

included. Incorporation of the Criteria would make it part of the regulations, regardless of whether the text appears in the Code of Federal Regulations. Also, material is incorporated as it exists on the date of the approval and a notice of any change in the materials must be published in the **Federal Register**. In terms of practical applications, codification of the Criteria would provide a means for the agency to request comments on only the criterion that would be amended or revised from year to year, as opposed to incorporation-by-reference which would typically be an all-or-nothing proposition—a new edition would either be accepted in its entirety or rejected in its entirety. Although the agency could incorporate-by-reference portions of the Criteria while rejecting specific items, this approach would almost certainly make understanding the reference unnecessarily difficult from both an enforcement perspective and an industry perspective. Therefore, the agency has concluded that incorporation-by-reference is not a practical alternative to codification of the Criteria text.

In response to commenters who offered legal arguments suggesting that the agency must adopt the Criteria, the FMCSA does not believe those arguments have merit. The Criteria represent enforcement tolerances, and should not be construed to be regulations. The FMCSRs require compliance with all applicable requirements at all times. There is nothing in the FMCSRs that makes operating a commercial motor vehicle in interstate commerce, while violating any of the requirements contained therein, an acceptable practice. The agency recognizes that violations do occur and does not expect that motor carrier operations cease completely until 100 percent compliance is achieved. However, certain violations represent such serious safety risks to the motoring public that they must be corrected immediately. The Criteria presents a list of such violations developed over a period of more than 20 years by Federal, State and Provincial safety professionals, with input from the motor carrier industry, vehicle and equipment manufacturers, researchers, and other interested parties. The use of the Criteria is a matter of policy within FMCSA, so that the decision by Federal personnel to place a vehicle out-of-service is not an arbitrary action based solely on the discretion of the inspector. Likewise, the use of the Criteria by State officials is covered through either a documented policy, or State laws and

regulations. The actions of State officials are based on the authority vested in them under their State statutes and should not be construed as arbitrary determinations by individual inspectors.

#### FMCSA Decision

In consideration of the responses to the ANPRM, and for the reasons explained above, FMCSA has decided not to adopt the Criteria, either through codification of the text or through incorporation-by-reference, into the FMCSRs. FMCSA believes it is in the public interest that these enforcement tolerances be managed through a partnership between the Federal, State, and Provincial governments from the United States, Canada, and Mexico, with participation by the industry, motor vehicle and equipment manufacturers, researchers and other interested parties. The use of uniform international enforcement tolerances is necessary to ensure highway safety and to facilitate the efficient transportation of passengers and freight between States and Provinces, and between countries in North America.

Therefore, this rulemaking proceeding is terminated.

Issued on: July 11, 2003.

**Annete M. Sandberg,**

*Acting Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA 2003-14306]

RIN 2127-AA44

#### Flammability of Interior Materials in School Buses

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

**ACTION:** Notice of termination of proposed rulemaking.

**SUMMARY:** This notice terminates a rulemaking proceeding that NHTSA began in 1988 to consider upgrading Standard No. 302's flammability resistance requirements for school bus interiors. The rulemaking was initiated in response to a severe 1988 crash in Carrollton, Kentucky, in which a former school bus being used as a church activity bus burst into flames after colliding head-on with a pickup truck.

After reviewing the available information and public comments, the agency has decided to terminate this rulemaking because: The risks presented by school bus fires pose a minimal safety problem; the agency's 1992 emergency exit requirements to allow faster evacuation from school buses has reduced further the risks posed by fire; the bus involved in the Carrollton fire was built before upgraded Federal school bus standards went into effect in 1977 and did not meet the exit and fuel system integrity requirements; upgrading Standard No. 302 would result in significant costs; and further research would be necessary before the agency could propose a test protocol, utilizing scarce agency resources.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues: Mr. Charles Hott, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366-0247. For legal issues: Mr. Christopher Calamita, Vehicle Safety Rulemaking and Harmonization Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590, Telephone: (202) 366-2992.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the late 1980s, school bus safety received substantial public and Congressional attention, especially in the aftermath of two catastrophic crashes. On May 14, 1988, in Carrollton, Kentucky, a former school bus<sup>1</sup> being used as a church activity bus burst into flames after colliding head-on with a pickup truck. This was a severe crash, with a combined impact speed exceeding 100 miles per hour. Twenty-seven of the 67 bus occupants died in the fire that ensued. On September 21, 1989, in Alton, Texas, a school bus became submerged in a water-filled pit after colliding with a tractor-semi trailer. Twenty-one of the 81 students in the bus drowned because they were unable to escape.

