

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective November 2, 2000*

Medford, OR, Rogue Valley Intl-Medford, ILS/DME RWY 14, Amdt 14, CANCELLED

Medford, OR, Rogue Valley International-Medford, ILS RWY 14, Orig

Scappoose, OR, Scappoose Industrial Airpark, LOC/DME RWY 15, Amdt 1

Dallas, TX, Dallas-Love Fields, ILS RWY 13L, Amdt 31

* * * *Effective November 30, 2000*

Gulf Shores, AL, Jack Edwards, RNAV RWY 9, Orig

Prattville, AL, Autauga County, RNAV RWY 9, Orig

Port Heiden, AK, Port Heiden, VOR/DME RWY 13, Amdt 1, CANCELLED

Orlando, FL, Orlando Sanford, ILS RWY 27R, Orig

Chicago/Aurora, IL, Aurora Muni, RNAV RWY 15, Orig

Chicago/Aurora, IL, Aurora Muni, RNAV RWY 33, Orig

Louisville, KY, Bowman Field, VOR OR GPS RWY 14, Amdt 9A, CANCELLED

Louisville, KY, Bowman Field, VOR RWY 32, Amdt 14A, CANCELLED

Alexandria, LA, Alexandria Intl, RNAV RWY 14, Orig

Hammond, LA, Hammond Muni, NDB OR GPS RWY 18, Amdt 2B

Hyannis, MA, Barnstable Muni-Boardman/Polando Field, RNAV RWY 24, Orig

Alexandria, MN, Chandler Field, ILS RWY 31, Orig

Alexandria, MN, Chandler Field, NDB RWY 31, Amdt 5

Olivia, MN, Olivia Regional, RNAV RWY 29, Orig

Picayune, MS, Picayune Muni, RNAV RWY 18, Orig

Picayune, MS, Picayune Muni, RNAV RWY 31, Orig

Picayune, MS, Picayune Muni, RNAV RWY 36, Orig

Malden, MO, Malden Muni, VOR/DME RNAV OR GPS RWY 13, Orig-A

Malden, MO, Malden Muni, VOR OR GPS RWY 31, Amdt 7B

Mexico, MO, Mexico Memorial, VOR/DME RWY 24, Amdt 1A

Mexico, MO, Mexico Memorial, GPS RWY 6, Orig-A

Mexico, MO, Mexico Memorial, GPS RWY 24, Orig-A

Perryville, MO, Perryville Muni, VOR/DME RNAV RWY 20, Amdt 3A

Perryville, MO, Perryville Muni, GPS RWY 2, Orig-A

Perryville, MO, Perryville Muni, GPS RWY 20, Orig-A

Popular Bluff, MO, Poplar Bluff Muni, GPS RWY 18, Orig-B

Sedalia, MO, Sedalia Memorial, GPS RWY 18, Orig-B

Sedalia, MO, Sedalia Memorial, GPS RWY 36, Orig-B

Sikeston, MO, Sikeston Memorial Muni, VOR RWY 20, Amdt 3C

Poplar, MT, Poplar, RNAV RWY 9, Orig

Poplar, MT, Poplar, RNAV RWY 27, Orig

Montgomery, NY, Orange County, GPS RWY 3, Orig, CANCELLED

Montgomery, NY, Orange County, RNAV RWY 3, Orig

Montgomery, NY, Orange County, RNAV RWY 8, Orig

Montgomery, NY, Orange County, RNAV RWY 21, Orig

Montgomery, NY, Orange County, RNAV RWY 26, Orig

Concord, NC, Concord Regional, ILS RWY 20, Amdt 1

Sand Springs, OK, William R. Pogue Muni, VOR OR GPS-A, Amdt 2

Pottsville, PA, Schuylkill County/Joe Zerbey, RNAV RWY 11, Orig

Pottsville, PA, Schuylkill County/Joe Zerbey, RNAV RWY 29, Orig

Pottsville, PA, Schuylkill County/Joe Zerbey, VOR/DME RNAV RWY 29, Amdt 3, CANCELLED

Memphis, TN, Memphis Intl, RADAR-1, Amdt 39

Smithville, TN, Smithville Muni, RNAV RWY 24, Orig

Somerville, TN, Fayette County, NDB RWY 19, Amdt 1

Rockport, TX, Aransas CO, NDB RWY 14, Amdt 1

Sherman/Denison, TX, Grayson County, VOR/DME RNAV RWY 35R, Orig-B

Longview, TX, Gregg County, NDB RWY 13, Amdt 14B

Tyler, TX, Tyler Pounds Field, VOR/DME OR GPS RWY 4, Amdt 3C

Tyler, TX, Tyler Pounds Field, VOR/DME OR GPS RWY 22, Amdt 3C

Tyler, TX, Tyler Pounds Field, VOR RWY 31, Amdt 1C

Tyler, TX, Tyler Pounds Field, NDB OR GPS RWY 13, Amdt 17D

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. NHTSA 99-5063; Notice 2]

RIN 2127-AH 83

Federal Motor Vehicle Safety Standards; Interior Trunk Release

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

ACTION: Final rule.

SUMMARY: This document establishes new Federal motor vehicle safety standard (FMVSS) No. 401; Internal trunk release, that requires all new passenger cars with trunks be equipped with a release latch inside the trunk compartment beginning September 1, 2001. Instead of a release latch, this document also permits the installation of an alternative system such as a passive trunk release system which would detect the presence of a human in the trunk and would automatically unlatch the trunk lid. During the summer of 1998, eleven children died when they inadvertently trapped themselves in the trunk of a car. This new standard will provide children and others who find themselves trapped inside a passenger car trunk a chance to get out of the trunk alive.

