Authority: Pub. L. No. 101–410, Pub. L. No. 104–134, 49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115 as amended; delegation of authority at 49 CFR 1.50.

2. Section 578.6, paragraphs (a)(2)(ii), (c)(2), (d), (f)(1), and (g), are revised to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a) * * *

(2) * * *

(ii) Violates section 30112(a)(2) of Title 49 United States Code, shall be subject to a civil penalty of not more than $11,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by this section. The maximum penalty under this paragraph for a related series of violations is $16,950,000.

* * * * *

(c) * * *

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is $1,175,000.

(d) *Consumer Information*—(1) *Crashworthiness and Damage Susceptibility.* A person that violates 49 U.S.C. 32308(a), regarding crashworthiness and damage susceptibility, is liable to the United States Government for a civil penalty of not more than $1,100 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty under this paragraph for a related series of violations is $575,000

(2) *Consumer Tire Information.* A person that violates 49 U.S.C. 32308(c), regarding consumer tire information established under 49 U.S.C. 32304A, is liable to the United States Government for a civil penalty of not more than $50,000 for each violation.

* * * * *

(f) * * *

(1) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order issued thereunder is liable to the United States Government for a civil penalty of not more than $2,200 for each violation. The maximum civil penalty under this paragraph for a related series of violations is $150,000.

* * * * *

(g) *Vehicle theft protection.* (1) A person that violates 49 U.S.C. 33114(a)(1)–(4) is liable to the United States Government for a civil penalty of not more than $1,100 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under 49 U.S.C. 33102 and 33103 is only a single violation. The maximum penalty under this paragraph for a related series of violations is $375,000.

(2) A person that violates 49 U.S.C. 33114(a)(5) is liable to the United States Government for a civil penalty of not more than $150,000 a day for each violation.

* * * * *

Issued on: June 9, 2009.

Stephen P. Wood,

Acting Chief Counsel.

[FR Doc. E9–13933 Filed 6–12–09; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 581

[Docket Number NHTSA–2009–0047]

Bumper Standard; Petition for Rulemaking

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

ACTION: Request for comments.

SUMMARY: On July 1, 2008, the Insurance Institute for Highway Safety (IIHS) petitioned the agency to amend the existing bumper standard, to require compliance by light trucks, vans, and sport utility vehicles (SUVs), which NHTSA often refers to collectively as LTVs. The agency had already begun re-evaluating the bumper standard in anticipation of the vote on a Global Technical Regulation on pedestrian safety. NHTSA requests comments and information to assist the agency in determining whether to grant or deny the IIHS petition.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than August 14, 2009.

ADDRESSES: Comments must refer to the docket notice number cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, ground level, 1200 New Jersey Ave., SE., Washington, DC 20590 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery/Courier:* 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 1–800–647–5527.
- *Fax:* (202) 493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: 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 (65 FR 19477–78) or you may visit *http://docketsinfo.dot.gov/.*

Docket: For access to the docket to read background documents or comments received, go to the street address listed above. The internet access to the docket will be at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Hisham Mohamed, Consumer Standards Division, National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., West Building, Room W43–437, NVS–131, Washington, DC 20590. Mr. Mohamed's telephone number is 202–366–0307; E-mail: *hisham.mohamed@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The agency's bumper standard, set forth at 49 CFR part 581, establishes requirements for the impact resistance of vehicles in low speed front and rear collisions. The purpose of the standard is to reduce physical damage to the front and rear ends of a passenger motor vehicle from low speed collisions. The standard applies to passenger motor vehicles other than multipurpose passenger vehicles and low speed vehicles.

The history of the Part 581 bumper standard has been long and complex. In its initial efforts in the field of bumper regulation, NHTSA issued Federal

Motor Vehicle Safety Standard (FMVSS) No. 215, Exterior Protection, under the National Traffic and Motor Vehicle Safety Act (the Safety Act), now codified as 49 U.S.C. Chapter 301. FMVSS No. 215 was initially implemented on September 1, 1972.

On October 20, 1972, Congress enacted the Motor Vehicle Information and Cost Savings Act (the Cost Savings Act). Title I of that Act, now codified as 49 U.S.C. Chapter 325, provided for promulgation of bumper standards to reduce the economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents. The statute specifies that when prescribing a bumper standard, the agency must design the standard to obtain the maximum feasible reduction of costs to the public, considering the costs and benefits of carrying out the standard; the effect of the standard on insurance costs and legal fees and costs; savings in consumer time and inconvenience; and health and safety, including emission standards. 49 U.S.C. 32502(d).

