§ 21.4253 Accredited courses.

* * * * *

(d) School qualification. * * *

(1) The institution (other than an elementary or secondary school) has submitted to the State approving agency copies of its catalog or bulletin which are certified as true and correct in content and policy by an authorized representative, and the publication shall:

(i) State with specificity the requirements of the institution with respect to graduation;

(ii) Include institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of the probationary period, if any, allowed by the institution, conditions of reentrance for those students dismissed for unsatisfactory progress, and a statement regarding progress records kept by the institution and furnished the student);

(iii) Include institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct; and

(iv) Include any attendance standards of the institution if the institution has and enforces such standards.

(Authority: 38 U.S.C. 3675(a), 3676(b))

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[FR Doc. 97–355 Filed 1–7–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 96–65; Notice 2]

RIN 2127–AG58

Federal Motor Vehicle Safety Standards

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document initiates rulemaking based upon oral presentations at the agency's public meetings and written comments received on the appropriate classification and safety regulations for golf carts and other small, light-weight vehicles that are capable of being driven on the public roads. In response to these comments, NHTSA proposes that a new category of motor vehicle be established, called ''low-speed vehicle.'' A low-speed vehicle (LSV) would be any motor vehicle, other than a motorcycle, whose top speed does not exceed 25 mph. Under a proposed new standard, Federal Motor Vehicle Safety Standard No. 100, LSVs would be equipped with certain basic items of motor vehicle safety equipment, such as seat belts, in lieu of complying with the Federal motor vehicle safety and bumper standards that would apply if the vehicles were categorized according to existing vehicle types. LSVs would also have a label warning against driving them at speeds that exceed 25 mph. A ''golf cart'', a vehicle that is used to carry golfers on golf courses and that has a top speed of 15 mph or less, would not be considered a motor vehicle, consistent with the agency's past interpretations. A ''golf car'', a vehicle that is used to carry golfers on golf courses and that has a top speed that exceeds 15 mph, but does not exceed 25 mph, would be a motor vehicle and required to comply with Standard No. 100. This rulemaking action is intended to supersede the agency's past interpretations excluding from regulation motor vehicles with a distinctive configuration and a top speed of not more than 20 mph, and to bring all such vehicles under the statutory requirements to notify and remedy safety related defects, and when effective, noncompliances with Standard No. 100.

DATES: Comments are due February 24, 1997.

ADDRESSES: Comments should refer to Docket No. 96–65; Notice 2, and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Z. Taylor Vinson, Office of Chief Counsel, NHTSA, Room 5219, 400 7th Street, SW, Washington, DC 20590 (telephone 202–366–5263).

SUPPLEMENTARY INFORMATION:

I. Introduction

In order to afford the reader a full understanding of the agency's tentative decision, this notice will repeat, rather than refer the reader to, much of the discussion that appeared in Notice 1, published at 61 FR 30848 on June 18, 1996.

As discussed below in greater detail, vehicles such as golf carts have not been regulated by NHTSA because they were not considered to be manufactured for use on the public roads. Even when a vehicle is being used on the roads, NHTSA has not regulated if it had an unusual configuration, and if it had a top speed of 20 mph or less. However, the agency has become aware that the design and use of some of these vehicles are evolving in previously unanticipated ways. Although golf carts have traditionally been limited in their operations to golf courses, some states have taken legislative actions that permit the use of golf carts on some public roads at speeds up to 25 mph. In addition, there appears to be a growing interest worldwide in small vehicles of unconventional configurations that are capable of exceeding 20 mph, and that are intended for on-road use as city or commuter cars. While some of these vehicles do not resemble very small passenger cars, neither do they resemble the traditional golf cart.

The agency decided to review its historical position in light of these changing circumstances. To aid it in its review, NHTSA established Docket No. 96–65 and held two public meetings to receive the comments of manufacturers and users of these vehicles, local elected and law enforcement officials, public interest groups, and other interested persons, on safety and regulatory issues affecting golf carts and other light-weight limited-speed vehicles. The first meeting was held in Palm Desert, California, on July 18, 1996. The second meeting took place on July 25, 1996, at NHTSA headquarters in Washington, D.C. Written comments were requested to be submitted by August 8, 1996.

II. Legal Considerations

A. Federal Law

Title 49 U.S.C. Chapter 301 grants NHTSA regulatory authority over ''motor vehicles.'' All ''motor vehicles'' are subject to the Federal motor vehicle safety standards promulgated by NHTSA pursuant to 49 U.S.C. 30111, and to the notification and remedy provisions of 49 U.S.C. 30118–30121. Those provisions must be followed in the event a motor vehicle is determined to fail to comply with a safety standard, or incorporates a safety related defect. A ''motor vehicle'' is defined as a vehicle ''manufactured primarily for use on the public streets, roads, and highways'' (Sec. 30102(a)(6)). The agency's interpretations of the definition have centered on the meaning of the word ''primarily.'' The agency has generally interpreted ''primarily'' to mean that a significant portion of a vehicle's use must be on the public roads in order for the vehicle to be considered to be a motor vehicle.

NHTSA's principal interpretation of the definition of ''motor vehicle'' dates

from 1969, and addressed the status of mini-bikes. NHTSA said that the capability of a vehicle to be operated on the public roads would be an important criterion in determining whether it was a ''motor vehicle'', but that test would not be reached if there were clear evidence as a practical matter that the vehicle was not being used on the public roads. In NHTSA's view, ''in the case of self-propelled riding mowers, golf carts, and many other similar self-propelled vehicles, such clear evidence exists.'' Thus, since 1969, the agency has declined to regulate golf carts since they were not being operated on the public roads.

The agency's interpretations have also excluded from regulation motor vehicles that had ''abnormal'' configurations and a top speed of 20 miles per hour or less. As an example, NHTSA informed Trans2 Corporation in 1994 that its ''low-speed electric vehicle'' intended for use in residential communities, university campuses, and industrial complexes was not a ''motor vehicle'' because it had a top speed of 20 mph and unusual body features that made it readily distinguishable from other ''motor vehicles.'' These features included an oval-shaped passenger compartment, taillamps built into headrests, and a configuration the approximate size and height of a golf cart. On the other hand, in 1995, NHTSA informed Goodlife Motors Corporation that its ''super golf car'' was a motor vehicle because it had a top speed of 29 mph and its configuration resembled that of a prototype Volkswagen passenger car.

NHTSA is aware that several companies want to manufacture small battery-powered vehicles for use on the public roads which they call ''Neighborhood Electric Vehicles'' (''NEV''). The configuration of a NEV may or may not be ''abnormal'', and its top speed may be as high as 35 mph. Any vehicle with a top speed over 20 mph is a ''motor vehicle'' under NHTSA's existing interpretations, regardless of its configuration. As such, a NEV would have to comply with all Federal vehicle safety standards that apply to heavier and faster passenger cars. Whether conformance of NEVs with these standards is reasonable, practicable and appropriate is an issue that NHTSA must consider.

