

18. Subsection 970.3001-1 is revised to read as follows:

970.3001-1 Applicability.

The provisions of (FAR) 48 CFR part 30 and (FAR Appendix B) 48 CFR 9904.414 shall be followed for management and operating contracts.

19. Subsection 970.3001-2 is revised to read as follows:

970.3001-2 Limitations.

Cost of money as an element of the cost of facilities capital (CAS 414) and as an element of the cost of capital assets under construction (CAS 417) is not recognized as an allowable cost under contracts subject to 48 CFR part 970 (See 970.3102-3).

20. Subsection 970.3102-17 is amended by revising paragraph (c)(2)(i) and by adding paragraph (c)(6) to read as follows:

970.3102-17 Travel costs.

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(c) * * *

(2) * * *

(i) Federal Travel Regulation prescribed by the General Services Administration, for travel in the conterminous 48 United States.

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(6)(i) The maximum per diem rates referenced in paragraph (c)(2) of this section generally would not constitute a reasonable daily charge:

(A) When no lodging costs are incurred; and/or

(B) On partial travel days (e.g., same day of departure and return).

(ii) Appropriate downward adjustments from the maximum per diem rates would normally be required under these circumstances. While these adjustments need not be calculated pursuant to the Federal Travel Regulation, Joint Travel Regulations, or Standardized Regulations, they must result in a reasonable charge.

21. Subsection 970.7104-33 is revised to read as follows:

970.7104-33 Cost Accounting Standards.

The provisions of (FAR) 48 CFR 30 and (FAR Appendix B) 48 CFR 9904.414 shall apply to purchases by management and operating contractors.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 1-21, Notice 13]

RIN 2127-AE99

Federal Motor Vehicle Safety Standards Theft Protection

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

ACTION: Final rule.

SUMMARY: This rule makes a temporary change in the requirement of Standard No. 114, *Theft Prevention*, that vehicles with automatic transmissions be equipped with a transmission lock that prevents key removal unless the transmission is locked in park or becomes locked in park as a direct result of removing the key. The purpose of this requirement is to prevent rollaway crashes caused by unattended children pulling the transmission lever out of park. Due to apparent confusion concerning the scope of the requirement and the effect of that confusion on transmission designs, the requirement will be changed until September 1, 1996. Until that time, the transmission lock will only be required to prevent key removal when the transmission is fully engaged in a detent position other than park (e.g., reverse, neutral, drive). After that date, the requirements will revert to their previous form, prohibiting key removal in all positions other than park.

This rule also corrects, by technical amendment, an error in the language of the provision that permits transmission lock override devices to facilitate towing disabled vehicles. The existing language inadvertently requires steering lock-up even for vehicles whose override devices are operated by the vehicle key. Requiring steering column lock-up on automatic transmission locks with a key operated override device would not provide added protection against theft since the key that would operate the device would also unlock the steering. The technical amendment excludes these vehicles from the steering lock-up requirement.

DATES: This rule is effective July 7, 1995. Petitions for reconsideration of this rule must be received no later than July 7, 1995.

ADDRESSES: Petitions for reconsideration should refer to the docket number and notice number and be submitted in writing to: Administrator, National

Highway Traffic Safety Administration, Room 5220, 400 Seventh Street, SW., Washington DC, 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Jere Medlin, Office of Vehicle Safety Standards, NRM-15, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366-5276.

SUPPLEMENTARY INFORMATION:

The Mazda Petition

Background

On May 30, 1990, NHTSA amended Federal Motor Vehicle Safety Standard No. 114, *Theft Protection*, to protect against injuries to children caused by the rollaway of unattended automatic transmission vehicles in which children were able to shift the transmission. 55 FR 21868. The amendment required automatic transmission vehicles with a "park" position to have a key-locking system that prevents removal of the key unless the transmission is locked in "park" or becomes locked in "park" as the direct result of removing the key. The amendment was intended to ensure that the automatic transmissions of unattended parked vehicles cannot be shifted by a child. The amendment became effective on September 1, 1992.

