

congressional intent regarding severability was unclear. Since that “determination was not discussed in the briefs of either party or otherwise contested” in the appeal to the Supreme Court, the majority opinion noted that it was exercising its “discretion and prudential judgement” by declining to address the issue. *Id.* at 1053. Instead, the Supreme Court opted to simply affirm the decision of the Court of Appeals to “invalidate the smallest possible portion of the statute, excising only the viewpoint-based proviso rather than the entire exception of which it is a part.” *Id.* at 1052.

The effect of the *Velazquez* decision was to render the stricken language null and void. This means that the limitation on representation of an individual eligible client seeking specific relief from a welfare agency which prohibits any such representation from involving an effort to amend or otherwise challenge existing law is not valid and may not be enforced or given effect. An individual eligible client seeking relief from a welfare agency may be represented by a recipient without regard to whether the relief involves an effort to amend or otherwise challenge existing welfare reform law.

In light of foregoing, at its June 2001 meeting the LSC Board of Directors identified Part 1639 as an appropriate subject for rulemaking for the purpose of amending the regulation to make it conform to the decision in *Velazquez*. LSC published a notice of proposed rulemaking on November 26, 2001, proposing to amend part 1639 by deleting the words “if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation” and by changing the comma after the word “agency” to a period.<sup>2</sup>

LSC received six comments on the NPRM. All of the commenters supported the proposed change. Each of the comments also suggested that LSC should remove the definition of “existing law” at 1639.2(b), since the only place in which the term appears is in the phrase to be deleted. LSC agrees that the deletion of the definition of the term “existing law” is appropriate. Accordingly, the term is being deleted and, as there will now be only one

<sup>2</sup> Subsequent to the issuance of the NPRM, Congress acted to amend the language of section 504(a)(16) to make it conform to the decision in *Velazquez*. Specifically, the FY 2002 LSC appropriation bill amended section 504(a)(16) of the FY 1996 legislation “by striking ‘if such relief does not involve’ and all that follows through ‘representation.’” See *Pub. L. 107-77*; 115 Stat. 748 (November 28, 2001). This action provides further authority for LSC’s action in this final rule.

paragraph in this section remaining, paragraph (a) is being relabeled to remove the paragraph designator.

One commenter also suggested that LSC restate the guidance in Program Letter 01-3 that a recipient may represent an individual eligible client seeking relief from a welfare agency without regard to whether the relief involves an effort to amend or otherwise challenge existing welfare reform law. Although LSC believes that this is clear from the regulatory action, LSC has no objection to reiterating this point and does so herewith.

For reasons set forth above, LSC amends 45 CFR Part 1639 as follows:

#### PART 1639—WELFARE REFORM

1. The authority citation continues to read as follows:

**Authority** 42 U.S.C. 2996g(e); Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat. 1321.

2. Section 1639.2 is being amended to remove the paragraph designator (a) from before the definition of “an effort to reform a Federal or State welfare system” and to remove paragraph (b) in its entirety. Section 1639.2 is revised to read in its entirety:

##### § 1639.2 Definitions.

An effort to reform a Federal or State welfare system includes all of the provisions, except for the Child Support Enforcement provisions of Title III, of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Personal Responsibility Act), 110 Stat. 2105 (1996), and subsequent legislation enacted by Congress or the States to implement, replace or modify key components of the provisions of the Personal Responsibility Act or by States to replace or modify key components of their General Assistance or similar means-tested programs conducted by States or by counties with State funding or under State mandates.

##### § 1639.4 [Amended]

3. Section 1639.4 is amended by removing the words “if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation” and by changing the comma after the word “agency” to a period.

**Victor M. Fortuno,**

*General Counsel and Vice President for Legal Affairs.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[DOT Docket No. NHTSA-99-5157]

RIN: 2127-AH03

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

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

**ACTION:** Final rule.

**SUMMARY:** In this document, NHTSA amends the Federal Motor Vehicle Safety Standard on bus emergency exits and window retention and release to reduce the likelihood that wheelchair securement anchorages will be installed in locations that permit wheelchairs to be secured where they block access to emergency exit doors. Among other provisions, the final rule restricts, on new school buses, wheelchair securement anchorages from being placed in an area bounded by 305 mm (12 inches) forward and rearward of the center of the side emergency exit door aisle; and for the rear emergency exit door, an area bounded by a horizontal plane 1,145 mm (45 inches) above the bus floor and 305 mm (12 inches) forward of the bottom edge of the door opening (for school buses with a gross vehicle weight rating over 4,536 kg (10,000 lb)) and 150 mm (6 inches) forward of the bottom edge of the door opening (for school buses with a GVWR of 4,536 kg or less). Warning labels are specified for emergency exit doors and emergency exit windows not to block the exits.

This final rule applies to school buses equipped with wheelchair securement anchorages. Nothing in this final rule requires school buses to be so equipped.

**DATES:** This rule is effective April 21, 2003. Optional early compliance with the changes made in this final rule is permitted beginning April 19, 2002. Any petitions for reconsideration of this final rule must be received by NHTSA not later than June 3, 2002.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number for this action and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mr. Charles Hott, Office of Crashworthiness

Standards at (202) 366-0247. His FAX number is (202) 493-2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366-2992. Her FAX number is (202) 366-3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

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#### **I. Background**

NHTSA has long recognized the safety need for means of readily accessible emergency egress from a school bus in the event of a crash or other emergency.

The agency addressed this safety need by issuing Safety Standard No. 217, *Bus Emergency Exits and Window Retention Release* (49 CFR 571.217).

As a result of incidents like the 1988 Carrollton, Kentucky tragedy, in which 27 persons died in a school bus fire following a crash,<sup>1</sup> NHTSA issued a final rule amending Standard No. 217 (November 2, 1992, 57 FR 49413) by revising the minimum requirements for school bus emergency exits, requiring additional emergency exit doors on school buses, and improving access to school bus emergency doors. In that final rule, the agency stated that the preferred method of providing access to side emergency exit doors was by creating a dedicated aisle. Thus, S5.4.2.1(2) and Figures 5B and 5C were added to the standard to require a 30 centimeter (12 inch) wide restricted area to provide access to side emergency exit doors.

In a final rule published on January 15, 1993 (58 FR 4586), NHTSA amended Standard No. 222, *School bus passenger seating and crash protection* (49 CFR 571.222), by establishing minimum safety requirements for school buses equipped with wheelchair securement devices and occupant restraint systems. If a school bus is equipped with those devices and systems, they must meet specified performance requirements. One requirement is that the wheelchair securement anchorages at each wheelchair securement location must be situated so that a wheelchair can be secured in a forward-facing position. Another is that wheelchair securement devices must secure wheelchairs at two points on the front of each wheelchair and two points on the rear (see S5.4.1.2). The amendments to Standard No. 222 did not address the location of wheelchair securement anchorages within the school bus itself.

In April 1996, the State of New York's Department of Transportation (NYDOT) asked whether wheelchair positions must meet the clearance specifications in S5.4.2.1 (*School bus emergency exit opening*) of Standard No. 217. According to NYDOT, some school districts in New York had requested permission to purchase school buses whose wheelchair anchorages are placed in front of emergency exits. This is done apparently to maximize the number of seating positions on the school bus. The alternative would be to remove school bus seats to make room for the anchorages in locations away

from the exits. Use of wheelchair anchorages near the exits could result in wheelchairs being placed where they would block the aisle to the emergency exit. New York's regulations do not prohibit a school bus emergency exit from being blocked with a wheelchair while the bus is in motion. NYDOT officials provided schematics from three different bus manufacturers showing wheelchair anchorages placed in front of emergency exits.