DATES: *Effective Date:* The effective date of the final rule is September 1, 2001.

Early compliance date. You have the option of early compliance with this final rule beginning October 20, 2000.

Petition for reconsideration deadline.

If you wish to petition for reconsideration of this final rule, you must submit it so that we receive your petition not later than December 4, 2000.

ADDRESSES: In your petition for reconsideration, you should refer to the docket number and notice number at the beginning of this final rule, and submit the petition for reconsideration to: Administrator, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Kenneth O. Hardie, Office of Crash Avoidance Standards, NHTSA, 400 Seventh Street, S.W., Washington DC 20590. Mr. Hardie's telephone number is (202) 366-6987 and his facsimile number is (202) 493-2739.

SUPPLEMENTARY INFORMATION:**Previous Agency Looks at Trunk Entrapment**

The issue of motor vehicle trunk entrapment was initially raised in May

of 1984 when NHTSA was petitioned by Mr. William Proehl to require that every new car be equipped with a trunk release lever that can be easily operated from inside a vehicle's trunk. The petitioner listed various possible circumstances of accidental and intentional entrapment in the trunk of a vehicle. The petitioner stated that persons such as alarm and stereo installers, mechanics, playful children, pranksters, and crime victims may be trapped in the trunk. The petitioner also believed that an elderly person might fall into the trunk and thereby become entrapped. Mr. Proehl asked NHTSA to require an inside trunk release in all new cars to facilitate the release of these victims.

After reviewing the petition and the available relevant information, NHTSA published a notice of denial of petition for rulemaking which concluded that the likelihood of an internal trunk lever ever being used was remote (49 FR 47277; December 3, 1984). NHTSA stated in 1984 that it was not aware of any data indicating that there is much likelihood of occurrence of unintentional entrapment in a vehicle's trunk. NHTSA's rationale for its conclusion stated that trunk lids are spring-loaded in the open position and, therefore, not likely to close by themselves with someone inside. Because the lids are spring loaded, it is difficult to close the trunk from any position except standing behind the vehicle and pushing down on the outer surface of the trunk lid. From that position, a person has a full view of the trunk interior. The agency stated that it believed it would be extremely unlikely that a person would accidentally close the lid with someone inside. Concerning an elderly person falling into the trunk, the petitioner suggested that entrapment could occur if snow on the trunk closed the lid when the person fell. It was unclear to NHTSA how the trunk would entrap the person in this circumstance, since it is unlikely that the individual would fall in such a way that more than his or her upper torso is inside the trunk. Again, in this situation, NHTSA stated its belief that an internal trunk release lever would not likely need to be used.

The 1984 notice stated that NHTSA was aware that victims of crime or pranks are, on occasion, purposely locked in the trunk of a vehicle. However, the petitioner did not provide any data supporting the benefits of an internal release mechanism in these circumstances. The agency did not and still does not know, for example, how often a victim of a crime or prank who is purposely locked in a vehicle's trunk

might also be secured so that an internal release mechanism could not be operated.

Between May 1984 and July 1998, NHTSA received approximately two dozen letters expressing concern about trunk entrapments. In no case was data provided to the agency about the size of this safety problem.

Events of the Summer of 1998

In June 1998, Congress directed NHTSA to conduct a study of the benefits to the public of a regulation requiring the installation in motor vehicles of an interior device to release the trunk lid. NHTSA was required to submit a report on the results of the study to Congress by December 1999. Additionally, during a three-week period between July and August of 1998, eleven children died in three separate incidents when they locked themselves in the trunk of an automobile.

The Work of the Expert Panel on Trunk Entrapment

In September 1998, NHTSA began to gather all available information on the issue of trunk entrapments. In general, it appears that the victims of trunk entrapment include two distinct categories: people who are intentionally locked in a motor vehicle trunk by criminals and people, mostly children, who inadvertently lock themselves in the trunk. The problem's solution requires some understanding of criminal and child behavior, the human factors problem of designing a mechanism that children and others will be able to operate quickly when frightened and in the dark, and other issues including location and possible power requirements. Considering the broad array of issues, NHTSA decided that instead of having the government develop a solution on its own, a more effective way of addressing and understanding the issue would be to bring business, government and civic leaders, medical and engineering researchers and a broad coalition of concerned organizations together to work to prevent trunk entrapments. To accomplish this, NHTSA decided to convene an independent panel of experts.

In November 1998, NHTSA asked Ms. Heather Paul of the National Safe Kids Campaign to chair an Expert Panel for the purpose of developing recommendations and strategies by mid-1999 for addressing the issue of deaths and injuries resulting from motor vehicle trunk entrapment. The Expert Panel on Trunk Entrapment consisted of representatives from various industries,

including vehicle manufacturers, law enforcement groups, experts in child psychology and behavior, child safety advocates, the medical community, other Federal government agencies, and other interested parties. NHTSA officials were not members of the panel, but attended all meetings as observers. NHTSA's role was to be available to provide information and advice to the Panel members when asked, on issues such as outreach, marketing, education, training, existing federal standards, research and statistical information.

