

proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 231C3 at St. Augustine and by adding Fruit Cove, Channel 231C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-16065 Filed 8-16-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05-2208; MB Docket No. 05-245; RM-11264]

Radio Broadcasting Services; Sierra Vista and Tanque Verde, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division seeks comment on a petition filed by CCR-Sierra Vista IV, LLC, licensee of FM Station KZMK, Channel 265A, Sierra

Vista, Arizona, proposing the reallocation of Channel 265A from Sierra Vista to Tanque Verde, Arizona, as its first local service and modification of the FM Station KZMK(FM) license accordingly. Channel 265A can be allotted to Tanque Verde in conformity with the Commission's rules, provided there is a site restriction of 9.2 kilometers (5.7 miles) north at reference coordinates 32-19-59 NL and 110-45-19 WL. Tanque Verde is located within 320 kilometers (199 miles) of the U.S.-Mexican border and the proposed reallocation is short-spaced to Mexican vacant Channel 266B, Sasabe, SO by 3.1 kilometers. As such, Mexican concurrence for this proposed reallocation has been requested as a specially negotiated short-spaced limited allotment. In accordance with the provisions of Section 1.420(i) of the Commission's rules, we shall not accept competing expressions of interest pertaining to the use of Channel 265A at Tanque Verde.

DATES: Comments must be filed on or before September 19, 2005, and reply comments on or before October 4, 2005.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel, as follows: Howard M. Liberman, Esq., Elizabeth A. Hammond, Esq., Counsel for CCR-Sierra Vista IV, LLC, Drinker Biddle & Reath LLP, 1500 K Street, NW., Suite 1100, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 05-245, adopted July 27, 2005, and released July 29, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20054, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the

Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 265A at Sierra Vista and by adding Tanque Verde, Channel 265A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-16064 Filed 8-16-05; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2005-22093]

RIN 2127-AJ31

Federal Motor Vehicle Safety Standards; Theft Protection

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Our safety standard on theft protection specifies vehicle performance

requirements intended to reduce the incidence of crashes resulting from theft and accidental rollaway of motor vehicles. As a result of technological advances in the area of theft protection, the terminology used in the regulatory text of the Standard has become outdated and incompatible with key-locking systems that employ electronic codes to lock and unlock the vehicle, and to enable engine activation. This document proposes to amend and reorganize the regulatory text of the Standard so that it better correlates to modern theft protection technology and reflects the agency's interpretation of the existing requirements. The proposed requirements would not impose any new substantive requirements on vehicle manufacturers.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than October 17, 2005.

ADDRESSES: You may submit comments identified by the DOT Docket Number cited in the heading of this document by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 7th Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Hand Delivery: Room PL-401, 400 7th Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 7th Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical issues: Ms. Gayle Dalrymple, Office of Crash Avoidance Standards, NVS-123, NHTSA, 400 7th Street, SW., Washington, DC 20590. Telephone:

(202) 366-5559. E-mail:

Gayle.Dalrymple@nhtsa.dot.gov.

For legal issues: Mr. George Feygin, Office of the Chief Counsel, NCC-112, NHTSA, 400 7th Street, SW., Washington, DC 20590. Telephone:

(202) 366-5834. E-mail:

George.Feygin@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Recent Letters of Interpretation Regarding FMVSS No. 114
- III. VW Petition for Rulemaking
- IV. Proposed Changes to the Regulatory Text
- V. Effective Date of the Proposed Changes
- VI. Request for Comments
- VII. Rulemaking Analyses and Notices
 - A. Executive Order 12866 and DOT Regulatory Policies and Procedures
 - B. Executive Order 13132 (Federalism)
 - C. Executive Order 13045
 - D. Civil Justice Reform
 - E. Regulatory Flexibility Act
 - F. Paperwork Reduction Act
 - G. National Technology Transfer And Advancement Act
 - H. Unfunded Mandates Reform Act
 - I. Regulation Identifier Number (RIN)
 - J. Privacy Act
 - K. Plain Language
 - K. National Environmental Policy Act
- VIII. Regulatory Text