On June 21, 1990, NHTSA denied a petition for rulemaking from Mr. W. A. Barr. Mr. Barr had requested that the agency amend the standard to require manufacturers to design transmissions that assure that the parking pawl (a "tooth" that fits into a transmission gear to prevent it from turning) engages when the driver puts the shift lever in park. He believed that transmission designs of Ford and other manufacturers generate a "back pressure" on the shift lever that pushes the lever out of park and toward reverse. To counter that force, the driver has to pull the shift lever "sideways" into a slot to assure that the lever does not spontaneously move out of park and into reverse. Mr. Barr considered these designs defective because they place the responsibility for assuring that the shift lever is "locked" in park on the driver. He referred to the situation in which the driver does not properly place the shift lever in park as "mispositioning."

In its denial of Mr. Barr's petition, NHTSA stated "[w]ithout data suggesting current Federal motor vehicle safety standards are allowing or not addressing an unreasonable safety risk, the agency will not commence [rulemaking]." The agency also stated "the agency's review of available data on incidents of inadvertent vehicle movement indicated that the potential for this problem is relatively small." In

justifying the denial, the agency made no mention of the previous month's amendment. That amendment addressed his concern to a limited extent, i.e., it prevented key removal when the transmission is not locked in park for whatever reason, including mispositioning.

In a November 20, 1992 letter to Ford, NHTSA declined to adopt a request by that company to interpret Standard No. 114 as prohibiting key removal only when the transmission shift lever is in one of the available gear positioning detents other than park, i.e., reverse, neutral, drive, first, or second, and thus not when the lever is at points between those detents. The agency stated that

Key removal must be prevented in all circumstances save those specified in S4.2.1. Neither the transmission nor the transmission shift lever is locked in "park" when the lever is between the gear selector positioning detents.

After issuing the interpretation letter, NHTSA conducted compliance testing for Standard No. 114 and discovered apparent noncompliance with the transmission-locking requirement in vehicles of several manufacturers. NHTSA sent letters of notification of apparent noncompliance to Ford, Honda, GM, Suzuki, Hyundai, and Mazda. In its letter to Mazda, the agency enclosed a copy of the November 1992 interpretation letter it had sent to Ford.

On February 2, 1993, Mazda submitted a petition for rulemaking requesting that the agency amend the provision added by the May 1990 final rule by revising the compliance test procedure so that it would provide for testing for the possibility of key removal only when the transmission lever was in any of the detent positions. Mazda said that the procedure was needed to clarify the requirement to make the compliance test procedure "objective."

In its petition, Mazda characterized the agency's November 1992 interpretation as permitting "intentional mispositioning" of the transmission shift lever during compliance testing. Mazda argued that the rulemaking record did not indicate that the agency ever contemplated guarding against what that company terms "intentional mispositioning" of the transmission shift lever. Mazda argued that during its design and development of the vehicles which were the subject of the agency's testing, it never understood "intentional mispositioning" to be a reasonable and legitimate compliance test condition under Standard No. 114. Mazda also argued that, by not specifying what that company termed as an objective test procedure for determining compliance,

the standard fails to satisfy the requirement of 49 U.S.C. 30111(a) that standards "be stated in objective terms."

On March 14, 1994, in response to Mazda's petition, NHTSA issued a Notice of Proposed Rulemaking (NPRM) proposing to amend Standard No. 114 to prevent key removal only when the shift lever is fully placed in any designated shift position other than park. In issuing the notice, NHTSA rejected Mazda's "lack of objective test procedure" argument because the requirements were clear on their face, but found reason to reexamine the rule on other grounds.

In the NPRM, the agency tentatively concluded that the safety implications of the proposal were nonexistent or minuscule. For those noncomplying vehicles that required a deliberate effort to defeat the transmission shift lock, there would be no safety consequences from the adoption of the proposal, since there was no reason to believe that drivers would make such a deliberate effort. For those noncomplying vehicles that would allow the driver to inadvertently move the shift lever into what appeared to be the park position and remove the key when the lever is not actually in park—referred to as a "misshift"—the agency tentatively concluded that the safety impacts would be "minuscule." This is because two rare events (the driver inadvertently moving the shift lever to a position just short of park and a child subsequently playing with the shift lever) would have to coincide for a rollaway accident to occur.