The agency has interpreted the existing requirements in Standard No. 217 as not prohibiting locating wheelchair anchorages adjacent to emergency exits. In response to a letter from Thomas Built Buses asking if it would be a violation of Standard No. 217 to place a wheelchair anchorage within the clearance area specified by S5.4.2.1 for the rear emergency exit door, NHTSA stated, in a letter of October 28, 1977, that the sufficiency of the size of the exit opening would be determined without first installing a wheelchair at that anchorage location:

NHTSA will measure the opening using the prescribed parallelepiped device as the vehicle is constructed in its unloaded condition. Since the wheelchair would not be present when the vehicle was in its unloaded condition, your location of the wheelchair would not violate the standard.

#### **II. Access to Side Door Emergency Exits and Rear Door Emergency Exits**

NHTSA has conducted rulemaking on two separate occasions to promote the availability and accessibility of school bus exits.

*Rear Emergency Exit Door*—Access to the rear emergency exit door was addressed in a final rule published on January 27, 1976 (41 FR 3871)(there is no DMS Docket No.). The rule required that there be a 45 inch x 25 inch x 12 inch (1,143 mm x 610 mm x 305 mm) space adjacent to the rear emergency exit door for school buses with a gross vehicle weight rating over 4,536 kg (10,000 lb.).

*Side Emergency Exit Doors*—Side door emergency access requirements were established in a final rule published on November 2, 1992 (57 FR 49413)(there is no DMS Docket No.). In specifying a minimum dedicated restricted area of at least 305 mm (12 inches), the rule prohibited the placement of any seats within the aisle unless the seats have bottoms that automatically flip up when unoccupied and assume a vertical position outside the aisle.

In the March 15, 1991 NPRM (56 FR 11153)(there is no DMS Docket No.) that preceded the November 1992 final rule, NHTSA had considered the alternative

<sup>1</sup>In that incident, the ability of the bus occupants to exit from the burning bus was hampered by cargo that had been placed in front of the rear emergency exit door.

of establishing a dedicated aisle for side doors similar to that established for rear emergency exit doors. It would have created a dedicated aisle by requiring that a parallelepiped<sup>2</sup> be able to pass unobstructed 305 mm (12 inches) into the passenger compartment. NHTSA recognized in the NPRM that that requirement would improve access to the side emergency exit door, but noted that it would eliminate two seating positions, one next to the side door, and the one immediately behind that position. Further, under Standard No. 222, *School bus passenger seating and crash protection*, it would have been necessary to provide a barrier in front of the first seating position located next to the side of the bus and to the rear of the side door. NHTSA expressed its belief that the cost of implementing the alternative would be "considerable." (56 FR at 11160)

Although some public commenters supported adopting the alternative for the side emergency exit door, the agency decided not to adopt it, concluding in the November 1992 final rule that "there is not sufficient justification or experience to require dedicated aisles." (57 FR at 49419).

### III. 1999 Notice of Proposed Rulemaking

The information supplied by NYDOT suggested that an amendment to Standard No. 217 was needed to ensure that wheelchairs cannot be secured in locations where they interfere with access to safety exits. Therefore, in the **Federal Register** publication of March 5, 1999 (64 FR 10604)(DOT Docket No. NHTSA-99-5157), NHTSA proposed amending Standard No. 217 to prohibit the placement of wheelchair securement anchorages in the aisle of an emergency exit. In addition, for any side emergency exit door, NHTSA proposed to prohibit placement of any anchorage within 685 mm (25 inches) (in typographical errors, in the regulatory text, the number "17 inches" was used, and the draft Figure 6A showed 435 mm, or 17 inches) on either side from the center of the school bus side emergency exit door aisle. One of the agency's concerns was that if anchorages were on either side of an aisle, they could be used to secure a wheelchair directly in front of the emergency exit. NHTSA expressed its belief that, taken together, these proposed prohibitions would prevent wheelchair securement anchorages and devices from being installed, and wheelchairs from being secured, in

locations that could result in the blocking of access to an emergency exit.

As an alternative to a prohibition against installing any wheelchair securement anchorages in a zone on either side of an exit, NHTSA requested comments on whether a requirement for information labels would achieve the same result. NHTSA proposed the following regulatory text for the warning label to be placed next to each emergency exit:

**Warning: It Is Unsafe To Secure a Wheelchair in a Location Where the Wheelchair Blocks the Aisle to an Exit**

NHTSA emphasized that the proposals in the NPRM would only apply to those school buses in which wheelchair securement locations are provided. Nothing in the proposal would have required that a manufacturer provide a wheelchair securement location on a school bus. The proposal did not apply to wheelchair lift doors that are not considered emergency exits.

NHTSA raised the following issues for public comment—

1. The extent to which school buses have been or are being designed so that wheelchairs can be secured so as to hinder access to any emergency exit.

2. Whether the proposed regulatory language would achieve the desired result of preventing wheelchair securement anchorages and devices and wheelchairs from being positioned so that they block access to the emergency exit.

3. Whether the proposed regulatory language could be more narrowly crafted so that, for instance, it would not prohibit wheelchair securement anchorages from being installed just forward of a side emergency exit if the wheelchair securement devices attached to those anchorages could be used only for the purpose of installing a wheelchair forward of those anchorages, and thus forward of the exit aisle as well. An example of such language is set forth below:

A school bus shall not have a wheelchair securement device that can be used, in combination with other wheelchair securement devices installed in the bus, to secure a wheelchair so that any portion of the wheelchair is located within the area defined—

(a) on the front side, by a transverse vertical plane tangent to the front edge of a side exit door,

(b) on the back side, by a transverse vertical plane tangent to the rear edge of that door,

(c) on the outboard side, by the plane of the doorway opening, and

(d) on the inboard side, by a longitudinal vertical plane passing through the longitudinal centerline of the bus.

4. The extent to which seating capacity (both wheelchair and non-wheelchair) would be reduced in any school buses produced in the future if this proposal were made final.

5. Whether the need for safety would be met if, in lieu of the restrictions on wheelchair anchorages proposed in this NPRM, NHTSA were to require placing labels on schoolbuses with wheelchair locations that state it is unsafe to use a wheelchair securement device to secure a wheelchair in a location where the wheelchair blocks the aisle to an exit. Would the possibility of tort actions based on those labels effectively discourage the securing of wheelchairs in emergency exit aisles?

6. Should NHTSA both require a warning label and prohibit the installation of wheelchair securement devices that make it possible to secure a wheelchair in an area where it will block access to an emergency exit?

7. NHTSA seeks comment on whether these requirements should apply to all buses. If so, how can this be incorporated into the regulatory text? NHTSA is not aware of any other bus types that are manufactured with devices designed to secure wheelchairs that will block access to an emergency exit.

In addition to the above, NHTSA also proposed to amend the regulatory text in S5.4.2.1(a)(1) to clarify that the lower surface of the parallelepiped be in contact with the floor of the bus until the lower edge of the rear surface is tangent to the plane at the bottom of the rear emergency exit door opening. This clarification modifies that paragraph to reflect previous agency interpretations that the rearmost surface of the parallelepiped be tangent to the plane of the rear emergency door opening.

**Leadtime**—In the NPRM, NHTSA proposed that the amendments would take effect one year after the publication of the final rule. NHTSA stated its belief that one year is enough lead time for industry to make any necessary change. The agency proposed also that manufacturers of school buses with wheelchair positions be given the option of complying immediately with the new requirements.

### IV. Public Comments and NHTSA's Response; Final Rule

#### A. Summary of Final Rule Provisions

The following is a summary of the final rule's provisions. Where necessary, the changes between the NPRM and the final rule are outlined. Rationales for the final rule's provisions, many of which were adopted in response to public comments, are provided in the following sections of Part IV.

1. *Measurements in S5.4.2.1(a)(1)*—In the NPRM, NHTSA proposed to nonsubstantively amend S5.4.2.1(a)(1) by converting metric measurements specified in centimeters to metric measurements specified in millimeters. In this final rule, the millimeter measurements are adopted, except for the proposal that the parallelepiped be

<sup>2</sup>The parallelepiped must be identical in size (45 inch x 25 inch x 12 inch) (1143 mm x 610 mm x 305 mm) to the one used for the rear door opening.