I. Background

FMVSS No. 114, *Theft protection*, specifies vehicle performance requirements intended to reduce the incidence of crashes resulting from theft and accidental rollaway of motor vehicles. The standard applies to all passenger cars, and to trucks and multipurpose passenger vehicles with a GVWR of 4536 kilograms (10,000 pounds) or less. The standard first became effective on January 1, 1970.¹ The purpose of the standard was to prevent crashes caused by unauthorized use of unattended motor vehicles. Thus, the standard sought to ensure that the vehicle could not be easily operated without the key, and that the vehicle operator would not forget to remove the key from the ignition system upon exiting the vehicle.

In response to the problem of accidental rollaway crashes resulting from children inadvertently moving the automatic transmission lever to a neutral position when a stationary vehicle is parked on a slope, NHTSA later amended FMVSS No. 114 to require that the automatic transmission lever be locked in the "park" position before the key can be removed from the ignition system.² Subsequently, NHTSA amended these new requirements to

permit an override device that would enable the vehicle operator to remove the key without the transmission being locked in "park," and to move the transmission lever without using the key, under certain circumstances. The purpose of these override provisions was to address certain situations when it may be necessary to remove key without shifting the transmission lever because the vehicle has become disabled.³

While FMVSS No. 114 evolved to address not only theft protection, but also accidental rollaway prevention, the terminology used in the regulatory text has remained unchanged since its introduction more than 35 years ago. However, theft protection technology has advanced considerably during that time. As a result, certain provisions of the Standard have become increasingly ambiguous when applied to modern theft protection technology not contemplated by the Standard when it first went into effect.

For example, a number of vehicles now feature electronic systems. Typically, this involves a card or a similar device that is carried in an occupant's pocket or purse. The card carries an electronic code that acts as the key when it is transmitted to the vehicle's onboard locking system. The vehicle has a sensor that automatically unlocks the door and allows the vehicle operator to activate the engine, when it receives the code. The code-carrying device (*i.e.*, card or otherwise) never has to leave the vehicle operator's pocket or purse and is not inserted into the ignition module.

In response to manufacturers' requests, NHTSA issued a series of interpretation letters explaining how the Standard applied to various key-locking systems that did not utilize conventional keys, but instead relied on electronic codes to lock and unlock the vehicle, and to enable engine activation.

In 2002, NHTSA received a petition for rulemaking from Volkswagen of America (VW) asking the agency to amend a certain provision of the standard related to rollaway prevention, that will be discussed below. The agency decided to grant the petitioner's request. However, instead of addressing only the limited issues raised by VW, this document takes a broader approach and proposes to amend and reorganize the regulatory text of FMVSS No. 114 so that it better correlates to modern anti-theft technology and reflects the agency's interpretation of the existing requirements.

¹ See 33 FR 6471 (April 24, 1968).

² See 55 FR 21868, (May 30, 1990).

³ See 56 FR 12464 (March 26, 1991).

II. Recent Letters of Interpretation Regarding FMVSS No. 114

As noted above, the agency received several requests for legal interpretation of the requirements of FMVSS No. 114, as they apply to key-locking systems using various remote access devices. In response, the agency has stated that the electronic code transmitted from a remote device to the vehicle can be considered a "key" for the purposes of FMVSS No. 114.⁴ We have also elaborated on how other provisions of the standard applies to electronic codes. For example, the agency stated that the narrow provisions related to electrical failure do not apply to electronically coded cards or other means used to enter an electronic key code into the locking system because those provisions were specifically crafted in the context of traditional keys.⁵ We also explained that systems using an electronic code instead of conventional key would satisfy the rollaway prevention provisions if the code remained in the vehicle until the transmission gear is locked in the "park" position.