The NPRM proposed a compliance test procedure that would define whether the vehicle was "fully placed" in the various shift positions and whether it was "locked in 'park'." For the shift lever to be regarded as "fully placed" in one of the detent positions, the NPRM provided that position would have to be displayed on the transmission gear selection indicator and the vehicle would have to respond in a certain way to confirm that the transmission was actually in the indicated detent position. "Fully placed in park" was defined as being when the vehicle does not roll away ("rollaway" being defined as moving more than 100 mm) on a 10 percent grade after the parking brake is released. "Fully placed in neutral" was defined as being when activation of the accelerator pedal does not cause the car to move. "Fully placed in a forward or reverse drive position" was defined as being when the vehicle can be driven under its own power.

Summary of Comments to Notice of Proposed Rulemaking

Industry commenters supported the proposed change to the transmission locking requirements, without explaining their reasons for doing so. Mazda stated only that the proposed requirements were sufficiently objective. Chrysler agreed that the less stringent transmission lock requirements in the NPRM provide greater flexibility for the manufacturers, but found it "difficult to imagine mechanical systems" designed to prevent key removal only at detent positions. However, Chrysler did "not object" to the rulemaking.

The industry commenters all shared two objections to the proposed rule. The first resulted from the NPRM's substitution of the word "or" for "and" in S4.2.1(a). The existing requirement in that paragraph states "... shall prevent removal of the key unless the transmission or transmission shift lever is locked in 'park'..." (emphasis added). Ford, GM, and Chrysler objected to the NPRM's change in the conjunctive language of S4.2.1(a)(1) from "or" to "and" because it requires lockup of *both* the transmission and the shift lever, rather than only one or the other. Ford believed that this change was inadvertent because NPRM's preamble did not reflect a desire to require manufacturers to change current designs. Instead, it indicated an intent to provide manufacturers with greater flexibility. Ford stated that locking both the transmission and the shift lever would require design changes. GM stated that the added requirement was unnecessary and implied that it was impractical, because shifting into park may initially only position the parking pawl on the top of a tooth of the planetary carrier, and that further vehicle movement may be necessary to permit pawl engagement in a slot between the teeth. Chrysler believed locking either the transmission or the shift lever is adequate to protect against injuries.

Ford, GM, and Chrysler also urged the agency to increase the amount of vehicle movement (100 mm) that is permitted in the compliance procedure before the vehicle is considered to have experienced "rollaway." Ford stated that a small percentage of "light truck type vehicles with large tires" may travel slightly more than 100 mm, and suggested increasing the distance to 150 mm. Chrysler also suggested 150 mm as an appropriate distance.

GM objected even more strongly to the 100 mm rollaway definition. GM commented that the compliance test

procedure for rollaway is unnecessarily stringent and impracticable. Because of the many different combinations of axle ratios, transmission and suspension designs, and tire sizes that have to be accommodated, GM suggests deleting the distance limit altogether. Rather than selecting an "arbitrary" distance, GM stated "park" should be defined as being when the vehicle becomes stationary within five seconds of releasing the parking brake. GM recommended that, if NHTSA insists on using a distance, the distance be increased from 100 mm to at least 400 mm. GM stated that this is necessary to account for extreme situations, such as vehicles with tires greater than 30 inches in diameter, which GM calculates may require up to 40 degrees of rotation to fully engage the parking pawl and eliminate gear lash. Without explaining why, GM also stated that a 10 percent grade was unnecessarily steep and suggested a 2-3 percent grade instead.

A number of lawyers and a consumer safety advocacy group commented that changing the standard as proposed in the NPRM would be detrimental to motor vehicle safety. Many of them offered examples of specific crashes that they believed would be permitted under the relaxed standard. Some of these crashes may be attributable to misshifting.

