

**SUMMARY:** The purpose of the notice is to inform the general public of a meeting that will be held by the Federal-State Joint Board on universal service.

**DATES:** The Federal-State Joint Board in CC Docket 96-45 will hold an Open Meeting on Wednesday, June 19, 1996 at 9:00 a.m.

**ADDRESSES:** in Room 856 at 1919 M Street, N.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Irene Flannery, Accounting and Audits Division, Common Carrier Bureau, at (202) 418-0844.

**SUPPLEMENTARY INFORMATION:** At the meeting, the Federal-State Joint Board will hear from two panels of experts addressing universal service issues set forth in Section 254 of the Telecommunications Act. In addition, the Federal-State Joint Board will consider whether to extend the two-year indexed cap on the rate at which the Universal Service Fund may grow.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Parts 571 and 581

[Docket No. 96-65; Notice 1]

#### Federal Motor Vehicle Safety Standards Bumper Standard

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

**ACTION:** Notice of public meetings; request for comments.

**SUMMARY:** This document announces public meetings to be held in Palm Desert, California, and Washington, DC, at which NHTSA will seek information on the appropriate classification and safety regulations for golf carts and other small, light-weight vehicles that are capable of being driven on the public roads. This document also invites written comments on these subjects.

**DATES:** The public meeting in Palm Desert, California, will be held on Thursday, July 18, 1996, at 1:00 p.m. The public meeting in Washington, DC, will be held at 9:00 a.m. on Thursday, July 25, 1996. An agenda for each meeting will be made based on the number of persons wishing to make oral presentations and will be available on

the day of the meeting. Those wishing to make oral presentations at each meeting should contact Z. Taylor Vinson, at the address or telephone number listed below, by the close of business July 11, 1996.

**ADDRESSES:** *Public Meetings:* The first public meeting will be held at the City of Palm Desert Council Chambers, 73510 Fred Waring Drive, Palm Desert, California. The second public meeting will be held at DOT headquarters, Nassif Building, Room 6200, 400 Seventh Street, SW., Washington, D.C. *Written Comments:* Written comments may be submitted at any time before or after the meetings, but not later than August 8, 1996. They should be sent to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW., Washington, DC 20590, ATTN: Docket No. 96-65; Notice 1.

**FOR FURTHER INFORMATION CONTACT:** Z. Taylor Vinson, Office of Chief Counsel, NHTSA, Room 5219, 400 7th Street, SW., Washington, DC 20590 (telephone 202-366-5263).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

As discussed below in more detail, vehicles such as golf carts have not been regulated by NHTSA because they were not being used on the public roads. Even where a vehicle is being used on the roads, NHTSA has not regulated it if it was configured differently from passenger cars or light trucks, and if it had a top speed of 20 mph or less. However, the agency has become aware that the use and design of some of these vehicles are evolving in previously unanticipated ways. Although golf carts have traditionally been limited in their operations to golf courses, a number of states have taken legislative actions that permit the use of golf carts on the public roads at speeds up to 25 mph. In addition, there appears to be a growing interest worldwide in small vehicles of somewhat unusual configurations that are capable of exceeding 20 mph, and that are intended for on-road use as city or commuter cars. While some new golf cart-like vehicles do not really resemble very small passenger cars, neither do they resemble the traditional golf cart.

The agency therefore deems it timely to review its historical position in light of this evolving situation. To aid it in its review, NHTSA has decided to hold two public meetings to receive the comments of local elected and law enforcement officials, manufacturers, individual citizens who use these vehicles, public interest groups, and other interested persons on safety and regulatory issues affecting golf carts and

other light-weight limited-speed vehicles.