1,143 millimeters high. NHTSA is committed to thinking in metric measurements as we develop new procedures. In keeping with this, we try to specify our metric requirements in a number of millimeters that ends in 0 or 5. Thus, our parallelepiped is specified as 1,145 millimeters. S5.4.2.1(a)(1) includes, in parentheses, the English measurement equivalent for the metric measurements.

**2. Restrictions on Location of Wheelchair Securement Anchorages Near Side Emergency Exit Doors**—In the NPRM, NHTSA proposed to restrict wheelchair securement locations in an area bounded by 685 mm (25 inches) forward and rearward of the center of the side emergency exit door restricted area. In the final rule, the restriction is on wheelchair securement locations in an area bounded by 305 mm (12 inches) forward and rearward of the center of the side emergency exit door restricted area.

**3. Restrictions on Location of Wheelchair Securement Anchorages Near Rear Emergency Exit Doors**—In the NPRM, NHTSA proposed to specify the space “bounded by a rectangular parallelepiped” in which any portion of the wheelchair securement anchorage shall not be located. One space was proposed for all school buses. In the final rule, after reconsideration, NHTSA has decided to define the space where wheelchair securement anchorages shall not be located by using transverse vertical planes and longitudinal vertical planes. NHTSA has determined that defining the space by using planes better meets NHTSA’s intention in restricting spaces where the wheelchair securement may not be placed, as the space defined by planes would explicitly include the floor near the school bus rear emergency exit door. In the final rule, NHTSA defines two restricted spaces, depending on the size of the school bus. For school buses with a gross vehicle weight rating (GVWR) over 4,536 kg (10,000 lb), the restricted space is

bounded by longitudinal vertical planes tangent to the left and right sides of the [rear] door opening, a transverse vertical plane 305 mm (12 inches) forward of the bottom edge of the door opening, and a horizontal plane 1,145 mm (45 inches) above the floor of the bus \* \* \*

The restricted space adopted for over 4,536 kg GVWR school buses is the same as NPRM’s proposed size of the parallelepiped used to measure the space where wheelchair securement anchorages would not be placed, that was proposed for all school buses. In the final rule, for school buses with a

GVWR of 4,536 kg or less, the restricted space is

bounded by longitudinal vertical planes tangent to the left and right sides of the [rear] door opening, a transverse vertical plane 150 mm (6 inches) forward of the bottom edge of the door opening, and a horizontal plane 1,145 mm (45 inches) above the floor of the bus \* \* \*

NHTSA adopted the separate definitions of restricted space for different sized school buses to minimize the number of wheelchair and nonwheelchair seating positions that would be lost as a result of this final rule.

**4. Restrictions Do Not Apply to Tracks or Track-Type Devices.** In the final rule, the restricted space where wheelchair securement anchorages shall not be placed, does not apply to tracks or track-type devices that can be used for mounting seats and/or for wheelchair securement devices. Although NHTSA could prohibit seats from being adjustable to locations in which they could block an emergency exit (adjustment of seats to such positions are facilitated by tracks), NHTSA has decided to mitigate any potential seat configurations that may block access to the emergency exit door by the use of warning labels. We believe that communities and school bus operators will do the right thing if they are given appropriate warnings.

**5. Warning Labels For Emergency Exit Doors and Emergency Exit Windows.** In the final rule, NHTSA specifies that on the inside surface of each school bus, there shall be a label directly beneath or above each “Emergency Door” or “Emergency Exit” designation for an emergency exit door or window. The label shall state, in letters at least 25 mm (one inch) high, the words “DO NOT BLOCK” in a color that contrasts with the background of the label. Although proposed regulatory text for the label was not proposed in the NPRM, in the NPRM, NHTSA raised the possibility that warning labels of some sort would be specified in the final rule.

In response to the notice of proposed rulemaking, NHTSA received comments from American Transportation Corporation (AmTran), the Illinois Department of Transportation (IDOT), the National Association of State Directors of Pupil Transportation Services (NASDPTS), the National School Transportation Association (NSTA), and Thomas Built Buses, Inc. In the following sections are set forth the public comments, and NHTSA’s response to them.

#### *B. School Bus Wheelchair Anchorages at Present*

No commenter provided information on the number of school buses that are currently manufactured with wheelchair anchorages that would make it possible to secure a wheelchair in a location where it would block access to an emergency exit door. The two school bus manufacturers, AmTran and Thomas Built, commented on wheelchair anchorages in their school buses. AmTran stated that when it locates wheelchair anchorages near the side emergency exit door, it provides a minimum dedicated aisle of at least 305 mm (12 inches). However, if buses are ordered with full length tracks on which seats can be moved, AmTran cannot prevent the school bus user from removing the flip seat located at the emergency door and securing a wheelchair in its place. AmTran further stated that if the track did not pass in front of the emergency door, or up the aisle of the emergency door, seating capacity would be reduced in school buses that do not have wheelchair locations.

Thomas Built stated that its current practice is to allow a 305 mm (12 inches) clear aisle to side emergency access doors, even though “the specification” does not require it. Thomas stated that some school buses are being designed such that when wheelchairs are secured, they can hinder access to side emergency exit doors. Thomas Built stated that providing the 305 mm (12 inches) clear aisle places Thomas Built’s products at a disadvantage to competitors that do not provide the clear aisle, and therefore have buses with greater seating capacity. Thomas stated that the present Standard No. 217 requirement for a 305 mm (12 inches) clear aisle to the side emergency exit door should result in equal accessibility to the exit in the event a wheelchair is placed at that location.

IDOT stated that school buses manufactured for use in Illinois may have wheelchair securement anchorages located in the center aisle, usually towards the front of the bus. IDOT has standards for bus safety inspection to ensure that there is a minimum 305 mm (12 inches) center aisle opening but noted that the buses are empty when inspected. IDOT standards also allow for interior modifications to school buses in order to meet the needs of any special education student. The school bus owner must declare that the modifications were made pursuant to a child’s Individualized Education Program (IEP). IDOT did not state whether any school bus modifications

made pursuant to an IEP resulted in wheelchairs being located in such a way as to block access to emergency exit doors.

NHTSA is concerned about the possibility of wheelchairs blocking access to side exit doors in school buses that have track seating systems. Easily adjustable seats that glide on tracks can result in non-wheelchair seats located in such a way as to block access to emergency exit doors. Because the configuration of the seats will be determined by the user, not the school bus manufacturer, NHTSA cannot specify how the non-wheelchair seats must be placed, or prohibit placement of the seats in such a fashion that access to any emergency exit door is blocked. However, NHTSA has authority to prohibit the tracks from running through the side emergency exit aisle. In this final rule, NHTSA is not exercising that authority. Instead, we believe we can address potential seat configurations that may block access to the emergency exit door by requiring school bus manufacturers to place a warning label stating: "DO NOT BLOCK" in 25 mm (one inch) high letters to be located just beneath or above the emergency exit label on school bus emergency exit doors or windows. The warning label issue is more fully discussed in this final rule in Section F, "Warning Labels Instead of Limitations on Anchorage Locations." NHTSA will revisit this decision if the warning labels are not effective.

*C. Effectiveness of Regulatory Text in Limiting the Location of Anchorages so as To Prevent the Positioning of Wheelchairs Where They Could Block Emergency Exit Doors*

The public commenters that addressed this issue stated that the regulatory text proposed in the NPRM would prevent wheelchair securement anchorages from being installed in locations that would make it possible to position wheelchairs where they would block emergency exit doors. Thomas Built stated that the proposed regulatory language would achieve the desired result of preventing wheelchair securement anchorages and devices and wheelchairs from being positioned so that they block access to the side emergency exit door. Thomas Built recommended that additional references to "any exit" or "each emergency exit" be amended to "emergency exit door" to make it explicit that the requirements apply to emergency exit doors only, and not to all emergency exits.