This Expert Panel met three times in Washington, DC, in January, March, and May 1999. At the first meeting, at the request of the Panel's chairperson, NHTSA presented an overview of the available data on the size of the safety problem. NHTSA's report is available in the public docket in both its original and revised form (Docket No. NHTSA 1999-5063-2 and 5063-3, respectively). The report concluded that existing Federal databases had very little information on the problem of trunk entrapment, and described our search of data collected by this agency, as well as the Consumer Product Safety Commission, the National Center for Health Statistics, and the Federal Bureau of Investigation. The available data indicated there have been 21 deaths in 11 incidents of inadvertent trunk entrapment from 1987 to 1999.

Also at the first meeting, Janette Fennell of Trunk Releases Urgently Needed Coalition (TRUNC), a non-profit group dedicated to improving trunk safety, made a presentation suggesting that trunk entrapments happen with greater regularity than is generally believed. Ms. Fennell said that, as of January 1999, she had gathered anecdotal evidence and media reports of more than 900 cases of trunk entrapment. Ms. Fennell's presentation was followed by a presentation by Lenore Terr, a child psychologist. Ms. Terr explained that evidence suggests that small children basically "shut down" and passively wait for rescue in situations like trunk entrapment. Hence, she recommended that any trunk release must be very simple or it will not help small children.

The next presentation at the first meeting was by Mr. Robert Lange of General Motors Corporation (GM). Mr. Lange presented GM's research and trunk safety retrofit solution. GM's interior release mechanism is a handle that is lighted for 30 minutes after the trunk is closed. GM's research found that most 3- to 6-year old children could successfully use this handle. The success rate increased dramatically as children got older. However, Mr. Lange

emphasized that neither GM's handle nor any other approach will allow all 3- to 6-year old children to get out of a trunk alive. That is why, according to Mr. Lange, GM's retrofit switch requires a deliberate movement of a switch to latch the trunk closed. GM believes this will prevent a significant portion of inadvertent trunk entrapments.

The final presentation at the first meeting was by Wayne Lord, of the FBI's National Center for the Analysis of Violent Crime. Mr. Lord said we learn about criminals by studying their reactions to certain situations or stimuli. These reactions allow one to predict likely future behavior when confronted with those situations or stimuli. There are currently no studies of which Mr. Lord is aware that involve the behavior of criminals who knew there was a trunk release inside the trunk. Hence, there is no scientific basis for predictions about what criminals will do if there are inside trunk releases (either harm or immobilize victims or ignore or forget about the trunk release). Any prediction as to which of these two courses criminals will take is just a guess, and the FBI will not do that.

At the second meeting of the Expert Panel on March 9, 1999, the first presentation was by Dr. Jonathan Arden, a forensic pathologist and the Medical Examiner for the District of Columbia. Dr. Arden provided a detailed medical description of asphyxiation and hyperthermia, the diagnoses on the death certificates of the children who died in the trunks of cars. Dr. Arden suggested the preferred approach would be to get the children out of the trunk as quickly as possible. The other presentation at the second meeting was by Lois Fingerhut of the National Center for Health Statistics (NCHS), who gave information about the pilot program NHTSA and NCHS have undertaken to look at non-crash deaths in vehicles. Ms. Fingerhut gave out a copy of a standard death certificate and explained how and where the information on the cause of death is coded.

The Expert Panel spent a significant part of the second meeting discussing possible paths for getting inside trunk releases into vehicles. The options considered were:

1. *Rely on voluntary actions by manufacturers to install inside trunk releases.* The potential benefits identified with this path were that it allows maximum freedom to develop and install a variety of different solutions without imposing any unintended regulatory obstacles. The potential negative implications of this path were that not all manufacturers

would necessarily install inside trunk releases on all their vehicles.

2. *NHTSA Establishes a Requirement for Vehicles to be Equipped with Inside Trunk Releases without any Performance Requirements.* The potential benefit of this path is that it allows manufacturers maximum freedom to experiment with different designs of inside trunk releases, while assuring that all vehicles with trunks will have an inside trunk release. The potential negative implications of this path were that, absent performance requirements, the goals of the requirement might not be fulfilled. Manufacturers might choose ineffective inside trunk releases that would fully comply with such a standard.

3. *NHTSA Establishes a Detailed Performance Requirement for Inside Trunk Releases.* The potential benefit of this path is that it establishes clear guidance as to what performance is expected from inside trunk releases. The potential negative of this path is the amount of time it would take to conduct research to determine what performance requirements should be established. In addition, detailed performance requirements can pose obstacles to new technologies not available at the time the performance requirements are established.

The Expert Panel did not decide on any one of these three options at its second meeting, but there was significant discussion of each of these courses of action. The Panel decided to wait to make any recommendation as to the approach it would recommend.

At the third meeting of the Expert Panel on May 3, 1999, Mr. Michael Stando of Ford Motor Company gave a presentation about the inside trunk release that will be original equipment on all of its model year 2000 cars. This decision by Ford affects 1.8 million cars and three latch suppliers. Mr. Stando said that Ford generated 22 different potential approaches. Ford consulted a psychologist specializing in child behavior. The psychologist said that the most natural response for children 18 months to 4 years old to an object that interests them is to grasp the object and pull it toward themselves, to put it in their mouth if they are younger and to visually examine it more closely if they are older. Mr. Stando stated that Ford human factors specialists then tested their symbol and symbol/handle recognition on 27 children between the ages of three and five. Eighteen of the 27 children achieved at least partial symbol/handle recognition. Ford's inside trunk release is cable-operated with a T-shaped handle. The handle is sized for a child's hand and made of

polypropylene, like many food containers. Mr. Stando said that the handle has a phosphorescent "glow-in-the-dark" additive, so it needs no electrical power. The handle is quick-charging—it needs only 10 seconds of garage light to glow visibly inside the closed trunk. The glow was said to be very long-lasting (up to 8 hours when fully charged). The handle operates with a pull motion. It is low effort and requires only one inch of travel, factors designed to make the trunk release system child-friendly, according to Mr. Stando. In addition, this mechanism can be retrofitted on Ford cars from one to five model years back. Mr. Stando announced that Ford will make this release available as a retrofit option for these older vehicles.

