

a U.S.-flag leg for the remainder of the voyage. The "fair and reasonable" rate for this mixed service will be determined by considering the U.S.-flag component under the existing regulations at 46 CFR Part 382 or 383, as appropriate, and incorporating the cost for the foreign-flag component into the U.S.-flag "fair and reasonable" rate in the same way as the cost of foreign-flag vessels used to lighten U.S.-flag vessels in the recipient country's territorial waters. Alternatively, the supplier of the commodity may offer the Cargo FOB Canadian transshipment point, and MARAD will determine fair and reasonable rates accordingly.

Dated: May 3, 1995.

By Order of the Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

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National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88-21, Notice No. 09]

RIN No. 2127-AE25

RIN No. 2127-AE62

Federal Motor Vehicle Safety Standards, Bus Emergency Exits and Window Retention and Release

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

ACTION: Final rule.

SUMMARY: This rule makes a number of amendments to the agency's standard on bus emergency exits and window retention and release. Among other things, the amendments permit manufacturers to install two emergency exit windows as an alternative to an emergency exit door as the first means of satisfying recent requirements for additional emergency exits on school buses. The amendments also permit non-school buses to meet either the current non-school bus emergency exit requirements or the recently upgraded school bus requirements. These amendments will increase manufacturer flexibility in meeting emergency exit requirements while maintaining the existing level of safety. The amendments also modify the requirements specifying the number of additional exits that are required for school buses of varying capacity. These amendments will provide increased clarity and also ensure that manufacturers meet the recently

upgraded requirements by providing additional emergency exits rather than by increasing the size of existing exits. The rule also makes a number of more minor amendments to the standard.

DATES: This final rule is effective May 9, 1996.

Manufacturers may voluntarily comply with the amendments promulgated by this final rule on or after June 8, 1995.

Any petition for reconsideration of this rule must be received by NHTSA no later than June 8, 1995.

ADDRESSES: Any petition for reconsideration should refer to the docket and notice number for this rule and be submitted to NHTSA Docket Section, 400 Seventh Street, S.W., Room 5109, Washington, DC 20590. Docket hours are from 9:30 a.m. to 4:00 p.m., Monday through Friday. Telephone: (202) 366-4949.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
 - A. Standard No. 217
 - B. November 1992 NPRM
 - C. December 1993 NPRM
- II. Overview
- III. December 1993 NPRM
 - A. Exit window performance requirements
 - B. School bus emergency exit requirements
 - C. Extra area credit and means for specifying requirements for additional school bus exits
- IV. November 1992 NPRM
 - A. Option for non-school buses to meet school bus requirements
 - B. Deletion of S5.2.2.1
- V. Other issues
 - A. Size of retroreflective tape
 - B. Transpec Comments
- VI. Lead Time
- VII. Rulemaking Analyses and Notices
 - A. Executive Order 12866; DOT Regulatory Policies and Procedures
 - B. Regulatory Flexibility Act
 - C. Executive Order 12612 (Federalism)
 - D. National Environmental Policy Act
 - E. Paperwork Reduction Act
 - F. Civil Justice Reform

SUPPLEMENTARY INFORMATION:

I. Background

A. Standard No. 217

NHTSA has long recognized the safety need for buses to provide means for readily accessible emergency egress in the event of a crash or other emergency. The agency addressed this safety need by issuing Safety Standard No. 217, *Bus Emergency*

Exits and Window Retention Release

When the standard originally became effective on September 1, 1973, it required that buses other than school buses have exits whose combined area, in square inches, equaled or exceeded 67 times the number of designated seating positions. The type of exit used to comply with this requirement was left to the choice of the manufacturer, although the agency assumed that most manufacturers would meet the standard primarily by installing push-out side windows. Moreover, the standard's performance requirements for emergency exit windows effectively required those windows to be of the push-out type.

School buses were excluded from this requirement for the reasons explained in the notice of proposed rulemaking (NPRM):

In view of discipline problems associated with mandatory quick-release and exit devices throughout a school bus which may interfere with the school bus driver's task, and the added risk of children falling from moving school buses, push-out windows for school buses would remain optional. 35 FR 13025; August 15, 1970.

Later, in response to the Motor Vehicle and Schoolbus Safety Amendments of 1974, NHTSA amended Standard No. 217 to include emergency exit requirements for school buses. Instead of adopting the approach used for non-school buses, the agency required that all new school buses have either (1) one rear emergency door, or (2) "one emergency door on the vehicle's left side that is in the rear half of the bus passenger compartment and is hinged on its forward side, and one push-out rear window."

In response to several school bus accidents in the late 1980's and recommendations by the National Transportation Safety Board, NHTSA subsequently upgraded Standard No. 217's school bus requirements to increase the number of emergency exits required for larger school buses. This final rule was published in the **Federal Register** (57 FR 49413) on November 2, 1992, and a correction notice was published on December 2, 1992 (57 FR 57020).

The upgraded rule required, among other things, that the total area of the emergency exits of each school bus be based on the designated seating capacity of the bus. The rule maintained the existing requirement that all school buses have either a rear emergency exit door or a left-side emergency exit door along with a rear push-out window, at the option of the manufacturer. It also provided, however, that the area in

square centimeters of the unobstructed openings for emergency exit must collectively amount to at least 432 times the number of designated seating positions in the bus (this is the metric equivalent of an area in square inches amounting to at least 67 times the number of designated seating positions).

The rule specified that the front service door area and either the rear door exit area (for a bus that has a rear emergency door) or side door exit area plus push-out window area (for a bus with a left side emergency door and push-out rear window) are counted toward meeting the total emergency exit area requirement. Under the rule, if these areas are insufficient to meet the total area requirement, manufacturers must provide sufficient additional exits to meet the remaining area (termed the "additional emergency exit area" (AEEA)). Such additional exits must be provided in the following sequence:

(a) A left side emergency exit door (for a bus that has a rear emergency door) or right side emergency exit door (for a bus with a left side emergency door and push-out rear window);

(b) An emergency roof exit; and,

(c) Any of the following, at the manufacturer's option: side emergency doors, roof exits, or push-out window exits.

B. November 1992 NPRM

At the same time NHTSA published the final rule upgrading Standard No. 217's requirements for school buses, it published an NPRM to permit non-school buses to meet either the existing non-school bus requirements or the newly upgraded school bus requirements. 57 FR 49444, November 2, 1992. The agency stated that it believed the upgraded school bus requirements provide a level of safety comparable to that of the existing non-school bus requirements.

NHTSA noted that the action would affect obligations of school bus operators under the Federal Motor Carrier Safety Regulations (FMCSRs) issued by the Office of Motor Carrier Standards in the Federal Highway Administration. The FMCSRs require all buses, including school buses, to meet the Standard No. 217 requirements for non-school buses. NHTSA explained that if Standard No. 217 were amended to allow non-school buses to meet the upgraded school bus requirements, there would be no need under the FMCSRs to retrofit school buses which are operated in interstate commerce and therefore required by the FMCSRs to meet the existing non-school bus requirements in Standard No. 217.