We have followed our interpretation of the definition of "key" in addressing other issues related to FMVSS No. 114. However, instead of relying on interpretations, and possibly facing additional questions in the future, the agency believes that it is appropriate to amend the regulatory text of FMVSS No. 114 so that it better correlates to modern anti-theft technology and better reflects the agency's interpretation of the existing requirements. The specifics of our proposal are discussed in Section IV below.

III. VW Petition for Rulemaking

As previously discussed, in order to prevent accidental rollaways, the Standard currently requires that, for vehicles with automatic transmission, the transmission lever must be locked in "park" before the vehicle operator could remove the key.⁶ However, the Standard also allows an optional "override device" which permits removal of the key without the automatic transmission being locked in "park." The standard currently specifies that this override device " * * * must be covered by a non-transparent surface which, when installed, prevents sight of and activation of the device * * * " and that " * * * The covering surface shall be

removable only by use of a screwdriver or other tool."

On October 29, 2002, NHTSA received a petition from VW asking the agency to amend S4.2.2(a) by removing provisions related to the override device covering. VW argued that these provisions are unnecessarily design-restrictive. VW indicated that there are other ways to ensure that the override device is not engaged inadvertently. Specifically, VW suggested that the agency allow an override device that requires using a tool to activate the override device while simultaneously removing the key.

The agency agrees that the regulatory text related to the override device cover is unnecessarily design-restrictive. Accordingly, this document grants the VW petition for rulemaking and proposes to amend the relevant portions of the regulatory text.

IV. Proposed Changes to the Regulatory Text

First, the agency is proposing to reorganize the regulatory text of the Standard such that the requirements related to theft protection are separated from the requirements intended to prevent accidental rollaway. Second, whenever possible, we are proposing to simplify the language used in the Standard to make it more clear. Finally, this document proposes to amend requirements and definitions that are unnecessarily design-restrictive.

While we discuss certain specific aspects of our proposal below, we encourage readers to carefully examine each paragraph of the proposed regulatory text because the entire text is revised.

1. We are proposing to revise the paragraphs explaining the Standard's scope and purpose to better reflect its goal of reducing the incidence of crashes resulting from theft and also accidental rollaway of motor vehicles. This change has no substantive significance because the Standard already addresses both safety concerns, and should not be viewed as broadening the scope of the current requirements.

2. We are proposing to revise the definition of "key" such that it makes it appropriate not only for conventional keys but also electronic codes and other potential means of unlocking and operating the vehicle. We believe that the new definition is broad enough to include not only electronic codes but also other technologies, including, for example, fingerprint recognition.

3. The current standard uses the term "transmission shift lever" in several instances to refer to the mechanism by which the driver changes the

transmission from one gear to another. The agency believes that this term is unnecessarily design-specific. We have therefore substituted the term "gear selection control" for the term "transmission shift lever."

4. As previously discussed, S4.2.1 of the current Standard specifies that a key cannot be removed from the ignition until the transmission shift lever is locked in "park." However, the Standard provides for an optional override device designed to allow (a) removal of the key when the transmission is not in the "park," and (b) moving the transmission out of "park" when the key is not in the ignition. The Standard requires that the means for activating this device must be covered by a non-transparent surface which, when installed, prevents sight of and activation of the device. This covering surface can only be removable by use of a tool.⁷

In response to the VW petition described above, we are proposing to amend the requirement that the override device be covered by a non-transparent surface. Specifically, as an alternative to the current requirement, we are proposing to permit an override device that requires using a tool to activate the override device while simultaneously removing the key. We believe that requiring the use of a tool in order to activate this type of override device would involve sufficient complexity to prevent possible inadvertent activation by a child.