In its investigation of the Carrollton crash, the National Transportation Safety Board (NTSB) concluded:

<sup>1</sup> The bus was manufactured in 1977 shortly before April 1, 1977, prior to the effective date of a final rule improving Standard No. 217's emergency exit capacity requirements and Standard No. 301's fuel system integrity requirements. As a result, the Carrollton bus lacked safety features, such as fuel tank guards and improved access to emergency exits, required on most large school buses that were built after 1977.

Contributing to the severity of the accident was the puncture of the bus fuel tank and ensuing fire in the bus, the partial blockage by the rear bench seats of the area leading to the rear emergency door which impeded rapid passenger egress, and the flammability of the material in the bus seat cushions.<sup>2</sup>

The NTSB also determined that “some fire-retardant and flame blocking materials \* \* \* when tested, will reduce the rate of spread of fire from seat to seat over materials currently used.”<sup>3</sup>

In 1988, in response to the New Carrollton crash, NHTSA initiated two rulemaking proceedings to consider upgrading standards addressing school bus safety.

## II. NHTSA Rulemaking Activity on School Bus Safety

### A. 1988 ANPRM on Standard No. 217

On November 4, 1988, the agency issued an Advance Notice of Proposed Rulemaking (ANPRM) on the adequacy of Standard No. 217's requirements for school bus emergency exits.<sup>4</sup> Standard No. 217, “Bus Emergency Exits and Window Retention and Release,” establishes requirements for the retention of windows in buses and operating forces, opening dimensions, and markings for bus emergency exits. The purpose of the standard is to minimize the likelihood of occupants being thrown from a bus and to provide bus occupants a readily accessible means of emergency evacuation.

NHTSA ultimately revised Standard No. 217's requirements for school bus emergency exits and access to school bus emergency doors in a 1992 final rule.<sup>5</sup> That final rule set requirements for minimum emergency exit space based upon the seating capacity of each bus. Thus, the rule required larger school buses to have an increased number of emergency exits. The final rule also required school buses to provide improved access to side emergency doors and improved visibility of emergency exits.

### B. 1988 ANPRM on Standard No. 302

Also on November 4, 1988, NHTSA issued an ANPRM announcing the agency's plans to consider upgrading Standard No. 302's requirements for the flammability of interior materials in buses.<sup>6</sup> Standard No. 302,

“Flammability of Interior Materials,” specifies that the horizontal burn rate of certain specified materials (*e.g.*, seat cushions and seat backs) may not exceed four inches per minute. The purpose of the standard is to allow the driver time to stop the vehicle and, if necessary, evacuate the vehicle occupants before untenable conditions develop that could result in injuries or fatalities.

In the ANPRM, the agency requested comments on the safety need for a rulemaking to upgrade Standard No. 302, types of buses that should be covered, types of seating material available, toxicity of fumes emitted by burning seating materials, upgraded test procedures, and costs and benefits of such a rulemaking. The agency also noted that factors related to the risk of injuries from fire are often interrelated. Among these factors are a fire's source and magnitude, an occupant's ability to escape from a burning vehicle, the time needed to escape, the location and type of emergency exits, and the flammability resistance of the vehicle's interior materials.

In response to the ANPRM on Standard No. 302, NHTSA received 54 comments from bus manufacturers, seating and material manufacturers, State and local governments, trade associations, and individuals. The commenters generally agreed that measures could be taken to increase the flammability resistance of materials used in school buses. Commenters also addressed other issues raised in the ANPRM, including the rulemaking's scope, the availability of new flame-resistant materials, possible performance requirements to enhance flammability resistance, and the costs and benefits of the rulemaking. The comments were discussed in the agency's 1991 notice requesting comments on issues related to the flammability of interior materials in buses.<sup>7</sup> That notice is discussed below.