As a result of the information and discussions at these three meetings, the Expert Panel announced a series of recommendations on June 8, 1999. One of these recommendations was that "[a]ll automobile manufacturers should design and install trunk safety features, including internal trunk release mechanisms, into all new vehicles by January 1, 2001." Another recommendation was that NHTSA "should issue a standard requiring vehicles to be equipped with internal trunk release mechanisms." The standard should hold the automobile industry accountable for taking action, yet allow manufacturers the freedom to determine optimal design solutions. Manufacturers are urged to pursue voluntary action rather than waiting for the effective date of this final rule.

Notice of Proposed Rulemaking (NPRM)

On December 17, 1999, NHTSA published an NPRM in the **Federal Register** proposing a new FMVSS to require that all new vehicles with trunks come equipped with a release latch inside the trunk compartment beginning January 1, 2001 (See 64 FR 70672). The comment period for the notice ended on February 15, 2000. Of the 266 comments on the NPRM (some comments were improperly filed in the Trunk Entrapment Docket, NHTSA Docket No. 1999-5063), only two commenters stated that they were opposed to the proposed new standard. One individual (a member of the general public) stated, "I do not believe that trunk releases of this nature should be mandatory. An alternative to this may be to make it mandatory that dealerships offer this as an option." The other comment in opposition to the new standard was from Volkswagen AG, Audi AG and Volkswagen of America, Inc., (Volkswagen). Volkswagen in referring

to the 1984 NHTSA denial of a petition to issue a Standard for inside trunk releases stated, "Volkswagen believes that the NHTSA reasons for denying that petition are still applicable."

A significant number of commenters simply stated their support for the proposed rule. In general, the commenters can be categorized into four different groups, general public; vehicle manufacturers, suppliers, and associated trade associations; safety advocate institutions; and other groups and entities, *i.e.*, members of state governments, members of the medical community, etc. A summary of the issues raised and concerns expressed is presented below, along with NHTSA responses:

Summary of Comments and Issues Raised

The following is a summary of issues raised and concerns expressed regarding the NPRM. These concerns and issues are as summarized below:

Comment/Concerns/Issues

- *Application*—Some commenters stated that the NPRM is ambiguous on the scope of the proposed Standard, *i.e.*, the preamble under the heading of Scope of Proposal (page 70675) states regarding the definition of trunk lid, "The effect of this definition is that the requirement for an internal release would not apply to vehicles that do not typically have trunk lids, like hatchback cars, station wagons, pickup trucks, sport utility vehicles, and vans." However, the proposed text of Paragraph S2, Application states, "This standard applies to passenger cars, multipurpose passenger vehicles, buses, and trucks that have a trunk lid." Thus, the Application section includes vehicles the preamble would have excluded. Limiting the scope of the proposal to passenger cars would be consistent with field data, the recommendations of the expert panel and the preamble.

NHTSA Response—The inclusion of multipurpose passenger vehicles, buses and trucks in the Application section of the proposed standard led some commenters to conclude that NHTSA was proposing to apply the internal latch release requirements to trunks and storage compartments of a broad range of vehicles other than passenger cars. NHTSA has clarified the Standard by adding a definition of "trunk compartment" and changing the Application section so that the standard will only apply to new passenger cars that have "trunk compartments." The apparent inclusion of other motor vehicle types in the Application section

of this standard resulted to some degree from NHTSA's adoption in the NPRM of the Standard No. 206; "Door locks and door retention components" definition of "trunk lid." Standard No. 206 applies to passenger cars, multipurpose passenger vehicles and trucks. Door locks and retention components on buses are not covered by FMVSS No. 206.

NHTSA's decision to limit the application of this new standard to passenger cars is based on the following information. The available data and anecdotal evidence of entrapment are associated with passenger cars only. There is essentially no mention of any entrapment having occurred in buses or trucks or in multipurpose passenger vehicles. Additionally, there does not appear to be evidence of accidental entrapment involving medium or heavy-duty vehicles. Medium and heavy-duty vehicles are not readily accessible to small unattended children to the same extent as are passenger cars.

With respect to buses, the School Bus Manufacturers Technical Council commented that,

The storage doors on school buses often are provided with latches and locking devices, and require a key to unlock and open. Unlike passenger cars, there is no lever or switch in the occupant compartment that unlocks and opens the storage compartment. If the compartment is locked, in order for entrapment to occur, the child would have to obtain a key from the bus driver or facility where the bus was stored or parked. It seems unlikely that a bus driver or other adult would give a bus key to a child.

In those instances where the storage compartment on a school bus does not require a key to unlock, the physical size and weight of the storage compartment door raise serious questions as to whether a child could open the door fully." "If a child were able to fully open a storage compartment door on a school bus and climb into the storage compartment, it does not appear the child could then close the door behind himself or herself.

