ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2008–0664; FRL–9095–6]

Protection of Stratospheric Ozone: New Substitute in the Motor Vehicle Air Conditioning Sector Under the Significant New Alternatives Policy (SNAP) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: EPA issued a proposed rule in the **Federal Register** of October 19, 2009, proposing to find HFO–1234yf acceptable, subject to use conditions as a substitute for CFC–12 in motor vehicle air conditioning. The proposed substitute is a non-ozone-depleting substance and consequently does not contribute to stratospheric ozone depletion. In response to requests from several stakeholders and to allow comments on new supporting materials, this action reopens the public comment period through February 1, 2010.

DATES: The comment period for the proposed rule published October 19, 2009 (74 FR 53445), is reopened. Comments, identified by docket identification (ID) number EPA–HQ–OAR–2008–0664, must be received on or before February 1, 2010.

ADDRESSES: Submit your comments to docket EPA–HQ–OAR–2008–0664 by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the on-line instructions for submitting comments.

E-mail: a-and-r-Docket@epa.gov.

Mail: Environmental Protection Agency. EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. EPA–HQ–OAR–2008–0664, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Hand Delivery: Public Reading Room, Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0664. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy.

Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard, Stratospheric Protection Division, Office of Atmospheric Programs; Environmental Protection Agency, Mail Code 6205J, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9163; fax number, (202)343–2338; e-mail address: *sheppard.margaret@epa.gov.* Notices and rulemakings under the SNAP program are available on EPA's Stratospheric Ozone Web site at *http://www.epa.gov/ozone/snap/regulations.html.* For copies of the full list of SNAP decisions in all industrial sectors, contact the EPA Stratospheric Protection Hotline at (800) 296–1996.

SUPPLEMENTARY INFORMATION:

Background

The statutory and regulatory background is described in detail in the **Federal Register** proposed rule of October 19, 2009 (74 FR 53445). In that document, EPA proposed to find HFO–1234yf acceptable as an alternative refrigerant for motor vehicle air conditioning, subject to use conditions. The refrigerant discussed in the proposed action, for which the comment period is reopened, is a non-ozone-depleting substance.

This Action

EPA has received a request for an extension to the December 18, 2009, comment deadline specified in the October 19, 2009, proposed rule.

This action reopens the comment period. The Agency will consider additional comments we receive through February 1, 2010 in response to this action. Note that additional information is available in the public docket, EPA–HQ–OAR–2008–0664, since publication of the October 19, 2009 proposed rule. EPA will also consider comments received by February 1, 2010 in response to the previous **Federal Register** publication [EPA–OAR–2008–0664] before issuing a final regulatory determination for HFO–1234yf. We intend to issue a regulatory determination as expeditiously as possible following consideration of the comments and information we receive.

Dated: December 18, 2009.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. E9–30629 Filed 12–24–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2009–0190]

RIN 2127–AK20

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes two housekeeping measures relating to Federal Motor Vehicle Safety Standard (FMVSS) No. 217, ''Bus emergency exits and window retention and release.'' First, in response to a petition for rulemaking from the School Bus Manufacturers' Technical Council, NHTSA proposes to amend the standard to specify that the exterior release (the exterior handle) for school bus rear emergency exit doors may be located opposite the door hinges. The standard currently specifies that the exterior release for rear emergency exit doors be located in the middle of the door. Second, this NPRM would clarify FMVSS No. 217 as to the number of force applications that are required to open a window or roof emergency exit. For exits with one release mechanism, the *exit* shall require two force applications to open. The standard currently specifies that the ''mechanism'' shall require two force applications to open. For exits with two release mechanisms, there shall be a total of three force applications to open the exit: one force application shall be applied to each of the two mechanisms to release the mechanism, and another force shall be applied to open the exit.

DATES: Comments must be received on or before February 26, 2010.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* DOT Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 am and 5 pm Eastern time, Monday through Friday, except Federal holidays.
- *FAX:* (202) 493–2551.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

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.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, Mr. Charles Hott, Office of Vehicle Safety Standards (telephone: 202–366–0247) (*fax:* 202–366–4921), NVS–113. For legal issues, Ms. Dorothy Nakama, Office of the Chief Counsel (telephone: 202–366–2992) (*fax:* 202–366–3820), NCC–112. These officials can be reached at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

The purpose of FMVSS No. 217 (49 CFR 571.217) is to minimize the likelihood of occupants being thrown from the bus and to provide a means of readily accessible emergency egress. FMVSS No. 217 applies to buses (including school buses), except buses manufactured for the purpose of transporting persons under physical restraint. FMVSS No. 217 establishes requirements for the retention of windows other than windshields in buses, and establishes operating forces, opening dimensions, and markings for bus emergency exits.

