seating positions.

The agency neither proposed nor discussed this issue in the NPRM. However, NHTSA is studying the matter. If, after due consideration, NHTSA decides to propose such an amendment, it will do so in a separate rulemaking.

Other methods of transport. CHP suggested that NHTSA study other methods of transporting disabled students, such as gurneys that could be used to transport prone or supine passengers. CHP stated that schools are receiving demands for transportation of disabled students in other than standard wheelchairs. Such devices pose hardships for bus operators, take up more space than wheelchairs, and securement/tiedown is difficult. Federal standards in this area would assist the school bus industry, increase safety, and establish uniformity.

The agency is aware that students are transported in mobility devices other than wheelchairs. The requirements of Standard No. 222 mandate forward-facing wheelchair restraints, but do not specify how the wheelchair securement devices should be used. This is an operational issue that is the responsibility of the state or local school district. However, NHTSA has a Disabilities Working Group that serves as a clearinghouse for information on the safe transportation of disabled persons. The diversity of the mobility devices available makes it impossible for a standard tiedown system to provide adequate securement of all the different types of mobility aids. There are many mobility devices that are made specifically for the individual's disability. Parties that are responsible for the safe transportation of occupants in mobility devices that are unique should consult with the restraint manufacturer, the physician, and a qualified expert in the field of transportation for the disabled prior to transporting such individuals.

Wheelchair safety. CHP stated that it is encountering a wide variety in the construction, configurations, and sizes

of wheelchairs, and is concerned that "many of the wheelchairs in the California (and nationwide) marketplace may not be capable of withstanding the forces associated with anchoring an occupant restraint system to them." NHTSA believes that CHP is referring to the crashworthiness of wheelchairs. CHP suggested, therefore, that NHTSA develop minimum standards for wheelchairs.

NHTSA addressed this issue in the final rule of January 15, 1993 (58 FR 4591), in discussing comments submitted in response to the NPRM of September 24, 1991. The agency recognizes now, as then, that some wheelchairs may not perform as well as others in a crash situation. However, the agency still considers it inappropriate to specify requirements for wheelchairs and other mobile seating devices that could be utilized on school buses. NHTSA's authority extends only to issuing performance requirements for motor vehicles and items of motor vehicle equipment as defined in 49 U.S.C. 30102 (6) and (7). The agency has authority to specify performance requirements for seating devices that are designed for use in vehicles, such as child safety seats. Wheelchairs in general are not designed specifically for use in motor vehicles. Their use in motor vehicles is only incidental to their primary function of providing mobility. Accordingly, NHTSA may not regulate in this area.

Agency Decision

After carefully considering the comments submitted in response to the NPRM, NHTSA has decided to amend the definition of "designated seating position" found in 49 CFR 571.3, as proposed in the NPRM. NHTSA believes this rule is needed to ensure that the vehicles which are used to transport students in wheelchairs afford the same protection as identical vehicles which are equipped with conventional bench seats and are classified as school buses. Some commenters expressed concerns about the impacts of the rule on school bus usage by increasing transportation time, causing traffic problems, and requiring more buses to transport the same number of children. However, these comments did not controvert the safety need for this action nor establish that the results would not be cost effective.

Effective Date

49 U.S.C. 30111(d) provides that each order prescribing a Federal motor vehicle safety standard may not become effective before the 180th day or later than one year after the standard is

prescribed unless, for good cause shown, a different effective date is in the public interest. NHTSA has concluded that one year after the date of publication of this final rule in the **Federal Register** is an appropriate effective date for this amendment in order to provide manufacturers adequate time to plan and implement any necessary design changes to their vehicles. Manufacturers may, however, at their opinion, comply with this amendment at any time after 30 days following publication of this final rule in the **Federal Register**.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." The agency has considered the impact of this rulemaking action under the DOT's regulatory policies and procedures and has determined that it is not "significant" under those policies and procedures.

The additional costs from having to comply with school bus safety standards and the cost savings from not having to comply with the MPV safety standards are estimated to result in net additional costs of a maximum of \$2,198 per vehicle (\$2,288 maximum additional costs, less \$90 per vehicle in cost savings, as discussed below), for a total maximum of \$1,142,960 (\$2,198×520). The agency believes, however, that only a very small number of vehicles per year would incur the full additional cost. Accordingly, the economic effects of this rulemaking action are so minimal that a full regulatory evaluation is not required.