The same appears to be true for commercial passenger buses. For buses, and most trucks and multipurpose passenger vehicles, "trunks" consist of storage compartments contained in the exterior sides of the vehicles, usually below the floor of the passenger compartment. These storage compartments are used for storage of battery, luggage and/or cargo, the spare tire and tools, etc. The compartment doors (trunk lids) on these vehicles are typically contained in a vertical plane when closed and open outward and upward to allow items to be placed horizontally into the compartment (trunk). These doors are large,

commonly 22 by 54 inches, and heavy, approximately 40 pounds.

Since the proposed rule offers no apparent benefits in its applicability to these other vehicle types, *i.e.*, multipurpose passenger vehicles, buses, and trucks, NHTSA is not including them in the scope and application of this Standard.

If in the future, NHTSA concludes that trunk entrapment is a problem with multipurpose passenger vehicles, buses, and trucks, the agency will at that time evaluate the hazard and determine what solution will best prevent entrapment.

Concerning the applicability of this Standard to hatchbacks, if a movable body panel, that provides access to a space wholly partitioned from the occupant compartment, encloses that space upon closing a permanently attached lid such as a hatchback lid, then the closing lid is considered a trunk lid for the purposes of this rule.

- *Definition of "Trunk lid"*—In using the FMVSS No. 206 definition of "trunk lid" as proposed in the NPRM, a pick-up bed with a tonneau cover, for example, could be interpreted to be a trunk lid. The back of the pick-up cab is a permanently attached partition and a pick-up bed has at least one "movable body panel that provides access from outside the vehicle," for example, the tailgate, a tonneau (soft or rigid) or the hinged panel of a pick-up bed cap. Under the proposed text of the Standard, pick-up trucks could be required to install internal trunk releases. Extended further, a covered toolbox in a pick-up bed or a covered storage compartment accessible from the exterior could likewise require an interior trunk release.

Many trucks produced for commercial or vocational use have storage compartments (a movable body panel that provides access from outside the vehicle to a space wholly partitioned from the occupant compartment by a permanently attached partition or a fixed or fold-down seat back) that could be included under the "trunk lid" definition. This would include locking storage cabinets on the side of a truck body or roll up door of a beverage delivery truck. The National Truck Equipment Association (NTEA), recommended that the definition of trunk lid be clarified to exclude such storage compartments and/or that the scope of the proposal be restricted to vehicles with gross vehicle weight rating of 6,000 pounds or less. Many vehicle manufacturers, including General Motors, Ford Motor Company, Daimler Chrysler, Blue Bird Body Company, and the Truck Manufacturers Association recommended that NHTSA

limit the application of this Standard to passenger cars.

NHTSA's Response—As stated in the NHTSA response to the comments regarding Application, the applicability of this Standard has been amended and is limited to passenger cars. This should address the problem identified for storage space on pick-up trucks, multipurpose passenger vehicles, buses, and trucks in general.

- **Trunk Size**—The definition of a "trunk lid" may be read to apply to numerous situations in which it was not intended. For example, it may apply to the panel opening to the fuel filler tube. That door is a movable panel that provides access from outside the vehicle to a space that is wholly partitioned from the passenger compartment. Yet no person could be trapped inside that space. As proposed, the definition includes storage compartments regardless of their size. A number of manufacturers recommended that NHTSA specify or add a minimum trunk volume. Porsche, Daimler-Chrysler, Toyota Motor Corporation, the Association of International Automobile Manufacturers, and some other automobile manufacturers recommended a space of 35" x 15" x 12" be defined as the minimum area beneath a trunk lid that would require an internal trunk release mechanism. They indicated that these dimensions are based upon the shoulder width and the torso length of the Hybrid III Three-Year-Old Child Crash Test Dummy used by NHTSA during vehicle crash testing.

NHTSA's Response—NHTSA agrees that an internal release mechanism should not be required to open compartments that are so small that children or adults cannot get into them. NHTSA also agrees with the suggestion to determine the appropriate size based on the dimensions of a child three years of age. In order to make such a determination objective, NHTSA has decided to use the NHTSA three-year-old Hybrid III child crash test dummy, as a surrogate for the minimum size of a child that might find itself within the trunk space. This dummy represents an objective and practicable surrogate with clearly defined parameters for the average-size, or 50th percentile, 3-year-old male child. If the compartment closed by the trunk lid is large enough to close and latch the trunk lid when a Part 572—Anthropomorphic Test Devices, Subpart C—3-Year Old Child is placed inside the trunk compartment, then that vehicle must be equipped with a release mechanism inside the trunk compartment that unlatches the trunk lid. Such an evaluation must be conducted with all standard equipment

in the trunk (i.e., spare tire, wheel jack, tools, etc.).

NHTSA rejects the recommendation of using a rectangular box dimensioned to the specifications proposed by some of the automobile manufacturers, i.e., 35" long x 15" height x 12" wide or 89 cm x 38 cm x 30 cm, because a rigid rectangular box may not fit in some trunks due to the trunk opening or the depth behind the opening, while the flexible Hybrid III Crash Test Dummy and real children could easily fit into the space. Thus, NHTSA has decided that the Part 572—Anthropomorphic Test Devices, Subpart C—3-Year-Old Child, mentioned by commenters, is the appropriate test device. Also, note that NHTSA conducted an experiment using the completely assembled NHTSA three-year-old Hybrid III child crash test dummy. During the experiment NHTSA constructed a rectangular box to the specifications proposed by some of the commenters, i.e., 35" long x 15" high x 12" wide or 89 cm x 38 cm x 30 cm. We were able to easily place the three year-old male hybrid dummy within the confines of the box. To fit the dummy within the rectangular box, it was only necessary to slightly bend its knees. Obviously the test dummy need not be equipped with the accelerometers required in Part 572.21, since no crash test will be conducted.

