(ii) In line with the policy of assuring continuity of operation of vital facilities, all collective bargaining agreements at Government-owned energy installations should provide that grievances and disputes involving the interpretation or application of the agreement will be settled without resorting to strike, lockout, or other interruption of normal operations. For this purpose, each collective bargaining agreement should provide an effective grievance procedure with arbitration as its final step, unless the parties mutually agree upon some other method of assuring continuity of operation for the term of the agreement. The contracting officer shall insert the clauses at FAR 52.222-1, Notice to the Government of Labor Disputes, and 970.5204-57, Collective bargaining agreements—management and operating contracts, in all management and operating contracts, and subcontracts thereunder, which require continuity of operation at a DOE-owned facility.

* * * * *

7. Section 970.5204-57 is added as follows:

970.5204-57 Collective bargaining agreements—management and operating contracts.

As prescribed in 970.2201(b)(5)(ii), insert the following clause:

Collective Bargaining Agreements—Management and Operating Contracts (XXX 1991)

When negotiating collective bargaining agreements under this contract, the Contractor shall use its best efforts to ensure such agreements contain provisions designed to assure continuity of services during the contract period of performance. All such agreements should provide that grievances and disputes involving the interpretation or application of the agreement will be settled without resorting to strike, lockout, or other interruption of normal operations. For this purpose, each collective bargaining agreement should provide an effective grievance procedure with arbitration as its final step, unless the parties mutually agree upon some other method of assuring continuity of operations for the period of performance of the contract. As part of such agreements, management and labor shall agree to cooperate fully with the Federal Mediation and Conciliation Service. The contractor shall include the substance of this clause in any subcontracts for protective services or other services performed on the DOE owned site which will affect the continuity or operation of the facility.

[FR Doc. 91-18389 Filed 8-9-91; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91-39; Notice 1]

RIN 2127-AE11

Federal Motor Vehicle Safety Standards; Windshield Wiping and Washing Systems

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Standard No. 104, Windshield Wiping and Washing Systems, to substitute the term "seating reference point" for the terms "manikin H point", "manikin H point with seat in rearmost position" and "H point" wherever any of these terms appear in any SAE Standard or Recommended Practice as that SAE document is incorporated by reference in the standard. Currently, the term "seating reference point" is substituted in Standard No. 104 for the terms "manikin H point" and "H point", but not "manikin H point with seat in rearmost position."

Elsewhere in today's edition of the Federal Register, NHTSA has published a final rule amending the definition of "seating reference point." The new definition clarifies that the "seating reference point" is not necessarily the absolute rearmost point to which a seat can be adjusted. Substitution of the term "seating reference point," as required by Standard No. 104, results in references in the incorporated SAE documents to "seating reference point with seat in rearmost position." That reference is contradictory under the new definition of SgRP when that point is other than the rearmost position of the seat. This proposal would eliminate such potentially contradictory references.

DATES: Comments must be received by October 11, 1991. If adopted, the proposed amendment would become effective on September 1, 1992.

ADDRESSES: Comments should refer to Docket No. 91-39; Notice 1 and submitted to: NHTSA Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Jere Medlin, Crash Avoidance Division, NRM-11, room 5307, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-5276).

SUPPLEMENTARY INFORMATION: Standard No. 104, Windshield Wiping and Washing Systems, specifies requirements for windshield wiping and washing systems. Standard No. 104 references a variety of SAE Recommended Practices and Standards. In particular, the standard references Figure 1 of SAE J903a to establish the minimum windshield area(s) which must be wiped or washed in meeting the requirements of the standard. Standard No. 103, Windshield Defrosting and Defogging Systems, references this section of Standard No. 104 in establishing the minimum windshield area(s) which must be defrosted or defogged. These minimum areas are determined using the location of the seating reference point.

Elsewhere in today's edition of the Federal Register, NHTSA has published a final rule amending the definition of "seating reference point" (SgRP). "Seating reference point" identifies a single adjustment point for each seating position. The seating reference point for a particular seating position in a vehicle is used to determine whether that vehicle complies with requirements set forth in several of the safety standards. The final rule makes it clear in the definition that "seating reference point" is not necessarily the absolute rearmost point to which a seat can be adjusted.

In their comments submitted in response to the supplemental notice of proposed rulemaking (SNPRM) to amend the definition of "seating reference point," General Motors (GM) states:

> FMVSS No. 104 and, by reference, FMVSS No. 103 substitute the term "seating reference point" for the terms "manikin H point" and "H point" wherever either of those terms appears in any SAE Standard or Recommended Practice referred to in the standard. This substitution of terms results in references to "seating reference point with seat in rearmost position" (SAE Recommended Practice J903a, Figure 1). This terminology is potentially internally contradictory when the "seating reference point" is defined to permit a location at some point other than the rearmost position of the seat.

NHTSA agrees with GM that the amended definition of SgRP will create potentially contradictory references in Standard No. 104, and by reference Standard No. 103. To avoid any confusion this may cause, the agency is proposing to amend Standard No. 104 so that "seating reference point" is substituted for the terms "manikin H point", "manikin H point with seat in rearmost position" and "H point." The agency believes that this amendment will prevent the change in the SgRP definition from changing the areas of a vehicle subject to Standards No. 103 and 104, and should have no affect upon the

safety benefits which either standard provides. The agency also believes that this should not result in any increased or decreased cost for manufacturers as it is consistent with industry practice.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is neither major within the meaning of E.O. 12291, nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The agency believes that this amendment would prevent the change in the SgRP definition from changing the areas of a vehicle subject to Standards No. 103 and 104, and should not result in any increased or decreased cost for manufacturers as it is consistent with industry practice.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this proposal under the Regulatory Flexibility Act. I hereby certify that this rule would not have a significant economic impact on a substantial number of small entities. To the extent that any vehicle manufacturers qualify as small entities, their number would not be substantial. In any event, the agency does not anticipate any economic impacts from this rule, as explained above. Because of the lack of economic impacts of this rule, this new definition would not affect the purchase price of new motor vehicles purchased by small organizations and small governmental units.