Mr. Robert Palmer, a Missouri attorney, stated that he handled a "string of cases" in the 1980's in which he said Ford's defective transmission locks allowed the driver to "place the vehicle in what he thought was 'Park' and then the vehicle would move into 'Reverse'." These are misshift situations. He appeared to believe that NHTSA is rescinding the transmission lock requirement altogether, and objected because it is saving "countless" lives.

Mr. Victor Fleming, an Arkansas lawyer, wrote about another misshift accident. He believed that the standard fails to address the issue of "unsuspecting adults" causing rollaway accidents. He also appeared to believe that NHTSA is rescinding the transmission lock requirement.

Mr. Kenneth Obenski, president of a firm that investigates accidents for insurers and litigants, stated that 0.5 percent of the accidents that his firm has investigated involved vehicles parked but inadequately secured by drivers. Some of these accidents may be caused by misshifts.

Mr. John Stilson, a consulting safety and automotive engineer, is engaged as an expert on behalf of a woman injured after her Mazda rolled over her. The accident apparently involved a misshift

situation, although it is unclear whether the vehicle was equipped with a transmission lock.

Mr. Ralph Hoar, of Ralph Hoar and Associates, asserted that NHTSA files reveal "numerous recalls by many manufacturers for shift indicator misalignment or problems with the shift mechanism that would mislead the operator into believing that they had selected the intended gear." He concluded that, if vehicle operators are being misled about the transmission position, it follows that the transmission may be between gears. An operator who can remove the key in such a situation would be falsely led to believe that the vehicle is secured. He states that this history of recalls and complaints indicates it is not in the interest of safety to allow misshifts.

Advocates for Highway and Auto Safety's (Advocates) main argument was that the agency has no idea of the magnitude of the safety benefits that it is eliminating in this rulemaking. Advocates stated that NHTSA has not produced any data to support the NPRM's conclusion that the chance of misshifting is small, or that the chance of misshifting coupled with horseplay on the part of children is remote.

Advocates quoted the 1990 final rule as asserting that the existing requirement provides "absolute assurance" of transmission lock after key removal. Advocates asserted that "[t]he agency is obligated to determine the extent of the probable exposure, and the degree of risk, to which children will be newly exposed prior to amending the rule

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Advocates noted that the 1990 Final Regulatory Evaluation (FRE) acknowledged a "special obligation" to reduce crashes involving children, and expressed the opinion that this may make it worth maintaining the existing rule and requiring the involuntary redesign of some vehicle transmissions.

A related argument of Advocates was that the magnitude of the safety problem is likely much larger than NHTSA's estimates because the number of noncompliant vehicles exceeds NHTSA's figures. Advocates stated that the 1990 FRE predicated its estimate of 50-100 child injuries prevented per year on the assumption that only 4 percent, or 470,000, of the 1987 vehicles were not in compliance. Advocates stated that 40 percent more, or 668,000 vehicles in 1993 permit misshifts. Advocates argued that this increased exposure will be repeated annually and even increased if more manufacturers decide to start producing transmission locks that permit misshifting. Advocates estimated that the NPRM, if adopted,

might result in an additional 50-100 child injuries annually.

Advocates also faulted NHTSA for not providing any information on the number of different kinds of transmissions that would have to be redesigned, or the costs of doing so. It stated that if transmission redesign were enormously burdensome, manufacturers would not have improved from approximately 69 percent compliance in mid-1990 to the 1993 level of well over 90 percent compliance in just two years. Advocates concluded that NHTSA has provided no economic argument to support the NPRM.

Finally, Advocates asserted that NHTSA conducted this rulemaking merely to bring the manufacturers into compliance and to avoid the costs of redesigning defective transmissions. It suggested that NHTSA address noncompliances using existing procedures and not allow misinterpretations of its standards to cause it to "roll back" safety protection. Advocates stated that the current standard is clear, as outlined in NHTSA's interpretation letter to Ford, and that the NPRM represents an improper use of rulemaking authority.