- **Front-Opening-Trunks/Hoods**—Porsche and the Association of International Automobile Manufacturers (AIAM) argued that the new standard should not apply to front luggage compartments which are subject to the secondary latch requirement of FMVSS No. 113. FMVSS No. 113 requires each hood to have a hood latch system. S4.2 of FMVSS No. 113 requires vehicles with front opening hoods (such as those found on the Porsche 911 and Boxster) to be provided with a second latch position on the hood latch system or with a second hood latch system. The purpose of the FMVSS No. 113 requirement is to prevent the hood from flying open while the vehicle is in operation and obstructing the driver's forward view through the windshield. Porsche states in its comments on the NPRM, "While it is conceivable that a very small child could become entrapped in a front luggage compartment, we believe that the risk of injuring the driver, passengers and other motorist in the event the front hood is opened during vehicle operation far exceeds the potential benefits to be derived from providing the trunk release." Porsche and AIAM further stated that since the application of FMVSS No. 401 to compartments with front-opening hoods directly conflicts

with the objectives of FMVSS No. 113, they recommend NHTSA modify S2 of Standard No. 401 to specifically exclude compartments with front opening hoods.

NHTSA's Response—For purposes of this Standard, a trunk compartment means a space that is wholly separated from the occupant compartment of a passenger car by a permanently attached partition or by a fixed or fold-down seat back and/or partition, and that space can be accessed from outside the motor vehicle by a trunk lid. This space is not the compartment that holds the vehicle's engine or battery compartment. A trunk lid means a movable body panel that provides access from outside a motor vehicle to a trunk compartment. The fact that the trunk compartment is located at the front of the vehicle does not reduce the need for an entrapped individual, especially a small child, to be able to escape the trunk when entrapped.

NHTSA is aware that unlocking and opening a front opening trunk/hood while the vehicle is in motion results in a risk of injuring the driver, passenger and other motorist due to obstruction of the driver's forward view. However, we conclude that the interest in getting the victim out of the trunk is paramount. Therefore, the Standard No. 113 requirement for the secondary latch must be subservient to the requirement for an interior trunk release in those situations, i.e., when the trunk release mechanism is actuated, the release mechanism must completely release the trunk lid from all latching positions of the trunk lid latch.

- **Hinged Back Doors**—Ford Motor Company recommended that the Standard specifically exclude hinged back doors, such as those found on the rear of vans, SUVs, hatchbacks, and station wagons, from the requirement for an internal trunk release mechanism. Ford noted that hinged back doors, as defined in FMVSS No. 206, require latches with both primary and secondary latch positions. Ford further stated that an internal trunk release mechanism on hinged back doors would directly conflict with the requirements of S4.4.2 of Standard No. 206 which states, "When the locking mechanism is engaged, both the inside and outside door handles or other latch release controls shall be inoperative." Ford argues that providing an internal trunk release mechanism on a hinged back door also introduces the possibility of unintended actuation by a child while the vehicle is in motion. Accordingly, this may actually create a greater risk to child safety.

NHTSA's Response—Contrary to Ford's assertions, S3 of Standard No. 206 expressly provides that the term "back door" does not include a "trunk lid." Thus, the requirements in S4.4.2 of Standard No. 206 only apply if the movable panel is not a trunk lid, and the requirements in this standard only apply if the movable panel is a trunk lid. Thus, there is no conflict along the lines Ford suggested.

- *Leadtime*—Some vehicle manufacturers stated that an engineering solution for an inside-the-trunk release mechanism is easier to implement for some model lines than for other model lines. Issues involving design, testing (component, system, complete vehicle), and quality assurance (including tolerance "stack-up"), have an effect upon their ability to meet the proposed effective date for all affected model lines. They stated that production tooling needs to be designed, built, and tested in order to ensure that these systems are manufactured in accordance with strict quality control. As a solution is needed for already-existing (in-production) and multiple model lines, each trunk release system must be designed differently in order to interface with its corresponding trunk latch system. Thus, some manufacturers argued that certain model lines will need more time than a January 1, 2001 effective date in order to accomplish the above engineering activities. Volvo Cars of North America, Inc., and Ford Motor Company requested that a phase-in schedule be promulgated by NHTSA and that all affected vehicles be required to comply 18 months following enactment of the Final Rule, *i.e.*, 60% of affected vehicles be required to comply starting 12 months following enactment of the Final Rule, and 100% 6 months thereafter. American Honda Motor Co., Inc.; BMW of North America, Inc.; and Volkswagen of North America, Inc., all recommended a phase-in period with a start date no earlier than September 1, 2001, assuming a Final Rule publication date in the July/September 2000 time-frame. Honda recommended a completion date of September 1, 2002. Porsche Cars North America, Inc., stated that it will not be until the 2003 model year that it will be able to begin introducing internal trunk release systems into production vehicles. The Association of International Automobile Manufacturers (AIAM) recommended an extension to the effective date of the Standard with an implementation schedule of 40%, 70% and 100% phase-in, respectively, of model years 2003, 2004, and 2005.