5. The current Standard allows only override systems that prevent steering before the key can be released, or the transmission lever can be shifted. The agency previously indicated that this requirement ensured that the theft protection aspects of the standard remained intact even in certain situations where the vehicle was disabled.⁸ After further evaluating this aspect of our requirements, we tentatively conclude that an override device that would prevent forward self-mobility (such as an immobilizer) instead of steering would be just as effective. As explained in our September 24, 2004 interpretation letter to a party who requested confidentiality:

We note that in promulgating FMVSS No. 114, the agency expressed concern about car thieves who could bypass the ignition lock. In response to this concern, the agency decided to require a device, which would prevent either self-mobility or steering even if the ignition lock were bypassed (see 33 FR 4471, April 27, 1968).

⁷ The purpose of this requirement was to ensure that children could not easily gain access to the override device (see 56 FR 12464 at 12466).

⁸ See *id.* at 12467.

⁴ See <http://www.nhtsa.dot.gov/cars/rules/interps/files/GF001689.html> and <http://www.nhtsa.dot.gov/cars/rules/interps/files/7044.html>.

⁵ See <http://www.nhtsa.dot.gov/cars/rules/interps/files/GF001689.html>.

⁶ See S4.2.2(a) of FMVSS No. 114.

The engine control module immobilizer described in your letter satisfies the requirements of S4.2(b) because it locks out the engine control module if an attempt is made to start the vehicle without the correct key or to bypass the electronic ignition system. When the engine control module is locked, the vehicle is not capable of forward self-mobility because it is incapable of moving forward under its own power.⁹

Further, as explained in our May 27, 2003 interpretation letter to Jaguar, preventing steering after a moving vehicle has experienced a complete loss of electrical power would not be appropriate before a vehicle could be safely stopped.¹⁰ Therefore, we are proposing to amend this aspect of the override provisions to allow manufacturers greater flexibility in designing their override devices and to allow manufacturers the choice to use electronic theft prevention devices, such as immobilizers, instead of using steering locks if they desire.

V. Effective Date of the Proposed Changes

As previously discussed, with the exception of the override provisions, which would be made less restrictive, the proposed amendments would not make substantive changes to the existing standard. Instead, we are proposing to amend and reorganize the regulatory text of FMVSS No. 114 so that it better correlates to modern theft protection technology and reflects the agency's interpretation of the existing requirements. We believe vehicle manufacturers would not have to make any changes to their vehicles if this proposal was made final. Accordingly, we propose to make this document effective 60 days following the publication of the final rule.

VI. Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long.¹¹ We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments,

including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.¹²

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at <http://dmses.dot.gov/submit/DataQualityGuidelines.pdf>.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information

specified in our confidential business information regulation.¹³

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) by going to the street address given above under **ADDRESSES**. The hours of the Docket Management System (DMS) are indicated above in the same location.

You may also read the materials on the Internet. To do so, take the following steps:

(1) Go to the Web page of the Department of Transportation DMS (<http://dms.dot.gov/search/searchFormSimple.cfm>).

(2) On that page type in the five-digit docket number cited in the heading of this document. After typing the docket number, click on "search."

(3) On the next page ("Docket Search Results"), which contains docket summary information for the materials in the docket you selected, scroll down and click on the desired materials. You may download the materials.

VII. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under Executive Order 12866, "Regulatory Planning and Review." The agency has considered the impact of this proposal under the Department of Transportation's regulatory policies and procedures, and has determined that it is not significant.

This document proposes to amend and reorganize the regulatory text of 49 CFR 571.114 so that it better correlates to modern theft protection technology and better reflects the agency's interpretation of the existing requirements. Additionally, this document proposes to make certain

⁹ <http://www.nhtsa.dot.gov/cars/rules/interps/files/GF005229-2.html>.

¹⁰ <http://www.nhtsa.dot.gov/cars/rules/interps/files/GF001689.html>.

¹¹ See 49 CFR 553.21.

¹² Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

¹³ See 49 CFR part 512.

provisions of 49 CFR 571.114 less restrictive. If made final, the vehicle manufacturers would not have to make any changes to their vehicles as a result of this rule. The impacts of this proposed rule are so minor that we determined that a separate regulatory evaluation is not needed.