C. December 1993 NPRM

On December 1, 1993, in response to two petitions from the Blue Bird Body Company, NHTSA published in the **Federal Register** (58 FR 63321) an NPRM to amend Standard No. 217's emergency exit requirements. The agency proposed to permit manufacturers to install windows other than push-out windows in order to meet the emergency exit requirements. The agency also proposed to permit manufacturers to install two emergency exit windows as an alternative to an extra emergency exit door as the first means of satisfying the AEEA requirements for school buses. In addition, NHTSA proposed new criteria for determining the amount of area that is credited for emergency exits on school buses.

NHTSA also proposed a new means for specifying the number of exits that are required for school buses of varying capacity. The agency proposed to replace the existing requirements, which are specified in terms of total emergency exit area and AEEA, with simple tables specifying the exits that are required for each level of seating capacity. Under the proposal, the number of exits required by the tables would be derived from the existing requirements, as well as the criteria at issue in the NPRM concerning the amount of area that should be credited for emergency exits for school buses.

The agency also proposed several miscellaneous amendments, including the following: a minimum size requirement for required school bus emergency exit windows; a requirement for an opening device that keeps a window, once having been fully opened, from closing past the point at which the window is perpendicular to the bus; an amendment to clarify that the standard's requirements apply to any type of emergency exit; and an amendment to return the standard's gross vehicle weight rating (GVWR) references from metric units to pounds, until NHTSA decides how to convert GVWR for all safety standards.

NHTSA believed that the proposed amendments would increase manufacturer flexibility while maintaining the existing level of safety, would provide increased clarity, and would also ensure that manufacturers meet the recently upgraded school bus exit requirements by providing additional emergency exits rather than by increasing the size of existing exits.

II. Overview

Today's final rule is based on the November 1992 and December 1993 NPRMs. The final rule:

- * Permits the installation of two emergency exit windows as an alternative to an emergency exit door as the first means of providing additional emergency exit area in school buses.

The agency believes that permitting this additional option will increase manufacturer flexibility while maintaining the level of safety envisioned by the standard;

- * Modifies the requirements specifying the number of additional exits that are required for school buses of varying capacity. These modifications will provide increased clarity and ensure that manufacturers meet school bus emergency exit requirements by providing additional emergency exits rather than by increasing the size of existing exits.

- * Specifies that emergency exit windows in school buses must meet the same minimum size requirements as non-school bus emergency exit requirements;

- * Permits non-school buses to meet the emergency exit requirements of school buses. This will allow school buses to be used for interstate non-school bus purposes. School buses that comply with Standard 217's school bus exit requirements will also comply with the FMCSR's without the need for retrofitting; and

- * Corrects an error made in the final rule issued by NHTSA on November 2, 1992, so that the retroreflective tape outlining the exteriors of required school bus emergency exits shall be at least 2.5 centimeters wide rather than the 3 centimeters specified in the final rule.

III. The December 1993 Proposal

A. Exit Window Performance Requirements

As indicated above, the existing performance requirements for emergency exit windows in Standard No. 217 effectively require those windows to be of the push-out type. These windows are defined as being "designed to open outward to provide for emergency egress." The standard provides that at least one force application is required to operate the emergency release mechanism and that such force application must differ from the "initial push-out motion" of the exit by at least 90° to 180°. The reason that the existing requirements have the effect of requiring that an emergency exit window be a push-out window is that at the time requirements for emergency

exit windows were being developed, push-out windows were the only existing emergency exit windows available.

In the December NPRM, however, NHTSA proposed to permit installation of windows other than push-out windows. The agency ascertained that other types of emergency windows are available which the agency believes are capable of providing safety benefits at least equivalent to those of push-out windows.

Blue Bird Body Company (Blue Bird), National School Transportation Association, and Flxible Corporation (Flxible) supported the proposal as allowing manufacturers additional flexibility in providing emergency exits for school buses. Blue Bird specifically addressed sliding windows as alternatives to push-out windows, as further discussed below.

NHTSA agrees with the commenters and believes that manufacturers should be permitted the option of installing windows to meet emergency exit requirements. Standard No. 217, therefore, is amended to so provide.

B. School Bus Emergency Exit Requirements

NHTSA proposed to include sliding windows as an alternative to doors in the first priority category of additional emergency exits, since windows as well as a door could decrease evacuation time in catastrophic crashes (e.g., involving fire or submersion). Since improving the evacuation of a school bus in a catastrophic crash was the basis for requiring school buses to have AEEA, a window could satisfy the safety need for the AEEA requirement.

However, NHTSA did not believe all windows would be suitable for inclusion in the first priority category. NHTSA did not propose to include push-out exit windows in the first priority category, since the agency believed that there are differences between push-out and sliding windows that make the former less desirable on a school bus. In some evacuation situations, a push-out window could be difficult, if not impossible, for a small child to open. NHTSA explained in the NPRM that push-out windows could not have been opened in the catastrophic Alton, Texas school bus crash until the vehicle was nearly filled with water because of the outside water pressure. If a bus rolled over on its side, the windows on the upper side would have to be pushed open against gravity. In both those situations, however, sliding windows would be easier to open. Even if the bus were upright, push-out windows would have to be held open

while a sliding window would remain open without being held. In addition, NHTSA pointed out that push-out windows typically require the occupant to exit the vehicle head first while holding the window open, while sliding windows remain open, allowing the occupant to exit feet first.

To avoid creating confusion among children trying to decide how to open the windows of a school bus, NHTSA proposed to require that if a manufacturer chooses to install emergency exit windows, it cannot install both sliding and push-out windows in the same vehicle. The agency proposed an exception to this prohibition for a bus with a single rear push-out window. Such a bus is typically a rear-engine bus in which a sliding rear window could not be installed.

The agency received nine comments on the NPRM. Commenters included school bus manufacturers, the National School Transportation Association (a trade association of school bus contractors), and state and local agencies responsible for pupil transportation. There was no consensus among the commenters on whether sliding windows should be in the first priority category of additional emergency exits.

Commenters supporting the proposal were the National School Transportation Association (NSTA), petitioner Blue Bird Body Company (Blue Bird), Portland Public Schools, and Salem Keizer Public Schools (Salem, Oregon). The California Highway Patrol (CHP) supported allowing sliding windows in school buses up to 10,000 pounds or 20 passengers. These commenters expressed either strong or qualified support for the proposal. Commenters expressing strong support were NSTA and Blue Bird. NSTA indicated that it supported permitting sliding windows as a first priority option because the amendment would increase manufacturer design flexibility, and could lead to a greater variety of exit types and locations on a school bus. Blue Bird stated that it supported the proposal for the reasons provided in its petition for rulemaking, i.e., that window-size exits provide better structural integrity than doors, that properly designed window-sized exits are less likely to allow passenger ejection while simultaneously providing quick egress in emergency situations, and that window exits provide economic benefits. Blue Bird also stated that its suggestions for rulemaking are based on its experience in

manufacturing buses with various types and sizes of emergency exits and on

[O]ur knowledge of the preferences of school bus users as specified in the 1990 National Standards for School Buses and state school bus specifications. Blue Bird believes the users of school buses are ultimately responsible for safe and efficient vehicle evacuation in emergencies and their knowledge and preferences should be weighed heavily in any final rule regarding emergency exits.