Pursuant to both the authority of the Cost Savings Act and the Safety Act, NHTSA established the Part 581 Bumper Standard in 1976. 41 RF 9346 (March 4, 1976). As adopted, this standard combined the safety features of FMVSS 215 with new damage resistance criteria intended to promote consumer cost savings. There have been a number of amendments to the bumper standard since that time.

NHTSA's bumper standard does not apply to vehicles classified as trucks (because they are not passenger motor vehicles) or multipurpose passenger vehicles (because they are a type of passenger motor vehicles excluded by the agency when it established the bumper standard) the category which includes vehicles commonly referred to as SUVs. The Cost Savings Act specifically excludes trucks from any bumper standards and allows the agency to exempt multipurpose passenger vehicles from bumper standards. Both of these vehicle types could be regulated under the authority of the Safety Act. Since trucks are excluded from bumper standards under the Cost Saving Act, any bumper standard for these vehicles would need to be issued solely on the criteria included in the Safety Act.

In the past NHTSA has denied petitions to extend the bumper standard to trucks and multipurpose passenger vehicles. In August 1984, the agency denied two petitions for rulemaking, asking the agency to establish safety requirements for bumpers on vehicles other than passenger cars (49 FR 34049, Aug. 28, 1984). The first petitioner requested the agency to establish a bumper height requirement for all vehicles. The second petitioner requested the agency to require rear bumpers on pick-up trucks.

NHTSA responded by stating that while it was conceivable that a bumper height requirement for vehicles other than passenger cars could result in some slight, non-quantifiable safety benefits relating to unrepaired damage, the agency was unaware of any data indicating any significant safety problem with bumpers (or lack of rear bumper) on pick-up trucks, vans or utility vehicles, relating to mismatch problems, crash energy management, or side impact intrusion. Neither petitioner provided any such data.

In its response, NHTSA also stated that in considering possible rulemaking, the agency must consider both safety issues and whether a proposed requirement would be reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed. This is specifically required by the Safety Act.

The agency concluded that establishing a bumper height requirement for vehicles other than passenger cars or requiring rear bumpers on pick-up trucks could significantly reduce the utility of the vehicle types in question. At that time, the agency did not have data showing that there was a safety problem that would justify rulemaking.

In February 1991, the agency again denied a petition for rulemaking regarding bumper heights for small trucks and SUVs (56 FR 7826, Feb. 26, 1991). The petitioner was concerned that these vehicles could override the hood of passenger cars in crashes. In responding to the petition, the agency noted that the bumper standard did not apply to trucks or multipurpose passenger vehicles. NHTSA stated that it believed it would be inappropriate to require bumpers of these vehicles to be at the same height as those of passenger cars. The agency stated that these types of vehicles require greater ground clearance than passenger cars, to enable them to clear obstacles and hazards characteristic of commercial and occasional off-road operation. The agency stated that, for the same reason, requiring underride guards on trucks and multipurpose passenger vehicles would be inappropriate. The requirement recommended by the petitioner would have significantly reduced the utility of the vehicle types in question. Therefore, the agency believed that such a requirement would not be reasonable, practicable or appropriate for these vehicle types.

NHTSA also noted that while the agency recognized that many of these other vehicles were manufactured with bumpers mounted somewhat higher than passenger car bumpers, it did not have evidence of any significant safety problems resulting from those differences. Additionally, the agency analyzed data from the 1989 Fatal Accident Reporting System (FARS) file [1], a census of all fatal motor vehicle crashes on U.S. roads. The analysis indicated that there were no incidences of underride or override reported as a specific cause of the car occupant fatality, and the agency stated it was unaware of any data indicating a safety problem to be addressed by a rulemaking addressing bumper heights of pickup trucks, vans or sport utility vehicles. However, a review of the 2007 FARS data on ''Deaths among Occupants of Passenger Cars with Underride or Override Reported'' shows that the data includes 206 occupants who died in cars with underride or override reported, including 34 in crashes that involved at least one light truck or van. Thirteen of these fatalities occurred in two-vehicle crashes. All 13 involved a pickup truck, and 10 involved front damage to the car. The agency notes that although this data reflects that some fatalities have involved occupants who died in cars with underride or override reported, the data does not reflect the travel or crash speed for these crashes. We note that the crash or travel speed for these crashes could be above the speed requirements of the bumper standard.