National Environmental Policy Act

NHTSA has also analyzed this proposal under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Submission of Comments

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

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulations. 49 CFR part 12.

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

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes to amend part 571 of title 49 of the Code of Federal Regulations as follows:

PART 571—[AMENDED]

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

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.104 [Amended]

2. S3 would be amended to read as follows:

S3. *Definitions.*

The terms *seating reference point* is substituted for the terms *manikin H point, manikin H point with seat in rearmost position* and *H point* wherever any of these terms appears in any SAE Standard or SAE Recommended Practice referred to in this standard.

* * * * *

Issued on: August 6, 1991.

Stanley R. Scheiner,

Acting Associate Administrator for Rulemaking.

[FR Doc. 91-19017 Filed 8-9-91; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 87-6; Notice 4]

RIN 2127-AD84

Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice reopens rulemaking which would allow daytime running lamps (DRLs) as an item of optional motor vehicle lighting equipment. This action is taken in implementation of the grant of a petition for rulemaking submitted by General Motors Corporation, which wants to offer DRLs as a customer option, and which believes that certain State laws may inadvertently prevent it from doing so. The purpose of NHTSA's proposal is to ensure that manufacturers may offer DRLs, and that specifications are adopted so that DRLs do not reduce the current level of highway safety. Accordingly, NHTSA is proposing to amend Standard No. 108 so that any lamp on the front of a vehicle, whether or not required by Standard No. 108, could perform as a DRL by automatically operating during daylight providing that its maximum candela output does not exceed 2,600, and that steps are taken to prevent its light from masking turn and hazard warning signals.

DATES: Comment closing date for the proposal is October 11, 1991. Effective date of the final rule would be 30 days after publication of the final rule in the **Federal Register.**

ADDRESSES: Comments should refer to the docket number and the notice number, and be submitted to: Docket Section, room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC

20590. Docket Hours are from 9:30 to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, NHTSA, Washington, DC (202–366–5276).

SUPPLEMENTARY INFORMATION: On March 24, 1987, NHTSA opened Docket 87–6, to receive comments on a notice of proposed rulemaking under which Motor Vehicle Safety Standard No. 108 would be amended to permit daytime running lights (DRLs) as optional front lighting equipment on passenger cars, multipurpose passenger vehicles, trucks, and buses (Notice 1). The following year, NHTSA announced that it was terminating rulemaking on the subject without an amendment (Notice 2), and it subsequently denied a petition for reconsideration of the termination (published without docket or notice number, but referred to as Notice 3). The reader is referred to these notices for background information on this topic (52 FR 8316, 53 FR 23673, and 53 FR 40921).

New Rulemaking Petition for DRLs

On November 19, 1990, General Motors Corporation (GM) filed a petition asking the agency to propose an amendment of Standard No. 108 to allow motor vehicles to be equipped with DRLs. The purpose of its request was that such an amendment "would allow manufacturers to install DRLs on new vehicles without being in violation of the multitude of state laws which currently have the unintended effect of prohibiting them." Having supported the termination of rulemaking in 1988, GM had in the interim received requests from prospective truck fleet purchasers that it bid on fleet vehicles equipped with DRLs. Reluctant to be in possible violation of State laws, GM did not make DRLs available as a special equipment option. In the meantime, discussions are underway within GM to evaluate offering DRLs as either special equipment or regular production options for U.S. trucks and at least some passenger car models.

However, GM does not believe that DRLs are justified as standard equipment because there is not yet evidence of a "national safety need" in the United States, and because their use results in a penalty on fuel economy. Because DRLs are more effective in Northern latitudes where ambient daytime light levels differ from those of the South, they would appear to have a greater likelihood of assisting in crash prevention in Alaska or Maine, rather than Florida or Hawaii. Further, as GM had noted in 1987, fuel economy may be lessened by up to a quarter mile per gallon when some DRLs are used. The petitioner argued that the ability to test DRLs on vehicles in the U.S. could enable it to assess the potential safety benefits of DRLs in this country, and at the same time, their limited use would minimize the penalty of overall fleet fuel economy.

For the reasons discussed below, NHTSA is granting this petition for rulemaking, and is issuing this proposal in implementation of the grant.

Events Since the 1988 Termination of Rulemaking

The agency's primary justification for termination of rulemaking three years ago was that manufacturers tended to oppose, rather than support, the proposal, and that none of the manufacturers and trade organizations that NHTSA contacted planned to offer DRLs. That situation has obviously changed when the largest domestic manufacturer of motor vehicles has petitioned the agency for rulemaking to allow DRLs. If DRLs are allowed and GM takes advantage of the opportunity to offer them, other manufacturers are likely to follow. In fact, NHTSA understands that Saab is already offering DRLs as an option in the United States in the absence of any specific amendment to Standard No. 108.

Existing State Laws That Could Prohibit DRLs

NHTSA is not aware of any State laws that prohibit DRLs *per se*. However, GM is concerned that frontal lighting laws might inadvertently prohibit their use. GM brings to the agency's attention State laws requiring pre-approval of supplemental lighting devices, and the fact that there is currently no SAE standard for DRLs on which such approval could be based. As a further example, GM has found 35 States with regulations prohibiting supplemental lighting from projecting light that strikes the roadway at a specified distance in front of the vehicle. There are State laws which prohibit the use of lights in tunnels, the use of the parking lamps without headlamps when the car is being driven, and the illumination of fog lamps without the headlamps. GM has found it impossible to determine whether a particular DRL design that it uses in Canada would be prohibited under certain State laws. It concludes that DRLs are potentially affected by the laws of 40 to 45 States.

Having identified potential problem areas, GM claims that it is not a viable option to work for change through State regulatory officials. In some States, amendments are the prerogative of State motor vehicle officials, while in others, only the legislatures can change lighting requirements. GM believes that it would be virtually impossible to get all States to separately agree on standardized requirements for DRLs. Although the American Association of Motor Vehicle Administrators (AAMVA) has adopted a resolution in favor of DRLs, GM claims that no State has responded by amending its lighting requirements.