Commenters opposing the proposal were Wayne Wheeled Vehicles (WWV), a school bus manufacturer, Washington's Superintendent of Public Instruction (WSPI), Thomas Built Buses, another school bus manufacturer, and CHP, with regard to large school buses. WWV opposed any change to the sequential listing of emergency exits currently provided in Standard 217, but did not explain the basis for its opposition. WSPI opposed permitting sliding exit windows as a first priority in satisfying the AEEA, arguing that these windows are of limited value except in certain specific situations, such as submersion.

NHTSA disagrees with commenters' assertions that the usefulness of emergency exit windows is so limited that their inclusion in the first priority category of additional emergency exits is unwarranted. The agency also disagrees with CHP that sliding windows should not be installed on large school buses. The basic rationale of the AEEA requirements is to provide additional emergency exits for catastrophic crashes. In such cases, a variety of exits in both location and type provides additional means of egress in a variety of different situations. NHTSA believes that exit windows provide a reasonable and effective option for such egress.

The agency further concludes that, even if exit windows may not be useful in all situations, this limitation is not determinative. This amendment does not require installation of exit windows, but merely permits them as an option in meeting the AEEA requirement. The intent of this rulemaking, therefore, is to enable manufacturers to install exit windows when school bus purchasers prefer them. NHTSA concurs with Blue Bird that school bus purchasers are best able to determine which types of emergency exits would best meet their school bus needs. The agency does not have data that would justify denying school bus purchasers and administrators their preferences between exit windows and side doors, particularly in view of the cost differential between the two.

Opponents of this proposal raised safety concerns about sliding windows. Thomas argued that in an emergency, the natural reflex of people is to push out, as in exiting a building, and the motion required in releasing a sliding window is inconsistent with that natural tendency. Thomas stated that since children are accustomed to pushing out to exit, the sliding windows will confuse them. WSPI asserted that its experience has been that children tend not to use windows, especially in drills.

Thomas asserted, without supporting data, that the motion necessary to open a sliding window is contrary to passengers natural tendency. Assuming that statement to be valid, Thomas did not provide information showing that such natural tendency cannot be overcome through adequate training, such as evacuation drills. NHTSA believes that local school officials can and will implement training programs that will overcome any reluctance on the part of students to use a sliding window in an emergency. Moreover, school children typically ride to and from school in the same bus for the entire school year, and often for the entire time they are in elementary school, middle school or high school. Since school children usually change buses infrequently, children riding a bus with a sliding window emergency exit will likely have a high degree of exposure to that type of exit, which increases their degree of familiarity with the sliding window exit.

Thomas argued that sliding windows cannot be opened from the outside as can doors, thereby diminishing safety. While it is correct that a sliding window typically cannot be opened from the outside, the agency does not believe that it is necessary for all emergency exits to be capable of being opened from the outside. Emergency exits are intended primarily to provide occupants a means of egress from inside the bus in case of emergency. The rear and side emergency doors and roof hatches are required to have release mechanisms on the outside as well as the inside of the bus. The agency believes, therefore, that doors and roof hatches provide access from outside the bus sufficient to meet all accident scenarios. If necessary in an extreme emergency, windows can be broken from the outside to provide emergency egress.

Thomas asserted that since there is no aisle leading to an emergency window and it can only be reached by climbing over a seat, the ability to exit the vehicle quickly is reduced. It should be noted that the NPRM proposed to allow the installation of either two sliding

windows or a door as the first means of satisfying the AEEA requirement. While NHTSA concurs that it is probably quicker to exit a bus when there is an aisle leading to an exit as opposed to when there is none, the fact that there would be two window exits (versus one side door) should offset any increase in evacuation time due to the lack of an aisle leading to the window exit.

Finally, Thomas stated that there has been little or no experience in determining the crashworthiness of sliding emergency exit windows and suggested that NHTSA conduct impact and rollover testing of sliding windows on school bus bodies before issuing a final rule. NHTSA is not persuaded that Thomas' crashworthiness concerns are warranted. Thomas questioned what would be the long-term effect on sliding windows of the racking and shifting to which school buses are subjected. NHTSA believes that the "racking and shifting" to which school buses are subjected in their normal daily utilization should have no greater adverse affect on sliding windows than on any other exit in the vehicle. The design and construction of the vehicle should allow for such motion to minimize any adverse effects. The commenter was also concerned that a sliding window would be affected by the deformation of a bus body in a rollover crash. NHTSA believes that body deformation of the vehicle in a rollover situation may or may not affect the proper operation of sliding windows. Body deformation could affect any exit on the vehicle, but by providing a variety of exits on the vehicle, the likelihood is increased that occupants will have available a workable exit from which to depart the vehicle.

Thomas also asked how a sliding window would be affected by water pressure when a bus is submerged. Thomas believed that, in a submersion situation, water will rush in after any exit is opened. Thomas was concerned that under those conditions, a child might not be able to remain sufficiently oriented to be able to exit through that opening.

In response, the agency notes that, in a submersion situation, water will rush in as soon as any exit is opened. The orientation of the occupants of the vehicle in this situation will be a problem regardless of the nature of the exit. Therefore, NHTSA believes that sliding windows pose no greater hazard in this instance than any other exit.

After reviewing the comments on the NPRM, NHTSA concludes it is reasonable to allow windows as the first means of satisfying the AEEA

requirement. The amendment would provide flexibility to manufacturers and school bus purchasers, while not degrading safety. However, partly in response to particular aspects of the NPRM, some commenters supporting the proposal to permit sliding windows qualified their support by suggesting certain conditions should be placed on sliding windows for the exits to be in the first priority category of the AEEA. As discussed below, this rule adopts many of these suggested conditions.

For a school bus to meet the AEEA using windows, there must be two windows on the vehicle. This condition was proposed in the NPRM. NSTA commented that it does not believe that it is preferable to install more than two sliding exit windows. Once the vehicle has been equipped with two sliding windows, it would be better to require the next exit to be a roof exit, as this will provide a greater variety of exit types and locations. NHTSA concurs, and has decided that a requirement for two windows is appropriate.

Each window must meet a minimum size requirement. This condition was proposed in the NPRM as a requirement for all emergency exit windows on school buses. The minimum size requirement is the same one that has been in S5.4.1 of Standard 217 for windows on non-school buses. Section S5.4.1 specifies that window exits must provide an opening large enough to permit passage of an ellipse having a major axis of 20 inches and a minor axis of 13 inches. This rule specifies that school bus exit windows, including sliding windows, must satisfy this size requirement.

Except for a bus with a single rear push-out window, both sliding and push-out windows may not be installed in the same vehicle. This requirement was proposed in the NPRM. No commenter opposed it. Accordingly, the agency is adopting it for the reasons stated in the proposal.

The sliding windows installed in school buses pursuant to this rule must slide vertically, not horizontally. This limitation results from comments from Portland Public Schools and Salem-Keizer Public Schools. Both expressed concern that horizontal sliding windows would provide openings that are more accessible, thus allowing children to put their heads or arms out the windows or enable them to throw items out the windows. Portland argued that the window designs and the proximity of the students to the windows would render it extremely difficult for drivers to regulate how far the windows may open. Both agreed that vertical sliding windows, or a "full drop" design,

would be safer and allow faster evacuation, provided they had appropriate release and warning systems.