Agency Analysis of Issues and Adoption of Final Rule

After carefully considering the public comments, NHTSA has decided to temporarily, instead of permanently, reduce the stringency of the transmission locking requirement. Simply replacing the existing requirement with the proposed one is not appropriate. Vehicles manufactured before September 1, 1996 will be subject to a requirement along the lines of the proposal. Vehicles manufactured on or after that date will be subject to the slightly more stringent requirement originally adopted by the agency in May 1990. The rationale for this decision is set forth in greater detail below.

The agency concludes that a change in the locking requirement is necessary because of the consequences of confusion in the industry about the original requirement. The confusion was apparently engendered in part by an event that occurred shortly after the issuance of the May 1990 final rule, i.e., the agency's June 1990 denial of a petition for rulemaking by Mr. W.A. Barr concerning misshifting of transmissions. The industry apparently read these nearly contemporaneous decisions together to indicate that the agency had not intended to address any aspect of the misshift problem in the May 1990 rulemaking on Standard No. 114.

While the agency issued an interpretation in November 1992 clarifying the reach of the May 1990 final rule, that interpretation did not eliminate the practical consequences of the industry's confusion, since the manufacturers could not immediately comply with it. The agency's efforts to address those consequences led it to grant Mazda's petition for rulemaking and to take the more fundamental step of reexamining the rationale for the agency's adoption of the requirement. That reexamination led to the agency's issuing the March 1994 NPRM proposing a more limited requirement to address rollaway incidents, on the ground that the misshift aspect of the rollaway problem might be too small to address at all. Final adoption of the proposal would have eliminated the practical consequences of the confusion.

The agency is changing the transmission locking requirement on only a temporary basis because a relatively short-term change is sufficient to eliminate consequences of confusion within the industry over the extent of the original requirement. Nearly all manufacturers have told NHTSA in response to noncompliance investigation letters that they are now in compliance with the more stringent requirements. Considering the relatively minor nature and expense of the necessary design changes, the agency concludes that the relatively few remaining vehicles that do not satisfy the more stringent requirement can be modified to do so by September 1, 1996.

An additional consideration leading the agency to make the change a temporary one is that while it believes the difference in safety benefits between the existing requirement and the less stringent temporary one is small, eliminating even the small possibility of misshift-induced rollaway is justified because the likely beneficiaries are children, which the agency has historically taken special care to protect.

NHTSA observes that the rollaway accidents at issue that could arise from misshifting are a part of the problem the agency was intending to address in the earlier rulemaking, i.e., crashes resulting from the rollaway of parked vehicles with automatic transmissions as a result of children moving the shift mechanism out of the "park" position. Apart from the issue of dealing with the legacy of the industry's confusion, there is no reason to single out this part of the problem for special treatment. Indeed, this part of the problem is addressed by the same basic countermeasure as the rest of the problem, i.e., a transmission shift lever lock.

NHTSA believes that the brief duration of less stringent transmission lock requirement will minimize the possibility of any adverse safety impacts from this rulemaking. As already noted, nearly all manufacturers are now in compliance with the more stringent requirements. The duration of the more limited requirement is so short that it would not be worthwhile for vehicle manufacturers to redesign transmissions to allow misshifting for only a year. The agency believes that manufacturers will respond to this notice by quickly redesigning any remaining transmissions that do not comply with the future requirements.

NHTSA believes that its decision to adopt the less stringent requirement on a temporary, short-term basis renders moot all or most of the commenters' concerns about a possible loss of safety benefits. As indicated above, some commenters argued that the agency lacked any basis for saying that the safety risks associated with misshifts was such a small part of the rollaway problem. They further argued that NHTSA had underestimated the noncompliant portion of the vehicle population being produced annually. They also suggested that the noncompliant vehicle population might increase. The agency notes that those concerns were expressed in response to the proposed permanent change in the requirement.