B. Executive Order 13132 (Federalism)

The agency has analyzed this proposal in accordance with the principles and criteria set forth in Executive Order 13132. This proposal would not have a 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.

C. Executive Order 13045

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 proposal is not subject to the Executive Order 13045 because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, safety or health risks having a disproportionate impact on children.

D. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 21403, 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. 21461 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

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed rules on small businesses, small organizations and small governmental jurisdictions. I have considered the possible effects of this rulemaking action under the Regulatory Flexibility Act and certify that it would not have a significant economic impact on a substantial number of small entities.

This document proposes to amend and reorganize the regulatory text of 49 CFR 571.114 so that it better correlates to modern theft protection technology and better reflects the agency's interpretation of the existing requirements. If made final, vehicle manufacturers or any other small businesses would not have to make any changes to their products as a result of this rule.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, 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 proposal does not include any new information collection requirements.

G. 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 its 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. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

There are no available voluntary consensus standards that are equivalent to FMVSS No. 114.

H. 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 (\$120.7 million as adjusted annually for inflation with base year of 1995).

The proposed requirements would not result in costs of \$120.7 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector.

I. 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.

J. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78), or you may visit <http://dms.dot.gov>.

K. 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 isn't 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 the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

L. National Environmental Policy Act

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any

significant impact on the quality of the human environment.

VI. Regulatory Text

List of Subjects in 49 CFR Parts 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

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

PART 571—[AMENDED]

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

Authority: 49 U.S.C. 322, 2011, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

2. Section 571.114 would be revised to read as follows:

§ 571.114 Standard No. 114; Theft protection and rollaway prevention.

S1. Scope. This standard specifies vehicle performance requirements intended to reduce the incidence of crashes resulting from theft and accidental rollaway of motor vehicles.

S2. Purpose. The purpose of this standard is to decrease the likelihood that a vehicle is stolen, or accidentally set in motion.

S3. Application. This standard applies to all passenger cars, and to trucks and multipurpose passenger vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less. However, it does not apply to walk-in van-type vehicles.

S4. Definitions

Combination means a variation of the key that permits the starting system of a particular vehicle to be operated.

Key means a physical device or an electronic code which, when inserted into the starting system (by physical or electronic means), enables the vehicle operator to activate the engine or motor.

Open-body type vehicle means a vehicle having no occupant compartment doors or vehicle having readily detachable occupant compartment doors.

Starting system means the vehicle system used in conjunction with the key to activate the engine or motor.

Vehicle type, as used in S5.1.2, refers to passenger car, truck, or multipurpose passenger vehicle, as those terms are defined in 49 CFR 571.3.

S5. Requirements. Each vehicle subject to this standard must meet the requirements of S5.1 and S5.2. Open-body type vehicles are not required to comply with S5.1.3.

S5.1 Theft Protection

S5.1.1 Each vehicle must have a starting system which, whenever the

key is removed from the starting system prevents:

(a) The normal activation of the vehicle's engine or motor; and

(b) Either steering, or forward self-mobility, of the vehicle, or both.

S5.1.2 For each vehicle type manufactured by a manufacturer, the manufacturer must provide at least 1,000 unique key combinations, or a number equal to the total number of the vehicles of that type manufactured by the manufacturer, whichever is less. The same combinations may be used for more than one vehicle type.

S5.1.3. Except as specified below, an audible warning to the vehicle operator must be activated whenever the key is in the starting system and the door located closest to the driver's designated seating position is opened. An audible warning to the vehicle operator need not activate:

(a) After the key has been inserted into the starting system, and before the driver takes further action; or

(b) If the key is in the starting system in a manner or position that allows the engine or motor to be started or to continue operating; or

(c) For mechanical keys and starting systems, after the key has been withdrawn to a position from which it may not be turned.

S5.1.4. If a vehicle is equipped with a transmission with a "park" position, the means for deactivating the vehicle's engine or motor must not activate any device installed pursuant to S5.1.1(b), unless the transmission is locked in the "park" position.