AmTran stated that NHTSA's proposal to prohibit placement of any anchorage within 635 mm (25 inches)

on either side from the center of the school bus aisle would not necessarily prevent the wheelchair from being secured adjacent to the emergency door. AmTran went on to state that there are different types of anchorages used to secure wheelchairs and that some of the anchorages could be placed as proposed in the NPRM and allow the securement of the wheelchair adjacent to the emergency exit. NHTSA believes that what AmTran refers to is that the only type of wheelchair securement device offered by school bus manufacturers is a 4-point tie-down, and the designs of the different types of 4-point tie-downs offered may still result in wheelchair placement that blocks access to the side emergency exit door.

AmTran noted that the current aisle width requirement to the emergency door is 305 mm (12 inches). AmTran stated that the NPRM would add 965 mm (38 inches) to the spacing for school buses equipped with wheelchair securement devices. AmTran suggested adding an "informational requirement" for a warning stating: "Warning: It is unsafe to secure a wheelchair in a location where the wheelchair blocks the aisle to an exit" would help prevent locating a wheelchair adjacent to the emergency door. In addition to the warning, AmTran suggested marking the inside of the bus wall and emergency exit door with a zone to indicate where wheelchairs and wheelchair ties (straps) cannot be placed.

The National Association of State Directors of Pupil Transportation Services (NASDPTS) stated its belief that the proposed regulatory text at S5.4.3 would ensure that a wheelchair location would not block access to rear and side emergency exit doors. NASDPTS asked that similar regulatory text be adopted to prohibit wheelchair locations that would block access to emergency exit windows and roof exits, and urged the agency to seek comment on including roof exits and emergency exit windows in this rulemaking. NASDPTS stated that if able-bodied students needed to use a school bus emergency exit window, a wheelchair that partially or completely blocks access to the window creates risks to both the students attempting to leave through the window and to the student in the wheelchair. NASDPTS stated that since emergency roof hatches are most likely to be used in the event the school bus has rolled on its side, the proximity of a wheelchair location to the emergency exit roof hatch appears to have potentially fewer negative safety consequences.

NASDPTS also stated that it may not be possible to prohibit the placement of

wheelchairs so that they do not block access to emergency exit doors and emergency exit windows in small (under 4,536 kg (10,000 lb)) Type A school buses. As an example, NASDPTS noted that prohibiting wheel chair anchorages near emergency exit doors and emergency exit windows on a small school bus equipped with optional (not required by Standard No. 217) emergency exit windows on each side would make the vehicle unusable for transporting children in wheelchairs. NASDPTS stated that it does not have data on the degree to which small school buses are equipped with more emergency exits than required by Standard No. 217. IDOT stated its belief that the proposed regulatory text would probably achieve the desired result." IDOT stated its preference that the amendment prohibit securement anchorages and devices from being located in any part of the center aisle, extending the entire length of the vehicle.

In this final rule, NHTSA is not amending the regulatory text to prohibit wheelchair anchorages from being placed in front of emergency exit windows, and is not prohibiting securement anchorages and devices from being located in any part of the center aisle. Regarding access to emergency exit windows, Standard No. 217 presently does not specify a clear aisle requirement for emergency exit windows in buses or school buses, but does specify a clearance requirement for emergency exit opening to allow for unobstructed passage of a 50 cm by 33 cm ellipsoid. (See S5.4.1.) We further note that since location of wheelchair securement anchorages (as long as they are not in the restricted zones specified in this final rule) may be in the front, center or rear of the school bus, it would be difficult to restrict locations of wheelchair securement anchorages with respect to the location of side emergency exit windows. For this reason, as explained in Section F., "Warning Labels Instead of Limitations on Anchorage Locations," we are requiring warning labels to not block emergency exit windows.

The figures specified in the final rule designate the zones (as suggested by AmTran) in which wheelchair securement anchorages should not be placed. Nothing in this final rule prevents a school bus manufacturer from marking school bus interiors to designate zones where wheelchair anchorages or wheelchairs should not be placed.

*D. Can the Regulatory Text Limiting the Location of Anchorages Be More Narrowly Crafted, and Still Prevent Wheelchairs From Being Positioned Where They Could Block Emergency Exit Doors?*

NASDPTS, Thomas Built, and IDOT commented that S5.4.3 should be altered to clearly state that a 305 mm (12 inches) clear aisle is required for access to the side emergency door and that no part of a wheelchair or wheelchair securing can extend into the 305 mm clear aisle. The commenters stated their belief that their suggestion offers the most flexibility and achieves the objective of not having wheelchairs secured where they would block access to an emergency exit door.

NASDPTS commented that the proposed regulatory language for S5.4.3.(1) would make it impossible to have more than one wheelchair location forward of the rear wheel-well on all but the largest (4,536 kg (10,000 lb) and over gross vehicle weight rating) Type C and D school buses and that such reductions in wheelchair locations would affect the usefulness of the school buses.

NASDPTS further stated that the NPRM's proposal to prohibit placement of wheelchair anchorages within 635 mm (25 inches) from each side of the centerline of side emergency exits on school buses (which would result in a 1270 mm (50 inches) wide aisle to side emergency exit doors) could adversely affect the ability of school buses to transport children in wheelchairs, even more so than the proposed 430 mm (17 inches) from the centerline.

NADPTS added that, theoretically, the alternative regulatory language could be interpreted in such a way as to encourage States to develop school bus specifications that include narrower emergency exit doors. NASDPTS stated its belief that for school bus evacuation, the width of the aisle space leading to the emergency exit door is the true controlling factor in the effectiveness of emergency exit doors. NASDPTS stated that it is not aware of any data correlating the width of the emergency exit door and the speed of a school bus evacuation, e.g., that a 760 mm (30 inches) wide door results in a faster evacuation than a 610 mm (24 inches) wide door. NASDPTS's implicit point was that, when leaving through either the 760 mm or the 610 mm wide door, only one child at a time can go through.

NHTSA concurs with the public comments that 635 mm (25 inches) as measured from the center of the required side emergency exit door aisle is too design restrictive because it would unduly restrict the capacity of

the school bus. NHTSA believes that 305 mm (12 inches) clearance on either side of the center of the aisle would provide adequate clearance to ensure that wheelchair anchors are not placed so that a wheelchair would block access to side emergency exit doors. The 305 mm (12 inches) clearance is adopted because NHTSA believes that the approximately twelve inches of space (in addition to the already specified 305 mm (12 inches) clearance in S5.4.2.1(a)(2)(i)) is needed to accommodate items such as extended foot rests or other parts that extend from the wheelchair.

*E. Effect of the Final Rule on School Bus Seating Capacity*

AmTran, NASDPTS, and Thomas Built stated that if the proposal were made final, seating capacity (for non-wheelchair school bus seats) would be reduced by at least two, and possibly three positions. AmTran commented that for larger school buses at the "maximum overall length," the loss of non-wheelchair seating capacity could be as many as six positions. Thomas stated that the intent of the wheelchair restriction is best achieved by the requirement of a clear aisle to the door. AmTran commented that if only a warning label were used and the aisle width for the emergency door aisle were kept at 305 mm (12 inches), the seating capacity would not change. NASDPTS stated that it does not have quantitative information on the potential loss of school bus seating capacity due to the proposed rulemaking, but stated the view that it appears the real-world impact is most likely less (than what the estimated seating capacity loss would be), since not all school buses are operated at full capacity on every trip.

As previously stated, in this final rule, NHTSA is adopting the 305 mm (12 inches) clearance requirements for wheelchair anchorages next to side emergency exit doors on school buses. NHTSA arrived at its decision after weighing the potentially catastrophic effect of a blocked access to a side emergency exit door versus the loss of about two (regular, non-wheelchair) seating positions per school bus and has concluded that the 305 mm (12 inches) clearance requirement will meet the need for safety.