These manufacturers also stated that, if the final rule applies to non-passenger cars and depending on the definition of "trunk lid," additional leadtime would be required, because it is not possible to estimate the time necessary to redesign latch systems and vehicles until they know which additional vehicles will be affected.

NHTSA's Response—As noted above, the Standard will apply to passenger cars only. NHTSA understands that the proposed effective date for this Standard of January 1, 2001 might have represented a challenge to some manufacturers because of the need to develop design solutions and modify production systems as required for the system installation in vehicles during assembly. At the same time, the agency does not believe that designing and installing an internal trunk release mechanism presents a major engineering and installation challenge to vehicle manufacturers. One reason for this belief is that the requirements in the final rule follow closely the June 1998 recommendations of the Expert Panel. Another is that some manufacturers began installing an emergency trunk release as standard equipment on a range of vehicles at the beginning of this calendar year.

NHTSA has decided on an effective date for this Standard on September 1, 2001. This will provide a leadtime of approximately one year from the date of issuance of this final rule. This effective date will require manufacturers to finish any remaining design and production decision quickly, but allow them sufficient time to implement the changes at the start of a new model year.

- *Technology Limiting*—In S.4 of the proposed Standard, NHTSA is requiring that manufacturers provide some form of illumination so that trapped occupants can locate the release mechanism. According to commenters, this requirement suggest that the agency incorrectly assumed that all manufacturers will rely solely on handles or other mechanical type devices which require actuation by the trapped occupant. As there are other more advanced concepts imaginable (*e.g.*, system using heat and motion sensors to unlatch the trunk lid), NHTSA should modify S.4 to specify that the illumination requirement applies only to mechanical type handle systems which require actuation by the trapped occupant.

NHTSA's Response—Because some manufacturers may decide to use more advanced technology than a system that requires actuation by the trapped occupant, *i.e.*, a passive device which would detect the presence of a human

in the trunk and would automatically unlatch the trunk lid, NHTSA concurs with the recommendation to modify the text of S4 such that the illumination requirement applied to "manually-activated" systems. The text of S4, Requirements, has been modified such that the illumination requirement is applicable to cars equipped with a release system which requires actuation by the trapped occupant.

Additionally, to assure that automatic systems exist in a manner consistent with the intent of this rulemaking, a requirement has been added regarding the performance of these systems. These systems must open the trunk lid within the first five minutes of an entrapment of a human being. We believe that this requirement will assure that the time of entrapment is sufficiently short that interior trunk temperature and heat will not cause a health crisis to entrapped persons. Thus, the text of S4, Requirements, has been modified to have a subsection for manual releases and a subsection for automatic releases.

- *Other Comments*—The organizations of Trunk Release Urgently Needed Coalition (TRUNC), the Center for Auto Safety (CAS), and some other responders to the NPRM recommended that NHTSA mandate retrofit kits for in-use vehicles. TRUNC urged NHTSA to mandate that retrofit kits be made available for all vehicles with trunks that have been manufactured for the past 10 years.

One manufacturer asked if the agency would permit a special "valet" key feature that could mechanically block out the internal trunk latch release system. This "special valet key" allows the owner to mechanically override the electronic locking system of the vehicles and thus prevent anyone from accessing the trunk or its contents, even with the remote transmitter, should the owner be required to turn his vehicle over to a valet or parking attendant. As noted earlier, this feature mechanically blocks out the internal trunk latch.

NHTSA's Response—While NHTSA has the authority to issue requirements regulating the performance of aftermarket equipment for use or installation in new or used vehicles, the agency cannot mandate manufacturing of particular types of equipment. Thus, while the agency could regulate the performance of retrofit interior trunk releases, it could not mandate that they be manufactured or made available to the public. With regards to the "special valet key feature" that could override the lock release system inside of the trunk of the vehicle, NHTSA will not permit such a feature. The convenience of assured trunk security is not

compelling enough to justify overriding this safety feature. The special valet key feature could also be used by criminals to keep their victim locked in the trunk.

Organization Within Federal Motor Vehicle Safety Standards

NHTSA has typically organized its safety standards so that the 100 series of standards represents the crash avoidance standards (those designed to reduce the likelihood of being in a crash), the 200 series of standards represents the crashworthiness standards (those designed to protect the occupant in the event of a crash), and the 300 series of standards represents the post-crash fire standards (those designed to minimize the likelihood of a fire after a crash). A standard for an internal trunk release doesn't fit into any of these categories because there is no crash associated with the problem of becoming trapped inside a locked trunk. Therefore, we have decided to establish a new series of standards, the 400 series, that will be dedicated to motor vehicle injury prevention in non-crash events. This standard for internal trunk releases will therefore be Standard No. 401.