GM also argues that the trend in State lighting laws is towards increasing the daytime conspicuity of vehicles, and that the allowance of DRLs would be consistent with this trend. Several jurisdictions (Cape Cod and the State of Washington are referenced) now require 24-hour a day headlamp use on some roads. Connecticut has introduced legislation to mandate DRLs. California now specifically provides for optionally installed DRLs. Thus, GM argues that a DRL provision in Standard No. 108 would not contravene the spirit of Executive Order 12612 (Federalism).

NHTSA has reviewed these arguments. In the notice of termination (Notice 2), NHTSA stated that it had taken the Executive Order into consideration. The purpose of the Executive Order was to "limit Federal preemption of State laws unless preemption is necessary to address a national safety need." Notice 2 found no national safety need that warranted mandating DRLs, and that "an amendment would have a preemptive effect". Thus, NHTSA found a "further reason" in 1988 not to adopt the proposal.

In issuing the present proposal, NHTSA has reconsidered its position on this matter. It believes that manufacturers who wish to offer this option should not be precluded from doing so, provided that their DRLs do not derogate from existing levels of highway safety. For example, the agency believes that it is necessary to act to prevent States from allowing DRLs which have an intensity that may cause excessive glare. Thus, NHTSA has tentatively concluded that it can amend Standard No. 108 in a manner that ensures the maintenance of safety.

The Executive Order on Federalism recognizes the right of a Federal agency to preempt a State where Congress has provided express preemption authority, such as exists in 15 U.S.C. 1392(d). Nonetheless, NHTSA has taken care to minimize, to the extent consistent with safety, the preemptive effect of its regulations in accordance with the regulatory philosophy behind the Executive Order. It believes that the Executive Order on Federalism is primarily concerned with Federal

preemption of State laws that differ in a fundamental manner from Federal requirements. In this instance, there is no State law that prohibits DRLs *per se*. Thus, a Federal standard whose effect is to allow DRLs would not be directly preemptive of existing State laws, since there is no State standard that expressly prohibits DRLs.

The regulatory philosophy of the Executive Order requires NHTSA to examine the indirect preemptive effect of its regulations as well. NHTSA has also considered the issue whether an amendment allowing DRLs would, as a matter of law, preempt State laws that do not deal with DRLs, but whose provisions might be construed to prohibit them. The agency finds that its preemption authority appears to address this possibility as well. Under section 1592(d), NHTSA's safety standards preempt those State standards covering "the same aspect of performance". This is a broad phrase, and to be interpreted broadly in the fulfillment of the agency's mission. Therefore, to the extent that any State standard might affect the operation and performance of front lamps used as DRLs, NHTSA considers that, to the same extent, such a State standard may be viewed as covering the same aspect of performance as NHTSA's DRL specifications. For example, if Standard No. 108 allows lamps to be wired to operate automatically as DRLs, and to be specifically marked "DRL", the performance of that lamp is no longer subject to State restrictions on daytime use. As a further example, if the DRL is provided by a new lamp, and not one of the existing lamps required by Standard No. 108, NHTSA believes that such a lamp would be covered by Standard No. 108, rather than be considered a supplementary lighting device subject to state approval programs for supplemental equipment. Given the apparent trend in the States toward greater daytime conspicuity for motor vehicles, NHTSA believes that preempting the indirect effects of State regulations would be acceptable under the regulatory philosophy of Executive Order 12612.

However, NHTSA does not wish to proceed to a final rule without offering States an opportunity to comment on the safety rationale of statutes and regulations that might be preempted by NHTSA action. For example, comments are invited on the effects that might be attendant on overriding the prohibition against headlight use in tunnels, or use of parking lamps alone.

Front Lamps Likely to be Used as DRLs

On some vehicles, the DRL may be optically combined with a headlamp, *i.e.*, provided by the lower headlamp beam in a reduced intensity mode, and, on others, by the upper headlamp beam in a reduced intensity mode. On a few vehicles, DRLs may be optically combined with the turn signal lamps and used at the same operational intensity. Others may use DRLs optically combined with original-equipment fog lamps at operational or reduced intensity to provide the DRL. In this instance, fog lamps, otherwise unregulated by Standard No. 108, would be regulated for their DRL function. DRLs could also be provided by a pair of front lamps specifically designed for this purpose.

Appropriate Performance Requirements for DRLs—GM's Recommendation

GM calls the agency's attention to three possible sources of DRL requirements. These are the ones adopted by Canada, those proposed by NHTSA in Notice 1, and those currently under consideration by the SAE in its draft Recommended Practice J2087 Daytime Running Lamps for Use on Motor Vehicles. GM strongly supports adoption of the Canadian requirements on the basis that it would facilitate transfer of existing DRL designs to U.S. production with minimum cost and delay, and that the U.S. standard should harmonize with the Canadian one. With respect to the agency's proposal contained in Notice 1, GM asks NHTSA to consider the remarks it made in response to the notice, as it continues to have reservations about the proposal. Finally, it has no fundamental objections to the SAE document and believes that the design criteria it contains are sufficiently flexible to accommodate many of the DRL designs presently used in Canada.

The agency believes that GM has not fully recognized safety issues that both the Canadian and the SAE specifications present. Canada allows a maximum upper intensity limit of 7,000 candela. The SAE is interested in increasing its recommended upper limit from 5,000 to 7,000 candela (draft SAE Recommended Practice J2087). NHTSA believes that these intensities have the potential for creating glare. In addition, the SAE specification addresses lamp performance without regard to lamp location; thus, a lamp utilizing SAE DRL intensity values and which is located in proximity to a turn lamp could mask the turn signal lamp's signal.