II. Location of Exterior Release on Rear Emergency Exit Door

At S5.3.3.1(a), FMVSS No. 217 establishes provisions for the location of the interior and exterior releases (handles) for side and rear emergency door exits for school buses with a gross vehicle weight rating (GVWR) greater than 4,536 kilograms (10,000 pounds) (''large school buses''). The standard currently specifies at S5.3.3.1(a) and Figure 3D of the standard, and has specified since 1973, that the interior and exterior releases (handles) for rear emergency exit doors be located in the center of the door. However, school bus manufacturers have always understood the standard as requiring only the placement of the interior release (handle) to be in the center of the door, and that the exterior release (handle) may be near the edge of the door on the side opposite the hinges. This is because the exterior handle so located makes it easier for rescuers outside the school bus to open the rear emergency exit door, using a pulling motion, rather than pulling on an exterior handle located in the center of the door.[1]

The School Bus Manufacturers' Technical Council (SBMTC) petitioned the agency to amend FMVSS No. 217 to specify that the exterior release (handle) for school bus rear emergency exit doors may be located near the edge of the door on the side opposite the hinges. Specifically, SBMTC petitioned to amend S5.3.3.1(a) and one of the two drawings in Figure 3D.

S5.3.3.1(a) specifies that the manual interior and outside releases (handles) are located: ''Within the high force access region shown in Figure 3A for a side emergency exit door, and in figure 3D for a rear emergency exit door.'' Figure 3D consists of two drawings. The left-side drawing shows the vertical dimensions of the high force access region. As shown in the left-side drawing, the release (handle) may be located at any point from the left side of the door to the right. However, the right-side drawing, giving a different perspective of the rear exit, shows that the high force access region is a narrow area in the center of the door. Since S5.3.3.1(a) requires the interior and exterior releases (handles) to be ''[w]ithin the high force access region shown in * * * figure 3D for a rear emergency exit door,'' the releases must be in that narrow area in the center of the door shown in the right-side drawing of Figure 3D. As noted earlier, in actuality, SBMTC stated that manufacturers are ''universally'' placing the exterior releases on the side of the doors opposite the hinges.

SBMTC suggests that we reconcile the language of the standard with the practices of the industry and with what petitioner believes is best for safety. The petitioner suggests that we make the right-side drawing of Figure 3D apply only to the interior release (handle) and not to the exterior release. With regard to applying the right-side drawing to the interior release (handle), the petitioner believes there are reasons to require the interior release to be in the center of the door: the location ensures that the release is visible to bus occupants, and is not obscured by seat backs if the door is wider than the bus's center aisle. Further, we note that the exit would be opened by a pushing rather than pulling

[1] Locating the outside handle in the center region of the door makes it harder for first responders to open the door from the outside in the event of an emergency. This is because of the mechanical advantage provided by the lever arm, *e.g.*, the longer the distance between the handle and the door hinges, the less force is required to open the door. Thus, for optimum leverage, the handle should be operated from the side of the door as far away as possible from the door hinges.

motion, so locating the handle in the center of the door does not markedly increase the difficulty of opening the door. However, since exterior releases (handles) are not obscured by seat backs, and since it is more difficult to open an exit by a pulling motion when the release (handle) is in the center of the door than when the handle is on the edge opposite the hinges, SBMTC believes that specifying a location in the center of the door serves no safety purpose for an exterior release.

NHTSA agrees. We propose amending the standard to specify that the interior release (handle) for a rear emergency exit must be in the high force access region shown in both drawings of current Figure 3D, and that the exterior release for the exit must only be in the high force access region shown in the left-side drawing of current Figure 3D. Although no manufacturer currently places the exterior release in the center of the door, we request comment on whether we should require the exterior release to be no further than two inches away from the edge of the door. (To clarify the standard, NHTSA proposes that instead of having Figure 3D consist of two drawings, Figure 3D would be easier to understand if the left-side drawing were renamed Figure 3D(1) and the right-side drawing were renamed Figure 3D(2).) We tentatively agree that the school bus manufacturers' current practice of placing the exterior rear emergency exit door release (handle) near the edge of the door on the side opposite the hinges better meets the need for safety than placing the exterior release in the center of the door. Releases (handles) placed opposite the hinges would require less force to pull open the door for persons outside the school bus.