Rulemaking Analyses and Notices

a. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. Information indicates that an approach to internal trunk releases such as Ford's can be implemented for about \$2.00 per vehicle. Thus, we anticipate total costs of about \$14 million. This impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

b. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small business, small organizations and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. As noted above, we estimate that the cost per passenger car this final rule will be about \$2.00. The total cost for all passenger cars will be about \$14 million (7 million passenger cars x

\$2.00). Based on this analysis, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

c. Executive Order 13132 (Federalism)

This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Accordingly, NHTSA has determined that this rule will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

d. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. This rule would not have any such impacts on those parties. As noted above, the agency expects the costs associated with this rule to be about \$2.00 per car, or about \$14 million in the aggregate.

e. National Technology Transfer and Advancement Act

This rule is consistent with the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113). Under the Act, "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments." There are no such standards available at this time. However, one of the Expert Panel's recommendations was that the Society of Automotive Engineers (SAE) should begin work to develop a recommended practice for the design and performance of trunk safety features, including internal trunk release mechanisms. NHTSA will consider any such SAE recommended practice when it becomes available.

f. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that adoption of this rulemaking action as a final rule will not have any significant impact on the quality of the human environment.

g. Executive Order 12778 (Civil Justice Reform)

This rule does not have any retroactive effect. Under section 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.

h. Paperwork Reduction Act

This rule does not have any requirements that are considered to be information collection requirements as defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR Chapter V as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

Authority: 49 U.S.C. 322, 30111, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

2. A new section 571.401 is added to Part 571, to read as follows:

§ 571.401 Standard No. 401; Internal trunk release.

S1. Purpose and scope. This standard establishes the requirement for providing a trunk release mechanism that makes it possible for a person trapped inside the trunk compartment of a passenger car to escape from the compartment.

S2. Application. This standard applies to passenger cars that have a trunk compartment.

S3. Definitions.

Trunk compartment means a space that:

(a) Is intended to be used for carrying luggage,

(b) Is wholly separated from the occupant compartment of a passenger car by a permanently attached partition or by a fixed or fold-down seat back and/or partition,

(c) Has a trunk lid, and

(d) Is large enough so that the three-year-old child dummy described in Subpart C of Part 572 can be placed inside the trunk compartment and, with the test dummy in the trunk compartment, the trunk lid can be closed and latched. (Note: For purposes of this standard, the Part 572 Subpart C test dummy need not be equipped with the accelerometers specified in Part 572.21.)

Trunk lid means a movable body panel that provides access from outside a motor vehicle to a trunk compartment.

S4. Requirements.

S4.1 Each passenger car with a trunk compartment must have an automatic or manual release mechanism inside the trunk compartment that unlatches the trunk lid.

S4.2(a) Each manual release mechanism installed pursuant to S4.1 of this section must include a feature, like lighting or phosphorescence, that allows the release mechanism to be easily seen inside the closed trunk.

(b) Each automatic release mechanism installed pursuant to S4.1 of this section must unlatch the trunk lid within 5 minutes of when the lid is closed with a person inside the trunk compartment.

S4.3 Actuation of each release mechanism required by S4.1 of this section must completely release the trunk lid from all latching positions of the trunk lid latch, notwithstanding the requirements of any other standards in part 571 of this title.

Issued on October 17, 2000.

Sue Bailey,

Administrator.

[FR Doc. 00-27038 Filed 10-17-00; 5:01 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 101300B]

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

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

ACTION: Inseason transfer.

SUMMARY: NMFS adjusts the October-December subquota for the General category Atlantic bluefin tuna (BFT) fishery by transferring 25 metric tons (mt) from the Reserve, 15 mt from the Longline North subcategory quota, and 60 mt from the Angling category (large school size class for the northern area), for a revised coastwide General category subquota of approximately 264.4 mt for October-December, including addition of underharvest from the previous time periods. These actions are being taken to allow for maximum utilization of the U.S. landings quota of BFT while maintaining a fair distribution of fishing opportunities, preventing overharvest of the adjusted subquotas for the affected fishing categories, helping achieve optimum yield in the General category fishery, and allowing the collection of a broad range of data for stock monitoring purposes, consistent with the objectives of the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP).

DATES: Effective October 17, 2000 until December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Pat Scida, 978-281-9208.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

Under the implementing regulations at 50 CFR 635.27 (a)(7), NMFS has the authority to allocate any portion of the Reserve to any category quota in the fishery, other than the Angling category school BFT subquota (for which there is

a separate reserve), after considering the following factors: (1) The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; (2) the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no allocation is made; (3) the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded; (5) effects of the transfer on BFT rebuilding and overfishing; and (6) effects of the transfer on accomplishing the objectives of the HMS FMP.

NMFS is also authorized under 50 CFR 635.27(a)(8) to transfer quotas among categories, or, as appropriate, subcategories, of the fishery. If it is determined, based on the factors listed here and the probability of exceeding the total quota, that vessels fishing under any category or subcategory quota are not likely to take that quota, NMFS may transfer inseason any portion of the remaining quota of that fishing category to any other fishing category or to the reserve.

Quota Adjustments

Annual BFT quota specifications issued under § 635.27 provide for a quota of 634.3 mt of large medium and giant BFT to be harvested from the regulatory area by vessels fishing under the General category quota during the 2000 fishing year. The General category BFT quota is further subdivided into time period subquotas to provide for broad temporal and geographic distribution of scientific data collection and fishing opportunities. The October-December subquota was initially set at 62.4 mt for the 2000 fishing year, and is currently 164.4 mt, after the addition of approximately 102 mt of unharvested subquota from previous periods. As of October 10, 2000, General category landings against this adjusted October-December subquota have totaled approximately 79 mt, reducing the available quota for the remainder of the season to 85.4 mt. An additional 10 mt has been set aside for the traditional fall New York Bight fishery.

After considering the factors for making transfers between categories and from the Reserve, NMFS has determined that 25 mt of the remaining 34.4 mt of Reserve should be transferred to the General category. In addition, NMFS has determined that 15 mt of the remaining Longline North subcategory quota of approximately 26 mt should be