The IIHS Petition

In July 2008 the Insurance Institute for Highway Safety (IIHS) petitioned NHTSA to extend the bumper standard to light trucks, vans, and SUVs (collectively, LTVs). The IIHS stated that it is legal to sell new LTVs in the United States without any bumpers, and this produces several undesirable consequences. The IIHS stated that many LTVs provide virtually no protection for vital safety-related parts such as headlights and taillights, which often sustain damage in low-speed collisions. The IIHS stated that LTVs owners have to pay for expensive repairs to fenders, grilles, and other parts that sustain unnecessary damage in low-speed collisions. Further, IIHS stated that vehicle manufacturers which choose to equip their LTVs with bumpers do not have to make them

[1] The acronym ''FARS'' now stands for the ''Fatality Analysis Reporting System.''

compatible in height with passenger vehicle bumpers. IIHS stated that LTV bumpers can be much higher than car bumpers, which results in excessive damage to the passenger vehicles with which they collide at low speeds.

The IIHS also stated that crash test results and data from insurance claims demonstrate the safety and property damage consequences of allowing inadequate bumpers, or none at all, on LTVs. The petitioner stated that by applying passenger vehicle bumper requirements to LTVs, NHTSA would make bumpers more compatible across the range of passenger vehicles. The petitioner also stated that this would enhance occupant safety and, at the same time, reduce costly damage to property in low-speed collisions, a subject which NHTSA and the automotive industry are addressing in the broader issue of vehicle compatibility. (*Docket:* NHTSA–2003–14623).

We note that NHTSA had already begun re-evaluating the bumper standard in anticipation of a vote on the Global Technical Regulation (GTR) on pedestrian safety, (see notice at 73 FR 55201 for further discussion of the GTR). The agency is also aware that there has been a significant change in vehicle registration in the U.S. that has resulted from an increased market shift to light trucks since the most recent revision of the bumper standard in 1982. The IIHS petition on its own does not provide sufficient support for the requested action, but our evaluation leads us to think that it may be an appropriate time to reconsider past agency decisions on extending the bumper standard to other vehicles.

NHTSA requests comments to assist the agency in deciding whether to grant or deny the IIHS petition. To inform the agency's decision, the following are key issues that the agency would like commenters to address. In particular, the agency requests that commenters include documents, studies, test protocols, data, or references which support their comments.

Cost/Benefits

(1) The petitioner reported that crash tests demonstrate that there are bumper height mismatches between SUVs and passenger cars based on four tested MY 2008 SUVs and five tested MY 2004 SUVs. The petitioner reported that crash tests with greater bumper mismatches tend to produce damage with higher repair costs. Are these results representative of the current SUV fleet? Are the results likely to reflect the future mix of SUVs? Are there any comparable data available for other LTVs?

(2) Are there any estimates of the costs and benefits of extending the bumper standard to LTVs? Can these costs and benefits be estimated separately for SUVs, minivans, and pickups? Can these costs and benefits be estimated separately for unibody and body on frame SUVs, and for different SUVs by size? Can these costs and benefits be estimated separately for the front and rear bumpers? Also, what would be the specific safety benefits of extending the bumper standard to these vehicles (separate from other types of benefits)?

(3) Should NHTSA consider a more-extensive upgrade to the bumper standard for all light vehicles? Does the current standard adequately protect passenger cars, given the current and projected mix of crash partners? What are the estimated repair costs for vehicles with matching and mismatching bumpers at various crash speeds (for example, 2.5 and 5 mph)? Can the benefits and costs be estimated separately for the front and rear bumpers?

(4) Over the past decades, the passenger vehicle fleet has shifted from a fleet containing primarily cars to a fleet with a much higher percentage of light trucks. FHWA data show that growth in total miles driven by ''Two-axle, four-tire trucks,'' a category that includes most or all light trucks used as passenger vehicles, averaged 5.1% annually from 1985 through 2005.[2]

While the future mix of the fleet is uncertain, the agency seeks comment and data on the current usage patterns for light trucks. Since past agency decisions have focused on the utility of these vehicles, are there any data that provide the current usage patterns of light trucks? Are there vehicle features that distinguish light trucks which are primarily work vehicles from those that are used primarily as passenger vehicles?

(5) For an LTV, what is the probability of being involved in low speed crashes over the vehicle's lifetime? And what is the difference in repair and inconvenience costs for matching and mismatching vehicle bumpers? Also what is the frequency of vehicle crashes at various low speed impacts (for example, 2.5, 5, 7.5 and 10 mph)? Please provide data.

Vehicle Compatibility

Bumper mismatch represents one aspect of the broader issue of vehicle compatibility being addressed by NHTSA and the automotive industry. NHTSA is addressing self-protection in the near-term through improved side impact protection. On September 11, 2007 (72 FR 51908), the agency published a final rule upgrading the requirements of FMVSS No. 214, ''Side impact protection,'' to assure head and improved chest protection in side crashes. It will lead to the installation of new technologies such as side curtain air bags, which are capable of improving head and thorax protection to occupants of vehicles that crash into poles and trees and vehicles that are laterally struck by a higher-riding vehicle.