B. State Laws

1. California

a. Definitions of ''Motor Vehicle'' and ''Golf Cart''

Since 1959, the California Vehicle Code (''CVC'') has defined a motor vehicle as any ''vehicle which is self-propelled'' (CVC Sec. 415). California defines a golf cart as ''a motor vehicle having not less than three wheels in contact with the ground, having an unladen weight less than 1,300 pounds which is designed to be and is operated at not more than 25 miles per hour and designed to carry golf equipment and not more than two persons, including the driver'' (CVC Sec. 345).

b. 1994 Cal SB 2610 and 1995 Cal AB 110

In 1992, California amended its Streets and Highway Code (''CSHC'') to establish a Golf Cart Transportation Pilot Program for the City of Palm Desert (CSHC Secs. 1930–37). The 1992 law was replaced in 1994 by SB 2610 which added Chapter 6, CSHC, to establish a ''Golf Cart Transportation Plan'' applicable to the City of Palm Desert and the City of Roseville.

Chapter 6 was amended in 1995 by AB 110 to apply to any city or county in California. Chapter 6, as amended by AB 110, allows local jurisdictions to establish a Golf Cart Transportation Plan area in which golf carts are permitted to operate on ''golf cart lanes'', defined as ''roadways * * * shared with pedestrians, bicyclists, and other motorists in the plan area'' (CSHC 1951). Each plan must include minimum design criteria for safety features on golf carts. Only seat belts and covered passenger compartments are specifically required. However, the law states that a plan ''may include'' other safety features such as headlamps, turn signals, mirrors, stop lamps, and windshields.

A plan under the California law must also include a permit process for golf carts to ensure that they meet the minimum design criteria, and golf cart operators meet minimum safety criteria. At a minimum, an operator must have a valid California driver's license and carry a minimum amount of insurance.

In addition, the law requires a plan to allow only carts equipped with the requisite safety equipment to be operated on ''separated golf cart lanes'' identified in the plan. Lane striping on the pavement surface is sufficient for a lane to qualify as a ''separated golf cart lane.'' Under the Palm Desert plan, there are two types of on-road lanes, a ''Class II Golf Cart Lane'' for use only by golf carts and bicycles, and a ''Class III Golf Cart Route'' for shared use with automobile traffic at speeds up to 25 mph (the Route is identified by placing Golf Cart Route signs along roadways).

In summary, through its Vehicle Code and Streets and Highway Code, California now has in place a regulatory scheme under which golf carts may use ''separated'', limited-speed portions of the public roads at speeds up to 25 mph when equipped with the safety features required by local authorities. Under NHTSA's existing interpretation, golf carts and other vehicles designed for use in such jurisdictions that are capable of operating at speeds above 20 mph in golf cart lanes would be ''motor vehicles'', subject to the Federal motor vehicle safety standards that apply to heavier and faster motor vehicles. Moreover, under 49 U.S.C. 30103(b), Federal standards would preempt the local requirements referred to in the California statutes.

The evolution in the use of golf carts presents a number of policy issues that need to be addressed. This notice proposes to resolve those issues.

2. Legislation in Other States

In Arizona, Senate Bill 1298 was enacted in 1996. It permits NEVs to be operated at speeds up to 25 mph on public roads with posted speeds of not more than 35 mph. The law does not require either that separated lanes be created or that the NEVs be operated in those lanes only. Florida House Bill 1329, which has passed both Houses of the Florida Legislature, would also permit increased use of golf carts on public roads.

III. Expression of Support by State Officials and Others

During the spring of 1996, NHTSA received letters from several elected officials in California asking the agency to support the concept of golf cart transportation plans and the use of golf carts and NEVs at speeds up to 25 mph on public roads. The agency held a public meeting in Palm Desert, California, on July 18, 1996, to hear first hand the comments of interested persons. NHTSA's public meeting in Palm Desert provided a forum for the expression of views by local officials responsible for the implementation of golf cart transportation plans and enforcement of traffic and safety laws, as well as by residents who use golf carts pursuant to such plans. Earlier in the day, with the assistance of the City of Palm Desert, NHTSA representatives were able to make an on-site examination of the practical details of an actual golf cart transportation plan in action. Activities included operating golf carts on designated lanes in the plan area, crossing intersections, and mixing with the local traffic.

After the second public meeting, held at NHTSA headquarters in Washington on July 25, 1996, transcripts of both meetings were placed in Docket No. 96–65.

IV. Market Forces

Another purpose for the public meetings was for NHTSA to achieve a better understanding of the market and the vehicles that may emerge to serve the consumer preferences reflected in the legislative developments in California, Arizona, and Florida.

At least one specialty manufacturer, Bombardier, Inc. (Bombardier) informed NHTSA that it would like to enter the market for a ''new and growing segment of the transportation fleet: low-powered electric vehicles.'' It has developed a NEV with a top speed of 25 mph for this market, and believes that its vehicle will provide a low cost, low speed, zero emissions mode of localized transportation to meet the special needs of retirees, older Americans and others living in gated communities for travel within their community or for limited activities such as local golfing and other recreation-related, shopping, or short distance trips.

According to Bombardier, municipal governments endorse the concept as a way of helping them meet Clean Air Act mandates for National Ambient Air Quality Standards by eliminating the polluting effects of short distance automobile trips.

Bombardier has asked NHTSA for an interpretation that the NEV it wishes to manufacture and market in these communities is not a ''motor vehicle'' for purposes of the Federal motor vehicle safety standards. Bombardier's request was premised on the agency's concluding that the NEV has an abnormal configuration and deciding to raise the maximum speed criterion from 20 mph to 25 mph.

V. Comments Requested by NHTSA

It is in the context discussed above that NHTSA has reexamined its current interpretation of ''motor vehicle'' to determine the reasonable and appropriate treatment of golf carts, NEVs, and other low-speed vehicles under Federal law. In Notice No. 1, NHTSA invited comments on the following issues to be discussed at the public meetings and to be submitted to the docket:

1. Current and anticipated state and municipal regulations, including infrastructure requirements, relating to the use of public roads by golf carts or NEVs at speeds between 20 and 35 mph.

2. The text of any existing or proposed state or local safety standards applicable to golf carts, NEVs, and other low-speed vehicles.

3. The views of owners and users of golf carts, NEVs, and other low-speed vehicles.

4. Any data relating to on-road safety of golf carts, NEVs, and other low-speed vehicles.

5. The views of law enforcement, safety, and health officials concerning the on-road use of golf carts, NEVs, or other low-speed at various speeds.

6. The views of manufacturers of golf carts, NEVs, and other low-speed vehicles as to the burdens of compliance with Federal motor vehicle safety standards and other regulations.