### C. 1990 NIST Research Report

In January 1989, NHTSA commissioned the Center for Fire Research of the National Institute of Standards and Technology (NIST) to conduct a research program about the flammability resistance of various school bus seat assemblies. The research focused on factors such as ignitability, flame spread, rate of heat release, smoke generation, and toxicity of combustion products. In July 1990, NIST published its findings in a final report entitled “Assessment of the Fire Performance of

School Bus Interior Components.”<sup>8</sup> The major conclusions of the NIST report were:

1. No one simple small-scale test should be used to measure fire performance of a material.
2. A material's fire performance includes the examination of a combination of factors, such as ease of ignition, flame spread, rate of heat release, generation of gaseous species, smoke development, and toxicity of the combustion products. In addition, the heat exposure conditions and geometry of the school bus play a critical role.
3. A full-scale test procedure (testing a complete seat assembly) will provide the best basis for testing school bus seats.
4. While toxicity is a concern, it appears that heat and/or smoke generated by all likely school bus seating materials would cause incapacitation before toxicity became an issue.

### D. 1991 Notice Requesting Comments on Standard No. 302

On February 26, 1991, NHTSA published a notice requesting comment on the NIST report and other issues to help the agency determine what appropriate measures, if any, were needed to address the fire resistance of materials used in school bus interiors. (56 FR 7826) The questions included the following:

1. Can the agency develop test protocols for improving the fire resistance of school bus interiors? What protocols and test criteria should be adopted?
2. How can the agency best define objective measures of tenability, *e.g.*, exposure to temperature, material ignitability, flame spread, rate of heat release, smoke generation, toxicity, etc.?
3. Does a small-scale (samples of seating materials) or full-scale (complete seat assemblies) test exist that would result in the use of seating materials that improve the fire resistance of school bus interiors? What tests are recommended?
4. Is it necessary to include toxicity in any test protocols designed to improve the fire resistance of school bus interiors? Are there alternative technical requirements that could be established that would result in negligible toxicity risks, such as establishing a temperature limit?
5. Are there any guidelines that could be adopted that would ensure that potentially carcinogenic materials are not utilized in the manufacture of fire retardant or fire resistant materials?

<sup>2</sup> Highway Accident Report—Pickup Truck/Church Activity Bus Head-on Collision and Fire Near Carrollton, Kentucky, May 14, 1988, Report No. NTSB/HAR/89/01 (March 28, 1989), at page 79.

<sup>3</sup> *Id.*, at page 69.

<sup>4</sup> 53 FR 44623, Docket No. 88–21, Notice 1.

<sup>5</sup> 57 FR 49413, November 2, 1992, Docket No. 88–21, Notice 3.

<sup>6</sup> 53 FR 44627, Docket No. 88–22, Notice 1.

<sup>7</sup> 56 FR 7826, February 26, 1991, Docket No. 88–22, Notice 3.

<sup>8</sup> A copy of this report was placed in Docket No. 88–22–GR.

6. Are there other changes or modifications that could be made to school buses, such as changes in the number, location, and size of emergency exits, that would affect the fire resistance requirements of school buses? Should there be a correlation between the fire resistance of materials and the amount of available emergency egress area?

7. What would the costs of upgrading the fire resistance of school bus interiors be? Would the costs affect the ability of school districts to replace older, less safe school buses or to order school buses with other safety features that could have potentially higher benefits?

#### *E. Comments on the 1991 Notice*

In response to the 1991 Notice, NHTSA received comments from State and local governments, school bus and seat manufacturers, trade associations, a test laboratory, and the NTSB.

#### 1. The Need To Upgrade Standard No. 302

The commenters expressed differing views about the need to improve the fire resistance of school bus interiors. Several commenters, including the NTSB, American Medical Association (AMA), the Connecticut Department of Motor Vehicles (Connecticut), and the Delaware Department of Pupil Instruction (Delaware), believed that the flammability test in Standard No. 302 needed to be upgraded. Other commenters, including the National School Transportation Association (NSTA), Maryland Department of Education (Maryland), West Virginia Department of Education (West Virginia), Marysville Washington School District (Marysville), Blue Bird Corporation and Thomas Built Buses, Inc. (bus manufacturers), and Lichter Rubber Products Company (a manufacturer of school bus seats and seat backs) questioned the need for upgrading the flammability resistance requirements in Standard No. 302.