NHTSA's 1991 Proposal

NHTSA's new proposal is based upon several considerations. First, a large manufacturer wishes to offer DRLs, and a smaller manufacturer may already be offering them. It is only a matter of time before other manufacturers are likely to want to offer them. Since DRLs are coming on stream, some regulation of them appears necessary to ensure that they perform in a manner that does not detract from existing levels of highway safety. The two chief considerations in this regard are that the lamps not create excessive glare, and that their use not mask the ability of the front turn signal to send its message. Thus, the new proposal is very simple. It would establish a maximum candela limitation, a minimum spacing requirement affecting the distance of a DRL from the turn signal lamp, and a requirement that the lens of any lamp used as a DRL, other than a headlamp, be marked "DRL". It would also specify a range of permissible colors, and that DRLs be provided in pairs, instead of as a single lamp. The specific characteristics of a DRL system are discussed below.

A. Number of DRLs

For some years, the single headlamp with which the great majority of motorcycles are equipped has been wired to turn on when the ignition is on. This has provided a DRL for motorcycles. In order to avoid possible misidentification of four-wheeled vehicles as motorcycles, NHTSA has tentatively concluded that the DRL "signature" for vehicles other than motorcycles should be comprised of two symmetrically located lamps. However, it seeks comments from interested persons on whether the provision of a single DRL on four-wheeled vehicles would decrease the effectiveness of motorcycle conspicuity that is provided by the daytime operation of their headlamps.

B. Lamp Color

Required lighting equipment under Standard No. 108 may be red, white, or yellow (paragraph S5.1.5) as defined by SAE Standard J578c, February 1977. Standard No. 108 reserves the use of red to rear lighting devices. In addition, red (and blue) are used by States to denote emergency, police, or towing vehicles. Green is a color that is unfamiliar to the public as a motor vehicle light. NHTSA has tentatively concluded that the color of a DRL should be one that the motoring public associates with the front of a vehicle, that is to say, either white or yellow. Thus, if a headlamp, parking lamp, or turn signal lamp is used

as a DRL, the light from the DRL would be the same color as the light from the lamp. If a front lamp other than one of these is used as a DRL, the agency is proposing that manufacturers choose among the following color range: white, white to yellow, white to selective yellow, yellow, or selective yellow, as defined in SAE Standard J587 MAY88. The agency is suggesting the latest version of the SAE standard because it includes light colors for fog lamps.

C. Lamp Intensity

The effectiveness of interior and exterior rear view mirrors is essential for safe vehicle operation in traffic during daylight, the time that the DRL is in operation. NHTSA has completed three research programs to determine acceptable limits of intensity. The most recent, "Evaluation of Glare from Daytime Running Lights", October 1989 (DOT–HS–807–502), is the basis for NHTSA's proposal. (See also "Evaluation of the Conspicuity of Daytime Running Lights", April 1990 (DOT–HS–807–613), and "A Study of Daytime Running Light Design Factors", August 1987 (DOT–HS–807–193). Copies of the three Reports are available in NHTSA's Technical Reference Library). The 1989 Report indicates that the probability of mirror adjustment by a driver to eliminate perceived glare increases as the intensity of a DRL increases, and that there is a 50 percent probability that a driver will adjust the interior rearview mirror if the DRL has an intensity of 2,600 candela. Further, there is a 50 percent probability of adjustment of the side mirror in response to a DRL intensity of 3,600 candela. These percentages are based upon data derived from passenger car mirrors reflecting headlamps of passenger cars behind; the higher mounted front lamps on trucks would only increase the glare. Separate experiments covered by this Report provided subjective data which indicated that approximately 2,800 candela can be tolerated before the "Just Acceptable" De Boer glare rating is exceeded. Above this value, vehicle operators would be distracted from the driving task for the time required to adjust their mirrors to eliminate or lessen the glare. Under Standard No. 108, the maximum allowable intensity of a complying lower beam is 2,700 candela, and the effect of the proposal is that a lower beam that provides the maximum allowable candela could not function as a DRL. Thus, NHTSA has tentatively concluded that 2,600 candela appears to be an appropriate value regardless of whether the DRL is provided by the lower beam of a headlamp, or other front lamp. It should be noted that some European countries have or are proposing an upper limit of 1,200 candela because of their concern for preventing glare. NHTSA is also concerned about glare, but is willing to set a somewhat higher maximum because U.S. drivers are more accustomed to higher glare levels than Europeans. Thus, an upper limit compatible with the U.S. lower beam should be acceptable to U.S. drivers.

Photometry would be tested in accordance with SAE J575 DEC88, when a test voltage of 12.8 +/− 0.20 mV is applied to the input terminals of the DRL lamp switch module or voltage-reducing equipment, whichever is closer to the electrical source on the vehicle. The test distance from the DRL to the photometer would be not less than 60 feet if the DRL is optically combined with a headlamp, or 10 feet if the DRL is a lamp, or is optically combined with a lamp other than a headlamp.

D. Turn Signal Masking Effect

The 1987 proposal prohibited operation of a DRL when a turn signal or hazard warning signal is activated if the distance from the lighted edge of the DRL to the optical axis of the turn signal lamp were less than 4 inches. NHTSA continues to be concerned about the potential of a DRL to "mask" the turn or hazard warning signal. Under the new proposal, the distance from the lighted edge of the DRL to the optical axis (filament center) of the front turn signal lamp must be not less than 4 inches, except if the turn signal lamp complies with the increased intensity specifications of S5.3.1.7 of Standard No. 108, or, alternatively, if the DRL is deactivated when the turn or hazard warning signal is on.

E. Lens Marking

Under the 1987 proposal, there would have been no requirement to identify the lamps used as DRLs. However, in commenting on that proposal, States asked for a lens marking requirement. In their view, State enforcement and vehicle inspection officials would be unable to distinguish between legal and illegal lamps and lamp combinations in the absence of marking. States such as Nebraska and South Dakota, which do not allow use of parking lamps alone, may penalize vehicle operators if parking lamps are used as DRLs. NHTSA has tentatively concluded that these arguments have merit, and, further, that resolution of preemption questions would be assisted by a clear designation of the lamps used as DRLs. These lamps would be marked "DRL" in letters not less than 4mm high. A lamp that optically combines a DRL with a headlamp would be exempt from this requirement.