To improve partner protection for occupants in struck vehicles, NHTSA has conducted research enabling the effect of matching height of the frontal structures and stiffness. NHTSA is also pursuing refinement of its data collection to enhance the better understanding of the fleet geometry during crashes.

In addition to NHTSA's initiatives, the automobile industry has developed and committed to a set of voluntary design guidelines and performance criteria for enhancing vehicle-to-vehicle compatibility. One of the requirement options is for the light truck's primary frontal energy absorbing structure to geometrically overlap at least 50 percent of the zone established by NHTSA in its bumper standard (49 CFR part 581) for passenger cars. An alternative to this option is for a secondary structure to have a lower edge no higher than the bottom of the Part 581 bumper zone. By September 1, 2009, 100 percent of participating manufacturers' new light truck production intended for sale in the United States must comply with one of these approaches.

(6) IIHS reported that Ford has reduced the bumper height mismatch for one of its popular SUVs without compromising vehicle function on loading ramps and off-road. What data are available to support this statement? How have the design changes on this vehicle changed its approach and departure angles? What were the trade-offs, if any, in reducing the bumper-height mismatch for this vehicle? Would there be problems in redesigning other LTVs to comply with the bumper standard and what would these problems be? What will be the cost of redesigning LTVs to comply with the bumper standard?

(7) What data are available to indicate any significant safety problem with bumpers (or lack of rear bumper) on pick-up trucks, vans or utility vehicles, relating to mismatch problems, crash energy management, or side impact intrusion?

[2] Docket No. NHTSA–2008–0089.

(8) How much overlap in bumper height is needed between the front of one vehicle and the rear of another vehicle to eliminate or reduce bumper mismatch?

(9) Is there a way to define vehicle characteristics that require a higher bumper, such that some LTVs could be exempt from a bumper height standard, while others would be required to supply bumpers of certain heights?

(10) Please provide data to support incidences of underride or override reported as a specific cause of vehicle occupant injury or fatality. What is the availability of data indicating a safety problem that could have been addressed by a rulemaking addressing bumper heights of pickup trucks, vans or sport utility vehicles? Please provide specific details.

(11) To what extent does the U.S. fleet of LTVs meet the bumper standard requirements? What are the bumper costs, weights and heights (i.e. measurements of the bumper structural element from the ground) of the different types of LTVs in the U.S. fleet?

Pedestrian Safety

(12) Ongoing work on the pedestrian safety GTR has shown that changes in the vehicle geometry can have a profound effect on pedestrian leg injuries when struck by the front bumper. Any decision to change the bumper standard should therefore consider, if not provide, an in-depth analysis of pedestrian injuries and fatalities related to the bumper standard. Are there any analyses on the effect of vehicle frontal geometry changes on pedestrian safety that could happen as a result if LTVs were required to comply with the existing bumper standard? Please provide information on these analyses.

(13) What impact would a change to the bumper standard have on the potential for manufacturers to also meet the pedestrian safety GTR requirements? Please provide information on that data.

New Technologies

(14) Vehicle height could be adjusted for on or off-road usage, for example, by using air suspension. Recent development in materials and designs has helped introduce height adjustable suspension on some SUVs. What is the available data on the feasibility, costs and benefits of using vehicle height adjustment technologies to comply with a requirement for these vehicles to meet the current bumper standard? Are there any data on the extent to which SUVs operated on the public roads have their height adjusted to on-road position? Please provide information on these data.

Statutory Criteria

(15) As noted earlier, since trucks are excluded from bumper standards under the Cost Savings Act, any bumper standards for these vehicles would need to meet the criteria in the Safety Act. The current bumper standard was developed under the criteria of the Cost Savings Act. Could a straight forward extension of the bumper standard to trucks be justified under the criteria of the Safety Act alone? If so, how? If not, why not?

Public Participation

A. 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 primary comments must not be more than 15 pages long. (49 CFR 553.21). However, you may attach additional documents to your primary 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 on the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the online instructions for submitting comments.

B. How can I be sure 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.

C. How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to Docket Management at the address given above under **ADDRESSES**, or submit them electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.*

D. 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.

E. How can I read the comments submitted by other people?

You may read the comments received by the Docket Management at the address given under **ADDRESSES**. The hours of the Docket are indicated above in the same location. To read the comments on the Internet, go to *http://www.regulations.gov*. Follow the online instructions for accessing the docket.

Please note that even after the comment closing date, we will continue to file relevant information on the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

Authority: 49 U.S.C. 32502; 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on: June 4, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E9–13531 Filed 6–12–09; 8:45 am]

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