Marysville stated that NHTSA should direct its resources to other school bus safety matters because the Carrollton crash represented an extremely rare situation and because seat flammability was a very low causal factor to the occupant deaths and injuries in that crash. Thomas Built and Lichter Rubber believed that it was not realistic to require seating to withstand fuel-fed fires like the Carrollton fire, which Lichter Rubber characterized as an "explosion." Maryland stated that during the past 30 years, its public school buses have transported students without a single student fatality related to fire.

#### 2. Test Protocol

The commenters also expressed differing views about the form of an upgraded test protocol. Some commenters favored small-scale laboratory tests. Other commenters favored large-scale tests. Delaware recommended having both a small-scale and a large-scale test. The commenters did not provide any convincing information that would allow NHTSA to compare the desirability of requiring either small-scale or large-scale tests, or both. Similarly, while several commenters expressed concern about toxicity, no generally accepted protocol to establish acceptable toxicity levels was apparent from the comments.

#### 3. Costs

Most commenters indicated that upgrading Standard No. 302 would result in significant costs. SFT, a foam manufacturer, stated that the cost of flame retardant foam cushioning for a 66-passenger bus could be \$275 more than the cost of current foam cushioning. SFT also stated that equipping a bus with seat covers made of Kevlar-backed barrier fabric could increase the cost of a bus by \$460, if this upgraded material were required. Thomas Built estimated that using fire block upholstery would increase the total seating cost for a bus by about \$1,000, and requiring fire resistant seat foam and fire block seat covers could add \$1,500 to \$2,000 to the cost of bus. The Oregon Department of Education (Oregon) estimated that if NHTSA upgraded the fire resistance requirements in Standard No. 302 as well as the emergency exit requirements in Standard No. 217, the cost of a school bus could increase by \$1,300 to \$1,500.

#### 4. Cost-Effectiveness

Several commenters, including NSTA and Blue Bird, stated that the costs of upgrading Standard No. 302 would be unjustified. Other commenters, including Arizona and Delaware, believed upgrading Standard No. 302 would be justified, notwithstanding the significant costs.

TAM-USA, a bus manufacturer, Blue Bird, and the Nebraska Department of Education (Nebraska) commented that even though increased flammability resistance was a desirable goal, other efforts, such as improving the emergency exit capacity requirements in Standard No. 217, would be more cost-effective. Similarly, NSTA recommended that the agency pursue requiring additional emergency exits rather than upgrading the flammability resistance requirements.

Maryland and TAM-USA stated that along with flammability, many other factors are involved in determining the risk from school bus fires. These factors include the type of fuel used, location and construction of the fuel tank, type of fire barriers between the engine and occupant compartments, and number and location of emergency exits.

### III. Agency Decision

After reviewing the available information and public comments, NHTSA has decided to terminate the rulemaking to upgrade Standard No. 302's flammability requirements for school bus interiors for the following reasons: (1) The risks presented by school bus fires pose a minimal safety problem for current designs of school buses; (2) the agency's upgrade of Standard No. 217's emergency exit requirements to allow faster evacuation from school buses reduced further the risks posed by fire; (3) the bus involved in the Carrollton fire did not meet then current Federal standards; (4) upgrading Standard No. 302 would result in significant costs that would be disproportionate to minimal benefits; and (5) further research would be necessary before the agency could propose a test protocol, utilizing scarce agency resources.

#### *A. Minimal Safety Problem*

The agency notes that school bus fires are extremely rare. Most school bus fires are small-scale, non-crash engine fires that pose a low risk of injury because ample time is available to evacuate the bus. Large-scale, fuel-fed fires, like the Carrollton fire, are even more rare.