Costs. The primary additional costs of the rule are estimated to be a maximum of \$2,288 per vehicle, for a total maximum of \$1,189,760 (\$2,288 × 520). Those costs result from equipping each vehicle with the following school bus features: red and amber school bus signal lamps required by Standard No. 108, Lamps, reflective devices, and associated equipment (\$140); school bus mirrors required by Standard No. 111, Rearview mirrors (between \$22 and \$52); stop signal arms required by Standard No. 131, School bus pedestrian safety devices (\$205); for vehicles over 6,000 pounds GVWR, a reinforced roof and roof pillar structure required by Standard No. 220, School bus rollover protection (from \$22 to \$1,549); additional rivets and glue for body panel strength in accordance with Standard No. 221, School bus body joint strength (\$365); and compartmentalized

passenger seats required by Standard No. 222, School bus passenger seating and crash protection (\$35 per seat, or \$280 for a vehicle with eight rear seating positions). NHTSA's data suggests, however, that many, if not most, vehicles used as school buses that have fewer than 11 designated seating positions, counting a wheelchair position as one designated seating position, already voluntarily comply with Federal school bus safety standards. Thus, the average additional costs for the affected vehicles would be significantly less than the theoretical maximum.

Cost savings. The potential cost savings realized from changing the classification result from differences between the occupant restraint requirements of Standard No. 208, Occupant crash protection, for MPV's and school buses. An MPV with a GVWR of 10,000 pounds or less is required to have lap/shoulder belts at all outboard seating positions and a lap/shoulder belt for the driver. In contrast, a school bus with a GVWR of 10,000 pounds or less is required to have a lap/shoulder belt at the driver's position and a lap belt at all other positions.

NHTSA believes that the maximum number of affected rear outboard seating positions is six, assuming that a vehicle with 10 seating positions has two 3-person bench seats, two single seats, a wheelchair position, and a driver's seat. These six outboard seating positions would require a lap/shoulder belt for MPV's and a lap belt for buses. The difference in cost between a lap/shoulder belt and a lap belt is about \$15, or \$90 per vehicle.

For vehicles with a GVWR of more than 10,000 pounds, cost savings will also result from changing a vehicle from an MPV to a school bus. If an MPV, the vehicle is required to have lap belts at all seating positions, including the driver's position. The seats on a school bus, except for the driver's position, are not required to have lap belts. Thus, the cost savings for a vehicle with eight rear seating positions will be between \$69.00 and \$90.00 per vehicle.

The agency does not know the GVWR distribution of the affected lift-equipped school buses. In any event, the maximum cost savings would not exceed \$90 per vehicle for a total possible maximum of \$46,800 (520 buses × \$90 each).

Safety Impact. The agency believes that there will be no significant loss of safety benefits from requiring vehicles accommodating wheelchairs to be classified as school buses. The agency believes that the school bus accident avoidance equipment of red and amber

signal lamps, rearview mirrors and stop signal arms would compensate for any potential loss of safety benefits from the difference in safety belt requirements between MPVs and school buses. Since it takes slightly longer to mount and dismount wheelchair occupants, the red and amber stop signal lamps and stop signal arms are of even greater importance for school buses. The agency recognizes that while outboard seating positions on MPVs are required to have lap/shoulder belts, those positions on small buses (under 10,000 pounds GVWR) are only required to have lap belts. NHTSA estimates the fatality effectiveness of rear seat lap belts to be 32 percent, while the effectiveness of rear seat lap/shoulder belts is estimated to be 41 percent. However, because school buses are involved in so few potentially fatal crashes due to their mostly daytime operation and scheduled routes, the potential loss of safety benefits is minimal.

For vehicles with a GVWR over 10,000 pounds, school buses are required to meet the seat compartmentalization of Standard No. 222, while MPVs must provide lap belts for the rear seat occupants. The agency believes that those two restraint concepts provide equivalent safety for the heavier vehicles.

Regulatory Flexibility Act

NHTSA has considered the effects of this regulatory action under the Regulatory Flexibility Act. I hereby certify that the amendment promulgated by this final rule will not have a significant impact on a substantial number of small entities. As explained above, NHTSA expects only a very modest economic impact as a result of this rulemaking action because of the small number of affected vehicles (maximum of 520), and since many such vehicles already voluntarily meet the school bus standards. Accordingly, the agency has not prepared a regulatory flexibility analysis.