7. The views of commenters as to safety and bumper standards that would be reasonable, practicable, and appropriate for golf carts, NEVs, and other low-speed vehicles.

8. The views of state and local officials as to Federal regulation of golf carts, NEVs, and other low-speed vehicles.

9. The views of other affected associations, advocacy groups, business entities and individuals.

VI. Analysis and Discussion of Comments

Oral presentations were made in Palm Desert, in the following order by the persons indicated: Roy Wilson (Riverside County Board of Supervisors), Ramon Diaz (Palm Desert city manager), Commander Steven Bloomquist (Palm Desert Section, Riverside County Sheriff's Office), Kim Estock (district manager for Assemblyman Jim Battin), Bob Stranger (regional manager, California Edison), David Bentler (electric transportation project manager, Arizona Public Service Economic and Community Development), Steve Pohle (president, Golf Cars Ltd.), Mark Boutin (vice president of market development, Bombardier), Gus Gonzalez (golf cart owner), Lisa Constande (environmental conservation manager, City of Palm Desert), Betty Carapellese (resident of Palm Desert), and James Thomas (vice-president of sales and marketing, Trans2 Corporation), who also spoke in Washington.

In addition to Mr. Thomas, presentations were made at the Washington meeting by Fred L. Somers, Jr. (general counsel, National Golf Cars Manufacturers Association (NGCMA)), Karen Strickland (Department of Motor Vehicles, State of Arizona), Bonnie Singer (consultant), Lou Finch (president of Electric Vehicle Systems Corporation, a prospective manufacturer of vehicles for the mobility impaired), and David Snyder (American Insurance Association).

Written comments were received from Rep. Sonny Bono, and, in the order received, from Lois Wolk (mayor, City of Davis), J. Douglass Lynn (Lynn & Associates with a subsequent submission as well, Bombardier, Dr. Tim Lynch (Director, Center for Economic Forecasting and Analysis, Institute for Science and Public Affairs, Florida State University), the City of Palm Desert, Richard S. Kelley (president, Southern California Association of Governments, two comments by Mr. Thomas of Trans2 Corporation, Jim Douglas (assistant director, Motor Vehicle Division, Arizona Department of Transportation, the written remarks of Mr. Somers, several video tapes, Dr. James M. Lents (executive officer, South Coast Air Quality Management District), George Boal (resident of Palm Desert), Marilyn D. McLaughlin (resident of Palm Desert), David Guthrie (deputy director, Arizona Department of Commerce, Harry C. Gough (automotive engineering professional specialist, Connecticut Department of Motor Vehicles), Paul and Jacklyn Schlagheck (residents of Lady Lake, Florida), Dr. Gerald Donaldson (senior research director, Advocates for Highway and Auto Safety (''Advocates'')), Jim Prentice (resident of Port St. Lucie, Florida), Paul Jackson Rice, Esq. (Arent Fox Kintner Plotkin & Kahn), Sheriff Ralph E. Ogden of Yuma, Arizona, Lawrence Lingbloom (Sierra Club California), Cynthia Kelly, Esq., (government relations counsel, Golf Course Superintendents Association of America), the Board of Directors of the Palm Desert Country Club Association, Gerald W. (''Wally'') Powell (reliability engineer, EZGO Textron (''EZGO'')), Bob Doyle (assistant sheriff, patrol and investigations division, Riverside County Sheriff's Office), Wayne Balmer (community development director, Mesa, Arizona), and Marvin B. Jaques (vice president special projects, Ransomes American Corporation (''Cushman''), the manufacturer of Cushman utility vehicles.

The commenters thus included representatives of state and local governments including law enforcement officials, manufacturers and users of NEVs and golf carts, representatives of utilities, a public interest group, and other interested persons. NHTSA therefore considers that the public and private interests that would be affected by its decision were fairly and fully represented, and that its tentative decision in this matter is consistent with the comments received and with motor vehicle safety.

NHTSA's Docket Room has assigned a number to each comment. For example, the first comment is denoted ''96–65–NO1–001.'' For simplicity, in discussing specific submissions, this notice uses

only the last three digits to identify the comment, i.e., ''001.''

In brief, the political authorities and the public supported electric golf carts and NEVs as addressing the public interest in a cleaner environment (see, for example, comments by the City of Palm Desert, 005). Users noted approvingly the mobility that is afforded by the ability to use golf carts and NEVs on the public roads as an alternative to the passenger car for short in-town trips (see, for example, comments by Paul and Jacklyn Schlagheck, 020). These groups testified to the absence of any on-road safety problems to date involving golf carts and opposed any regulation by NHTSA that would curtail driving them on the public roads, or that would increase their costs. Golf cart manufacturers objected to the possible classification their products as ''motor vehicles'' and wished to remain free of Federal regulation.

After having reviewed these comments, the agency has reached the tentative decisions discussed below.

A. Exclusions of Motor Vehicles From Regulation Based on Existing Configuration and Speed Tests Are no Longer Viable

Dr. Lents asked NHTSA to ''recognize that a major revolution in transportation is occurring with the increasing commercialization of zero emission vehicles.'' (015). Realizing that resolution of the issues would have ramifications beyond Bombardier and California, NHTSA decided to begin its deliberative process by reviewing its current interpretative posture.

Under these interpretations, vehicles that clearly were ''motor vehicles'' manufactured for on-road use were nonetheless excused from compliance with the agency's regulations if they had an abnormal configuration and if their top speed did not exceed 20 mph. Because of the increase in severity of motor vehicle crashes that occur at 25 mph compared with those that occur at 20 mph, NHTSA never considered it a viable option to raise the definitional criterion to the higher speed as Bombardier requested. Advocates, in fact, asked that the speed be lowered to 15 mph (021).

In the agency's opinion, the test of whether a particular configuration is ''abnormal'' has evolved to the point at which its results are arbitrary and subjective. It was initially applied to vehicles such as street sweepers whose unusual configuration, in conjunction with their large size, enabled drivers of other vehicles to spot them at a distance in traffic. Over the years, the agency's interpretations have come simply to inquire whether a vehicle has an unusual configuration without regard to the bottomline significance of that configuration, i.e., whether the vehicle could be readily spotted at a distance in traffic. The extent of the evolution is illustrated by conclusions in some recent interpretations that various small vehicles met the configuration/speed criteria, notwithstanding that the vehicles were so small that they could not in fact be readily seen in approaching or preceding traffic. Further, perceptions of ''abnormality'' are subject to change in time as the shapes of motor vehicles evolve to more aerodynamic forms. In addition, upon reexamination, the basis for the criterion of a top speed of 20 mph was unclear. As Lynn asked, why not 19 or 21? (002). For these reasons, the agency has tentatively decided that the existing tests should no longer be followed.