Other than the Carrollton fire, from 1975 through 2002, there were no school bus crashes in which fatalities were attributed to fire as the most harmful event. During this period, there were ten school bus-related fatalities in crashes in which fire was present. However, these fatalities were caused by the crash forces and were not attributed to fire.<sup>9</sup> The 1988 Carrollton crash resulted in 27 fatalities. Since that crash, there have been no fire-related fatalities in school buses.

#### *B. Upgrade of Standard No. 217 Reduced Risks Associated With Fires*

NHTSA believes that the limited risk posed by school bus fires was further reduced by the agency's issuance of the November 2, 1991 final rule upgrading Standard No. 217's emergency exit

<sup>9</sup>Nine of the ten fatalities resulted from a 1984 crash in Essex, Montana, in which a pre-1977 school bus was struck head-on by a tractor-trailer carrying jet fuel, which leaked from the trailer and caused the post-crash fire.

requirements to allow faster evacuation from school buses. Specifically, the final rule increased the number of emergency exits in larger school buses, improved access to side emergency doors, and improved the visibility of the emergency exits. These amendments have made possible shorter evacuation times from a school bus in case of fire or other emergency situations (e.g., submersion in water). Thus, the benefits of the Standard No. 217 rulemaking are potentially broader than those that might have resulted from a Standard No. 302 rulemaking since the latter standard addresses only those emergencies involving fire.

NHTSA agrees with the comments of Blue Bird, TAM-USA, Nebraska, Maryland, and NSTA that the agency's improvement of the emergency exit capacity requirements in Standard No. 217 better addresses the risks associated with post-crash fires than upgrading the flammability resistance requirements in Standard No. 302 would. Accordingly, given that the agency's upgrade of Standard No. 217 has reduced the already minimal risk posed by school bus fires, the agency believes that upgrading Standard No. 302 is not warranted.

The agency also notes that the NTSB has accepted NHTSA's upgrade of Standard No. 217 as an acceptable alternative to upgrading Standard No. 302. In a December 17, 1998 letter to NHTSA's Administrator, the Chairman of the NTSB stated:

Safety Recommendation H-89-4 was issued to NHTSA as a result of the Safety Board's investigation of the truck and bus collision near Carrollton, Kentucky on May 14, 1988.

Safety Recommendation H-89-4 asked NHTSA to incorporate in FMVSS 302 the recommendations of the National Institute of Standards and Technology concerning the new material acceptance criteria to reduce the rate of fire spread in all buses.

The Safety Board commends NHTSA for changing the emergency exit requirements so that school buses are required to have emergency exits. \* \* \* As a result of NHTSA's efforts to upgrade the emergency exit requirements for school buses, thus reducing the need to upgrade the flammability requirements for school bus seats, Safety Recommendation H-89-4 has been classified "Closed " Acceptable Alternate Action."<sup>10</sup>

### C. Carrollton Bus Did Not Meet the Then Current Federal Standards

The agency also notes that the bus involved in the Carrollton fire did not meet the then current Federal motor vehicle safety standards. That bus was

built before April 1, 1977, prior to the effective date of the final rule improving Standard No. 217's emergency exit capacity requirements and Standard No. 301's fuel system integrity requirements.<sup>11</sup> As a result, the Carrollton bus lacked safety features, such as fuel tank guards and improved access to emergency exits, required on large school buses that were built after 1977.

If the Carrollton bus had been built after 1977, and thus had been equipped with a fuel tank guard, the post-crash fire might never have occurred. According to the NTSB report, a puncturing of the bus' fuel tank caused the fire.<sup>12</sup>

Finally, the agency agrees with the comments of Thomas Built, Lichter Rubber, and Blue Bird that even if the Carrollton bus had complied with a hypothetical upgraded Standard No. 302, the increased flammability resistance might not have increased the survivability of a Carrollton-type crash. As noted above, the Carrollton crash was extremely severe, with a combined impact speed exceeding 100 miles per hour, and the fire that ensued was fuel-fed and explosive in nature.

