Manufacturer	Subject lines
SUBARU	B9 Tribeca.[2]
SUZUKI	XL–7.[1]
TOYOTA	Lexus ES.
	Lexus GS.
	Lexus LS.
	Lexus SC.
VOLKSWAGEN	Audi 5000S.
	Audi A4.[1]
	Audi Allroad.
	A6.
	Cabrio.
	Golf/GTI.
	Jetta.
	Passat.

[1] Granted an exemption from the partsmarking requirements beginning with MY 2007.
[2] Granted an exemption from the partsmarking requirements beginning with MY 2006.
[3] Granted an exemption from the partsmarking requirements beginning with MY 2005.

Issued on: April 13, 2006.

H. Keith Brewer,

Director, Office of Crash Avoidance Standards.

[FR Doc. 06–3692 Filed 4–18–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–06–24488]

RIN 2127–AJ85

Federal Motor Vehicle Safety Standards; Low-Speed Vehicles

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

ACTION: Final rule.

SUMMARY: This final rule amends the definition of ''low-speed vehicle'' (LSV) by increasing the Gross Vehicle Weight Rating (GVWR) limit for the class of LSVs to those vehicles with a GVWR of less than 1,361 kilograms (3,000 pounds).

DATES: *Effective Date:* This rule becomes effective June 5, 2006.

Petitions: If you wish to submit a petition for reconsideration of this rule, your petition must be received by June 5, 2006.

ADDRESSES: Petitions for reconsideration should refer to the docket number above and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

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

For legal issues: Christopher M. Calamita, Office of the Chief Counsel (Telephone: 202–366–2992) (Fax: 202–366–3820).

For other issues: Ms. Gayle Dalrymple, Office of Crash Avoidance Standards, NVS–123 (Telephone: 202–366–5559) (Fax: 202–493–2739).

SUPPLEMENTARY INFORMATION:

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I. Background

On June 17, 1998, the National Highway Traffic Safety Administration (NHTSA) published a final rule establishing a new Federal Motor Vehicle Safety Standard (FMVSS) No. 500, ''Low-speed vehicles,'' and added a definition of ''low-speed vehicle'' (LSV) to 49 CFR 571.3 (63 FR 33194). This new FMVSS and vehicle class definition responded to the growing public interest in using golf cars and other similarly sized small vehicles to make short trips for shopping, social, and recreational purposes primarily within retirement or other planned, self-contained communities. These vehicles, many of which are electric-powered, offer comparatively low-cost, energy-efficient, low-emission, quiet transportation.[1] The definition of LSV established by that rulemaking was, ''a 4-wheeled motor vehicle, other than a truck, whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface.''

In a notice of proposed rulemaking (NPRM) published on December 8, 2003 (68 FR 68319), we granted the petitions by Global Electric Motorcars (GEM) and Solectria, and tentatively agreed with the petitioners that the then-current exclusion of trucks from the LSV definition was too broad and did not fully reflect current interpretations of that definition.[2] In the NPRM, we proposed to drop the exclusion of trucks from the definition, but limit the class to small vehicles by limiting the Gross Vehicle Weight Rating (GVWR) to less than 1,134 kilograms (2,500-pounds) and requiring a rated cargo load of at least 36 kilograms (80 pounds). On August 17, 2005 (70 FR 48313) we published a final rule dropping the truck restriction from the LSV class, but limiting the class to vehicles with less than 2,500-pounds GVWR. In the preamble to the final rule, we explained the rationale for adopting this definition:

> By removing the truck exclusion we recognize that the LSV requirements are applicable to some vehicles designed for more work-related operation. Manufacturers and the public are provided the advantages of LSVs that may be designed primarily to carry cargo. By limiting the GVWR, vehicles for which the LSV requirements are not appropriate are excluded from the LSV definition, *i.e.*, vehicles designed for use outside of planned communities or that could be designed to meet the FMVSS requirements for cars, trucks, and multi-purpose vehicles.
>
> The GVWR limit prevents attempts to circumvent FMVSSs for cars, trucks, and multi-purpose passenger vehicles by applying the LSV classification to vehicle types that are able to meet the standards. Defining a LSV as having a maximum GVWR of less than 2,500 pounds also provides an objective means for delineating between the

[1] Electric LSVs are commonly referred to as Neighborhood Electric Vehicles (NEVs). However, NEVs are not specifically defined in the Federal motor vehicle safety standards.