Instead, the agency believes it should follow and apply the statutory definition of ''motor vehicle'' with no embellishments. Thus, the only question to answer would be whether a vehicle is manufactured primarily for use on the public streets, roads, and highways. If the answer is ''yes,'' then the vehicle in question is a motor vehicle subject to NHTSA's jurisdiction, regardless of speed and configuration. NHTSA intends this policy to apply to vehicle types previously excluded on the basis of their configuration and speed. However, with respect to individual motor vehicles, it would apply to only those manufactured on or after the effective date of a final rule in this rulemaking proceeding.

NHTSA wishes to assure manufacturers of off-road vehicles that the basic legal test of whether a motorized vehicle is a ''motor vehicle'' has never been at issue in these proceedings. If a vehicle is not manufactured primarily for use on the public streets, roads, and highways, it is not a ''motor vehicle''. Under this test, the agency has given opinions, for example, that a vehicle whose use of the public roads is occasioned only by the infrequent need to travel from one off-road site to another is not a ''motor vehicle.'' Other examples of vehicles that are not regarded ''motor vehicles'' because of the lack of public road use are airport crash and rescue vehicles, buses used to transport passengers from parking lots to air terminals, and small utility vehicles used in plants and for grounds maintenance on private property regardless of their top speed. This line of interpretations remains in effect and is not affected by the agency's contemplated abandonment of its exclusionary interpretations based on speed and configuration.

After reaching this decision, the agency proceeded to the issues of classification and regulations that might be appropriate for NEVs, on-road golf carts, and other small vehicles.

B. Motor Vehicles With a Top Speed of 25 mph or Less Should be Classified as ''Low-Speed Vehicles'' (LSVs)

If the agency ceases to exclude vehicles based on their configuration and speed, vehicles previously excluded on those bases would, without further regulatory action, be treated as motor vehicles and classified according to the agency's existing definitions for vehicle types, such as ''passenger car'' and ''truck.'' This raises the question of whether the Federal motor vehicle safety standards applicable to these categories of vehicles would also be suitable for vehicles previously excluded from them on the basis of their configuration and speed. Sheriff Ogden commented that it would be in the best interests of law enforcement to classify NEVs as automobiles (i.e., passenger cars) and that they be made to comply with the same criteria as automobiles (026). But it is apparent to NHTSA that requests for an expansion of the exclusionary interpretation would not have been made in the first instance if golf carts and NEVs as currently designed for production were able to be readily conformed in a practicable manner to the full range of Federal safety standards.

NHTSA gathered some data on small motor vehicles manufactured in other countries, specifically Japan and France, in order to determine how other countries classify and regulate small vehicles. In Japan, ''kei'' class cars must be no wider than 1400 mm (approximately 4.6 feet), and no longer than 3300 mm (approximately 11 feet). These dimensions are similar to those of the Trans2, which is 4.5 feet wide and 11.75 feet long. To qualify for the ''kei'' class, gasoline-powered engines must not have a displacement greater than 660 cc. In the limited time available, NHTSA has been unable to determine whether there was a speed limitation on ''kei'' class cars, or how or even if these vehicles are regulated by the Japanese government.

According to the January 1997 issue of the American magazine ''Automobile'', there are two similar vehicle classes in France. The first is ''Voitures sans Permis'' (VSP), allowed to be operated without a driver's license, and the second, ''Tricycles et Quadricycles a Moteur'' (TOM), slightly larger and faster cars that may be driven

by persons with a partial permit. NHTSA understands that approximately 9,000 VSPs and 1,000 TOMs are sold each year in Europe, and that there are more than 100,000 of them in operation. Data gathered on seven current vehicles indicates that they are similar in size to the ''kei'' class, with displacement of their one or two-cylinder engines ranging from 315 cc to 505 cc. Five VSP vehicles had an apparent top speed of 45 kph (approximately 27 mph, reflecting a legal limit of 28 mph) and two TOMs, 75 kph (45 mph, reflecting a legal limit of 47 mph). VSPs are two-seater cars whose drivers must not be younger than 14 years; TOMs are designed to carry four, and must not be driven by a person younger than 16. It was not possible to determine in the time available whether France requires compliance with any safety requirements, though basic safety equipment such as lights, mirrors, and wipers were visible in photographs of these cars. NHTSA notes that all the Japanese and French cars considered resemble conventional passenger cars, albeit much smaller, while NEVs and golf carts do not. Thus, if they are subject to some foreign regulations, those regulations might not be appropriate and practicable for small vehicles of the less conventional types anticipated to be on the American market in the near future.

Seeking to draw a distinction between golf carts and NEVs, that is to say, between off-road and on-road small vehicles, Somers of NGCMA asked that NHTSA create a separate categories for golf carts and NEVs (010), as did Powell of EZGo (032). Douglas of Arizona DOT suggested that NHTSA adopt his State's definitions of ''golf cart'' and ''NEV'' (008). Lynn, on the other hand, recommended that NHTSA create a new category of motor vehicle ''designed for local transportation applications'' (002).

NHTSA concurs with Lynn's suggestion that it would be the preferable regulatory solution to have a single definition, one that is able to encompass the entire population of golf carts, NEVs, and small vehicles that might not fit a definition for either. Thus, NHTSA began to look for a common characteristic of all these vehicles in order to develop a definition for them. A classification based on vehicle dimensions such as the ''kei'' class appeared design restrictive, as did one based on weight, a feature of state definitions.

Ultimately NHTSA realized that the comments pointed to a common factor upon which a classification could be based, a maximum vehicle speed of 25 mph. This speed value appears in the definitions of golf carts by Arizona and California, as well as in Arizona's definition of NEV. Twenty-five miles per hour is the maximum speed in the lanes on the public streets on which the City of Palm Desert allows a mixture of golf carts and larger vehicles to operate (005). The City was resolute that it would never allow golf carts to operate on its streets at a speed greater than 25 mph. In justification of its support of a threshold of 25 mph, one NEV manufacturer commented that a vehicle with a top speed of 25 mph flows ''with local traffic in speed limited areas rather than inhibiting traffic at a lower speed. A maximum speed of 25 mph also provide increased maneuverability and consistent power, even on hills'' (Thomas of Trans2 (007)). This speed was also supported by Commander Bloomquist of the Sheriff's Office: ''[i]f the golf carts have a greater speed, it is a detriment on the one hand, but it also allows it to get out of its own way from time to time. It's also important in avoiding accidents and the such.'' (011, Palm Desert Meeting Transcript, p. 17). Since there is a ready consensus that NEVs and on-road golf carts should have a top speed of not more than 25 mph, NHTSA believes that a maximum speed of 25 mph should be the keystone of any common definition encompassing NEVs and on-road golf carts (to the contrary were comments by Somers and Donaldson of Advocates who asked for a speed limit of 15 mph for golf carts used on the public roads (005, 021)), and Lynch who surmised that a poll of states, municipalities, and townships would show support for a 35 mph top speed for NEVs (004)).