NHTSA agrees with Portland and Salem-Keizer that horizontal sliding windows on school buses may increase the potential for student injuries. Typically, the vertical drop sash windows currently installed in school buses are designed to have a drop of approximately 9 inches. That opening permits ventilation, yet is generally above the heads of the children seated nearby, making it difficult for them to extend their heads and/or arms out of the windows. Vertical sliding emergency exit windows can be designed so that they drop partially to permit ventilation, then drop farther to allow for evacuation. Horizontal sliding windows, on the other hand, in order to provide an opening large enough to evacuate the vehicle, must provide an area close to the heads and arms of the passengers, making it easier for them to extend their heads and/or arms out of the windows. Accordingly, the agency has decided that horizontal sliding windows may not be installed in school buses as emergency exits.

The agency has decided that both push-out and vertical sliding windows should be authorized as a first priority for providing the AEEA in school buses. The agency's intent in requiring more emergency exits on school buses, as promulgated in the final rule of November 2, 1992, was to provide a greater number and variety of exits to be available in catastrophic situations where the occupants must exit the bus as quickly as possible. NHTSA believes that allowing emergency exit windows in meeting those requirements gives both manufacturers and consumers additional choices when ordering and manufacturing school buses. Finally, the agency notes that some states currently require push-out windows in school buses in addition to the emergency exits required by Standard No. 217. NHTSA believes that by allowing windows to be installed instead of doors, some of those states may realize cost savings by being relieved of the necessity of installing additional windows.

NHTSA has decided not to adopt its proposal to require push-out windows to have positive opening devices that would allow occupants to exit through the window without having to hold it open. Commenters WSPI, NSTA, and CHP all expressed support for the proposal, asserting that such a device would assist children in evacuating the vehicle. Wayne and Blue Bird opposed it, arguing that current designs of emergency exit windows are sufficient

and that no safety need has been shown to require these devices. Blue Bird also asserted that such devices are not currently available on emergency exit windows, and suggested that NHTSA develop and test such a device and issue performance standards to regulate it. In view of Blue Bird's comments, the agency has concerns about the practicability of a hold-open device for windows. NHTSA is not aware of the availability of any hold-open device that will function properly as applied to windows. Accordingly, the agency is not adopting the proposal.

C. Exit Area Credit and Means for Specifying Requirements for Additional School Bus Exits.

The NPRM proposed to limit the amount of area that can be credited for any particular emergency exit in satisfaction of the AEEA requirement. The reason for the proposal was stated as follows:

Restricting the amount of area that can be credited for an exit would ensure that [the AEEA] rulemaking would achieve its intended purpose of increasing the number of exits available to school bus occupants in a catastrophic crash.

(58 FR at 63324.) Stated differently, the purpose of the proposal was to ensure that manufacturers would install additional exits to meet the AEEA, rather than simply enlarge the size of exits existing prior to the AEEA rulemaking. NHTSA believed that increasing the number of exits will decrease evacuation time in a catastrophic crash.

The NPRM proposed two options for restricting the amount of area that can be credited for each emergency exit:

Option 1—limit the amount of area that could be credited toward any one emergency exit to 3,458 square centimeters. This value is comparable to the current amount that can be credited for a non-school bus exit (536 square inches).

Option 2—limit the amount of area that could be credited to an emergency exit to the following:

- * Front service door: daylight opening or 12,916 square centimeters (cm), whichever is less;

- * Rear or side exit door: 6,954 square cm;

- * Rear push-out window: 5,002 square cm;

- * Roof exit: daylight opening or 3,458 square cm, whichever is less;

- * Side exit window: daylight opening or 3,458 square cm, whichever is less.

The NPRM also stated that the agency was considering restating Standard 217's requirements for the provision of school bus emergency exits (S5.2.3) in

the form of a table, thereby replacing the formula in S5.2.3 for calculating the requisite AEEA for each bus.

Commenters differed as to which option they preferred. NSTA, Blue Bird and CHP supported option 1 on the basis that it would equalize the requirements of both school buses and non-school buses, thus providing better evacuation possibilities for both. Blue Bird expressed preference for option 1 because it would serve to increase the number of emergency exits in school buses. However, Blue Bird also concurred with option 2 as "reasonable, practical, and justifiable," recognizing that option 1 may not be practical or justifiable, given that option 1 would require substantially more exits than those currently required by Standard 217 and specified by the 1990 National Standards for School Buses.

WSPI, Thomas, and Wayne supported option 2. Thomas said that option 2 would require the same number and size of all emergency exits by all manufacturers.

After considering the comments, NHTSA has decided to adopt option 2, though expressed in the form of tables (see Tables 1 through 3 below). NHTSA agrees with Blue Bird that the number of emergency exits required by option 1 may be excessive. Option 1 was based on the current requirement in Standard 217 (S5.2) that limits the amount of area that can be credited for an exit on a non-school bus. In proposing option 1, NHTSA believed that the option would make the number of emergency exits on school buses closer to the number of emergency exits on non-school buses. The agency realized, however, that since school buses have a greater seating capacity than non-school buses of the same size, option 1 might have resulted in a school bus having to have many more exits than a non-school bus of the identical size. NHTSA requested comments on the number of exits required on the same bus if it is equipped with seats either as a school bus or as a non-school bus.

Blue Bird was the only commenter responding to this request. Blue Bird stated that a 91-passenger school bus would be the equivalent of a 61-passenger non-school bus. Under option 1, this school bus would be required to have 11 exits, while the non-school bus would be required to have 8. Under option 2, this school bus would be required to have 7 exits. NHTSA believes that option 2 is the more appropriate option, since under it, school buses and non-school buses have a comparable and appropriate number of required exits.

The amount of emergency exit area for both school buses and non-school buses is based on seating capacity, calculated, as stated above, at 432 times the number of designated seating positions in the vehicle in square centimeters. School buses distribute this area slightly differently than non-school buses because many, if not most, school bus passengers are smaller than most adults. Non-school buses meet the emergency exit requirements primarily by push-out windows. School buses, on the other hand, use a variety of exits, including doors, windows, and roof hatches, at specified locations throughout the bus. The maximum seating capacity of a school bus is higher than that of a non-school bus. School buses can transport 3 to a seat if the passengers are in grades 1 through 5, and 2 per seat in grades 9 through 12. For students in grades 6 through 8, school districts vary the capacity of the bus depending on the size of the students. In any case, NHTSA believes that an excessive number of emergency exits as suggested by option 1 would be counterproductive by possibly degrading the structural integrity of the bus. Thus, the agency does not believe that requiring the additional exits resulting from option 1 is desirable.

With regard to the agency's consideration in the NPRM of adopting tables to replace the AEEA formulas in S5.2.3 of the Standard 217, WSPI opposed the change as unnecessary:

It is a simple task to determine the amount of required exit area for a given passenger capacity, and the requirements are quite clear as to the order that additional required exits must be added.

In contrast, Thomas supported the change. Thomas indicated that a table is needed to determine the number of required emergency exits, because there has been a great deal of confusion over the number of emergency exits that are required of school buses with certain capacities:

The number of required emergency exits already differs between body manufacturers due to differences in daylight opening calculations which are a result of each manufacturer's unique exit door sizes and designs. To further complicate the situation, front service door type (outward opening vs. jackknife), step height (9 1/4" vs. 8 1/4"), and headroom (73" vs. 78") on some manufacturer's vehicles also affect daylight opening calculations, which in turn impact the number of additional emergency exits.