We believe that this proposal is primarily a housekeeping measure that involves no cost implications, since all manufacturers of large school buses currently locate the exterior release (handle) on the edge of the door opposite the hinges. Demands on agency rulemaking resources have impeded the agency's progress in issuing this NPRM on this housekeeping matter. This proposal would provide more flexibility in locating the exterior release.

Since all manufacturers currently meet the proposed changes discussed above regarding placement of the exterior release (handle), we propose making the amendments effective 60 days following publication of a final rule.

III. Window or Roof Emergency Exit Release

At S5.3.3.2, FMVSS No. 217 specifies the type of and force applications to open emergency window exits in all school buses, and at S5.3.3.3 does the same for school bus emergency roof exits. At S5.3.2, the standard specifies the type of and force applications to open emergency exits in buses other than school buses.

These paragraphs of the standard specify, among other things: ''In the case of [an exit] with one release mechanism, the mechanism shall require two force applications to release the exit. In the case of [an exit] with two release mechanisms, each mechanism shall require one [force] application to release the exit.'' The language first appeared in a November 2, 1992, final rule (57 FR 49423).

In a June 13, 1994 interpretation letter to Blue Bird Body Company (Blue Bird), NHTSA stated that the sentence in S5.3.3.2, ''In the case of windows with one release mechanism, the mechanism shall require two force applications to release the exit,'' was incorrect. The agency stated that the sentence was meant to read: ''In the case of windows with one release mechanism, the exit shall require two force applications *to open*.'' (Emphasis added.) That is to say, the agency intended a window or roof exit with one release mechanism to be able to be opened with only two force applications: One force application that undoes the release mechanism and a second force application that opens the exit. The concern with the strict wording of the standard is that it could be read as specifying that two force applications are used to activate the single mechanism and that a third force application is applied to open the exit. This NPRM proposes to correct the wording so that it states more clearly what the agency had intended (described below). It should be noted that this rulemaking is primarily a housekeeping measure; we believe that all emergency window and roof exits are currently manufactured to meet the requirements that the agency had intended.

Accordingly, the agency proposes the following changes. NHTSA believes that S5.3.2, S5.3.3.2, and S5.3.3 would be clearer if the requirements for releasing the mechanism(s) are separated from the requirements for opening the exit. NHTSA proposes to specify, for exits with one release mechanism, the exit shall require two force applications to open. For exits with two release mechanisms, there shall be a total of three force applications to open the exit: one force application shall be applied to each of the two mechanisms to release the mechanism, and another force shall be applied to open the exit.

NHTSA proposes that if made final, these amendments to the force application requirements take effect one year after the final rule is published in the **Federal Register**, with early optional compliance permitted. To the agency's knowledge, all emergency window and roof exits are currently manufactured to meet the proposed requirements. However, to the extent that changes may be necessitated to meet the proposed requirements, NHTSA believes one year should be sufficient time to implement the changes. Comments are requested on these issues.

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. It is not considered to be significant under E.O. 12866 or the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). NHTSA believes that there will be no costs associated with this proposed rule. We believe that all vehicles currently meet the proposed changes discussed in this NPRM.

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). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The 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.

NHTSA has considered the effects of this rulemaking action under the

Regulatory Flexibility Act. I hereby certify that if made final, this proposed rule would not have a significant economic impact on a substantial number of small entities. If made final, this proposed rule would not substantively change existing FMVSS No. 217 requirements for small businesses that are school bus manufacturers.

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.

Executive Order 13132 (Federalism)

NHTSA has examined today's proposal pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the proposal does not have federalism implications because it does not 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.''

Further, no consultation is needed to discuss the preemptive effect of today's proposal. NHTSA's safety standards can have preemptive effect in at least two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: ''When a motor vehicle safety standard is in effect under this chapter, 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.'' 49 U.S.C. 30103(b)(1). It is this statutory command that unavoidably preempts State legislative and administrative law, not today's rulemaking, so consultation would be unnecessary.

Second, the Supreme Court has recognized the possibility of implied preemption: State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict is discerned, the Supremacy Clause of the Constitution makes the State requirements unenforceable. *See Geier* v. *American Honda Motor Co.*, 529 U.S. 861 (2000). However, NHTSA has considered the nature and purpose of today's proposal and does not currently foresee any potential State requirements that might conflict with it. Without any conflict, there could not be any implied preemption.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this proposed rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. There are no collections of information associated with this notice of proposed rulemaking. Thus, the Paperwork Reduction Act would not apply.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs the agency to provide Congress, through the OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

After carefully reviewing the available information, NHTSA has determined that there are no voluntary consensus standards relevant to this rulemaking, as this NPRM seeks to clarify existing FMVSS No. 217 requirements.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). This proposed rule would not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of more than $100 million annually.

Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make this rulemaking easier to understand?

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

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.

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 at 19478).

V. Public Participation

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long.[2] We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments by any of the methods discussed in the **ADDRESSES** section at the beginning of this NPRM.

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

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.[3]

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth at the beginning of this NPRM.

Will the Agency Consider Late Comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments received after that date. Therefore, if interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule.

If a comment is received too late for us to consider in developing a final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted By Other People?

You may read the materials placed in the docket for this document (*e.g.,* the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the DOT Docket by going to the street address given above under **ADDRESSES.**

List of Subjects in 49 CFR Part 571

Labeling, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

2. Section 571.217 is amended by:

a. Revising S5.3.2(a), S5.3.2(b)(1) and (b)(2), S5.3.3.1(a), and the first sentence of S5.3.3.2;

b. Redesignating S5.3.3.3 as S5.3.3.4;

c. Adding a new S5.3.2.1 (a) and (b), S5.3.3.3 and S5.3.3.3.1;

d. Revising the first sentence of newly redesignated paragraph S5.3.3.4;

e. Adding S5.3.3.5 and S5.3.3.5.1 following S5.3.3.4(b)(3); and,

f. Revising Figure 3D.

The revised, redesignated and added text and figure read as follows:

§ 571.217 Standard No. 217; Bus emergency exits and window retention and release.

* * * * *

S5.3.2 * * *

(a) When tested under the conditions of S6., both before and after the window retention test required by S5.1, each emergency exit not required by S5.2.3 shall allow manual release of the exit by a single person, from inside the passenger compartment, using force applications each of which conforms, at the option of the manufacturer, either to S5.3.2.1(a) or S5.3.2.1(b).

* * * * *

(b) * * *

(1) For vehicles manufactured before September 1, 2010, *[this date has been inserted for illustration purposes],* each exit described in S5.3.2(a) shall have not more than two release mechanisms. In the case of exits with one release mechanism, the mechanism shall require two force applications to release the exit. In the case of exits with two release mechanisms, each mechanism shall require one force application to release the exit. At least one of the force applications for each exit shall differ from the direction of the initial motion to open the exit by not less than 90° and no more than 180°. The force applications for the mechanism(s) must conform to either (a) or (b) of S5.3.2.1.

(2) For vehicles manufactured on or after September 1, 2010, *[this date has been inserted for illustration purposes],* each exit described in S5.3.2(a) shall have no more than two release mechanisms. For exits with one release mechanism, the exit shall require two force applications to open the exit: one force application shall be applied to the mechanism and another force application shall be applied to open the exit. The force application for the release mechanism must differ by not less than 90 degrees and not more than 180 degrees from the direction of the initial motion to open the exit. For exits with two release mechanisms, there shall be a total of three force applications to open the exit: one force application shall be applied to each of the two mechanisms to release each mechanism, and another force shall be applied to open the exit. The force application for at least one of the release mechanisms must differ by not less than 90 degrees and not more than 180 degrees from the direction of the initial motion to open the exit. The force applications for the mechanism(s) must conform to either S5.3.2.1(a) or S5.3.2.1(b), as appropriate.

[2] *See* 49 CFR 553.21.

[3] See 49 CFR 512.

S5.3.2.1(a) *Low-force application.*

(1) Location. As shown in Figure 1 or Figure 3.

(2) Type of motion. Rotary or straight.

(3) Magnitude. Not more than 90 N.

(b) *High-force application.*

(1) Location. As shown in Figure 2 or Figure 3.

(2) Type of motion. Straight, perpendicular to the undisturbed exit surface.

(3) Magnitude. Not more than 270 N.

S5.3.3.1 * * *

(a) *Location:* Within the high force access region shown in Figure 3A for a side emergency exit door, within the high force access region shown in both Figure 3D(1) and Figure 3D(2) for an interior release mechanism for a rear emergency exit door, and within the high force access region shown in Figure 3D(1) for an exterior release mechanism for a rear emergency exit door.