Other Issues on Which Comment is Requested

Standard No. 108 presently requires the taillamps and side marker lamps to be activated simultaneously with the headlamps. The question arises whether, when a DRL is optically combined with a headlamp, the taillamps and side marker lamps must also be activated. Because there is a fuel economy penalty associated with side and rear lamp use, it is possible that manufacturers combining DRLs with headlamps will not wish to activate simultaneously the side and rear lamps. Furthermore, data exist from some studies conducted on high mounted stop lamps that indicate a negative safety effect can exist when the taillamps are activated. This occurred because the stop lamps were not as readily perceived on some cars when the taillamps were on. NHTSA requests comments on whether a prohibition against activation of the taillamps and side marker lamps is appropriate when a DRL is optically combined with a headlamp.

NHTSA is concerned about the possible increases in rear crashes from the effect of daytime taillamp operation upon the efficacy of the stop lamp signal. The presence of the CHMSL ought to provide an unmistakable signal, even if the taillamps and other stop lamps are combined in the same lamp housing. However, the NHTSA Report "An Evaluation of Center High Mounted Stoplamps" (DOT–HS–807442) showed that the greatest accident reduction benefit occurred during daylight (a 20 percent reduction, compared with an 8 percent reduction during dusk, nighttime, and dawn). The CHMSL may provide greater benefits when the taillamps are off. Thus, NHTSA requests that commenters address the issue of whether daytime taillamp operation could also lessen the effectiveness of the center stop lamp.

One intent of this rulemaking action is that a final rule would assist the States in adopting their own laws regarding use of DRLs, so that State and Federal standards would be identical. If and when there are data to prove DRLs have significant safety benefits, NHTSA will set a minimum performance level for them. NHTSA's research shows that 1600 candela is required to provide a significant improvement in peripheral detection at the high ambient light levels found in the U.S. NHTSA remains concerned over State laws that may

inadvertently preempt DRLs, and is interested in receiving comments from States which may disagree with the tentative preemption conclusions expressed by NHTSA in this notice.

This proposed regulation indirectly affects States which now have or are considering enacting laws to require operation of the headlamps when the windshield wipers are activated. The intent of these laws is to improve vehicle detection in low light levels, an intent that may be fulfilled by DRLs. NHTSA wants to encourage States to allow DRLs as an alternative to headlamps in their wiper use laws. States are requested to comment on the impact of DRLs on such laws.

Finally, a rule based upon this proposal would allow DRLs on vehicles throughout the United States. As GM mentioned, this would afford an opportunity to evaluate DRL performance under the broad geographic and road conditions throughout the country. However, past DRL studies indicate that unless evaluation studies are carefully controlled, the results are likely to be misleading or inconclusive. NHTSA is interested in evaluating the effectiveness of DRLs in the U.S. and requests that commenters submit suggestions as to how this might best be accomplished.

Rulemaking Analyses

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has preliminarily considered the economic impacts of this proposal and has made a tentative determination that it is not major within the meaning of E.O. 12291 nor significant under Department of Transportation policies and procedures. The regulation proposed is not mandatory upon persons otherwise regulated by Standard No. 108, therefore there is no cost impact upon any manufacturer who does not choose to offer a DRL. NHTSA has no information on whether other manufacturers would avail themselves of the option, but believes that the simple modifications required to wire existing front lamps for use as DRLs would be slight. Therefore, preparation of a full regulatory evaluation is not warranted.

National Environmental Policy Act

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment, because there is no requirement that a manufacturer provide DRLs. As noted previously in this notice, there could be a fuel economy penalty of up to one quarter mile per gallon, depending on the type of DRL.

Regulatory Flexibility Act

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact upon a substantial number of small entities, because its adoption would not establish a mandatory requirement on regulated persons. Accordingly, no initial regulatory flexibility analysis has been prepared.

Executive Order 12612 (Federalism)

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

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

All comments received before the close of business on the closing date indicated above, will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571 [AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* be amended as follows:

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

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. Paragraph S5.5.3 would be revised to read:

S5.5.3 The tail lamps on each vehicle shall be activated when the headlamps are activated in a steady-burning state, but need not be activated if the headlamps are activated at less than full intensity as permitted by paragraph S5.5.11(a).

3. New paragraph S5.5.11 would be added to read:

S5.5.11 (a) Any pair of lamps on the front of a passenger car, multipurpose passenger vehicle, truck, or bus, whether or not required by this standard, may be wired to be activated in a steady burning state as daytime running lamps (DRLs) when the transmission is in any position other than park or neutral, and to be deactivated when the headlamp control is in the "headlamp on" position, provided that each such lamp:

(1) Does not have a beam intensity that exceeds 2,600 candela when tested in accordance with Section S11 of this standard;

(2) Is permanently marked "DRL" on its lens in letters not less than 4mm high, unless optically combined with a headlamp;

(3) Is designed to provide the same color, and that it is one of the following colors as defined in SAE Standard J578 MAY88: white, white to yellow, white to

selective yellow, selective yellow, or yellow:

(4) If other than optically combined with a turn signal lamp, is located so that the distance from the edge of the illuminated surface of its lens to the optical axis (filament center) of the turn signal lamp is not less than 4 inches (100 mm), unless the lamp is deactivated when the turn signal lamp is activated or unless the turn signal lamp conforms to paragraph S5.3.1.7 of this standard; and

(5) If optically combined with a turn signal lamp, performs in accordance with requirements for a turn signal lamp or hazard warning system lamp when the turn signal switch or hazard warning switch is activated.

(b) Any pair of lamps that are not required by this standard but are used to fulfill the specifications of subparagraph (a) of this paragraph shall be mounted at the same height, which shall be not more than 83 inches above the road surface measured from the center of the lamp on the vehicle at curb weight, and shall be symmetrically disposed about the vertical centerline of the vehicle.