NHTSA believes that tables that show the AEEA requirements for school buses express emergency exit requirements with greater clarity and specificity, thereby reducing or removing the possibility of misunderstanding,

misinterpretation, or miscalculation of the formula. Since the tables are based on seating capacity, while the formula is based not only on seating capacity but also calculations of exit areas, the agency believes that the tables will be easier to implement. Accordingly, this rule adopts the tables based on the calculations in option 2. Further, this rule specifies a new table in addition to the two discussed in the NPRM (one table designated the additional exits for school buses with a rear emergency exit door, while the other designated the additional exits for school buses with a side emergency exit door and a rear emergency push-out window). The two tables in the NPRM for determining the number of emergency exits required on a school bus treated all buses with a rear door and a seating capacity greater than 70 equally and all buses with a side door and rear push-out window and a seating capacity greater than 82 equally. In other words, under the tables, a bus with a capacity significantly above 70 or 82 did not need to have more exits than a 71 or 83-passenger capacity bus.

The NPRM explained that these limits were based on the largest capacity bus NHTSA believed is built for each type. The agency requested comments on whether even larger capacity buses are being built. In response, commenters submitted information that a significant number of buses have a sufficiently large capacity that they would be required to have more than one "third priority" exit.

NHTSA believes all school buses should have exits proportional to their capacity. Accordingly, the tables are modified as follows. The modified tables 1 and 2 indicate that buses over a certain capacity (70 or 82) must incorporate exits in addition to the required additional door and roof exit until the credit for those exits (found in table 3) plus either 70 or 82, depending on school bus type, exceeds the capacity of the bus. The third table responds to a comment from Blue Bird urging that NHTSA include tables showing the amount of credit for each type of exit instead of tables indicating the type of exits required for buses of certain capacity. NHTSA believes that the third table will reduce confusion and questions about equipping very large school buses with various combinations of third priority exits.

This rule adopts the following tables. Table 1 applies to school buses with a rear emergency door.

TABLE 1

Seating capacity	Additional exits required *
1-45	None.
46-62	1 left side exit door or 2 exit windows.
63-70	1 left side exit door or 2 exit windows, and 1 roof exit.
71 and above.	1 left side exit door or 2 exit windows, and 1 roof exit, and any combination of door, roof, or windows such that the total capacity specified in Table 3 for these exits, plus 70, is greater than the seating capacity of the bus.

* Side emergency exit doors must meet the requirements of S5.2.3.2(a); emergency roof exits must meet the requirements of S5.2.3.2(b); and emergency window exits must meet the requirements of S5.2.3.2(c).

Table 2 applies to school buses with a side emergency exit door and a rear emergency push-out window:

TABLE 2

Seating capacity	Additional exits required *
1-57	None.
58-74	1 right side exit door or 2 exit windows.
75-82	1 right side exit door or 2 exit windows, and 1 roof exit.
83 and above.	1 right side exit door or 2 windows, and 1 roof exit, and any combination of door, roof, or windows such that the total capacity credit specified in Table 3 for these exits plus 82 is greater than the capacity of the bus.

* Side emergency exit doors must meet the requirements of S5.2.3.2(a), emergency roof exits must meet the requirements of S5.2.3.2(b), emergency window exits must meet the requirements of S5.2.3.2(c).

Table 3 specifies the credit that is accorded each emergency exit installed on the vehicle to satisfy the AEEA requirement:

TABLE 3

Exit type	Capacity credit
Side Door	16
Window	8
Roof Exit	8

IV. November 1992 NPRM

A. Option for Non-School Buses To Meet School Bus Requirements

As indicated above, at the same time NHTSA published the final rule upgrading Standard No. 217's requirements for school buses, it published an NPRM to permit non-

school buses to meet either the existing non-school bus requirements or the newly upgraded school bus requirements. The agency stated that it believed the upgraded school bus requirements provide a level of safety comparable to that of the existing non-school bus requirements. NHTSA noted that the FMCSRs require all buses, including school buses, to meet the Standard No. 217 requirements for non-school buses. The agency explained that if Standard No. 217 were amended to allow non-school buses to meet the upgraded school bus requirements, there would be no need under the FMCSRs to retrofit school buses that are operated in interstate commerce and therefore required by the FMCSRs to meet the existing non-school bus requirements in Standard No. 217.

Five comments were submitted in response to the NPRM. Chrysler Corporation expressed support for the proposal. Blue Bird, on the other hand, stated that although it supported the concept of equivalent exit requirements for school buses and non-school buses, it opposed the proposal in the NPRM because the final rule of November 2, 1992 failed to upgrade school bus emergency exit requirements sufficiently to be equivalent to non-school bus requirements. Specifically, Blue Bird stated that NHTSA erred in permitting the crediting of the area of the front service door, permitting large exits to be credited with their total area, and by not requiring an equal distribution of exits on each side of the bus. Accordingly, Blue Bird argued that school bus emergency exit requirements are not equivalent to non-school bus exit requirements and that non-school buses should therefore not be permitted to meet the less stringent requirements of school buses.

NHTSA agrees that the emergency exit requirements of school buses and non-school buses are currently not equivalent. It is the intent of these amendments to Standard No. 217, however, to make them so. As discussed in the NPRM of December 1, 1993 (58 FR 63323-63324), the standard does not prohibit the front service door from being included as an emergency exit. NHTSA has consistently stated that it can be, so long as it meets all the emergency exit requirements of the standard. Further, the standard requires a specific distribution of emergency exits in school buses, whether or not that distribution results in an exact 40-40 distribution.

Blue Bird stated that a 56-passenger non-school bus would be required to have 8 emergency exits while a 56-passenger school bus would not be

required to have any additional emergency exits. NHTSA points out that according to the tables issued by this notice, a 56-passenger school bus equipped with a rear emergency exit door would also be required to have 1 left side emergency door or 2 emergency exit windows. Apart from that, however, using figures supplied by Blue Bird in its comments, a 56-passenger non-school bus would be approximately the same size as an 84-passenger school bus. Thus, under the emergency exit requirements promulgated by this notice, that school bus would be required to have 7 or 8 emergency exits, depending on the type of bus and the type of exits selected by the purchaser. The agency believes, therefore, that the emergency exit requirements for school buses and non-school buses will provide an equivalent level of safety, thereby safely permitting non-school buses to comply with school bus emergency exit requirements.

The National Institute of Standards and Technology of the United States Department of Commerce submitted comments from the Economic Commission for Europe (ECE) suggesting consideration of ECE Nos. 36 and 52 for regulations prescribing technical requirements for doors, windows, and escape hatches used as emergency exits. ECE No. 36 applies to intercity and touring buses, while ECE No. 52 applies to small capacity public service vehicles with a seating capacity of 9 to 16 passengers. Therefore, the ECE standards are not relevant to this rulemaking action which primarily affects only school buses. In addition, the ECE standards are design standards while Standard No. 217 specifies performance standards.