Executive Order 12612 (Federalism)

This rulemaking action has been analyzed in accordance with the principles and criteria of Executive Order 12612, and the agency has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act, and has determined that implementation of this action will not have any significant

impact on the quality of the human environment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, P.L. 96-511, the agency notes that there are no information collection requirements associated with this rulemaking action.

Civil Justice Reform

This rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision of a state may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, a state may prescribe a standard for a motor vehicle or equipment obtained for its own use that imposes a higher performance requirement than the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings is not required before parties may file suit in court.

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

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

2. Section 571.3 is amended by revising the definition of "designated seating position" in Section 571.3(b) to read as follows:

§ 571.3 Definitions.

* * * * *

(b) * * *

Designated seating position means any plan view location capable of accommodating a person at least as large as a 5th percentile adult female, if the overall seat configuration and design and vehicle design is such that the position is likely to be used as a seating position while the vehicle is in motion, except for auxiliary seating accommodations such as temporary or folding jump seats. Any bench or split-

bench seat in a passenger car, truck or multipurpose passenger vehicle with a GVWR less than 4,536 kilograms (10,000 pounds), having greater than 127 centimeters (50 inches) of hip room (measured in accordance with SAE Standard J1100(a)) shall have not less than three designated seating positions, unless the seat design or vehicle design is such that the center position cannot be used for seating. For the sole purpose of determining the classification of any vehicle sold or introduced into interstate commerce for purposes that include carrying students to and from school or related events, any location in such vehicle intended for securement of an occupied wheelchair during vehicle operation shall be regarded as four designated seating positions.

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Issued on March 20, 1995.

Ricardo Martinez,
Administrator.

[FR Doc. 95-7350 Filed 3-23-95; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 582

[Docket No. 94-73; Notice 2]

RIN 2127-AF44

Insurance Cost Information Regulation

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

ACTION: Final rule.

SUMMARY: In this document, NHTSA adopts technical amendments to the insurance cost information regulations. Among the changes adopted are postponing, from January until March, the availability date of the insurance cost information booklet, and revising the term "passenger motor vehicles" to read "passenger cars, utility vehicles, light duty trucks, and vans." NHTSA also adds language making more explicit the limitations of the collision loss data, and language recommending that prospective purchasers contact insurance agents or insurance companies for more information. The amendments are adopted to make the insurance cost information more accurate.

DATES: These amendments are effective April 24, 1995, and will apply to the insurance cost information to be made available in March 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366-0846.

SUPPLEMENTARY INFORMATION:

Background

Insurance Cost Information Regulation

49 U.S.C. 32302(c) states that the Secretary of Transportation (the Secretary) shall prescribe regulations that require passenger motor vehicle dealers to distribute to prospective purchasers, information developed by the Secretary and provided to the dealer, which compares differences in insurance costs for different makes and models of passenger motor vehicles based upon differences in damage susceptibility and crashworthiness. By delegation from the Secretary, NHTSA has been authorized to carry out the statute.

On January 31, 1975, NHTSA published 49 CFR part 582, Insurance Cost Information Regulation (40 FR 4918). Part 582, as then promulgated, required that automobile dealers "make available to prospective purchasers information reflecting differences in insurance costs for different makes and models of passenger motor vehicles based upon differences in damage susceptibility and crashworthiness." Part 582, however, did not specify information that dealers must provide.

On March 5, 1993 (58 FR 12545), NHTSA published a final rule amending part 582. The rule complemented the 1975 rulemaking, and completed implementation of section 32302(c). The March 1993 final rule, which became effective April 5, 1993, requires dealers of new automobiles to make collision loss experience data available in booklets to prospective purchasers. The information to be provided in the booklet is specified in section 582.5, which requires inclusion of a complete explanatory text and updated data on auto insurance costs published annually by NHTSA.

The mandatory text specified by part 582 relates to, among other topics, the limitations of the auto insurance cost data as a predictor of differences in insurance premiums. Essentially, those limitations result from the fact that most of the factors that insurance companies use to establish premiums relate to driver characteristics and, except for the vehicle's value, are not directly related to the vehicle itself. Thus, as the text explains, the fact that a vehicle's historical claims experience is somewhat better or worse than that of other vehicles in its class may not be reflected in the premium that an insurance company establishes for that vehicle. If the claims experience is reflected, it is likely to have only a small impact on the premium.