## II. Legal Considerations

### A. Federal Law

Title 49 U.S.C. Chapter 301 grants NHTSA regulatory authority over "motor vehicles." All "motor vehicles" are subject to the Federal motor vehicle safety standards promulgated by NHTSA pursuant to 49 U.S.C. 30111, and to the notification and remedy provisions of 49 U.S.C. 30118-30121. A "motor vehicle" is a vehicle "manufactured primarily for use on the public streets, roads, and highways" (Sec. 30102(a)(6)). The agency's interpretations of this term have centered around the meaning of the word "primarily." The agency has generally interpreted the term to mean that a significant portion of a vehicle's use must be on the public roads in order for the vehicle to be considered to be a motor vehicle.

NHTSA's principal interpretation of Sec. 30102(a)(6) dates from 1969, and addressed the status of mini-bikes. NHTSA said that the capability of a vehicle to be operated on the public roads would be an important criterion in determining whether it was a "motor vehicle", but that test would not be reached if there is clear evidence as a practical matter that the vehicle was not being used on the public roads. In NHTSA's view, "in the case of self-propelled riding mowers, golf carts, and many other similar self-propelled vehicles, such clear evidence exists." Thus, the agency declined to regulate golf carts.

Without such clear evidence, NHTSA said that it would initially defer to the manufacturer's judgment that a vehicle was not a "motor vehicle" unless "a substantial portion of the consuming public" was operating the vehicle on the public roads. In borderline cases, NHTSA set forth criteria it would employ in determining whether a particular vehicle is a "motor vehicle." Noting the comparative rarity of mini-bike use on public streets, and that the registration of mini-bikes for use on public streets was precluded by laws of most jurisdictions unless they were equipped with Standard No. 108-type lighting devices, NHTSA said it would not consider mini-bikes to be "motor vehicles" if their manufacturers:

- (1) Do not equip them with devices and accessories that render them lawful for use and registration for use on public highways under state and local laws;
- (2) Do not otherwise participate or assist in making the vehicles lawful for operation on public roads (as by

furnishing certificates of origin or other title document, unless those documents contain a statement that the vehicle was not manufactured for use on public streets, roads, or highways);

(3) Do not advertise or promote them as vehicles suitable for use on public roads;

(4) Do not generally market them through retail dealers of motor vehicles; and

(5) Affix to the mini-bikes a notice stating in substance that the vehicles were not manufactured for use on public streets, roads, or highways and warning operators against such use.

The agency's interpretations since 1969 have added new elements to the mini-bike criteria for determining whether vehicles capable of on-road use are "motor vehicles." The most important exclude motorized equipment that have "abnormal" configurations and a top speed of 20 miles per hour or less. As an example, NHTSA informed "trans2 Corporation" in 1994 that its "low-speed electric vehicle" intended for use in residential communities, university campuses, and industrial complexes was not a "motor vehicle" because it had a top speed of 20 mph and unusual body features that made it readily distinguishable from "motor vehicles." These features included an oval-shaped passenger compartment, taillamps built into headrests, and a configuration the approximate size and height of a golf cart.

On the other hand, in 1995, NHTSA informed Goodlife Motors Corporation that its "super golf car" was a motor vehicle because it had a top speed of 29 mph and its configuration resembled that of a prototype Volkswagen passenger car. NHTSA is aware that several companies want to manufacture small commuter-type battery-powered vehicles which they call "Neighborhood Electric Vehicles" ("NEV") whose configuration may or may not be abnormal, and whose top speed may be as much as 35 mph. This type of vehicle, too, is a "motor vehicle" under NHTSA's existing interpretations. As such, it must comply with all applicable Federal motor vehicle safety standards adopted by NHTSA. Moreover, pursuant to 49 U.S.C. 30103(b)(1), states may not prescribe any non-identical standards that are applicable to an aspect of performance covered by the NHTSA standards.

## B. State Laws

### 1. California

#### a. Definitions of "motor vehicle" and "golf cart"

Since 1959, the California Vehicle Code ("CVC") has defined a motor vehicle as any "vehicle which is self-propelled" (CVC Sec. 415). California defines a golf cart as "a motor vehicle having not less than three wheels in contact with the ground, having an unladen weight less than 1,300 pounds which is designed to be and is operated at not more than 25 miles per hour and designed to carry golf equipment and not more than two persons, including the driver" (CVC Sec. 345).