[2] Docket No. NHTSA–03–16601.

vehicles for which the LSV requirements are appropriate and those vehicles that can be designed to meet the full set of FMVSSs. This approach will also ensure that heavier, slow moving trucks (*i.e.*, street sweepers) continue to be excluded from the LSV definition.

The final rule did not include the rated cargo load requirement proposed in the NPRM. The new definition became effective October 3, 2005 and it reads:

Low-speed vehicle (LSV) means a motor vehicle,
(1) that is 4-wheeled,
(2) whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface, and
(3) whose GVWR is less than 1,134 kilograms (2,500 pounds).

II. Petitions for Reconsideration

In October of 2005, NHTSA received two petitions for reconsideration of the final rule published in August. The petitioners were Dynasty Electric Car Corporation and GEM. Both petitioners took issue with the 2,500-pound GVWR limit in the new definition.

Dynasty Electric Car Corporation explained that it is a manufacturer and distributor of fully electric LSVs, including a utility-cargo bed model, an open model, a sedan and a van. It believes that for an electric LSV to compete with an internal combustion LSV on the basis of payload capacity as a utility vehicle and also meet the 2,500-pound GVWR restriction it ''* * * would be forced to re-evaluate the design of our vehicle I.E. chassis and running gear to see where we can lighten the vehicle. Not only will this prove costly to us in terms of redesign and production delay but could quite possibly have the opposite effect of that desired by NHTSA—increased safety for the end user.'' Dynasty Electric Car Corporation proposed a 2,500-pound GVWR restriction for internal combustion engine LSVs and a 2,800-pound GVWR restriction for electric LSVs. It believes this would level the playing field between the two types of LSV and allow for the development of emerging technologies, such as solar and hydrogen drives.

In its petition GEM noted that it agrees that GVWR is an appropriate method to limit the LSV class, but the limit should not be ''arbitrarily low''. ''This is especially so in the case of LSV trucks, where payload in [sic] critical to the utility of the vehicle.'' GEM believes that the 2,500-pound limit is insufficient for LSV trucks to serve their intended purpose, and gives as an example:

* * * assuming that LSVs were limited to operation within planned communities (such as time share resorts or retirement communities), there is adequate demand for using LSVs to transport landscaping supplies and maintenance supplies to require the design of LSVs to handle such payloads. For example, if a resort or gated community wants to use an LSV to transport landscaping supplies, the LSV must be capable of carting a payload of nearly 1000 pounds of fertilizer, top soil, tools or other supplies. NHTSA simply did not address these practical requirements when it concluded that 2500 lbs. GVWR was adequate for the ''intended function'' of LSV trucks * * *

GEM also does not believe that the 2,500-pound GVWR limit adequately compensates for the weight needed by an electric LSV for its battery power supply. GEM noted:

Today's marketplace is driven by such temporary realities as the price of gasoline, which currently favors electric vehicles. But, other things being equal (including the price of gasoline), an [internal combustion] LSV vehicle enjoys an advantage if a GVWR maximum is being established because it naturally has a payload cushion of about 300 pounds relative to an electric LSV vehicle when the weight of the battery pack is taken into account * * *. '' All that GEM seeks in the U.S. market is a comparable ''level playing field'' by allowing LSV trucks to weigh as much as 3000 pounds GVWR, which would accommodate the electric batteries and an appropriate payload for LSV trucks.

III. Today's Final Rule in Response to Petitions for Reconsideration

After considering the issues raised by the petitioners, we have determined that a GVWR limit of less than 3,000 pounds for LSVs, coupled with the 40 km/h (25 mph) speed limitation, represents an effective balance of limiting this class to small vehicles intended for use in controlled, low-speed environments while permitting functional truck-like vehicles with a useful cargo capacity.

Limiting LSVs to those with a GVWR less than 3,000 lbs is consistent with the safety and practicability concerns that gave rise to the original LSV definition, much in the same manner as the 2,500 lbs limit. The 3,000 lbs GVWR limit continues to exclude vehicles from the LSV definition for which the LSV requirements are not appropriate, *i.e.*, vehicles that would be used outside planned communities and controlled low-speed environments.