### D. Significant Costs of Upgrading Standard No. 302

While NHTSA believes that the weighing of regulatory costs and benefits should not be the only basis for a decision, and while the costs of improving flammability resistance are not definitive since performance levels and compliance test procedures were not specifically defined in the agency's earlier notices, these costs would have been substantial and disproportionate to the minimal benefits. The commenters' estimated costs ranged from \$275 to equip a 66-passenger bus with only fire retardant foam cushioning, to \$2,000 to equip a bus with fire retardant foam cushions and fire block upholstery. The agency's own range of estimates is from \$300 for fire retardant foam to \$850 for fire block upholstery.

Based on its estimates, the agency believes that the costs of upgrading Standard No. 302 could exceed the costs associated with other school bus-related rulemakings. For example, the agency estimated that the costs of upgrading

<sup>11</sup> Standard No. 301, "Fuel System Integrity," specifies fuel spillage limitations after each of several crash tests. The purpose of the standard is to reduce the probability of injuries and fatalities in post-crash fires. School buses were not required to comply with Standard No. 301 until April 1, 1977. See 41 FR 36026, August 26, 1976.

<sup>12</sup> Highway Accident Report—Pickup Truck/Church Activity Bus Head-on Collision and Fire Near Carrollton, Kentucky, May 14, 1988, Report No. NTSB/HAR/89/01 (March 28, 1989).

Standard No. 217's emergency exit requirements were \$557 per bus. Accordingly, NHTSA concludes that the low level of risk posed by school bus fires, which was even further reduced by the agency's upgrade of Standard No. 217, does not justify the significant additional costs that would result from upgrading Standard No. 302's flammability resistance requirements.

The agency notes that an upgrade of Standard No. 302 would increase the costs of school buses, forcing States and local school districts to spend more funds. The agency believes that these funds would be better spent on other school bus safety programs and devices that could save more lives and reduce more injuries, such as purchasing school buses complying with the upgraded emergency exit requirements or retrofitting school buses with stop signal arms and improved mirror systems.

### E. Test Protocol

Finally, the agency does not believe it could propose a test protocol and criteria regarding conditions vital for survivability in a fire without first conducting further research evaluating the flammability of school bus interiors during high intensity fires. Similarly, additional research would be necessary to develop a protocol for toxicity tests if it were determined that toxicity is an important component of upgrading flammability. While the absence of an existing test protocol would not, by itself, justify terminating this rulemaking, NHTSA notes that the additional costs and time involved in developing such a protocol contributed to the agency's decision to terminate this rulemaking.

## IV. Conclusion

For the reasons set forth above, NHTSA has decided to terminate this rulemaking action.

Although NHTSA has decided not to upgrade Standard No. 302, the agency notes that States and local school districts may purchase school buses with interiors that exceed the minimum Federal requirements. At the 11th National Conference on School Transportation in May 1990, the State delegates voted to recommend a large-scale test procedure for measuring flammability resistance with performance levels exceeding those required by Standard No. 302. The Conference's recommendations were reaffirmed at the 12th National Conference, which was held in May 1995, and the 13th National Conference, which was held in May 2000. While the 11th National Conference's

<sup>10</sup> A copy of this letter has been placed in the docket.

recommendations only provide guidance to most State school transportation personnel, a number of local school districts and States, including Connecticut, Mississippi, North Dakota, Tennessee, South Carolina, and Utah, have adopted the *Body and Chassis* specifications issued by the 11th Conference. Therefore, some school buses will be equipped with more flame-resistant interiors, notwithstanding NHTSA's decision not to upgrade Standard No. 302.<sup>13</sup> In addition, the agency's decision not to upgrade Standard No. 302's requirements does not preclude States from adopting flammability resistance requirements that impose a higher performance requirement than the Federal standard for vehicles procured for the State's own use. If a State is disposed to regulate in this area concerning public school buses, it may do so.

Issued: July 11, 2003.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 583

[Docket No. NHTSA 03-15125; Notice 1]

RIN 2127-AA03

#### Crashworthiness Ratings

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

**ACTION:** Termination of proposed rulemaking.

**SUMMARY:** This document terminates a proposed rulemaking in which we had considered establishing a crashworthiness performance ratings program for new motor vehicles. Under the contemplated program, for which the agency issued a notice of proposed rulemaking in 1981, information would have been developed by manufacturers on the ability of their vehicles to protect occupants in high speed crashes and made available to the public via window stickers on new motor vehicles. The NPRM raised the alternative possibility that the agency, instead of

the manufacturers, would generate the information.