5. New Section S11 would be added to read:

S11. *Photometric Test Specified in Paragraph S5.5.11(b).* A lamp that is wired in accordance with paragraph S5.5.11 of this standard, shall be tested for compliance with subparagraph (b) of that paragraph in accordance with SAE Standard J575 DEC88 when a test voltage of 12.8 +/− 0.20 mV is applied to the input terminals of the lamp switch module or voltage-reducing equipment, whichever is closer to the electrical source on the vehicle. The test distance from the lamp to the photometer shall be not less than 18.3 meters, if the lamp is optically combined with a headlamp, or is a separate lamp, and not less than 3 meters, if the lamp is optically combined with a lamp, other than a headlamp, that is required by this standard.

Issued on: August 6, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-19016 Filed 8-9-91; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 74-09; Notice 23]

RIN 2127-AD45

Child Restraint Systems

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend Standard 213, *Child Restraint Systems.* The standard currently does not require that a child restraint comply with its occupant excursion and seat inversion limits in a particular adjustment position if the restraint's manufacturer warns consumers that the restraint is not intended for use in motor vehicles or aircraft when it is in that position. NHTSA would amend the standard so that a warning could no longer be used to exclude an adjustment position from the occupant excursion and seat inversion limits. To clarify the effect of removing the exclusion, the agency proposes also to add language expressly requiring restraint systems for use in motor vehicles or aircraft to meet the requirements of the standard while adjusted to any adjustment position (including seat back angle adjustment positions and restraint belt anchorage and routing positions). These amendments would improve safety by removing the possibility that child restraints adjusted to positions inappropriate for use in motor vehicles or aircraft are used in those positions when transporting children.

DATES: Comments on this notice must be received by the agency no later than September 26, 1991. The proposed effective date is 180 days after the date of publication of the final rule.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366-5267. Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. George Mouchahoir, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590. Telephone: (202) 366-4919.

SUPPLEMENTARY INFORMATION: This notice proposes to amend the occupant excursion (S5.1.3) and seat inversion (S8.2) requirements of Standard 213, Child Restraint Systems, which currently do not apply to any seat adjustment position that the restraint's manufacturer warns consumers against using in motor vehicles or aircraft. NHTSA would amend the standard so that such a warning would not exclude an adjustment position from the occupant excursion and seat inversion limits. Additionally, this notice proposes to remove the provision that specifies how such a warning is to be provided. In addition, to clarify the effect of removing the exclusion, the agency would amend S5 to expressly require child restraint systems for use in motor vehicles or aircraft or both to meet the requirements of the standard while adjusted to any adjustment position.

The agency is issuing this notice in response to a petition for rulemaking from Consumer Action (CA) and the Center for Auto Safety (CAS).

Background

This rulemaking highlights the relationship between the test procedures specified in Standard 213 and the performance required of a safety seat. The National Traffic and Motor Vehicle Safety Act requires child safety seat manufacturers to certify each seat as complying with Standard 213. NHTSA checks the validity of the certification by evaluating the seat's performance when tested in accordance with the procedures (S6, S8) specified in the standard. The procedures for the dynamic sled and seat inversion test generally specify that NHTSA will install the child seat on a simulated car or aircraft passenger seat "in accordance with the manufacturer's instructions" provided to the consumer. The consumer instructions provide languge and diagrams on installing the seat in motor vehicles or aircraft, positioning a child in the seat and adjusting the seat to fit the child. The child safety seat must be capable of meeting Standard 213's requirements at all adjustment positions that the manufacturer intends for use in motor vehicles or aircraft, as evidenced by the manufacturer's instructions to the consumer.

A manufacturer is permitted to manufacture a child safety seat with adjustable positions that may be suitable for use in a place such as a home, but not inside a motor vehicle or aircraft. Such a child safety seat will not be subjected to the occupant excursion limit or the inversion test while adjusted to those positions if the child safety seat is accompanied by appropriate warnings.

With regard to motor vehicle use, the following warning is required by S5.5.2(i) of the standard to appear on the child safety seat's label:

> In the case of each child restraint system which is not intended for use in motor vehicles at certain adjustment positions, (label the restraint with) the following statement, inserting the manufacturer's adjustment restrictions.

DO NOT USE THE _____ ADJUSTMENT POSITION(S) OF THIS CHILD RESTRAINT IN A MOTOR VEHICLE.

A similar warning is required by S8.1 for aircraft. That section states:

In the case of child restraint which is not intended for use in aircraft at certain adjustment positions, the following statement, with the manufacturer's restrictions inserted, shall be included in the instructions.

DO NOT USE THE _____ ADJUSTMENT POSITION(S) OF THIS CHILD RESTRAINT IN AIRCRAFT.

The Petition

CA and CAS petitioned to remove S5.5.2(i) from the standard. They sought the amendment because the petitioners believed that the warning label required by S5.5.2(i) is insufficient to ensure that a child restraint system will not be used in the restricted positions in a motor vehicle. The petitioners believed that warning labels generally "do not produce desired consumer behavior" for a variety of reasons: Consumers may believe that the warning does not apply to them; the warning may lose its effectiveness over time; the warning may not impart sufficient information on safety risks; or a consumer may not notice or read the warning. Also, the petitioners believed that S5.5.2(i) provides a "loophole" that permits manufacturers to limit the application of the standard by means of a warning label.

The agency granted the petition in March 1990 to further evaluate the issues raised by the petition.

Agency Decision

Motor Vehicle Use

NHTSA has tentatively decided to remove S5.1.3's exclusion of restricted adjustment positions from the occupant excursion requirements, and to remove paragraph S5.5.2(i) regarding the warning against motor vehicle use. Since amending S5.1.3 and removing S5.5.2(i) alone may not clearly indicate what performance is required of each adjustment position, NHTSA has also tentatively decided to clarify the introductory paragraph of S5 to state that each child restraint shall meet the requirements of Standard 213 "at all adjustment positions (including, but not limited to each seat back angle adjustment position and each restraint belt anchorage and routine position), when tested in accordance with S6.1." The effect of this amendment to S5 would be to ensure that each adjustment position is capable of providing an acceptable level of occupant safety.