To encompass the wide variety of NEVs, golf carts, and other small vehicles which may be manufactured in the future, NHTSA is proposing creation of a new class of vehicle called ''low-speed vehicle'' (LSV) with a definitional criterion of speed alone. LSVs would include all motor vehicles, other than motorcycles (''motor driven cycles'', those of low power, have always been regulated), whose speed attainable in 1 mile does not exceed 25 mph, regardless of the vehicle's size or weight. This would mean that any motor vehicle, whether an NEV, an on-road golf cart or other vehicle, would be likely be treated as a passenger car and thus subject to all Federal motor vehicle safety standards applicable to that class of vehicles if its top speed is more than 25 mph.

C. Safety of Small Vehicles in Low-Speed Environments

The agency considered what Federal safety requirements might be appropriate for LSVs, vehicles with a top speed of 25 mph or less. This required an examination of the safety problems that may presently exist for small, slow-moving vehicles. Intuitively, it appears that passengers in LSVs might be at significant risk because of the small size and relative fragility of LSVs (none of the NEVs or golf carts are, for example, equipped with metal doors). The possibility of such a risk was the express concern of Advocates which observed that ''small light weight vehicles are vulnerable to serious crashes even at low operating speeds.'' (021). However, because of the scarcity of four-wheeled low-speed motor vehicles in operation in the United States, there are virtually no accident data concerning them. Further, data for more numerous types of small vehicles, such as motor scooters and motor bikes, are not really indicative of the possible risk associated with NEVs, given the greater vulnerability of all two-wheeled vehicles in traffic.

Comments indicated that safety is not a problem for those persons who presently regulate and use on-road golf carts. According to Assistant Sheriff Doyle, ''[t]o date [August 5, 1996] there has not been one traffic collision relating to the Palm Desert Golf Cart Transportation Program [which has been in effect for three years]. One citation has been issued a golf cart operator * * * for a city ordinance violation prohibiting operation on a non-designated roadway. The Department has received no reports or complaints about hazardous or unsafe operation of these vehicles in the program. From a police management perspective, the program to date has been a complete success.'' (033). A similar statement was made by Commander Bloomquist who admitted to having had initial concerns ''about the mixing of slow moving vehicles with faster moving vehicles and also the size difference, mentioning the physics of the speed difference between golf carts and passenger vehicles and trucks and the like,'' but concluded by saying he was pleased and relieved ''that we have not had any accidents involving the larger vehicles which move at a greater speed with the slower moving golf carts.'' (011, Transcript, pp. 16–17). Indeed, there has only been one incident that might be termed an accident—an overturn created by a joy-riding teenager using a golf cart without the owner's authorization. Given the fact that only 183 golf carts had been registered by the City as of the date of the public meeting, July 18, 1996, the lack of accidents may not be statistically significant. However, they are the only

relevant ''data'' that NHTSA has found concerning the on-road safety of golf carts.

Nevertheless, the Palm Desert experience is supported by anecdotal evidence from other commenters covering a time span longer than three years (the reader will recall that California has authorized a more limited use of the public roads since 1959). Palm Desert resident Marilyn D. McLaughlin said that ''[f]or more than 34 years, golf cart owners here in Palm Desert Country Club have shared the streets with automobiles, trucks, etc. and I have not heard of any reports of accidents during that entire period''. In her opinion, ''safety does not appear to be an issue.'' (017). Her view was supported by another Palm Desert resident, George Boal: ''[i]n over 30 years I cannot recall one accident involving moving vehicles and golf carts.'' (016). A somewhat similar comment was made by Paul and Jacklyn Schlagheck of Lady Lake, Florida, indicating that the Palm Desert experience may not be unique: ''[t]he use of golf carts has been safe, with residents very responsible about where and when they use them * * * It goes without saying that people don't take their golf carts out * * * on busy roads with speeds posted at 50 mph.'' (020).

These comments are consistent with a conclusion reached in the City of Palm Desert's ''Golf Cart Transportation Program Monitoring Report'' (January 1994) (Attachment 3, 005) about the safety of NEVs. In a discussion of safety issues (The U.C. Davis Neighborhood Electric Vehicle Research Project, p. 22), the Report observes that ''[w]hen the vehicle is well matched with the driving environment the vehicle will be very safe.'' Specifically, ''[f]or the NEV, a driving environment which consists of lower speed streets is well matched to the vehicle's safety capabilities.'' Conceding that NEVs are less visible than other vehicles, are less able to maintain safe operating speeds, and that occupants are at greater risk of injury in higher speed collisions, the Report concluded that ''[a]t lower speeds, these issues are negligible.''

Part of the reason for the lack of accidents involving on-road golf carts may be certain ordinances of Palm Desert intended to minimize the possibility of accidents involving golf carts and other motor vehicles. One of these prohibits operation of golf carts on the public streets during the hours between one hour after dusk and one hour before dawn. Another restricts their operation on the public streets to designated lanes where the speed limit for all vehicles using the lane is 25 mph. Golf carts may not otherwise be operated on public roads. In short, the City has taken steps under State law to create a structured environment for the operation of golf carts on the public roads consistent with its views of traffic safety. There is no assurance, of course, that other states or municipalities will take these steps or otherwise address operational safety in allowing golf carts on the public roads, but NHTSA commends the Palm Desert regulatory scheme to their attention.

On the basis of comments discussed above, the agency has tentatively concluded that motor vehicle safety does not demand, for the present, a comprehensive and detailed regulatory scheme under which LSVs must comply with the full range of Federal motor vehicle safety standards that apply to faster vehicles. However, the risk of exposure to accidents may increase as the numbers of LSVs increase. Thus, at a future time, more stringent regulation might become appropriate. NHTSA intends to monitor LSV accident data carefully. Accordingly, the agency asks the public to assist it in filing relevant information in Docket No. 96–65 which will remain open for this purpose.

D. A Federal Motor Vehicle Safety Standard for LSVs

If the agency were to cease relying upon the interpretative criteria of abnormal configuration and 20 mph maximum speed, and to adopt the proposed definition of LSVs, certain unique vehicles found on the public roads would be treated as LSVs. Examples of these vehicles are street sweepers, steamrollers and road graders. The common characteristics of these vehicles is that they are work-performing and transport only their operator. Consistent with its past interpretative treatment of such vehicles, the agency proposes to exclude work-performing LSVs from compliance with any Federal motor vehicle safety standard including the new Standard No. 100 proposed in this document. However, as motor vehicles, they would become subject to the statutory provisions regarding notification and remedy of safety related defects.

NHTSA is also faced with the regulatory dilemma of appropriate treatment for golf carts, a type of vehicle historically exempt from NHTSA regulation. The agency has no wish to regulate golf carts. However, it is faced with an increasing number of state and local laws specifically permitting their use on the public streets, roads, and highways.