We are terminating this proposed rulemaking because it has been overtaken by events. During the years since 1981, we have continued to develop and expand our New Car Assessment Program (NCAP). Under the NCAP program, the agency generates the kinds of information that would have been provided by the proposed crashworthiness performance ratings program. Ratings are available for front and side impact crashworthiness. They are also now available for rollover resistance. Additional ratings are under development for dynamic rollover, braking and lighting.

**FOR FURTHER INFORMATION CONTACT:** The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590:

*For technical issues:* Mary Versailles, Office of Rulemaking, telephone (202) 366-2057.

*For legal issues:* Edward Glancy, Office of the Chief Counsel, telephone (202) 366-2992.

**SUPPLEMENTARY INFORMATION:** On January 22, 1981, we published (46 FR 7025) a notice of proposed rulemaking (NPRM) to establish a new vehicle crashworthiness performance ratings program. We already had a regulation requiring that consumers be provided with crash avoidance information, *e.g.*, braking performance, but did not have any comparable measures for providing crashworthiness information. The idea underlying the proposal was to supplement the agency's minimum crashworthiness standards with a program using market forces to encourage the manufacture of safer automobiles. It was anticipated that the information would not only aid consumers in making better informed purchasing decisions, but also competition among automobile manufacturers in the design of safer products. We noted several studies indicating that consumers were significantly interested in vehicle crashworthiness performance and that their purchasing decisions would be influenced by information about the performance of different models.

Under the contemplated program, information would have been developed by manufacturers on the ability of their new vehicles to protect occupants in high-speed crashes and made available to the public via window stickers. The primary element of the proposed regulation was to be a requirement for manufacturers to disclose to prospective purchasers whether or not their vehicles

conform to the belted occupant protection criteria of Standard No. 208, *Occupant Crash Protection*, when tested under the frontal fixed rigid barrier crash procedures of that safety standard, but at a speed of 35 mph instead of the 30 mph speed specified in the standard.

Since publishing the NPRM for crashworthiness ratings in 1981, we have retained an entry for this rulemaking in the Regulatory Agenda. However, this rulemaking has long been overtaken by events.

Since 1981, we have significantly developed and expanded our New Car Assessment Program (NCAP). As part of this program, the agency, not the manufacturers, annually subjects selected cars, light trucks, sport utility vehicles, and vans to frontal and side crash tests, with particular focus on models that are new, popular, redesigned, or have improved safety equipment. These vehicles are then rated on how well they protect drivers and passengers during those frontal and side collisions. We use a five star system for rating vehicles. We provide the ratings to the public through a variety of means, including press releases, the NHTSA website, and an annual publication titled "Buying a Safer Car." That publication provides the public with a variety of valuable information on crash tests, safety features and buying tips.

Through the expanded NCAP program, we are accomplishing the goals we sought in proposing the crashworthiness performance ratings program. Our monitoring of test scores and ratings from year to year indicates that the manufacturers do modify their vehicles in response to the NCAP ratings and sometimes prominently feature those ratings in their advertising.

During the 1990's, we expanded our Regulatory Agenda entry for the crashworthiness ratings rulemaking to include a discussion of our publication of a request for comments summarizing a 1996 study by the National Academy of Sciences (NAS) titled "Shopping for Safety—Providing Consumer Automotive Safety Information." (62 FR 27648, May 20, 1997.) The NAS study made a number of recommendations to NHTSA on ways to improve automobile safety information for consumers. Our 1997 notice requested comments on our response to the recommendations of the NAS study and on programs we had begun or were considering to address those recommendations.

For the long term, the NAS study recommended the development of an overall measure combining the relative

<sup>13</sup>To assure that school districts are aware of the ability to procure buses with more flame-resistant interiors, NHTSA wrote to the heads of State Pupil Transportation Services on November 24, 1995, to inform them of the availability of these materials.