* * * * *

S5.3.3.2 For vehicles manufactured before September 1, 2010, *[this date has been inserted for illustration purposes],* when tested under the conditions of S6, both before and after the window retention test required by S5.1, each school bus emergency exit window must allow manual opening of the exit by a single person, from inside the passenger compartment, using not more than two release mechanisms located in specified low-force or high-force regions (at the option of the manufacturer) with force applications and types of motions that conform to either S5.3.3.2(a) or (b) of this section. * * *

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S5.3.3.3 For vehicles manufactured on or after September 1, 2010, *[this date has been inserted for illustration purposes],* when tested under the conditions of S6., both before and after the window retention test required by S5.1, each school bus emergency exit window must allow manual opening of the exit by a single person, from inside the passenger compartment. Each exit shall have no more than two release mechanisms. The mechanism(s) must be located in either the specified low-force or high-force regions (at the option of the manufacturer), with force applications and types of motions that conform to either S5.3.3.3.1(a) or (b) of this section, as appropriate. For exits with one release mechanism, the exit shall require two force applications to open the exit. The force application for the release mechanism must differ by not less than 90 degrees and not more than 180 degrees from the direction of the initial motion to open the exit. For exits with two release mechanisms, there shall be a total of three force applications to open the exit: one force application shall be applied to each of the two mechanisms to release each mechanism, and another force shall be applied to open the exit. The force application for at least one of the release mechanisms must differ by not less than 90 degrees and not more than 180 degrees from the direction of the initial motion to open the exit. Each release mechanism shall operate without the use of remote controls or tools, and notwithstanding any failure of the vehicle's power system. When a release mechanism is unlatched and the vehicle's ignition is in the ''on'' position, a continuous warning shall be audible at the driver's seating position and in the vicinity of that emergency exit.

S5.3.3.3.1 The mechanism(s) must be located in either the specified low-force or high-force regions (at the option of the manufacturer), with force applications and types of motions that conform to either S5.3.3.3.1(a) or (b) of this section depending upon the location of the mechanism.

(a) Emergency exit windows—*Low-force application.*

(1) Location: Within the low-force access regions shown in Figures 1 and 3 for an emergency exit window.

(2) Type of motion: Rotary or straight.

(3) Magnitude: Not more than 90 N.

(b) Emergency exit windows—*High-force application.*

(1) Location: Within the high-force access regions shown in Figures 2 and 3 for an emergency exit window.

(2) Type of motion: Straight and perpendicular to the undisturbed exit surface.

(3) Magnitude: Not more than 180 N.

S5.3.3.4 For vehicles manufactured before September 1, 2010, *[this date has been inserted for illustration purposes],* when tested under the conditions of S6, both before and after the window retention test required by S5.1, each school bus emergency roof exit shall allow manual opening of the exit by a single person from both inside and outside the passenger compartment, using not more than two release mechanisms located in specified low-force or high-force regions (at the option of the manufacturer) with force applications and types of motions that conform to either S5.3.3.4(a) or (b) of this section. * * *

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S5.3.3.5 For vehicles manufactured on or after September 1, 2010, *[this date has been inserted for illustration purposes],* when tested under the conditions of S6, both before and after the window retention test required by S5.1, each school bus emergency roof exit must allow manual opening of the exit by a single person, from inside the passenger compartment. Each exit shall have no more than two release mechanisms. The mechanism(s) must be located in either the specified low-force or high-force regions (at the option of the manufacturer), with force applications and types of motions that conform to either S5.3.3.5.1(a) or (b) of this section, as appropriate. For exits with one release mechanism, the exit shall require two force applications to open the exit. The force application for the release mechanism must differ by not less than 90 degrees and not more than 180 degrees from the direction of the initial motion to open the exit. For exits with two release mechanisms, there shall be a total of three force applications to open the exit: One force application shall be applied to each of the two mechanisms to release each mechanism, and another force shall be applied to open the exit. The force application for at least one of the release mechanisms must differ by not less than 90 degrees and not more than 180 degrees from the direction of the initial motion to open the exit.

S5.3.3.5.1 The mechanism(s) must be located in either the specified low-force or high-force regions (at the option of the manufacturer), with force applications and types of motions that conform to either S5.3.3.5.1(a) or (b) of this section depending upon the location of the mechanism.

(a) Emergency roof exits—*Low-force application.*

(1) Location: Within the low force access regions shown in Figure 3B, in the case of buses whose roof exits are not offset from the plane specified in S5.2.3.2(b)(5). In the case of buses which have roof exits offset from the plane specified in S5.2.3.2(b)(5), the amount of offset shall be used to recalculate the dimensions in Figure 3B for the offset exits.