S5.2. Rollaway Prevention in Vehicles Equipped With Transmissions With a "Park" Position

S5.2.1 Except as specified in S5.2.3, the starting system required by S5.1 must prevent key removal when tested according to the procedures in S6, unless the transmission or gear selection control is locked in "park" or becomes locked in "park" as a direct result of key removal.

S5.2.2 Except as specified in S5.2.4, the vehicle must be designed such that the transmission or gear selection control cannot move from the "park" position, unless the key is in the starting system.

S5.2.3 Key Removal Override Option

At the option of the manufacturer, the key may be removed from the starting system without the transmission or gear selection control in the "park" position under one of the following conditions:

(a) In the event of electrical failure, including battery discharge, the key may be automatically removed from the

starting system without the transmission or gear selection control locked in the "park" position; or

(b) Provided that steering or self-mobility is prevented, the vehicle may have a device by which the user can remove the key from the starting system without the transmission or gear selection control locked in "park." This device must require:

(i) The use of a tool, and

(ii) Simultaneous activation of the device and removal of the key; or

(c) Provided that steering or self-mobility is prevented, the vehicle may have a device by which the user can remove the key from the starting system without the transmission or gear selection control locked in "park." This device must be covered by an opaque surface which, when installed:

(i) Prevents sight of and use of the device, and

(ii) Can be removed only by using a screwdriver or other tool.

S5.2.4 Gear Selection Control Override Option

The vehicle may have a device by which the user can move the gear selection control from "park" after the key has been removed from the starting system. This device must be operable by one of the three options below:

(a) By use of the key; or

(b) By a means other than the key, provided steering or forward self-mobility is prevented when the key is removed from the starting system. Such a means must require:

(i) The use of a tool, and

(ii) Simultaneous activation of this means and movement of the gear selection control from "park;" or

(c) By a means other than the key, provided steering or forward self-mobility is prevented when the key is removed from the starting system. This device must be covered by an opaque surface which, when installed:

(i) Prevents sight of and use of the device, and

(ii) Can be removed only by using a screwdriver or other tool.

S5.2.5 When tested in accordance with S6.2.2, each vehicle must not move more than 150 mm on a 10 percent grade when the gear selection control is locked in "park."

S6. Compliance Test Procedure for Vehicles With Transmissions With a "Park" Position

S6.1 Test Conditions

S6.1.1 The vehicle shall be tested at curb weight plus 91 kg (including the driver).

S6.1.2 Except where specified otherwise, the test surface shall be level.

S6.2 Test Procedure

S6.2.1

(a) Activate the starting system using the key.

(b) Move the gear selection control to any gear selection position or any other position where it will remain without assistance, including a position between any detent positions, except for the "park" position.

(c) Attempt to remove the key in each gear selection position.

S6.2.2

(a) Drive the vehicle forward up a 10 percent grade and stop it with the service brakes.

(b) Apply the parking brake (if present).

(c) Move the gear selection control to "park."

(d) Note the vehicle position.

(e) Release the parking brake. Release the service brakes.

(f) Remove the key.

(g) Verify that the gear selection control or transmission is locked in "park."

(h) Verify that the vehicle, at rest, has moved no more than 150 mm from the position noted prior to release of the brakes.

S6.2.3

(a) Drive the vehicle forward down a 10 percent grade and stop it with the service brakes.

(b) Apply the parking brake (if present).

(c) Move the gear selection control to "park."

(d) Note the vehicle position.

(e) Release the parking brake. Release the service brakes.

(f) Remove the key.

(g) Verify that the gear selection control or transmission is locked in "park."

(h) Verify that the vehicle, at rest, has moved no more than 150 mm from the position noted prior to release of the brakes.

Issued: August 5, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05-16226 Filed 8-16-05; 8:45 am]

BILLING CODE 4910-59-P