As in the case of LSVs, maximum vehicle speed appears to be a rational basis on which to base a distinction between those golf carts that should not be considered motor vehicles and those that should. Until recently, California and Arizona defined a golf cart, in part, as a vehicle with a top speed of 15 mph. Golf cart manufacturers seem to have adhered to this limit over the years. ANSI/NGCMA Standard Z130.1–1993 prescribing voluntary safety and performance requirements for golf carts contains a maximum vehicle speed test under which ''[t]he average speed shall not exceed 15 mi/h (24 km/h)'' (9.6.1.3) Average speed is determined through runs in opposite directions and by averaging the results. Thus, historically, the industry appears to have designed golf carts for a maximum speed of not more than 15 mph. Historically, this is the type of golf cart that NHTSA has not regulated. The agency has therefore tentatively concluded that a golf cart with a maximum speed that does not exceed 15 mph is a vehicle that is not primarily manufactured for use on the public roads, and therefore is not a ''motor vehicle''.

If a golf cart manufacturer decides to increase the maximum speed capability of its golf carts to above 15 mph in response to the decision in some states to increase the speed thresholds in their definitions of ''golf carts'' and to allow such vehicles to operate on certain public roads, it seems evident to NHTSA that such a manufacturer intends its vehicles to be used on the public roads as well as on golf courses. Mr. Rice brought the agency's attention to an engine of 3.75 HP offered by one golf cart manufacturer as an alternative to the standard 3.1 HP engine. The manufacturer's product literature states specifically that the motor does not meet Z130.1's standard for ''speed requirements.'' (025). NHTSA interprets this statement to mean that golf carts equipped with the optional engine have a maximum speed in excess of 15 mph. In recognition of the apparent intent that these higher speed vehicles be used on public roads, NHTSA is proposing a definition of ''golf car'' (the term preferred by the NGCMA), as a vehicle designed to convey golfers on a golf course and whose maximum speed is between 15 mph and 25 mph. Golf cars would be considered to be LSVs and thus required to meet LSV requirements. NHTSA would use the term ''golf cart'' to refer to only those vehicles designed to convey golfers on a golf course and whose maximum speed is 15 mph.

As indicated, there was some sentiment to applying a rigorous set of safety standards to LSVs (Sheriff Ogden, 026; Advocates, 021). Lynn believed that NHTSA should ''create a new body

of safety standards that will challenge the nation's engineering community.'' (002). Cushman took the gradualist approach, commenting that ''[s]tatistics regarding frequency and severity of accidents in these communities will help determine appropriate safety regulations and features. The bumper standard may be appropriate for occupant protection rather than limiting body damage.'' (037).

Two sources emerged from the meeting and comments upon which a safety standard for LSVs might be based. These sources are NEV manufacturers and the equipment regulations of the City of Palm Desert for golf carts.

NHTSA received comments from two NEV manufacturers, Bombardier and Thomas. The Bombardier NEV will be equipped with a safety glass windshield, a lighting system designed around automotive safety standards, a 3-point belt system, horn, and mirror. (003). According to Thomas, the Trans2 NEV is equipped with front and rear turn signals, anchored 3-point belts, full exterior lighting, a laminated safety glass windshield, and windshield wipers. (007). Thomas added that NHTSA could add these features to a 25-mph requirement for classification purposes.

The City of Palm Desert requires that golf carts registered for use on the public roads in its plan area be equipped with head lamps, stop lamps, taillamps, front and rear turn signal lamps, mirrors (left and right side, or left side and rearview, or a ''multi-directional cross bar,'' which is an elongated interior mirror that reflects the driving environment on both sides of the vehicle), red reflex reflectors on each side at the rear of the cart between 15 and 60 inches above the ground, parking brake, horn, windshield, seat belts, a golf cart locking device, and ''safely equipped or properly loaded to conform with CVC Section 24002.'' (Attachment 4, 005, p. 5).

There appears, then, to be a consensus among manufacturers of NEVs and the City of Palm Desert, the leading local regulator of golf carts, as to requirements meeting the local need for safety of small, slow-moving vehicles. Given that there does not appear to be any present need to apply the full range of Federal motor vehicle safety standards to LSVs at this time, and that an equipment standard is already in place which LSVs must meet if they are to be operated on the public roads of at least one jurisdiction, NHTSA has tentatively concluded that the Palm Desert standard affords a basis upon which a reasonable, practicable, and appropriate standard may be promulgated on the Federal level as an initial effort to address LSV safety.

The agency proposal differs from the requirements of Palm Desert in the following manner. The agency does not require a horn on other motor vehicles, so none is proposed for LSVs. NHTSA understands that a ''locking device'' simply means that a golf cart cannot be operated without a key to turn on the power, and assumes that this will be the way that LSVs will be manufactured.

NHTSA is not proposing to require the use of a ''multi-directional cross bar mirror.'' However, its proposed term, ''interior mirror,'' is broad enough to accommodate its use. The ''seat belts'' would be specified to be either Type 1 or Type 2 conforming to Motor Vehicle Safety Standard No. 209 ''Seat Belt Assemblies.'' The agency requests comments on the practicability of requiring all LSVs including golf cars to have Type 2 lap and shoulder belt assemblies. The windshield would have to be glazing marked ''AS 1'' by its prime manufacturer.

NHTSA is proposing that these requirements be placed in a new Federal motor vehicle safety standard called Standard No. 100 *Low-speed vehicles.* A ''low-speed vehicle,'' or LSV, would be a motor vehicle, other than a motorcycle, whose speed attainable in 1 mile does not exceed 25 mph (''speed attainable in 1 mile'' is the expression used in other Federal standards to denote maximum speed). LSVs would include, but not be limited to ''golf cars'' (defined as vehicles that are used to convey golfers on golf courses and whose speed attainable in 1 mile exceeds 15 mph but does not exceed 25 mph.) LSVs would not include ''golf carts'' (defined as vehicles that are used to convey golfers on golf courses and whose speed attainable in 1 mile is not greater than 15 miles per hour.) This is essentially the same definition the industry uses in ANSI/NGCMA Z130.1–1993 for golf car.

LSVs would not be required to meet Federal Motor Vehicle Safety Standards Nos. 101 through 304 and the bumper standard. LSVs, other than LSVs with work-performing equipment, would have to be equipped with headlamps, front and rear turn signal lamps, taillamps, stop lamps, rear reflex reflectors mounted on each side not less than 15 inches and not more than 60 inches above the road surface, a driver's side exterior rear view mirror plus either an interior rear view mirror or an exterior mirror on the passenger side, a windshield marked ''AS 1'', and Type 1 or Type 2 seat belt assemblies that conform to Standard No. 209. Lighting equipment would not need to meet either the lighting standard, Standard No. 108 or the rear view mirror standard, Standard No. 111. Thus, the performance characteristics of lamps, reflectors, and mirrors would be left to the manufacturer. The manufacturers' certifications of compliance of LSVs as required by 49 CFR Part 567 would simply be an affirmation that the LSV had been manufactured with the equipment specified by Standard No. 100. Finally, NHTSA deems it advisable that such LSVs also be equipped with a label warning that it must not be operated on the public roads at a speed more than 25 mph. This is to ensure that the operator of an LSV that may have been modified so that its top speed exceeds 25 mph would have a permanent reminder that the vehicle was not designed to be operated at speeds greater than 25 mph.