NHTSA has decided, therefore, to amend Standard No. 217 to permit non-school buses to comply with the emergency exit requirements of school buses. Whether or not this option will be widely used by non-school bus manufacturers, it will permit operators of school buses in interstate commerce to comply with the FMCSRs without having to go to the trouble and expense of retrofitting those vehicles.

B. Deletion of S5.2.1.1

NHTSA also proposed in the NPRM of November 2, 1992 to delete S5.2.1.1 from Standard No. 217. That provision permits non-school buses with a gross vehicle weight rating (GVWR) greater than 10,000 pounds to satisfy the emergency exit requirements of the standard by installing one side emergency exit door for each three designated seating positions. That configuration is prohibited for school

buses by paragraph S5.2.3.2(a)(4), which prohibits placing more than one side emergency door on school buses within the same post and roof bow panel space. That configuration is prohibited for school buses because of the agency's concern about the structural integrity of school buses in which too many side doors are installed. In addition, the agency is unaware of any bus that has ever been manufactured utilizing that option. No commenters addressed this proposal. Accordingly, for the reasons stated, this final rule deletes paragraph S5.2.1.1 from Standard No. 217.

V. Other Issues

A. Size of Retroreflective Tape

This rule makes a technical correction to the requirement in S5.5.3(c) of Standard 217 regarding the size of retroreflective tape that the standard requires to be placed on the outside perimeter of each required emergency exit. S5.5.3(c) requires the tape to be a minimum of 3 centimeters (cm) wide. The preambles to the NPRM and final rule for the requirement referred to the size of the tape as a minimum of 1 inch wide. However, the agency erroneously specified a minimum 3 cm requirement for the tape. In converting the 1 inch value to a metric value, NHTSA inadvertently increased the minimum size requirement by 0.46 cm.

The increased size has caused problems concerning compliance with S5.5.3(c). Blue Bird stated that 3 cm retroreflective tape is not commercially available. Given that the increase in size was inadvertent and in view of the compliance problems of manufacturers, NHTSA stated in a July 7, 1993 letter to Blue Bird that the agency will correct the requirement. This rule, therefore, amends paragraph S5.5.3(c) of Standard No. 217 to specify that the width of the reflective tape required by that provision shall be 2.5 cm.

This correction imposes no duties or responsibilities on any party not already affected by the final rule. The discussion in the preamble to the final rule makes it clear that the agency did not intend to change the measurement of the retroreflective tape proposed in the NPRM of March 15, 1991, and that the error was an unintended conversion error. Accordingly, NHTSA finds for good cause that notice and opportunity for comments on this issue are not necessary.

B. Transpec Comments

Transpec, Inc. submitted comments and the law offices of Miller, Canfield, Paddock and Stone (Miller) submitted "Supplemental Comments" on behalf of

Transpec, Inc. Transpec argued that the NPRM of November 2, 1992, Docket No. 88-21, Notice 4, RIN 2127-AE25, 57 FR 49444 (Notice 4) "opened the door to reconsideration of emergency exit sizes specified in FMVSS 217," and urged NHTSA to establish a minimum size of 20 x 20 inches for roof hatches.

Transpec also suggested that NHTSA establish a maximum amount of area that can be credited for any emergency exit. In addition, the Supplemental Comments submitted by Miller suggested that NHTSA mandate roof hatches for all school buses.

NHTSA disagrees that the issue of the size of emergency exits was reopened by Notice 4. Notice 4 addressed only the proposal to permit non-school buses to meet the emergency exit requirements for school buses. Nothing was said in Notice 4 concerning the sizes or locations of school bus emergency exits. The issues raised by Transpec, on the other hand, were considered and discussed at length in the final rule of November 2, 1992, Docket No. 88-21, Notice 3, RIN 2127-AC88, 57 FR 49413 (Notice 3). Therefore, Transpec's and Miller's comments address issues that are beyond the scope of this notice and, therefore, may not be entertained here.

The agency notes, however, that Transpec's suggestion that NHTSA establish a maximum amount of area credit that can be allowed for any emergency exit has been addressed and resolved in this notice (see Section III C above).

VI. Lead Time

Although NHTSA believes that the changes promulgated in this notice are minor, some manufacturers may need to recompute or possibly redesign some of the emergency exits in their school buses. In order to provide adequate lead time to accommodate this, NHTSA considers a lead time of one year to be sufficient. For those manufacturers that are now or will soon be in compliance, they may comply with the amendments in this notice any time after 30 days after publication of this final rule in the **Federal Register**, but not later than one year after such date.

VII. Rulemaking Analyses and Notices

A. Executive Order No. 12866 and DOT Regulatory Policies and Procedures

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

those policies and procedures. Since compliance with the amendments is optional, there are no cost or leadtime considerations for manufacturers of new buses. Accordingly, a full regulatory evaluation was not prepared.

If a school bus manufacturer elects to use sliding windows as a first priority exit to meet the AEEA, there could be potential cost savings accruing from this rule. NHTSA estimates that the consumer cost of sliding emergency exit windows is \$76 per window, or \$152 per pair. Assuming sales of 38,000 new school buses per year, NHTSA estimates that the total cost of installing sliding exit windows instead of side exit doors in those buses would be \$14,253,800. NHTSA further estimates that the total cost of installing all side emergency exit doors in accordance with Standard No. 217 would be \$20,143,800. Thus, a savings could be realized by electing the sliding window option instead of the side door option, with no diminution in school bus safety.

NHTSA estimates that permitting non-school buses the option of complying with school bus emergency exit requirements could result in potential cost savings under the FMCSRs for users of school buses in interstate commerce. The incremental cost of retrofitting a push-out window in a school bus is approximately \$150. Thus, a typical 66-passenger non-school bus requiring retrofitting of eight push-out windows could realize a per-vehicle cost savings of approximately \$1,200.

B. Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that the amendments promulgated by this final rule will not have a significant impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

The Regulatory Flexibility Act requires each agency to evaluate the potential effects of its rules on small businesses, small organizations, and small governmental jurisdictions. The small businesses and organizations most likely to be affected by this final rule are: (1) school bus manufacturers; (2) push-out and sliding window equipment manufacturers; (3) school bus dealers and distributors; and (4) state and local school districts that purchase new school bus equipment. Because the proposed requirements are optional, no significant economic impacts are anticipated for any of these small business entities from this final rule.

There will be a potential cost savings under the FMCSR's for small businesses, organizations and individuals who purchase or use vehicles that are also operated in interstate commerce. As indicated above, it cost approximately \$150 to retrofit a push-out window into a school bus. Thus, a typical 66-passenger non-school bus requiring retrofitting of eight push-out windows will realize a per-vehicle cost savings of approximately \$1,200.

C. 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.

D. 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.

E. 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.

F. 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 thereof 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 in 49 CFR Part 571

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

§ 571.217 [Amended]

2. Section 571.217 is amended by removing the definition of "daylight opening" in S4; removing S5.2.1.1; adding a new definition of "sliding window" to S4 in alphabetical order; and by revising S1, S5.2, S5.2.1, S5.2.2, S5.2.3.1, S5.2.3.2(a) (2) and (3), S5.2.3.2(c), S5.3.1, S5.3.2 introductory text, S5.3.3.1 introductory text, S5.3.3.1(b), S5.3.3.2 introductory text, and S5.3.3.3 introductory text; S5.4, S5.4.1, the heading of S5.4.2.1, the heading of S5.4.2.2, S5.5.1 introductory text, and S5.5.3(c); and by adding S5.2.2.1, S5.2.2.2, S5.2.2.3, and S5.4.2.1(c).