NHTSA notes further that its analysis of the original May 1990 final rule indicated that installation of the required technology in its estimate of the number of the cars and light trucks not voluntarily equipped by the standard's effective date would prevent an estimated 50 to 100 child-injuring rollaway accidents annually. While the agency cannot provide a precise estimate of the extent to which these benefits could have been reduced by permanently adopting the proposed more limited requirement, NHTSA believes that it would have been small. This is because any such reduced child injury prevention benefits would occur only in the rare combination of events described above, and only for the few vehicles still in noncompliance with the existing requirement. Regarding Advocates' comment that the agency does not have enough information on the costs and benefits of this rule, NHTSA notes that it has provided estimates within the limits of available data.

In response to Advocates' charge that the agency underestimated the noncompliant portion of the fleet, thereby also underestimating the benefits in 1990 (and the costs of this

rule), the agency notes that its analysis would not have changed markedly had it used Advocates' higher estimate. Most of the benefits projected in the 1990 rule are already being achieved since they are associated with the addition of a transmission lock. Transmission locks have been added to all cars equipped with automatic transmissions. Thus, benefits are being obtained even from those vehicles that do not satisfy the more stringent requirements. Moreover, as stated above, any potential degradation of safety is marginal because their current transmission locks allow misshifting events only under very rare circumstances.

In summary, the agency believes that twin goals of addressing the legacy of the industry's confusion and securing the benefits of the existing requirement can be most reasonably achieved by allowing vehicles manufactured before September 1, 1996 to meet the more limited requirements proposed in the March 1994 NPRM and requiring vehicles manufactured on or after that date to meet the slightly more stringent requirement originally adopted by the agency in May 1990.

NHTSA believes that there are essentially no costs associated with this final rule. The only relevant costs are those associated with the May 1990 final rule which will be temporarily suspended and then reinstated on September 1, 1996. The basic cost is related to the addition of a transmission shift lever lock. Such a lock is needed to meet either the more limited, temporary requirement or the more stringent, permanent requirement. For vehicles which currently meet only the more limited requirement, some minor design changes will be needed in the lock to meet the more stringent requirement when it again becomes effective. By providing over one year of leadtime before the broader requirement must be met, those residual costs of the May 1990 final rule will be minimized.

The agency agrees with the industry commenters that the change of the conjunctive "or" to "and" in S4.2.1(a) was not necessary and that locking either the transmission shift lever or the transmission itself, will have the same practical effect. Therefore, the regulatory text has been corrected to make it clear that locking of either the transmission or the shift lever is sufficient, provided this action prevents vehicle rollaway.

NHTSA also agrees that the NPRM's "rollaway" definition of more than 100 mm of vehicle movement is unnecessarily restrictive. However, it cannot agree to allow an unspecified amount of movement, or up to 400 mm

of movement, as GM suggests. GM's 400 mm figure is a worst-case estimate of how far certain trucks might roll. This larger amount of movement would be more likely to create the possibility of trapping children and adults under the car than would lesser amounts of movement. It is unclear to this agency why GM products cannot satisfy the 150 mm criterion suggested by Ford and Chrysler. Therefore, to account for some amount of "play" in U-joints, the amount of gear lash in transmissions, transfer cases, and differentials, plus the fact that a vehicle may have to roll slightly to completely engage the parking pawl, NHTSA has increased the amount of permissible roll to 150 mm.

NHTSA does not agree with GM's comment that the 10 percent grade specification in the test procedure is unnecessarily steep, and has retained the specification in the final rule. The agency notes that the grade level differential associated with the transmission grade holding ability in S7.7 of the parking brake test in Standard No. 105, *Hydraulic Brake Systems*, is 10 percent. That test requires the vehicle to hold on a 20 percent grade with the parking brake and on a 30 percent grade with the automatic transmission in "park" and with the parking brake on. NHTSA notes that the vehicle-on-grade test specified in this rule is not intended to verify the performance of the holding capability already required of vehicles in Standard No. 105, but to verify that the transmission is operating in a vehicle holding mode.