LSVs with work-performing equipment would not be subject to Standard No. 100. Their work-performing nature makes it unlikely that they would be used for on-road transportation purposes in jurisdictions like Palm Desert.

E. Modifying the Speed Capabilities of LSVs

Since the advent of the Palm Desert plan, NHTSA is aware that the speed capability of some golf carts may have been modified to exceed 15 mph, to take advantage of the mobility offered by the plan. Similarly, it may be possible to modify LSVs, through removal of a governor or otherwise, so that their maximum speed exceeds 25 mph. If an LSV in use were modified so that its maximum speed exceeds 25 mph, it would no longer be an LSV under the definition. Further, operation at a speed exceeding 25 mph would be in violation of local traffic laws. Increasing the speed of most LSVs would convert them into passenger cars. However, they would not conform to passenger car standards and would not afford the protection that NHTSA deems needed for the public at speeds higher than 25 mph. As a result of the speed modification, the equipment required by Standard No. 100 would no longer afford the anticipated level of protection. Thus, speed modification would, in a sense, make the vehicle's compliance with Standard No. 100 ''inoperative'' within the meaning of 49 U.S.C. 30122 when an LSV is modified to exceed 25 mph without being conformed to Federal motor vehicle safety standards applicable to its vehicle type. This section prohibits a manufacturer, dealer, distributor, or motor vehicle repair business from making inoperative any element of

design or device installed in accordance with a Federal motor vehicle safety standard.

If a golf cart in use were modified so that its maximum speed exceeds 15 mph, it would become a ''golf car'' and an LSV, if its speed did not exceed 25 mph, and it would become a ''passenger car,'' if its speed exceeded 25 mph. However, there would not be any violation of section 30122 since the making inoperative prohibition does not apply either to a vehicle that was not a motor vehicle as originally manufactured or to a vehicle or motor vehicle that was not subject to any Federal safety standards as originally manufactured. When operated on the public roads, the modified golf cart would have to comply with local regulations which, in Palm Desert, requires licensing and retrofitting with the safety equipment required by the City, essentially the same that is required by Standard No. 100.

F. Effect on State and Local Registration and Use Laws

Some commenters misunderstood the limits of NHTSA's regulatory authority and NHTSA wishes to correct these misimpressions.

Supervisor Wilson asked the agency for its ''approval in allowing Neighborhood Electric Vehicles and other slow-moving vehicles to operate on public roadways * * *.'' (011, Transcript, Palm Desert meeting, p. 9). NHTSA understands this to be a broad request not to take any regulatory action that would restrict or prohibit the public from using LSVs. The agency has no authority to ''approve'' or ''allow'' any type of vehicle to operate on the public roads. That is solely a function of local government. However, imposition of costly-to-meet regulations would have the probable effect of curtailing future production of LSVs and hence their availability for the ends deemed desirable by local regulatory authorities. NHTSA's initial regulatory effort for LSVs would not affect the availability of low-speed vehicles, and would not affect the way they will be used in the plan area.

Powell of EZGo asked NHTSA to initiate steps to preempt all state and local regulation of golf carts on the public roads until a safety analysis can be made of the safety issues and an optimum response fashioned to them (032). He also asked that NHTSA mandate speed limits not to exceed 15 mph for golf carts used on public roads. NHTSA has no legal authority to set local speed limits or to prescribe regulations governing the operation of low-speed vehicles. NHTSA has authority to set standards that apply to vehicles from the time of manufacture to the time of initial sale, but not regulations that directly control how they are operated on the public roads.

Gough of DMV Connecticut commented that his state does not allow registration of low-performance vehicles of golf cart-like performance, and feared that it would be forced to ''allow general use if the vehicles are sanctioned by NHTSA.'' (019). He urged the agency ''to require some form of state approval of areas where such vehicles would be allowed before any consideration of approval or sanctioning is to be made.'' As noted above, NHTSA does not have authority to ''approve'' or ''disapprove'' the use of on-road vehicles in designated areas. The question raised by Gough in actuality is whether a state is preempted from refusing to register a motor vehicle for use on the public roads if that vehicle has been certified to comply with all applicable Federal motor vehicle safety standards.

Gough has raised an important issue concerning the extent of preemption under the NHTSA's statute. Under 49 U.S.C. 30103(b)(1), ''When a motor vehicle safety standard is in effect * * * a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.'' The agency has interpreted the preemption clause as meaning that a State cannot impose a heavier burden upon a vehicle for purposes of registration where the vehicle has been manufactured to meet a Federal standard covering the same aspect of performance. Thus, a State could not require LSVs to be equipped with mirrors conforming to Standard No. 111 because that would not be required by proposed Standard No. 100. But a State could specify requirements for braking system performance since there is no similar requirement proposed in Standard No. 100.

The legislative history of the preemption clause is clear that it was the purpose of the drafters that ''[t]he centralized, mass production, high volume character of the motor vehicle manufacturing industry * * * requires that motor vehicle safety standards * * * be uniform throughout the country.'' (S. Rpt. No. 1301, 89th Cong. 2d Sess. (1966), p. 12). The preemption section ''is intended to result in uniformity of standards so that the public as well as industry will be guided by one set of criteria rather than by a multiplicity of diverse standards.'' (H. Rpt. No. 1776, 89th Cong. 2d Sess. (1966), p. 17). With respect to Gough's concern, Connecticut simply does ''not allow registration of low performance vehicles of golf-cart like performance.'' The State is not seeking to establish or maintain a standard different from Standard No. 100. Connecticut has issued no standard at all, and the question of preemption does not arise. By its action (or lack thereof), Connecticut has imposed no additional manufacturing burden upon manufacturers of LSVs. NHTSA does not attribute to the drafters of 49 U.S.C. 30103(b)(1) a Congressional intent to force a State to accept and register a class of vehicles where a State has chosen not to do so, even if that class of vehicles is certified as meeting all applicable Federal motor vehicle safety standards. It should be noted that NHTSA has no authority to impose use restrictions upon registered, certified vehicles, so that even if Connecticut were preempted and required to register LSVs, the State could impose operating restrictions that would significantly limit their use on the public roads.