When the agency upgraded Standard 213 in 1979 to specify 30-mph sled testing of child safety seats, the agency permitted manufacturers to warn consumers that a child seat may have a particular position to which it should not be adjusted and used in a motor vehicle. At the same time, NHTSA urged manufacturers, in the preamble to the 1979 rule, not to include any adjustment positions for their restraints which should not be used in a motor vehicle. 44 FR 72133 (December 13, 1979). The agency believed it was unnecessary to specify that a child seat is to be tested in all adjustment positions, regardless of whether the manufacturer intended that all of those positions be used when the seat is in a motor vehicle because NHTSA believed manufacturers would take voluntary steps to eliminate those positions.

Based on available information, the agency believes that most manufacturers have eliminated adjustment positions that are not intended for motor vehicle use. In an informal survey of 15 child safety seats, the agency did not find any seat currently being manufactured that is labeled with a warning not to use an adjustment position (e.g., the fully reclined position) in a motor vehicle.

Although the seats currently in production are being manufactured to meet Standard 213 in all adjustment positions, the agency believes the amendments proposed in this NPRM are needed to ensure that no restricted position will be included in future seats. NHTSA is especially concerned that, in the past, some seats were manufactured with the fully reclined position designated as a restricted position. Some parents are likely to conclude that that position is the one most confortable for the child (especially if the child is sleepy or asleep) and the most convenient for the parent. A parent might therefore choose to use the restricted position without realizing that the position was not intended to provide occupant protection in a crash or even if the parent knows about the limitation on that position. The agency is unaware of a justification for the restricted adjustment positions that sufficiently outweighs the likelihood that the seat will be misused and the risk to safety unacceptably increased.

Aircraft

Similarly, the agency tentatively concludes that adjustment positions that are not intended to be used in aircraft should not be allowed, because these positions seem to be ones likely to be used. NHTSA believes that most manufacturers have eliminated adjustment positions that are not intended for aircraft use. Nevertheless, the agency seeks to ensure that no child seats with a restricted position will be manufactured in the future. Thus, NHTSA proposes to amend S8.1 and 8.2 of Standard 213.

Need For Warnings

However, the agency does not agree with the petitioners' belief that warning labels are generally insufficient to produce desired behaviors in the persons to whom the labels are addressed. Labels and instructional manuals that impart safety warnings and other information are required by Standard 213 to inform consumers how they can obtain the maximum level of safety from the seat. Labels and manuals help inform users about aspects of child safety seats that may not be known to the consumer or evident from the configuration of the seats, and help remind users about the correct use of the seat. The agency believes consumers will use the information to their and their children's benefit.

Further, warning labels and instructional manuals help facilitate the manufacture of a wide variety of child safety seat designs, such as the "convertible" child safety seat, which satisfies a consumer demand for the seats. A convertible seat is one designed for use by both infants and toddlers. Many consumers prefer to purchase a convertible child safety seat for the cost savings; one seat (a convertible child seat) need be purchased instead of two (an infant restraint and a toddler seat). For most convertible seats, certain adjustment positions on the seat are designed only for toddlers, while others of its adjustment positions are suitable only for infants. Manufacturers are able to produce convertible seats because they can label the seat with information about which positions are intended for use with children of different ages. (As stated above, NHTSA considers these instructions in determining how the agency will test the seat.) Due to the popularity of convertible seats with consumers, NHTSA believes the usage rate for child safety seats in general is as high as it is (80 percent for infants and toddlers under 5 year old) because of the availability of covertible seats.

NHTSA emphasizes that, by amending S5, S5.1.3, S8.1 and S8.2 and removing S5.5.2(i), the agency intends to prohibit the manufacture of child safety seats with adjustment positions that should not be used by any child in a motor vehicle or aircraft. The agency does not intend to prohibit the manufacture of convertible seats, and the agency does not believe the proposed amendment would have that

result. This is because the proosed amendment of S5 would continue to allow a manufacturer to specify in the installation instructions how the seat should be installed for children of different sizes and how the child occupant should be positioned, as long as each position to which the seat can be adjusted is intended for use in a motor vehicle. The agency does not believe convertible seats should be prohibited. While a convertible seat may have restrictions on the use of an adjustment position with children of certain ages, the restrictions do not prohibit the use of the position for all children. Thus, the position serves a motor vehicle safety need for a population of children, unlike a position that is designed without such safety in mind for any population.

Typographical Correction

NHTSA would correct S5.3.1 of Standard 213. That paragraph states: "Each add-on child restraint system shall have no means designed for attaching the system to a vehicle *seat cushion and vehicle seat back* and no component (except belts) that is designed to be inserted between the vehicle seat cushion and vehicle seat back." (Emphasis added.)

The language emphasized above should read: "seat cushion or vehicle seat back." The word "and" was submitted for "or" by the Federal Register in a January 22, 1988 amendment of Standard 213 (53 FR 1783). Until that amendment, the standard had used "or," and the agency's intent was to continue to use "or." The corrected paragraph would read: "Each add-on child restraint system shall have no means designed for attaching the system to a vehicle seat cushion or vehicle seat back and no component (except belts) that is designed to be inserted between the vehicle seat cushion and vehicle seat back."

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. NHTSA has further determined that the effects of this rulemaking are minor and that preparation of a full preliminary regulatory evaluation is not warranted. The agency does not anticipate that manufacturers would be significantly affected. Based on available data, NHTSA believes that all child safety seats currently in production are being manufactured to meet the requirements of Standard 213 in all adjustment positions. Thus, the agency estimates that no additional costs would be incurred by manufacturers if the proposed amendment were adopted.