The GM Petition

In response to comments about the need to move disabled vehicles, the agency amended Standard No. 114 on March 26, 1991 to permit a key-operated override device which would allow the transmission to be moved from park after key removal. The final rule did not require steering lock-up to occur as a result of using the override device. In response to petitions for reconsideration, on January 17, 1992, the agency again amended the rule to permit override devices operated by means other than the key. In allowing keyless override devices, the preamble stated that the agency would require that steering lock-up occur as a result of using keyless override devices. The lock-up would act as a theft deterrent. The preamble concluded "the agency emphasizes that the amendment permits a keyless emergency override only if theft protection is ensured by a steering lock" (58 FR 12467). However, while the preamble discussed steering lockup only for keyless override devices, the

regulatory language of S4.2.2 required steering lockup for any override device, including those operated by a key.

On March 22, 1994, NHTSA received a petition for rulemaking from Mr. Gerald Gannon of GM's legal staff, suggesting that the words "provided that steering is prevented when the key is removed" were misplaced in the regulatory text. He correctly assumed that NHTSA did not intend to require steering lockup for override devices operated by a key. Indeed, moving these words as GM suggests produces the intended result.

There is adequate cause to amend the rule, pursuant to the GM petition, using only a technical amendment. The preamble of the 1990 rule, which addresses steering locks for keyless override devices only, supports the suggestion that an error was made in the regulatory text of the January 1992 final rule. The focus of that preamble indicates that key-operated override devices were not intended to be covered by the restriction. Moreover, it is illogical from an anti-theft perspective to require steering lockup in a vehicle when the transmission lock override device itself is operated by the key that would unlock the steering anyway. Thus, with evidence in the record that the word placement was in error and with the existing requirement being illogical, a technical amendment is appropriate. Notice and comment procedures are not necessary.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impacts of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This action has been determined to be not "significant" under either. As explained above, the amendments would impose no new requirements but would temporarily provide additional flexibility to manufacturers, with respect to transmission shift lock designs, with no measurable impact on safety or costs. No manufacturer of vehicles that satisfy the preexisting requirements is likely to redesign its transmissions in response to this rule.

The cost of making the minor changes to the few transmission locks that are still being produced not in compliance with the existing rule is likely to be a small but undeterminable fraction of the cost of adding transmission locks. NHTSA notes that these costs are attributable to and were already counted in the 1990 rule. As stated earlier, the portion of the fleet that currently does

not satisfy the more stringent requirements is likely to be much smaller than the 668,000 vehicles that the NPRM estimated, based on manufacturer responses to NHTSA's investigation. NHTSA cannot quantify how much smaller the portion is now because it has not conducted any recent compliance testing. Due to the probable minimal cost of compliance per vehicle and the small number of vehicles affected, NHTSA believes that the remaining costs of the 1990 rule are insignificant.

Since this final rule does not increase costs or provide any cost savings, a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

NHTSA has also considered the effects of this regulatory action under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The vehicle manufacturers affected by the requirements typically do not qualify as small businesses. Further, since no price changes should be associated with this rule, small businesses, small organizations and small governmental entities will not be affected in their capacity as purchasers of new vehicles.

Executive Order 12612 (Federalism)

The agency has analyzed this rule in accordance with the principles and criteria set forth in Executive Order 12612. NHTSA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This rule does not impose any retroactive burdens. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. § 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

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, 30162; delegation of authority at 49 CFR 1.50.

2. Section 571.114 is amended by revising S1, S4.2.1, and S4.2.2, and adding new paragraphs S5 through S5.3, to read as follows:

§ 571.114 Standard No. 114; Theft protection.

S1 Purpose and Scope. This standard specifies requirements primarily for theft protection to reduce the incidence of crashes resulting from unauthorized operation of a motor vehicle. It also specifies requirements to reduce the incidence of crashes resulting from the rollaway of parked vehicles with automatic transmissions as a result of children moving the shift mechanism out of the "park" position.

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S4.2.1(a)(1) Except as provided in S4.2.2(a) and (b), the key-locking system required by S4.2 in each vehicle which is manufactured prior to September 1, 1996, and which has an automatic transmission with a "park" position shall, when tested under the test procedures in S5(a), prevent removal of the key:

(i) Whenever the shift lever or other shifting mechanism is fully placed in any designated shift position other than "park," unless the transmission or transmission shift mechanism become locked in "park" as the direct result of removing the key; and

(ii) Whenever the shift lever or other shifting mechanism is fully placed in the park position, unless the transmission or transmission shift mechanism are locked in park or become locked in "park" as the direct result of removing the key.