#### b. 1994 Cal SB 2610 and 1995 Cal AB 110

In 1992, California amended its Streets and Highway Code ("CSHC") to establish a Golf Cart Transportation Pilot Program for the City of Palm Desert (CSHC Secs. 1930-37). The 1992 law was replaced in 1994 by SB 2610 which added Chapter 6, CHSC, to establish a "Golf Cart Transportation Plan" applicable to Palm Desert and the City of Roseville.

The 1994 provision, Chapter 6, was amended in 1995 by AB 110 to apply to any city or county in California. Chapter 6 as amended by AB 110 allows local jurisdictions to establish a Golf Cart Transportation Plan area in which golf carts are permitted to operate on "golf cart lanes", defined as "roadways . . . shared with pedestrians, bicyclists, and other motorists in the plan area" (CSHC 1951). Each plan must include minimum design criteria for safety features on golf carts. Only seat belts and covered passenger compartments are specifically required, but other safety features mentioned in the law that a plan "may include" are headlamps, turn signals, mirrors, stop lamps, and windshields.

A plan under the California law must also include a permit process for golf carts to ensure that they meet the minimum design criteria, and minimum safety criteria for golf cart operators. At a minimum, an operator must have a valid California driver's license and carry a minimum amount of insurance.

In addition, the law requires Golf Cart Transportation Plans to allow only carts equipped with the requisite safety equipment to be operated on "separated golf cart lanes" identified in the Plan. Lane striping on the pavement surface is apparently sufficient for a lane to qualify as a "separated golf cart lane." Even though these are separated lanes, they are not "dedicated" ones. In

addition to golf carts operating at speeds up to 25 mph, "other motorists" (which NHTSA assumes to be operators of conventional vehicular traffic such as cars, trucks, and buses) may also operate at speeds up to 25 mph in these lanes.

In summary, through its Vehicle Code and Streets and Highway Code, California now has in place a regulatory scheme under which golf carts may use "separated", limited-speed portions of the public roads at speeds up to 25 mph when equipped with the safety features required by local authorities. Thus, unless NHTSA modifies its existing interpretation, golf carts or other vehicles designed for use in such jurisdictions that are capable of operating at speeds above 20 mph are "motor vehicles", subject to the Federal motor vehicle safety standards. Moreover, under 49 U.S.C. 30103(b), Federal standards would preempt the local requirements referred to in the California statutes.

### 2. Legislation in Other States

In Arizona, Senate Bill 1298 was enacted in 1996. It permits NEVs to be operated at speeds up to 25 mph on public roads with posted speeds of not more than 35-mph. The law does not require either that separated lanes be created or that the NEVs be operated in those lanes only. Florida House Bill 1329, which has passed both Houses of the Florida Legislature, would also permit increased use of golf carts on public roads.

### III. Expression of Support by State Officials and Others

NHTSA has received letters from several elected officials in California asking the agency to support the concept of golf cart transportation plans and the use of NEVs at speeds up to 25 mph on public roads. The California officials who seek NHTSA's support for the plans have represented that they have not identified any incidents involving golf carts to justify safety concerns. NHTSA's public meeting in Palm Desert will provide a forum for the expression of views by local officials responsible for the implementation of golf cart transportation plans and enforcement of traffic and safety laws, as well as by citizens who use golf carts or NEVs pursuant to such plans. The meeting will also allow officials from NHTSA and other interested Federal agencies to examine at first hand the practical details of an operating golf cart transportation plan, such as infrastructure requirements and traffic flow.

#### IV. Market Forces

Another purpose for the public meetings will be for NHTSA to achieve a better understanding of the market and the vehicles that may emerge to serve the consumer preferences reflected in the legislative developments in California, Arizona, and Florida.