In the August 2005 final rule, we stated that the agency was incorporating a 2,500 lbs GVWR limit to prevent possible attempts to circumvent FMVSSs for passenger cars, trucks, and multi-purpose passenger vehicles. Today's increase of the GVWR limit by 500 pounds will not have a significant effect on that goal.

We note that, in the NPRM, the agency presented the results of a survey of the GVWR of lighter rated vehicles. The agency identified only one passenger car, the model year 2003 Honda Insight, that had a GVWR below 2,500 lbs (68 FR 683221).[3] Further, the 2003 Honda Insight was the only vehicle with a GVWR below 3,000 lbs. Moreover, in reviewing the current light truck fleet, we have identified the Ford Ranger as the lightest rated light truck, with a GVWR of 4,380 pounds, a rating well above the limit established in this rule.

As such, we do not believe that a 3,000 lbs GVWR limit will be more likely to result in attempts to circumvent the FMVSSs for passenger cars and light trucks, than a 2,500 lbs GVWR limit. Moreover, the 3,000 lbs limit continues to provide an objective delineation between vehicles for which the LSV requirements are appropriate and those that can be designed to comply with the full set of FMVSSs.

In the final rule, we stated that one of the reasons the agency set the maximum GVWR at 2,500-pounds for the new LSV definition was that there are currently no performance requirements for service brakes and tires that are appropriate for these vehicles. We believe that the difference in GVWR between 2,500-pounds and 3,000 pounds is not significant with respect to this issue, particularly given that the vehicles at issue will have a maximum speed capability of 40 km/h (25 mph).

We believe the limit of less than 3,000 pounds GVWR represents an effective balance of our desire to keep this class of motor vehicles narrow—limited to small vehicles—without completely precluding truck-like vehicles with a useful cargo capacity. Accordingly, in response to the petitions for reconsideration, this rule revises the definition of LSV to read as follows:

Low-speed vehicle means a vehicle,
(a) that is 4-wheeled,
(b) whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface, and
(c) whose GVWR is less than 1,361 kilograms (3,000 pounds).

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making

[3] The model year 2003 Honda Insight had a GVWR of approximately 2200 lbs. GEM commented that the current model year Insight has a GVWR of almost 2,400 lbs.

determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

This rulemaking document was not reviewed under Executive Order 12866, ''Regulatory Planning and Review.'' Since this rule will make the LSV definition less restrictive it will not result in an annual effect on the economy of $100 million or more.

This final rule will permit current LSV manufacturers to produce LSVs for more work-oriented functions. In the petitions for reconsideration received by the agency, manufacturers stated that the definition adopted today will allow them to expand production to meet a consumer need.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I certify that the proposed amendment will not have a significant economic impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The final rule directly affects motor vehicle manufacturers, specifically, manufacturers of LSVs. North American Industry Classification System Codes (NAISC) code number 336111, Automobile Manufacturing, prescribes a small business size standard of 1,000 or fewer employees. NAISC code number 336211, Motor Vehicle Body Manufacturing, prescribes a small business size standard of 1,000 or fewer employees.

The establishment of the new category of motor vehicles, low-speed vehicles, under FMVSS No. 500, in 1998, provided small business with the opportunity to expand into a new market. This final rule will further permit the manufacture of LSVs to meet additional needs, by increasing the GVWR of the LSV class from 2,500 pounds to 3,000 pounds.

Paperwork Reduction Act

NHTSA has analyzed this final rule under the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and determined that it will not impose any new information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320.

The National Environmental Policy Act

NHTSA has also considered this final rule under the National Environmental Policy Act and determined that it will have no significant impact on the human environment. LSV usage is very small in comparison to that of motor vehicles as a whole; therefore, any change to the LSV segment does not have a significant environmental effect.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This final rule does not result in annual expenditures exceeding the $100 million threshold.

Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' The Executive Order defines this phrase to include regulations ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

The agency has analyzed this rule in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement.

This rule will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

In the 1998 final rule, which established the LSV definition, the agency noted that:

> Under the preemption provisions of 49 U.S.C. 30103(b)(1), with respect to those areas of a motor vehicle's safety performance regulated by the Federal Government, any state and local safety standards addressing those areas must be identical. Thus, the state or local standard, if any, for vehicles classified as LSVs must be identical to Standard No. 500 in those areas covered by that standard. For example, since Standard No. 500 addresses the subject of the type of lights which must be provided, state and local governments may not require additional types of lights. Further, since the agency has not specified performance requirements for any of the required lights, state and local governments may not do so either.