(2) Except as provided in S4.2.2(a) and (b), the key-locking system required by S4.2 in each vehicle which is manufactured on or after September 1, 1996, and which has an automatic transmission with a "park" position shall, when tested under the procedures in S5(b), prevent removal of the key unless the transmission or transmission shift lever is locked in "park" or becomes locked in "park" as the direct result of removing the key.

(3) Each vehicle shall not move more than 150 mm on a 10 percent grade when the transmission or transmission shift lever is locked in "park."

S4.2.2(a) Notwithstanding S4.2.1, provided that steering is prevented upon the key's removal, each vehicle specified therein may permit key removal when electrical failure of this system (including battery discharge) occurs or may have a device which, when activated, permits key removal. The means for activating any such device shall be covered by a non-transparent surface which, when installed, prevents sight of and activation of the device. The covering surface shall be removable only by use of a screwdriver or other tool.

(b) Notwithstanding S4.2.1, each vehicle specified therein may have a device which, when activated, permits moving the transmission shift lever from "park" after the removal of the key. The device shall either be operable:

- (1) By the key, as defined in S3; or
- (2) By another means, provided that steering is prevented when the key is removed from the ignition, and provided that the means for activating the device is covered by a non-transparent surface which, when installed, prevents sight of and activation of the device. The covering surface shall be removable only by use of a screwdriver or other tool.

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S5. Compliance Test Procedure for vehicles with automatic transmissions.

S5.1 Test Conditions.

(a) The vehicle shall be tested at curb weight plus 91 kg (including the driver).

(b) Except where specified otherwise, the test surface shall be level.

S5.2 Test procedure for vehicles manufactured before September 1, 1996.

(a) Drive the vehicle forward and stop with the service brakes. Apply the parking brake (if present). Try to remove the ignition key from each possible key position.

(b) Repeat the procedure in S5.2(a) with the transmission shift mechanism in each forward drive shift detent position.

(c) Drive the vehicle backward and stop with the service brakes. Apply the parking brake. Try to remove the ignition key from each possible key position.

(d) Move the transmission shift mechanism to the "neutral" detent position. Try to remove the ignition key from each possible key position.

(e) Drive the vehicle forward up a 10 percent grade and stop it with the service brakes. Apply the parking brake. Move the shift mechanism to the "park" position. Apply the service brakes. Release the parking brake. Release the service brakes. Remove the key. Verify that the transmission shift mechanism

or transmission is locked in "park." Verify that vehicle movement was less than or equal to 150 mm after release of the service brakes.

S5.3 Test procedure for vehicles manufactured on or after September 1, 1996.

(a) Move the transmission shift mechanism to any position where it will remain without assistance, including a position between the detent positions, except for the "park" position. Try to remove the key from each possible key position in each such shift position.

(b) Drive the vehicle forward up a 10 percent grade and stop it with the service brakes. Apply the parking brake (if present). Move the shift mechanism to the "park" position. Apply the service brakes. Release the parking brake. Release the service brakes. Remove the key. Verify that the transmission shift mechanism or transmission is locked in "park." Verify that vehicle movement was less than or equal to 150 mm after release of the service brakes.

Issued on June 1, 1995.

Ricardo Martinez,
Administrator.

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte No. MC-100 (Sub-No. 6)]

Single State Insurance Registration

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising the receipt provisions of its regulations pertaining to registration by motor carriers with states. Pursuant to a court remand, the Commission has reexamined provisions permitting motor carriers to make copies of registration receipts. Under the revised rules, states will issue official copies of receipts, and motor carrier copying will be prohibited.

EFFECTIVE DATE: July 7, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Schwartz, (202) 927-5299 or Joseph H. Dettmar, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: In a decision in *Single State Insurance Registration*, 9 I.C.C.2d 610 (1993), Notice published at 58 FR 28932 on