§ 571.217 Standard No. 217; Bus emergency exits and window retention and release.

S1. Scope. This standard establishes requirements for the retention of windows other than windshields in buses, and establishes operating forces, opening dimensions, and markings for bus emergency exits.

* * * * *

S4. Definitions.

* * * * *

Sliding window means a bus window designed to open by moving vertically or horizontally to provide emergency egress.

* * * * *

S5.2 Provision of emergency exits.

S5.2.1 Buses other than school buses shall meet the requirements of either S5.2.2 or S5.2.3. School buses shall meet the requirements of S5.2.3.

S5.2.2 Buses other than school buses.

S5.2.2.1 Buses other than school buses shall provide unobstructed openings for emergency exit which collectively amount, in total square centimeters, to at least 432 times the number of designated seating positions on the bus. At least 40 percent of the total required area of unobstructed openings, computed in the above manner, shall be provided on each side of a bus. However, in determining the total unobstructed openings provided by a bus, no emergency exit, regardless of its area, shall be credited with more than 3,458 square centimeters of the total area requirement.

S5.2.2.2 Buses with GVWR of more than 10,000 pounds. Buses with a GVWR of more than 10,000 pounds shall meet the unobstructed openings requirements in S5.2.2.1 by providing side exits and at least one rear exit that conforms to S5.3 through S5.5. The rear exit shall meet the requirements of S5.3 through S5.5 when the bus is upright and when the bus is overturned on either side, with the occupant standing facing the exit. When the bus configuration precludes installation of an accessible rear exit, a roof exit that meets the requirements of S5.3 through S5.5 when the bus is overturned on either side, with the occupant standing facing the exit, shall be provided in the rear half of the bus.

S5.2.2.3 Buses with GVWR of 10,000 pounds or less. Buses other than school buses with GVWR of 10,000 pounds or less may meet the unobstructed openings requirement in S5.2.2.1 by providing:

(a) Devices that meet the requirements of S5.3 through S5.5 without using remote controls or central power systems;

(b) Windows that can be opened manually to a position that provides an opening large enough to admit unobstructed passage, keeping a major axis horizontal at all times, of an ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 50 centimeters and a minor axis of 33 centimeters; or

(c) Doors.
* * * * *

S5.2.3.1. Each school bus shall be equipped with the exits specified in either S5.2.3.1(a) or S5.2.3.1(b), chosen at the option of the manufacturer.

(a) One rear emergency door that opens outward and is hinged on the right side (either side in the case of a bus with a GVWR of 10,000 pounds or less), and the additional exits, if any, specified by Table 1.

(b) One emergency door on the vehicle's left side that is hinged on its forward side and meets the requirements of S5.2.3.2(a), and a push-out rear window that provides a minimum opening clearance 41 centimeters high and 122 centimeters wide and meets the requirements of S5.2.3.2(c), and the additional exits, if any, specified by Table 2.

TABLE 1

Seating capacity	Additional exits required *
1-45	None.
46-62	1 left side exit door or 2 exit windows.

TABLE 1—Continued

Seating capacity	Additional exits required *
63-70	1 left side exit door or 2 exit windows, and 1 roof exit.
71 and above.	1 left side exit door or 2 exit windows, and 1 roof exit, and any combination of door, roof, or windows such that the total capacity credit specified in Table 3 for these exits, plus 70, is greater than the seating capacity of the bus.

* Side emergency exit doors must meet the requirements of S5.2.3.2(a), emergency roof exits must meet the requirements of S5.2.3.2(b), emergency window exits must meet the requirements of S5.2.3.2(c).

TABLE 2

Seating capacity	Additional exits required *
1-57	None.
58-74	1 right side exit door or 2 exit windows.
75-82	1 right side exit door or 2 exit windows, and 1 roof exit.
83 and above.	1 right side exit door or 2 windows, and 1 roof exit, and any combination of door, roof, or windows such that the total capacity credit specified in Table 3 for these exits plus 82 is greater than the capacity of the bus.

* Side emergency exit doors must meet the requirements of S5.2.3.2(a), emergency roof exits must meet the requirements of S5.2.3.2(b), emergency window exits must meet the requirements of S5.2.3.2(c).

TABLE 3

Exit Type	Capacity Credit
Side Door	16
Window	8
Roof Exit	8

(c) The area of an opening equipped with a wheelchair lift may be credited toward the required additional exits if it meets the requirements of paragraphs (a) or (b) of S5.2.3.1 and if the lift folds or stows in such a manner that the area is available for use by persons not needing the lift. With the lift in the folded or stowed position, such opening is considered a side emergency exit door.

S5.2.3.2 * * *
(a) * * *

(2) The first side emergency exit door installed pursuant to Table 1, shall be located on the left side of the bus and as near as practicable to the mid-point of the passenger compartment. A second side emergency exit door installed pursuant to Table 1 shall be located on

the right side of the bus. In the case of a bus equipped with three side emergency door exits pursuant to Table 1, the third shall be located on the left side of the bus.

(3) The first side emergency exit door installed pursuant to Table 2 shall be located on the right side of the bus. A second side emergency door exit installed pursuant to Table 2 shall be located on the left side of the bus. In the case of a bus equipped with three side emergency door exits pursuant to Table 2, the third shall be located on the right side of the bus.

* * * * *

(c) Emergency exit windows. A bus equipped with emergency exit windows shall have an even number of such windows, not counting the push-out rear window required by S5.2.3.1(b). Any side emergency exit windows shall be evenly divided between the right and left sides of the bus. School buses shall not be equipped with horizontally-sliding emergency exit windows. Further, except for buses equipped with rear push-out emergency exit windows in accordance with S5.2.3.1(b), school buses shall not be equipped with both sliding and push-out emergency exit windows.

* * * * *

S5.3.1 Each emergency exit not required by S5.2.3 shall be releasable by operating one or two mechanisms located within the regions specified in Figure 1, Figure 2, or Figure 3. The lower edge of the region in Figure 1, and Region B in Figure 2, shall be located 13 centimeters above the adjacent seat, or 5 centimeters above the arm rest, if any, whichever is higher.

S5.3.2 When tested under the conditions of S6., both before and after the window retention test required by S5.1, each emergency exit not required by S5.2.3 shall allow manual release of the exit by a single occupant using force applications each of which conforms, at the option of the manufacturer, either to S5.3.2 (a) or (b) of this section. Each exit shall have not more than two release mechanisms. In the case of exits with one release mechanism, the mechanism shall require two force applications to release the exit. In the case of exits with two release mechanisms, each mechanism shall require one force application to release the exit. At least one of the force applications for each exit shall differ from the direction of the initial motion to open the exit by not less than 90° and no more than 180°.