G. Costs to Conform to Standard No. 100

In its program monitoring report of January 1994, Palm Desert included the questionnaire that it had sent in November 1993 to the 80 persons who at that time had registered their golf carts with the city. One of the questions asked was the cost to modify golf carts to meet City requirements. Sixty-one responded to the questionnaire, and the average cost was reported to be $150. (Attachment 3, 005, p. 10).

However, two and one half years later, at the Palm Desert hearing on July 18, 1996, Steve Pohle, a dealer in golf carts, estimated that the cost to a golf cart owner to retrofit the vehicle with the equipment required by the City is approximately $400, including ''about $115'' for the windshield (011, Transcript, p. 54). NHTSA anticipates that manufacturers of LSVs (NEVs and on-road golf carts) would be able to achieve economies of scale so that their direct costs would be substantially less than $400 per vehicle. NHTSA requests that commenters address the costs associated with conforming to Standard No. 100, and to explain the basis for their estimates.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be

appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting for the information specified in the agency's confidential business information regulation, 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too later for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available to inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Effective Date

Because there is a standard already in effect which manufacturers of LSVs must meet if they wish to sell their product in at least one regional market, and because such manufacturers wish to introduce LSVs at the earliest possible time, it is hereby tentatively found that an effective date earlier than 180 days after issuance of a final rule would be practicable and in the public interest. Accordingly, proposed Standard No. 100 would be effective 45 days after publication of the final rule in the Federal Register.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This action has not been reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. Because LSVs are a new type of motor vehicle for which a national market does not yet exist, it is not possible to determine a yearly cost impact. There are at present two types of vehicles that meet the definition of LSV: NEVs and golf cars. Because they are distinctly different—NEVs are purpose built for on road use and can be operated on golf courses, while golf cars are simply golf carts with equipment added for on road use—no manufacturer known to NHTSA produces both NEVs and golf cars. As discussed previously in this document, both the Bombardier NEV and Trans2 NEV will be manufactured with essentially all items of equipment required by the City of Palm Desert for on-road operation (see comments 003 and 007), so that the only additional cost likely to be incurred in complying with proposed Standard No. 100 are the minor ones of the warning label, and the manufacturer's label certifying compliance. Given the golf cart industry's position that it does not intend its vehicles to be operated off golf courses, the industry may choose to limit the speed of all its production of golf carts to a maximum of 15 mph rather than incur the costs of complying golf cars with Standard No. 100 through add-ons to existing designs for a limited percentage of its production. Until new designs are developed, add-ons to golf cars during manufacture will be in the nature of retrofits. Information presented at the California public meeting indicated that the average cost of 61 respondent owners to retrofit a golf cart with the prescribed equipment was an average of $150 in January 1994, and could be as high as $400 in July 1996. However, the cost to a manufacturer who buys this equipment in quantity and adds it to a NEV or golf car during the original manufacturing process is likely to be much lower. So that NHTSA might better assess the cost impact of this rulemaking action, the agency invites manufacturers to submit data and market estimates, if need be on a confidential basis, so that it may have a more accurate idea of costs when the final rule is issued.

NHTSA is preparing a regulatory evaluation for placement in the docket concurrent with, or shortly after publication of, this document.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that a final rule based on this proposal would have a significant effect upon the environment. Information presented to NHTSA indicated that any increase in the production of LSVs is likely to be largely in those powered by electricity.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq*). I certify that this rulemaking action would not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The proposed amendment would primarily affect manufacturers of non-conventional motor vehicles not heretofore regulated by NHTSA. Under 15 U.S.C. Chapter 14A ''Aid to Small Businesses'', a small business concern is ''one which is independently owned and operated and which is not dominant in its field of operation'' (15 U.S.C. Sec. 632). The Small Business Administration's (SBA) regulations at 13 CFR Part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' NHTSA believes that there is at present only one entity that has been manufacturing LSVs as defined by the proposed rule, and that therefore it is ''dominant in its field of operation.'' A second entity that intends to manufacture LSVs in the near future operates primarily outside the United States. Golf cart manufacturers can avoid being classified as manufacturers of LSVs by ensuring that the maximum speed of their vehicles does not exceed 15 m.p.h.

Further, small organizations and governmental jurisdictions would not be significantly affected as the purchasers of LSVs are anticipated to be private individuals who want a small, alternative mode of transportation instead of a conventional motor vehicle, as a second vehicle for use in their immediate residential area.

Executive Order 12612 (Federalism)

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

Civil Justice

A final rule based on this proposal would not have any retroactive effect. 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. Section 30163 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.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 would be amended as follows:

The authority citation for part 571 would continue to read as follows:

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

2. A new § 571.100 would be added to subpart B to read as set forth below:

§ 571.100 Motor Vehicle Safety Standard No. 100 Low-speed vehicles.

S1. Scope. This standard specifies requirements for low-speed vehicles.

S2. Purpose. The purpose of this standard is to ensure that low-speed vehicles operated on the public streets, roads, and highways are furnished with the minimum motor vehicle equipment necessary for motor vehicle safety.

S3. Applicability. This standard applies to low-speed vehicles. This standard does not apply to golf carts.

S4. Definitions.

Golf car means a motor vehicle, whose speed attainable in 1 mile exceeds 15 mph but does not exceed 25 mph, used to convey one or more persons and equipment to play the game of golf in an area designated as a golf course.

Golf cart means a vehicle, whose speed attainable in 1 mile does not exceed 15 mph, used to convey one or more persons and equipment to play the game of golf in an area designated as a golf course.

Low-speed vehicle means a motor vehicle, other than a motorcycle, whose speed attainable in 1 mile does not exceed 25 mph. With respect to vehicles used to convey golfers on golf courses, it excludes golf carts, but includes golf cars. Any motor vehicle that meets this definition is excluded from the classes of vehicles defined in § 571.3 of this subpart, and is not a ''passenger motor vehicle'' for the purposes of Part 581 of this Chapter.

S5. Requirements.

(a) A low-speed vehicle, other than a low-speed vehicle with work performing features, shall be equipped with:

(1) Headlamps,

(2) Front and rear turn signal lamps,

(3) Taillamps,

(4) Stop lamps,

(5) One red reflex reflector on each side as far to the rear as practicable and located not less than 15 inches nor more than 60 inches above the road surface,

(6) An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror,

(7) A parking brake,

(8) A windshield marked ''AS 1'' by its prime glazing material manufacturer, and

(9) A Type 1 or Type 2 seat belt assembly conforming to Sec. 571.209 Motor Vehicle Safety Standard No. 209, *Seat belt assemblies,* installed at each designated seating position.

(b) Each vehicle to which paragraph (a) of this S.5 applies shall bear a label permanently affixed, visible to the operator when seated, which reads ''WARNING: This vehicle must not be operated on the public roads at a speed more than 25 mph.''

Issued: January 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–386 Filed 1–3–97; 2:19 pm]

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