*F. Warning Labels Instead of Limitations on Anchorage Locations*

None of the public commenters said that warning labels alone, in lieu of restrictions on the placement of wheelchair securing anchorages, would meet the need for safety. AmTran, IDOT, NASDPTS, NSTA, and

Thomas Built argued that the agency should require both wheelchair securing location restrictions imposed by the regulatory text of Standard No. 217, and warning labels. Some commenters said that the adjustable floor track designs make it easy and convenient to reconfigure the seating locations within a school bus, and a warning label not to place seats on certain portions of the floor track would appear to have some safety benefit.

Commenters noted that some designs of school buses have mounting tracks that run the entire length of the school bus. The mounting tracks make it possible to easily change a school bus configuration to install either a school bus seat or a wheelchair anchorage or securing device. AmTran stated its belief that an informational requirement would help prevent locating a wheelchair adjacent to the emergency door. AmTran and Thomas Built commented that a warning label should state that track mounted seats should not be routed through the clear aisle of a side emergency door. NASDPTS stated that the location of the warning labels is an important issue since it would most likely be a school bus mechanic who changes the seating positions on school buses with adjustable floor tracks. NASDPTS stated that it is not clear where to place a label so that the mechanic would see it, and suggested several options. However, NASDPTS suggested that the warning/information labels not be placed at the emergency exit itself, to ensure that critical information specified in Standard No. 217 on emergency exit operation is not confused by the presence of other warning/information labels.

NASDPTS further stated it is not unusual for a school bus to be retrofitted with a wheelchair location years after the bus was first purchased. In such cases, information on where wheelchair anchorages should not be located would be beneficial to the retrofitter. NASDPTS said that a wheelchair securing anchorage system is an item of motor vehicle safety equipment. Accordingly, the commenter said, it appears that NHTSA has authority to specify a safety warning/information label to be provided with new wheelchair securing anchorage equipment, including when the equipment is retrofitted to an existing school bus. NASDPTS went on to state that if NHTSA were to require a warning label, the label should refer to the wheelchair and its securing devices/anchorages, not just the wheelchair. NASDPTS suggested the warning could read: "WARNING: It is unsafe to secure

a wheelchair in a location where the wheelchair and/or its securement devices/anchorage block access to the emergency exit."

NHTSA agrees with the commenters that warning labels alone should not be used in lieu of regulatory restrictions on the locations of wheelchair securement anchorages. NHTSA also agrees with NASDPTS that the warning labels or information could be required to be provided with aftermarket wheelchair securement equipment. NHTSA further notes that nothing in this final rule prevents equipment manufacturers from voluntarily providing warnings, tailored for specific motor vehicle types, about where the wheelchair anchorage or securement locations should or should not be placed. However, NHTSA did not, in the NPRM, raise the possibility of requiring labels on wheelchair securement equipment. Thus, imposing a labeling requirement on manufacturers of wheelchair securement equipment is outside the scope of this rulemaking.

#### *G. Adopting Limitations on Anchorage Locations and Requiring Warning Labels*

As noted above, all commenters stated that warning labels alone will not accomplish the goals of this rulemaking. NHTSA agrees. However, in conjunction with regulatory requirements that prohibit wheelchair securement anchorages in certain locations on school buses, a label will serve to remind users of school buses with adjustable seat tracks and aftermarket retrofitters that access to emergency exit doors should not be blocked by wheelchairs or other items.

Earlier in this notice, NHTSA has discussed its concern about track seating that may result in non-wheelchair seats being placed where they block access to an emergency exit door. While NHTSA has authority to regulate where and how the track seating is installed in new school buses, we have determined that requiring a label to specify clear aisle access would meet the need for safety at this time. We believe that people will heed this warning label. NHTSA encourages the States, schools, school districts, and other school bus users to ensure that seats on tracks are not adjusted in such a way that clear access to the emergency exit door is blocked. At the same time, NHTSA believes that in school buses, the warning label specified in this final rule will caution against installing track seat configurations that permit blocking access to an emergency exit door.

NHTSA notes that none of the commenters suggested a location for the warning label. However, NASDPTS argued that the warning label should not

be placed on the emergency exit door because it is important to ensure that the critical information on how to operate the emergency exit is not confused with the presence of other warning/information labels. NHTSA agrees that warning labels should not be placed near the area that provides the operating instructions for emergency exits. In this final rule, NHTSA specifies the words: "DO NOT BLOCK" in 25 mm (one inch) high letters to be located just beneath or above the already required emergency exit label that is 50 mm (two inches) high on the school bus emergency exit doors and windows. NHTSA believes that a label stating that emergency exits should not be blocked will inform school bus users and aftermarket wheelchair securement retrofitters that emergency exits are for egress in an emergency and that access should never be blocked with wheelchairs or other items, such as book bags, knapsacks, sports equipment or band equipment.

Regarding a warning label specifically for adjustable floor track designs, NASDPTS suggested that since it would likely be a school bus mechanic who changes the seating locations on school buses with adjustable floor tracks, a label could be placed in an area such as the floor area where the adjustable tracks are near emergency exits, where the mechanic would see it. NHTSA is not requiring such a label. The agency believes that the "DO NOT BLOCK" label adopted in this final rule will serve the same general function as a special warning label on the floor near adjustable tracks near emergency exit doors. However, NHTSA notes that nothing in this final rule prevents school bus manufacturers or school bus users from voluntarily placing such warning labels on the floor near the adjustable tracks.

#### *H. Application to Buses Other Than School Buses*

AmTran, NASDPTS, and Thomas Built stated that all buses should be required to meet any new restrictions on wheelchair securement anchorage locations. NASDPTS noted that many of the school bus federal motor vehicle safety standards would have potential safety benefits if applied to other types of buses. NASDPTS commented that the application of the proposed regulatory language to other bus types may not be possible since most, if not all, other bus types only use emergency exit windows and roof exits. In many cases, every bus side window is designated as an emergency exit. NASDPTS concluded that if NHTSA proposed to prohibit the location of a wheelchair securement

anchorage location within certain distances from emergency exits (including emergency exit windows), the result might be that it would become impracticable or even impossible to have a wheelchair location on some bus types.

NHTSA agrees with NASDPTS that, in buses other than school buses, windows and roof exits generally serve as emergency exits. For the reasons stated earlier, NHTSA does not believe that the restrictions on wheelchair securement anchorage locations near emergency exit doors should be imposed on wheelchair securement anchorage locations near emergency exit windows. No commenter provided information on how this rulemaking action would apply to buses other than school buses. NHTSA is not aware that buses other than school buses are equipped with wheelchair securement anchorages that are placed or can be placed in locations that will result in blocking access to emergency exit doors. For these reasons, NHTSA is not applying the amendments made in this rulemaking to buses other than school buses.

## **V. Regulatory Analyses and Notices**

### *A. Executive Order 12866 and DOT Regulatory Policies and Procedures*

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and

procedures. This rule is not considered a significant regulatory action under section 3(f) of the Executive Order 12866, "Regulatory Planning and Review." Consequently, it was not reviewed by the Office of Management and Budget. The rulemaking action is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

For the following reasons, NHTSA believes that this final rule will not have any cost effects on school bus manufacturers. When it amended Standard No. 222 to specify requirements for wheelchair securement anchorages and devices, NHTSA did not envision that the anchorages would be placed so that wheelchair securement anchorages and devices or secured wheelchairs would block access to any exit door. In analyzing the potential impacts of that rulemaking, NHTSA anticipated that vehicle manufacturers would, if necessary, remove seats to make room for securing wheelchairs in a forward-facing position and that, if necessary, additional buses would be purchased to offset the lost seating capacity. To the extent that vehicle manufacturers have not removed any seats and have instead installed wheelchair securement anchorages and devices in locations where the securing of wheelchairs will result in the blocking of exits, the agency overestimated the costs of that earlier rulemaking. If securement devices were being so installed, the impact of adopting the amendments proposed in this notice would be to conform vehicle manufacturer practices to the assumptions made in the analysis of that earlier rulemaking.