* * * * *

S5.3.3.1 When tested under the conditions of S6., both before and after the window retention test required by

S5.1, each school bus emergency exit door shall allow manual release of the door by a single person, from both inside and outside the passenger compartment, using a force application that conforms to S5.3.3.1 (a) through (c) of this section, except a school bus with a GVWR of 10,000 pounds or less is not required to conform to S5.3.3.1 (a). The release mechanism shall operate without the use of remote controls or tools, and notwithstanding any failure of the vehicle's power system. When the release mechanism is not in the position that causes an emergency exit door to be closed and the vehicle's ignition is in the "on" position, a continuous warning sound shall be audible at the driver's seating position and in the vicinity of the emergency exit door.

* * * * *

(b) Type of motion: Upward from inside the bus and, at the discretion of the manufacturer, from outside the bus. Buses with a GVWR of 10,000 pounds or less shall provide interior release mechanisms that operate by either an upward or pull-type motion. The pull-type motion shall be used only when the release mechanism is recessed in such a manner that the handle, level, or other activating device, before being activated, does not protrude beyond the rim of the recessed receptacle.

* * * * *

S5.3.3.2 When tested under the conditions of S6., both before and after the window retention test required by S5.1, each school bus emergency exit window shall allow manual release of the exit by a single person, from inside the passenger compartment, using not more than two release mechanisms located in specified low-force or high-force regions (at the option of the manufacturer) with force applications and types of motions that conform to either S5.3.3.2 (a) or (b) of this section. In the case of windows with one release mechanism, the mechanism shall require two force applications to release the exit. In the case of windows with two release mechanisms, each mechanism shall require one application to release the exit. At least one of the force applications for each window shall differ from the direction of the initial motion to open the exit by no less than 90° and no more than 180°. Each release mechanism shall operate without the use of remote controls or tools, and notwithstanding any failure of the vehicle's power system. When a release mechanism is open and the vehicle's ignition is in the "on" position, a continuous warning shall be audible at the drivers seating position

and in the vicinity of that emergency exit.

* * * * *

S5.3.3.3 When tested under the conditions of S6., both before and after the window retention test required by S5.1, each school bus emergency roof exit shall allow manual release of the exit by a single person from both inside and outside the passenger compartment, using not more than two release mechanisms located at specified low-force or high-force regions (at the option of the manufacturer) with force applications and types of motions that conform either to S5.3.3.3 (a) or (b) of this section. In the case of roof exits with one release mechanism, the mechanism shall require two force applications to release the exit. In the case of roof exits with two release mechanisms, each mechanism shall require one application to release the exit. At least one of the force applications for each roof exit shall differ from the direction of the initial push-out motion of the exit by no less than 90° and no more than 180°.

* * * * *

S5.4 Emergency exit opening.

S5.4.1 After the release mechanism has been operated, each emergency exit not required by S5.2.3 shall, under the conditions of S6., both before and after the window retention test required by S5.1, using the reach distances and corresponding force levels specified in S5.3.2, allow manual opening by a single occupant to a position that provides an opening large enough to admit unobstructed passage, keeping a major axis horizontal at all times, of an ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 50 centimeters and a minor axis of 33 centimeters.

S5.4.2 School bus emergency exit opening.

S5.4.2.1 School buses with a GVWR of more than 10,000 pounds.

* * * * *

(c) Emergency exit windows. After the release mechanism has been operated, each emergency exit window of a school bus shall, under the conditions of S6., both before and after the window retention test of S5.1, using force levels specified in S5.3.3.2, be manually extendable by a single occupant to a position that provides an opening large enough to admit unobstructed passage, keeping a major axis horizontal at all times, of an ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 50 centimeters and a minor axis of 33 centimeters.

S5.4.2.2 School buses with a GVWR of 10,000 pounds or less. * * *

* * * * *

S5.5.1 In buses other than school buses, and except for windows serving as emergency exits in accordance with S5.2.2.3(b) and doors in buses with a GVWR of 10,000 pounds or less, each emergency exit door shall have the designation "Emergency Door" or "Emergency Exit," and every other emergency exit shall have the designation "Emergency Exit" followed by concise operating instructions describing each motion necessary to unlatch and open the exit, located within 16 centimeters of the release mechanism.

* * * * *

S5.5.3 * * *

(c) Each opening for a required emergency exit shall be outlined around its outside perimeter with a retroreflective tape with a minimum width of 2.5 centimeters and either red, white, or yellow in color, that when tested under the conditions specified in S6.1 of Standard No. 131 (49 CFR 571.131), meets the criteria specified in Table 1 of that section.

* * * * *

Issued on May 2, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95-11212 Filed 5-8-95; 8:45 am]

BILLING CODE 4910-58-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 940254-4104; I.D. 042795B]

Pacific Coast Groundfish Fishery; Closure of Whiting At-sea Processing

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

ACTION: Fishing restrictions.

SUMMARY: NMFS announces the prohibition of further processing at-sea of Pacific whiting at 1400 hours (local time) on May 4, 1995, based on its projection that 60 percent (107,000 metric tons (mt)) of the 1995 harvest guideline for Pacific whiting will have been harvested by that time. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan and is necessary to provide adequate amounts of whiting for shoreside processors and to achieve the allocation adopted for 1995.

EFFECTIVE DATE: 1400 hours (local time) May 4, 1995, through 2400 hours (local time) April 14, 1996.

ADDRESSES: Submit comments to William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN-C15700, Seattle, WA 98115-0070.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140.

SUPPLEMENTARY INFORMATION: On April 13, 1994, NMFS issued regulations (59 FR 17491) to allocate annually the U.S. Pacific whiting harvest guideline in the years 1994 through 1996 between fishing vessels that either catch and process at sea or catch and deliver to at-sea processors (the at-sea sector) and fishing vessels that catch and deliver to processors located on shore (the shore-based sector). In each of the 3 years, after 60 percent of the annual harvest guideline (or quota) for Pacific whiting has been or is projected to be taken, further at-sea processing of Pacific whiting in the exclusive economic zone will be prohibited. The remaining 40 percent of the harvest guideline is reserved initially for harvest by vessels delivering to shore-based processors. The regulations require that the Assistant Administrator for Fisheries, NOAA, announce in the **Federal Register** when 60 percent of the whiting harvest guideline has been, or is about to be, harvested, specifying a time after

which further at-sea processing of Pacific whiting in the fishery management area is prohibited.

The most recent catch data available on May 2, 1995, indicate that approximately 92,700 mt of Pacific whiting have been harvested through May 1, 1995, and 60 percent (107,000 mt) of the 178,400 mt harvest guideline for Pacific whiting is projected to be reached by 1400 hours (local time) on May 4, 1995.

Secretarial Action

For the reasons given above, and in accordance with 50 CFR 663.23(b)(4)(i) and (iv), after 1400 hours (local time) on May 4, 1995, at-sea processing of Pacific whiting is prohibited (except for Pacific whiting that was on board the processing vessel prior to that time), and the taking and retaining, or receiving (except as cargo) of Pacific whiting by a vessel in the fishery management area with processed whiting on board is prohibited. Any vessel used to fish for whiting for processing at sea must have its trawl doors on board and attached to the trawl (50 CFR 663.7(o)).

Classification

The determination that 60 percent of the harvest guideline is about to be harvested is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 663.23 (b)(4)(i) (59 FR 17493-17494, April 13, 1994), and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 3, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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