(2) Type of motion: Rotary or straight.

(3) Magnitude: Not more than 90 N.

(b) Emergency roof exits—*High-force application.*

(1) Location: Within the high force access regions shown in Figure 3B, in the case of buses whose roof exits are not offset from the plane specified in S5.2.3.2(b)(5). In the case of buses which have roof exits offset from the plane specified in S5.2.3.2(b)(5), the amount of offset shall be used to recalculate the dimensions in Figure 3B for the offset exits.

(2) Type of motion: Straight and perpendicular to the undisturbed exit surface.

(3) Magnitude: Not more than 180 N.

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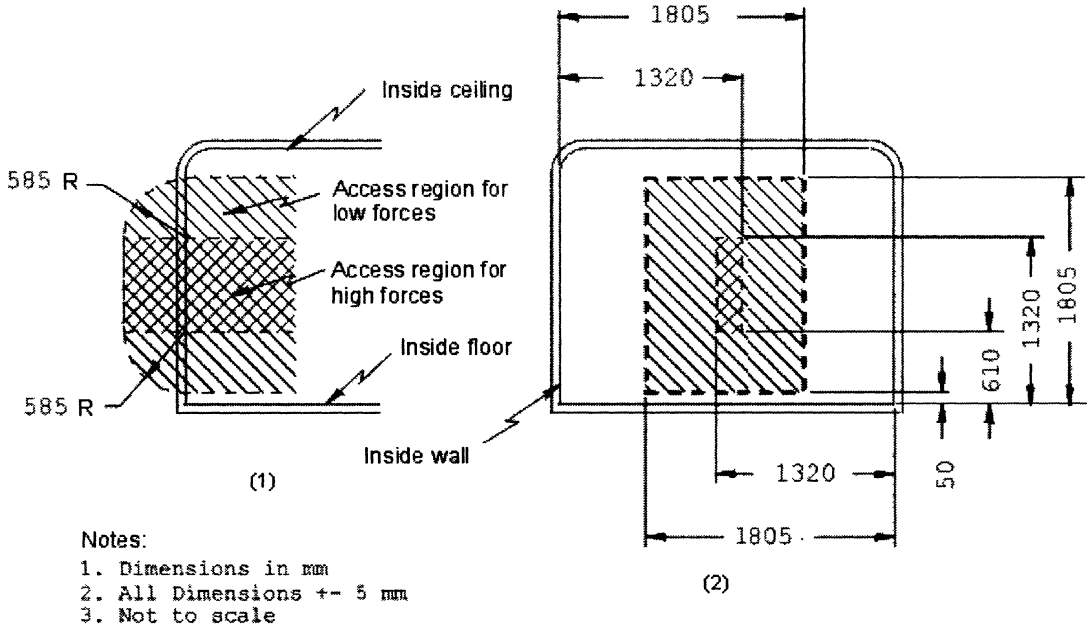

Figure 3D- **REAR EMERGENCY EXIT WITHOUT REAR OBSTRUCTION**

Issued on: December 11, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–AW30

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Skate Complex Fishery; Amendment 3 to the Northeast Skate Complex Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council (Council) has submitted Amendment 3 to the Northeast Skate Complex Fishery Management Plan (FMP) (Amendment 3), incorporating a Final Environmental Impact Statement (FEIS) and an Initial Regulatory Flexibility Analysis (IRFA), for review by the Secretary of Commerce. NMFS is requesting comments from the public on Amendment 3, which was developed by the Council to rebuild overfished skate stocks and implement annual catch limits (ACLs) and accountability measures (AMs) consistent with the requirements of the reauthorized Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Amendment 3 would implement a rebuilding plan for smooth skate and establish an ACL and annual catch target (ACT) for the skate complex, total allowable landings (TAL) for the skate wing and bait fisheries, seasonal quotas for the bait fishery, reduced possession limits, in-season possession limit triggers, and other measures to improve management.

DATES: Comments must be received on or before February 26, 2010.

ADDRESSES: An FEIS was prepared for Amendment 3 that describes the proposed action and its alternatives and provides a thorough analysis of the impacts of proposed measures and their alternatives. Copies of Amendment 3, including the FEIS and the IRFA, are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org*.

You may submit comments, identified by 0648–AW30, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov*.
- *Fax:* (978) 281–9135, Attn: Tobey Curtis.
- *Mail:* Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Skate Amendment 3.''

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, (978) 281–9273; *fax:* (978) 281–9135.