Because the economic impacts of this final rule are so minimal, no further regulatory evaluation is required.

#### *B. Executive Order 13132 (Federalism)*

Executive Order 13132 requires us to develop an accountable process to ensure Ameaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the 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." Under Executive Order 13132, we may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not

required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or unless we consult with State and local governments, or unless we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation with Federalism implications and that preempts State law unless we consult with State and local officials early in the process of developing the proposed regulation.

This final rule would not have substantial direct effects on the 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. Thus, the requirements of Section 6 of the Executive Order do not apply to this final rule.

#### *C. Executive Order 13045 (Economically Significant Rules Disproportionately Affecting Children)*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866. It does involve decisions based on health risks that disproportionately affect children on schoolbuses. However, this rulemaking serves to reduce, rather than increase, that risk.

#### *D. Executive Order 12778 (Civil Justice Reform)*

Pursuant to Executive Order 12778, "Civil Justice Reform," we have considered whether this final rule would have any retroactive effect. We conclude that it would not have such an 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, 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.

#### *E. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) 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 businesses, 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. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

The Administrator has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that, as noted immediately above, NHTSA is not aware that any school bus manufacturer, or any small school bus manufacturer, is presently manufacturing school buses with wheelchair securement anchorages or devices that may result in blocking access to an emergency exit, or that any small school or school district has school buses with wheelchair securement anchorages or devices that may result in blocking access to an emergency door. Accordingly, the agency believes that this final rule will not affect the costs of the manufacturers of school buses considered to be small business entities. A small manufacturer could meet the new requirements by placing a wheelchair securement anchorage or device in a location other than in an exit aisle. Changing the placement of a wheelchair securement anchorage or device in this fashion might necessitate the removal of a seat in some cases. In those instances, there

will be a small net loss of passenger capacity.

The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis.

#### *F. National Environmental Policy Act*

We have analyzed this final rule for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

#### *G. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This final rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained. The term "collection of information" does not include the Apulic disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public." (See 5 CFR 1320.3(c)(2).) Since NHTSA is specifying the exact language with which schoolbus manufacturers must label their emergency exit doors and emergency exit windows, the labels are not collections of information and do not need clearance from OMB.

#### *H. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in our regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

After conducting a search of available sources, we have determined that there are no available and applicable voluntary consensus standards that we can use in this final rule. We have searched the SAE's Recommended Practices applicable to buses, and have not found any standards prohibiting placement of wheelchairs in front of

emergency exit doors. We have also reviewed the National Standards for School Buses and School Bus Operations (NSSBSBO) (1995 Revised Edition). The NSSBSBO includes a subsection under "Standards for Specially Equipped School Buses" called "Securement and Restraint System for Wheelchair/Mobility Aid and Occupant." Paragraph 1.k. of this provision (on page 61) states: "The securement and restraint system shall be located and installed such that when an occupied wheelchair/mobility aid is secured, it does not block access to the lift door." Since this provision does not address blocking access to an emergency exit, we have decided not to use it in the rulemaking at issue.

#### *I. Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal 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 in any one year (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

This final rule would not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### *J. Plain Language*

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?

- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make this rulemaking easier to understand?

In the March 5, 1999 (64 FR 10604)(DOT Docket No. NHTSA-99-5157) NPRM, we raised the plain language issues stated above. None of the public commenters addressed plain language concerns in their NPRM comments.

#### *K. Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

#### **List of Subjects in 49 CFR Part 571**

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

In consideration of the foregoing, the Federal Motor Vehicle Safety Standards (49 CFR part 571), are amended 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, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.217 is amended by adding in S4, in alphabetical order, the definitions of "wheelchair," "wheelchair securement anchorage," and "wheelchair securement device", by revising S5.4.2.1(a)(1) by adding S5.4.3 and S5.5.3(d) to read as follows:

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

\* \* \* \* \*

S4. \* \* \*

*Wheelchair* means a wheeled seat frame for the support and conveyance of a physically disabled person, comprising at least a frame, seat, and wheels.

*Wheelchair securement anchorage* means the provision for transferring wheelchair securement device loads to the vehicle structure.

*Wheelchair securement device* means a strap, webbing or other device used for securing a wheelchair to the school bus, including all necessary buckles and other fasteners.

\* \* \* \* \*

**S5.4.2.1 \* \* \***

(a) \* \* \*

(1) In the case of a rear emergency exit door, an opening large enough to permit unobstructed passage into the bus of a rectangular parallelepiped 1,145 millimeters (45 inches) high, 610 millimeters (24 inches) wide, and 305 millimeters (12 inches) deep, keeping the 1,145 millimeter (45 inch) dimension vertical, the 610 (24 inch) millimeter dimension parallel to the opening, and the lower surface in contact with the floor of the bus at all times, until the bottom edge of the rearmost surface of the parallelepiped is tangent to the plane of the door opening, and

\* \* \* \* \*

S5.4.3 Restriction on wheelchair anchorage location.

S5.4.3.1 Except as provided in paragraph S5.4.3.2 of this section, no portion of a wheelchair securement

anchorage shall be located in a school bus such that:

(a) In the case of side emergency exit doors, any portion of the wheelchair securement anchorage is within the space bounded by the interior side wall and emergency exit door opening, transverse vertical planes 305 mm (12 inches) forward and rearward of the center of any side emergency exit door restricted area, and a longitudinal vertical plane through the longitudinal centerline of the school bus, as shown in Figure 6A and Figure 6B.

(b) In the case of rear emergency exit doors in school buses with a gross vehicle weight rating greater than 4,536 kg (10,000 lb), any portion of the wheelchair securement anchorage is within the space bounded by longitudinal vertical planes tangent to the left and right sides of the door opening, a transverse vertical plane 305 mm (12 inches) forward of the bottom edge of the door opening, and a horizontal plane 1,145 mm (45 inches) above the floor of the bus, as shown in Figure 6C and Figure 6D.

(c) In the case of rear emergency exit doors in school buses with a gross vehicle weight rating of 4,536 kg (10,000 lb) or less, any portion of the wheelchair securement anchorage is within the space bounded by longitudinal vertical

planes tangent to the left and right sides of the door opening, a transverse vertical plane 150 mm (6 inches) forward of the bottom edge of the door opening, and a horizontal plane 1,145 mm (45 inches) above the floor of the bus, as shown in Figure 6C and Figure 6D.

S5.4.3.2 The restriction in S5.4.3.1(a) of this section does not apply to tracks or track-type devices that are used for mounting seats and/or for wheelchair securement devices.

\* \* \* \* \*

**S5.5.3 School Bus.**

\* \* \* \* \*

(d) On the inside surface of each school bus, there shall be a label directly beneath or above each "Emergency Door" or "Emergency Exit" designation required by paragraph (a) of S5.5.3 of this standard for an emergency exit door or window. The label shall state, in letters at least 25 mm (one inch) high, the words "DO NOT BLOCK" in a color that contrasts with the background of the label.