Because all currently manufactured safety seats already meet the proposed requirements, the agency does not anticipate a potential reduction in injuries or fatalities if the proposal is adopted. However, NHTSA believes amending S5, S5.1.3, S8.1 and S8.2, and removing S5.52(i) would ensure that the current level of safety provided by seats is maintained by preventing the manufacture of adjustment positions that are incapable of providing proper protection in a motor vehicle or aircraft.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. Six of the eight manufacturers currently producing child safety seats are not small businesses. Regardless of the number of small entities, NHTSA believes the economic impact on them would not be significant, since the agency believes that currently, all child safety seats are being manufactured to meet the proposed amendments. The agency believes that there would not be any impact on the cost of most child seats, and that small organizations and governmental jurisdictions that purchase these seats would not be significantly affected by the proposals. In view of the above, the agency has not prepared an initial regulatory flexibility analysis.

Executive Order 12612

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

National Environmental Policy Act

NHTSA has analyzed this rulemaking action 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.

Comments on the Proposal

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

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

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

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—[AMENDED]

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

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

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

§ 571.213 [Amended]

2. Standard No. 213 would be amended by revising S5 (introductory text), S5.1.3, S5.3.1, S8.1, and S8.2, and by removing and reserving S5.5.2(i), to read as follows:

* * * * *

S5. *Requirements for child restraint systems certified for use in motor vehicles.* Each child restraint system certified for use in motor vehicles shall meet the requirements in this section at all adjustment positions (including, but not limited to each seat back angle adjustment position and each restraint belt anchorage and routing position), when tested in accordance with S6.1.

* * * * *

S5.1.3 *Occupant excursion.* When tested in accordance with S6.1, each child restraint system shall meet the applicable excursion limit requirements specified in S5.1.3.1–S5.1.3.3.

* * * * *

S5.3.1 Each add-on child restraint system shall have no means designed for attaching the system to a vehicle seat cushion or vehicle seat back and no component (except belts) that is designed to be inserted between the vehicle seat cushion and vehicle seat back.

* * * * *

S5.5.2(i) [Reserved].

* * * * *

S8. *Requirements, test conditions, and procedures for child restraint systems manufactured for use in aircraft.*

* * * * *

S8.1 *Installation instructions.* Each child restraint system manufactured for use in aircraft shall be accompanied by printed instructions in the English language that provide a step-by-step procedure, including diagrams, for installing the system in aircraft passenger seats, securing the system to the seat, positioning a child in the system when it is installed in aircraft, and adjusting the system to fit the child.

S8.2 *Inversion test.* When tested in accordance with S8.2.1 through S8.2.5, each child restraint system manufactured for use in aircraft shall meet the requirements of S8.2.1 through S8.2.6. The manufacturer may, at its option, use any seat which is a representative aircraft passenger seat within the meaning of S4.

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Issued on: August 6, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91–19020 Filed 8–9–91; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 572

[Docket No. 91–27; Notice 01]

RIN 2127–AC87

Anthropomorphic Test Dummies, Infant Test Dummy

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes specifications for a newborn infant test dummy to be used in testing infant restraints. NHTSA believes that standardizing the dummy used to represent newborn infants in testing infant restraints would enable NHTSA and the child passenger safety community to evaluate those restraints in a fuller and more uniform manner. Adding the dummy to part 572 would be the first step toward using the dummy to test the compliance of infant restraints with the Federal motor vehicle safety standards (FMVSS) for child restraint systems (FMVSS 213). The issue of using the dummy in FMVSS 213 testing will be explored in future rulemaking.

DATES: Comments on this proposal must be received by NHTSA no later than September 26, 1991. If adopted in a final rule, these amendments would take effect 180 days after publication of the final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted to: Docket Section, room 5109, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. The docket section is open from 9:30 am to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Daniel, Pedestrian, Heavy Truck, and Child Crash Protection Division, NRM–15, room 5320, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202–366–4921).

SUPPLEMENTARY INFORMATION: This notice proposes to amend part 572, Anthropomorphic Test Dummies, to establish specifications for a test dummy representing a newborn infant. (49 CFR part 572). Child test dummies enable NHTSA to dynamically test child restraint systems in a manner that is both measurable and repeatable. The proposed newborn infant dummy would encourage testing of infant restraint systems in a standardized manner.

On July 14, 1988, Mr. D. Friedman petitioned the agency to amend Standard No. 213, *Child Restraint Systems* (49 CFR 571.213), and part 572 to specify the use of a dummy representing a newborn infant in conducting compliance testing of newborn infant restraint systems. Currently, these regulations specify the use of a dummy representing a six-month-old infant in testing the restraint systems. Mr. Friedman has developed two child restraint systems designed for newborn infants which cannot, he contends, be effectively tested for compliance using the part 572 six-month-old infant test dummy (49 CFR 572.25) because that dummy cannot be physically accommodated by his restraint systems.

The agency granted the petition by letter dated June 7, 1989. The agency stated that it would "consider revising FMVSS No. 213 and part 572 to allow use of the 'newborn' dummy in the compliance testing of child safety restraints designed for newborn and low weight infants."

The subject of developing a new infant test dummy for infant restrains was among the issues discussed at two public meetings on child passenger protection NHTSA sponsored in 1988. Several participants in the meetings, including Mr. Friedman, expressed concerns that the part 572 six-month-old infant test dummy was too large for use in evaluating restraint systems designed for newborn infants. Participants suggested that these systems could be more accurately evaluated using a dummy weighing from seven to 10 pounds, instead of the six-month-old dummy which weighs 17.4 pounds.

In response to the Friedman petition and the comments received at the public meetings, the agency is today proposing an infant test dummy for use in evaluating the performance of infant restraints. The proposed dummy is 20 inches in length and weighs 7.5 pounds. The dummy would be specified by descriptive design specifications that assure that each dummy would vary little from other dummies in its construction and performance. The dummy would be used as an inertial loading device in tests of infant restraint systems. It would not be instrumented to record either load or acceleration data during a crash simulation, because the dummy is not large enough for installation of the instrumentation.

Detailed design drawings for the proposed newborn infant dummy are available for examination in the NHTSA