63 FR at 33215. In a 1998 NPRM we revised this discussion by stating that:

> [W]e have re-examined our statements about preemption in the preamble of the final rule. In those statements, we explained that, in view of our conscious decision not to adopt any performance requirements for most of the types of equipment required by Standard No. 500, the states were preempted from doing so * * *. As a result of re-examining our views, we have concluded that we should not assert * * * preemption in this particular situation. Accordingly, we agree that the states may adopt and apply their own performance requirements for required LSV lighting equipment, mirrors, and parking brakes until we have established performance requirements for those items of equipment. However, the states remain precluded from adopting additional equipment requirements in areas covered by Standard No. 500.

65 FR 53219, 53220; September 1, 2000.

Today's rule revises the definition of the term ''low-speed vehicle'' (LSV) in 49 CFR part 571. We note that California's definition of ''low-speed vehicle'' establishes a maximum ''unladen weight of 1,800 pounds'' (Cal. Vehicle Code § 385.5).[4] Unlike GVWR, the unladen weight is the weight of the vehicle without occupants or cargo. (See, Cal. Vehicle Code § 289).

A difference in the definition of LSV between State and Federal laws could have implications with respect to preemption of State laws. Under Federal law, a vehicle that meets the Federal definition of ''low-speed vehicle'' must be manufactured to conform to FMVSS No. 500. Similarly, a vehicle that meets the Federal definition of ''passenger car,'' ''multipurpose passenger vehicle,'' or ''truck,'' must be manufactured to meet the FMVSSs applicable to that vehicle type, regardless of how the vehicle may be classified under State law.

Under 49 U.S.C. 30103(b), when a Federal motor vehicle safety standard is in effect, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. Different motor vehicle safety standards apply depending on how a vehicle is classified, i.e., its vehicle type. If a State law classifies a vehicle differently than Federal law, preemption is an issue under 49 U.S.C. 30103(b) if: (1) The State classification results in the vehicle being subject to a State standard applicable to the same aspect of performance regulated by a FMVSS, and (2) the State standard is not identical to the FMVSS. In such an instance, the State safety standard would be preempted.

Executive Order 12988 (Civil Justice Reform)

This rule does not have any retroactive effect. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court. The issue of preemption is discussed below in the section on Federalism.

Regulation Identifier Number (RIN)

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

Data Quality Guidelines

After reviewing the provisions of the final rule, pursuant to OMB's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (''Guidelines'') issued by the Office of Management and Budget (OMB) (67 FR 8452, Feb. 22, 2002) and published in final form by the Department of Transportation on October 1, 2002 (67 FR 61719), NHTSA has determined that nothing in this rulemaking action would result in ''information dissemination'' to the public, as that term is defined in the Guidelines.

Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us. As noted earlier, this rule is not economically significant, nor does it concern a safety risk with a disproportionate effect on children.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that available and potentially applicable voluntary consensus standard, we are required by the Act to provide Congress, through OMB, with an explanation of the reasons for not using such standards. The agency specifically considered SAE J–2358 in the development of this final rule.

Privacy Act

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Low-speed vehicles.

■ For reasons set forth in the preamble, NHTSA amends 49 CFR part 571 to revise § 571.3 to read as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30166 and 30177; delegation of authority at 49 CFR 1.50.

Subpart A—General

■ 2. Section 571.3(b) is amended by revising the term ''low-speed vehicle'' to read as follows:

§ 571.3 Definitions.

* * * * *

(b) *Other definitions.* * * *

Low-speed vehicle (LSV) means a motor vehicle,

(1) That is 4-wheeled,

(2) Whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface, and

(3) Whose GVWR is less than 1,361 kilograms (3,000 pounds).

* * * * *

Issued: April 11, 2006.

Ronald L. Medford,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 06–3590 Filed 4–18–06; 8:45 am]

BILLING CODE 4910–59–P

[4] We also note that Hawaii has incorporated a maximum ''unladen weight'' in its definition of NEV, which is limited to electrically powered motor vehicles (HRS § 286–2).