\* \* \* \* \*

3. Section 571.217 is amended by adding after Figure 5C, Figure 6A, Figure 6B, Figure 6C, and Figure 6D, to read as follows:

**BILLING CODE 4910-59-P**

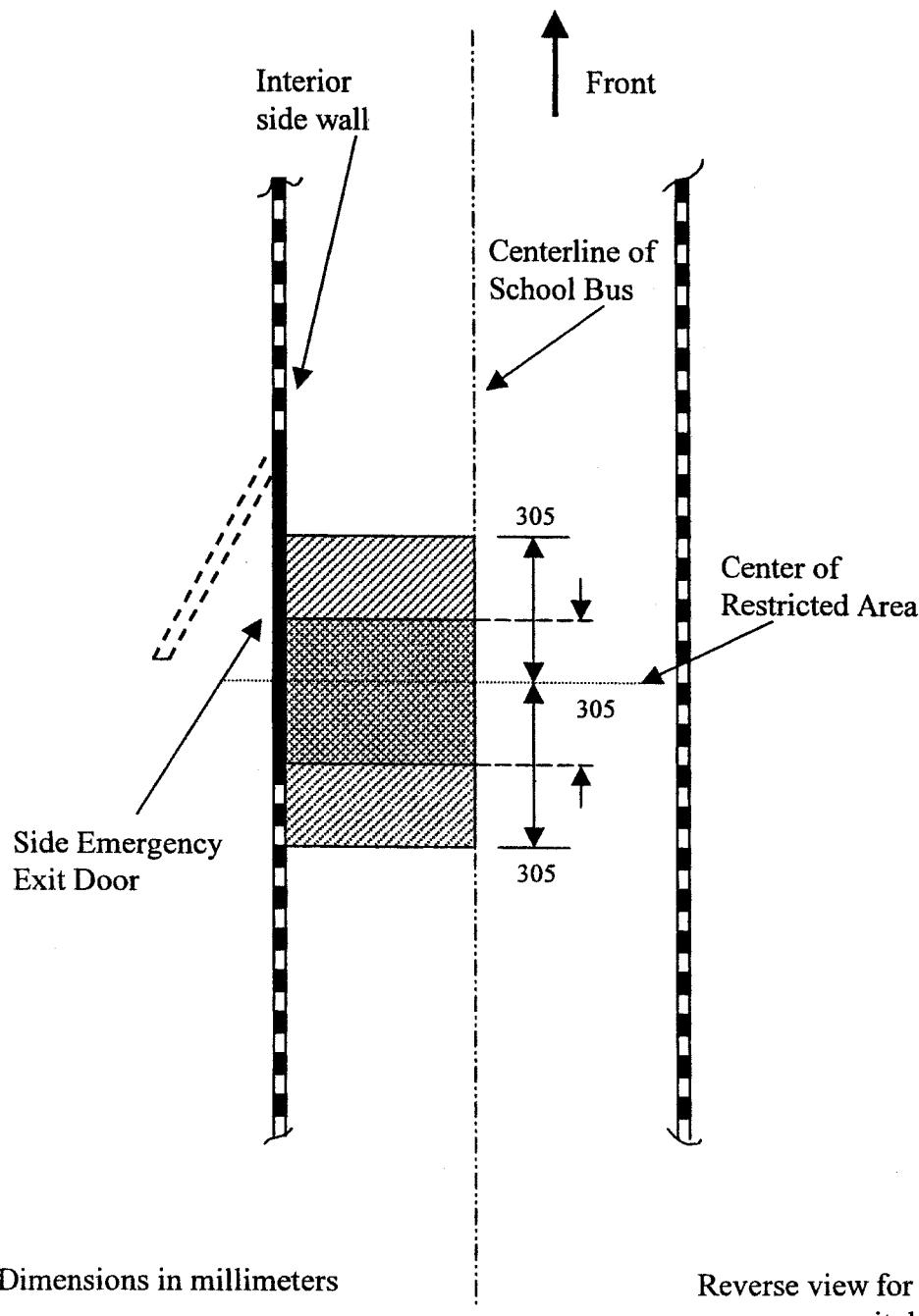


Figure 6A. Side Emergency Exit – No Wheelchair Anchorages within the shaded region

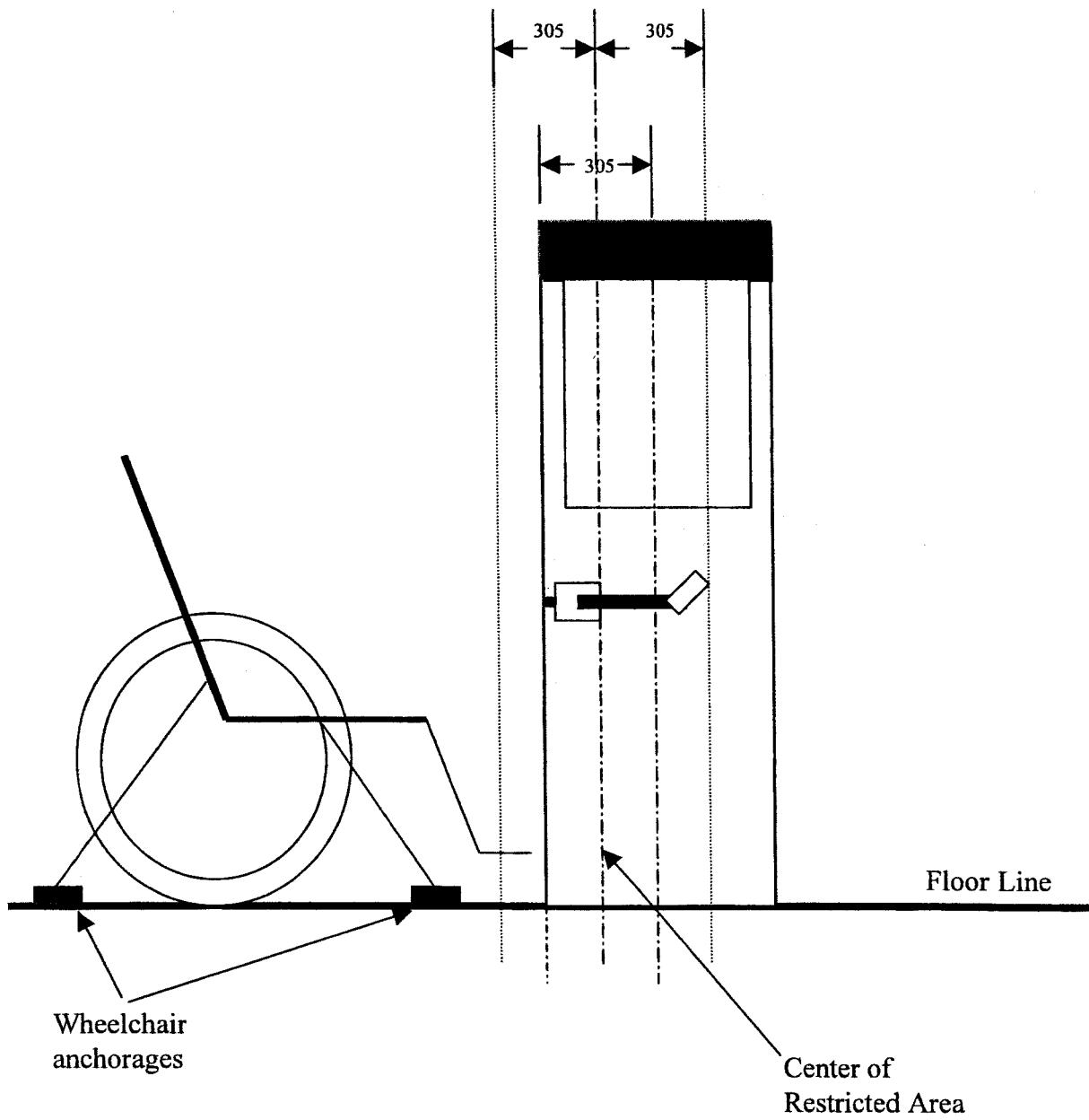


Figure 6B. Side Emergency Exit – No Wheelchair Anchorages within the indicated region