At least one specialty manufacturer, Bombardier, Inc. (Bombardier) has informed NHTSA that it would like to enter the market for a "new and growing segment of the transportation fleet: low-powered electric vehicles." It has developed an NEV with a top speed of 25 mph for this market, and believes that its vehicle

will provide a low cost, low speed, zero emissions mode of localized transportation to meet the special needs of retirees, older Americans and others living in gated communities for travel within their community or for limited activities such as local golfing and other recreation-related or short distance trips.

According to Bombardier, municipal governments endorse the concept as a way of helping them meet Clean Air Act mandates for National Ambient Air Quality Standards by eliminating the polluting effects of short distance automobile trips.

Bombardier has asked NHTSA for an interpretation that the NEV it wishes to manufacture and market in these communities is not a "motor vehicle" for purposes of the Federal motor vehicle safety standards. NHTSA will address this and other issues relating to the appropriate regulatory treatment of golf carts and other small low-speed vehicles after considering the oral presentations and comments made in response to this notice.

#### V. Comments

It is in the context discussed above that NHTSA will reexamine its current interpretation of "motor vehicle" to determine the reasonable and appropriate treatment under Federal law of golf carts, NEVs, and other low-speed vehicles. NHTSA invites interested persons to present facts and legal arguments directed to the issues on which NHTSA seeks information.

The agency seeks information on the following topics:

1. Current and anticipated state and municipal regulations, including infrastructure requirements, relating to

the use of public roads by golf carts or NEVs at speeds between 20 and 35 mph.

2. The text of any existing or proposed state or local safety standards applicable to golf carts, NEVs, and other low-speed vehicles.

3. The views of owners and users of golf carts, NEVs, and other low-speed vehicles.

4. Any data relating to on-road safety of golf carts, NEVs, and other low-speed vehicles.

5. The views of law enforcement, safety, and health officials concerning the on-road use of golf carts, NEVs, or other low-speed at various speeds.

6. The views of manufacturers of golf carts, NEVs, and other low-speed vehicles as to the burdens of compliance with Federal motor vehicle safety standards and other regulations.

7. The views of commenters as to safety and bumper standards that would be reasonable, practicable, and appropriate for golf carts, NEVs, and other low-speed vehicles.

8. The views of state and local officials as to Federal regulation of golf carts, NEVs, and other low-speed vehicles.

9. The views of other affected associations, advocacy groups, business entities, and individuals.

Written statements should be as specific as possible and provide the best available supporting information. Suggestions should be accompanied by a rationale for the suggested action and a forecast of the expected consequences of that action.

#### VI. Procedural Matters

The agency intends to conduct the meetings informally so as to allow for maximum participation by all who attend. Interested persons may ask questions or provide comments during any period after a person has completed his or her presentation if there is sufficient time available, as determined by the presiding official. If time permits, persons who did not ask prior to the meeting for an opportunity to speak, but would like to make a statement, will be afforded an opportunity to do so, at the discretion of the presiding official.

Those speaking at the public meeting should limit their presentations to 20 minutes. If the presentation will include slides, motion pictures, or other visual aids, please so inform the contact person identified above so that the

proper equipment may be made available. Presenters are asked to submit at least one copy of their presentation to the presiding official for inclusion in the public record.

A schedule of participants making oral presentations will be available in the designated meeting room before the beginning of the meeting. NHTSA will place a copy of any written statement in Docket No. 96-65; Notice 1. The public may inspect the Docket for comments and statements which may be received before or after the meeting. A verbatim transcript of the meeting will be prepared and also placed in the NHTSA docket as soon as possible after the meeting.

Attendance at the meeting is not a prerequisite for the submission of written comments. NHTSA invites written comments from all interested parties. It is requested but not required that 10 copies be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, Room 5219, at the street address given above, and copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512.)

All comments received before the close of business on August 8, 1996, will be considered in formulating a decision on the issues raised. After the closing date, NHTSA will continue to file relevant comments and information in the docket as it becomes available. It is therefore recommended that interested persons continue to examine the docket for new material.

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

[Docket No. 96-65, No. 1]

Issued: June 12, 1996.

Barry Felrice,

*Associate Administrator for Safety Performance Standards.*

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