## Rear Door Opening

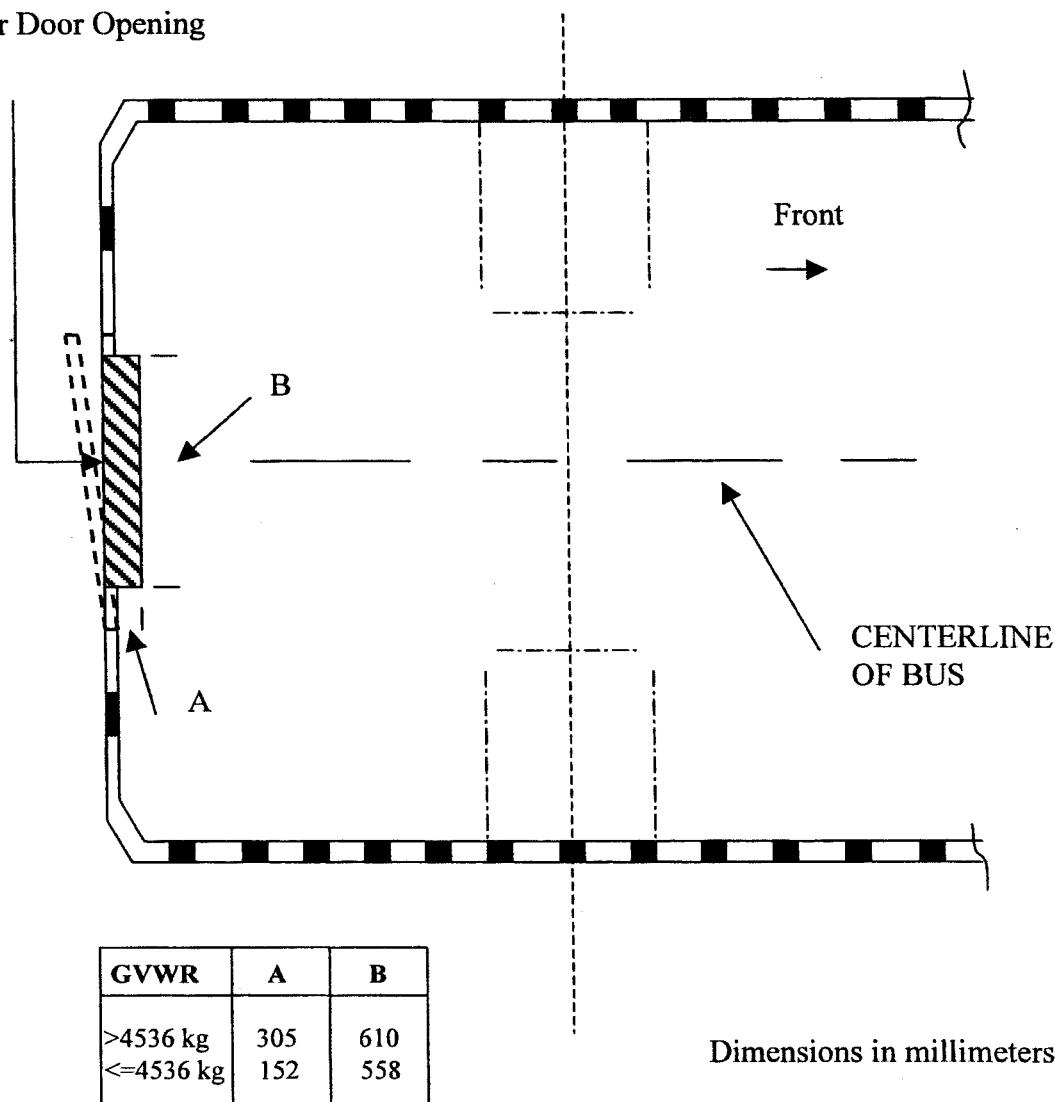


Figure 6C. Rear Door Emergency Exit - No Wheelchair Anchorages within the shaded region

## Rear Door Opening

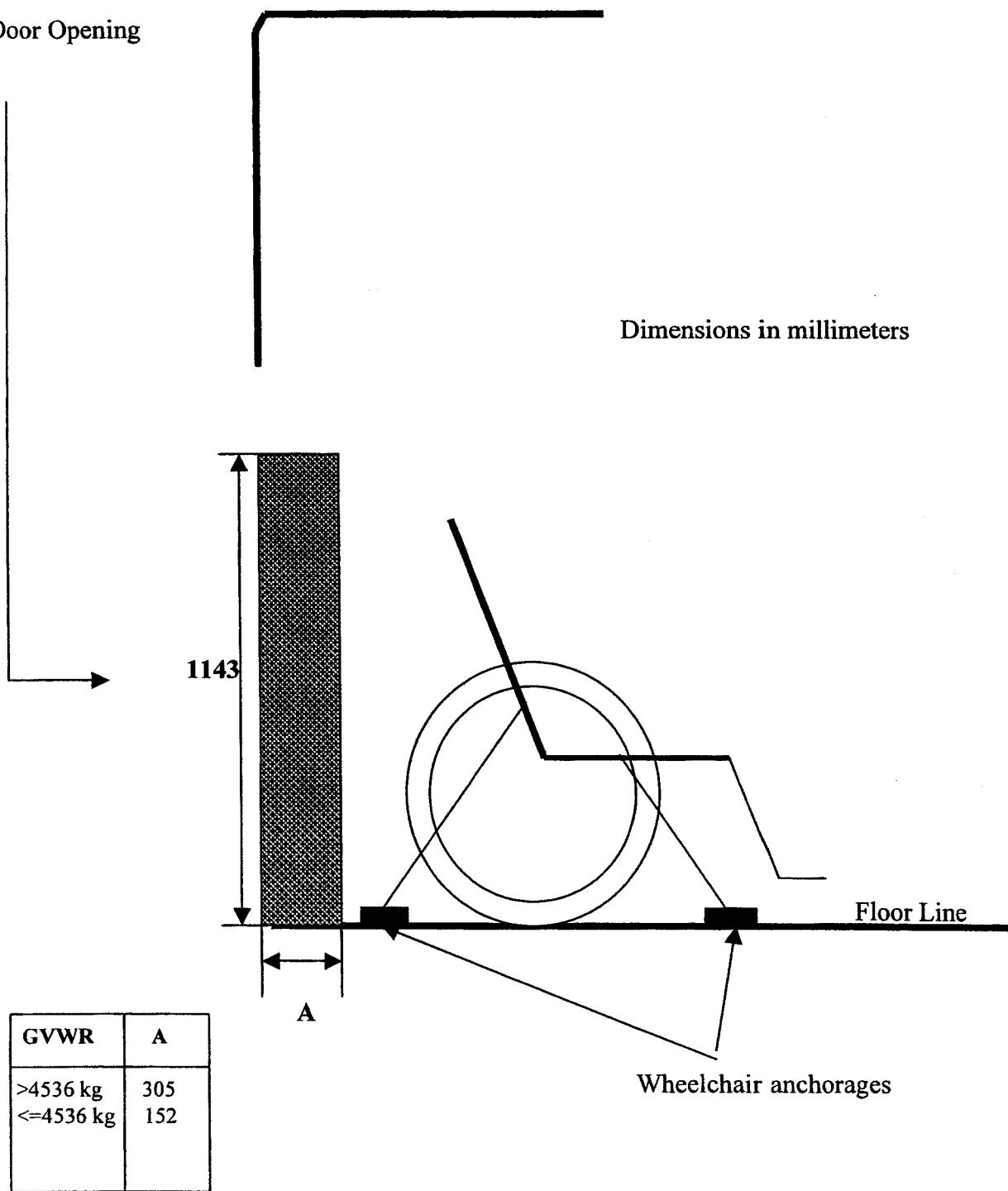


Figure 6 D. Rear Door Emergency Exit - No Wheelchair Anchorages within the shaded region

Issued on: April 16, 2002.

Jeffrey W. Runge,  
*Administrator*.

[FR Doc. 02-9676 Filed 4-18-02; 8:45 am]

BILLING CODE 4910-59-C