impose any costs on domestic or international entities and thus would have a neutral trade impact.

Unfunded Mandates Reform Act of 1995

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). Before promulgating a rule for which a written statement is needed, sec. 205 of the UMRA generally requires FMCSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule. The provisions of sec. 205 do not apply when they are inconsistent with applicable law. Moreover, sec. 205 allows FMCSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the rule an explanation why that alternative was not adopted.

This amended interim final rule will 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. Thus, FMCSA has not prepared a written assessment under the UMRA.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutional Protected Property Rights.

Civil Justice Reform

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This amended interim final rule changes the compliance dates by which States must meet TSA requirements. This rule will not cause an increase in the number of hazardous materials incidents, nor increase the number of non-hazardous materials commercial motor vehicle crashes. Therefore, the FMCSA certifies that this action is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Energy Impact

FMCSA has assessed the energy impact of this rule in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). FMCSA has determined that this final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 383

Administrative practice and procedure, Commercial driver's license, Commercial motor vehicles, Highway safety, Motor carriers.

■ For the reasons set forth in the preamble, the FMCSA amends title 49, Code of Federal Regulations, Chapter III, as follows:

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 1. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.*, 31502; Sec. 214 of Pub. L. 106–159, 113 Stat. 1766; Sec. 1012(b) of Pub. L. 107–56, 115 Stat. 397; and 49 CFR 1.73.

■ 2. Revise § 383.141 paragraph (a) to read as follows:

§ 383.141 General.

(a) *Applicability date.* Beginning on January 31, 2005, this section applies to State agencies responsible for issuing hazardous materials endorsements for a CDL, and applicants for such endorsements.

* * * * *

Issued on: August 13, 2004.

Annette M. Sandberg,

Administrator.

[FR Doc. 04–19004 Filed 8–18–04; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 586

[Docket No. NHTSA–2004–18900]

RIN 2127–AJ45

Federal Motor Vehicle Safety Standards; Fuel System Integrity and Electric Powered Vehicles: Electrolyte Spillage and Electrical Shock Protection

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

ACTION: Final rule; Response to petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of the December 2003 final rule upgrading the rear and side impact tests in the agency's fuel system integrity standard. Under that final rule, compliance with the rear impact requirement will be phased-in following a three-year lead time beginning September 1, 2006, by the following annually increasing percentages of production: 40, 70, and 100%. That final rule provided further that compliance with the side impact upgrade will be required for all vehicles on and after September 1, 2004.

In response to the petitions, the agency is providing additional lead time for some vehicles. It is providing manufacturers of motor vehicles with a gross vehicle weight rating greater than 6,000 lb (2,722 kg) an additional year of lead time to comply with the upgraded side impact requirements. The agency is also providing multistage manufacturers and alterers an additional year of lead time to comply with both the upgraded side and rear impact requirements. To provide small volume manufacturers with flexibility in complying with the upgraded rear impact requirements, the agency is permitting them to comply with the following percentages of production: 0%, 0%, and 100%.

DATES: *Effective date:* The amendments made in this rule are effective August 31, 2004.

Petitions: Petitions for reconsideration must be received by October 4, 2004, and should refer to this docket and the notice number of this document.

ADDRESSES: Petitions for reconsideration must be sent to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

FOR FURTHER INFORMTION CONTACT: For non-legal issues, you may contact Tewabe Asebe, Office of

Crashworthiness Standards, at (202) 366–2264, and fax him at (202) 493–2739.

For legal issues, you may contact Christopher Calamita, Office of Chief Counsel, at (202) 366–2992, and fax them at (202) 366–3820.

You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

Preserving fuel system integrity in a crash is critical to preventing occupant exposure to fire. Federal Motor Vehicle Safety Standard (FMVSS) No. 301, *Fuel system integrity,* specifies performance requirements for the fuel systems of vehicles with a gross vehicle weight rating (GVWR) of 10,000 lb (4,536 kg) or less. The standard limits the amount of fuel spillage from fuel systems of vehicles during and after frontal, rear, and lateral impact tests.

To increase safety and provide for more realistic testing of fuel systems, NHTSA upgraded both the rear impact and lateral (side) impact test requirements in FMVSS No. 301 (68 **Federal Register** 67068; December 1, 2003). The December 2003 upgrade established an offset rear impact test procedure that specifies striking the rear of the test vehicle at 50 mph (80 ± 1 km/h) with a 3,015 lb (1,368 kg) deformable barrier at a 70 percent overlap with the test vehicle. The deformable barrier in the rear impact test is similar to that currently used in FMVSS No. 214, *Side impact protection,* except that the barrier is 50 millimeter (2 inches) lower to simulate pre-crash braking. This replaced the 30 mph (48 km/h), 4,000 lb (1,814 kg) rigid moving barrier crash test previously required under FMVSS No. 301.

The final rule also replaced the lateral crash test with the side impact crash test specified in FMVSS No. 214. The upgraded side impact test requires that the test vehicle be impacted at 33 ± 0.6 mph (53 ± 1 km/h) with a 3,015 pound (1,368 kg) deformable barrier. This replaced the 20 mph (32 km/h) crash test with a 4,000 lb (1,814 kg) rigid moving barrier previously required under FMVSS No. 301.

To provide manufacturers time to address the rear impact test upgrade and to accommodate new vehicle models that were designed and developed based on the old requirements, the December 2003 final rule provided for three years of lead time followed by a phase-in. The upgraded rear impact test will be phased-in over a three year period beginning September 1, 2006, according to the following percentages of production: 40%, 70%, and 100%. As a result of the low failure rate among existing vehicle designs with the new lateral impact test, the December 2003 final rule established a September 1, 2004 effective date for the side impact upgrade, without a phase-in.

II. Petitions for Reconsideration

NHTSA received petitions for reconsideration of the December 2003 final rule from the Braun Corporation (Braun), an alterer and final stage manufacturer; Lotus Cars Ltd. (Lotus); the National Truck Equipment Association (NTEA); Ferrari S.p.A. (Ferrari); the Alliance of Automobile Manufacturers [1] (Alliance); American Honda Motor Company, Inc. (Honda); General Motors of North America (General Motors); the Center for Auto Safety, a public interest group; and the Victim's Committee for Recall of Defective Vehicles, Inc., a public interest group. The petition from the Victim's Committee for Recall of Defective Vehicles, Inc. was in support of the petition submitted by the Center for Auto Safety.

Additional comments were received from the Automotive Safety Research Institute and Mr. Mark W. Athan, a police officer.

Petitioners' requests broke down into three major areas: compliance schedule for the side impact test, compliance schedule for the rear impact test, and the issue of more severe testing.

A. Side Impact Test

Compliance Date Based on Vehicle GVWR

The Alliance requested a one-year extension of the compliance date for the side impact upgrade for all vehicles and a phase-in for vehicles greater than 6,000 pound (lb) (2,722 kg) GVWR. The Alliance requested a phase-in to begin September 1, 2005 according to the following percentages of production, 90% in the first year, and 100% in the second year. The petitioner explained that vehicles with a GVWR greater than 6,000 lb (2,722 kg) were not previously subject to the FMVSS No. 214, *Side impact protection*, test procedures on which the FMVSS No. 301 side impact upgrade is based. Petitioner further explained that additional time would be required to perform the testing necessary to certify vehicles with a GVWR greater than 6,000 lb (2,722 kg) even if no modifications were required.

Agency response: The agency is amending FMVSS No. 301 to provide vehicles with a GVWR greater than 6,000 lb (2,722 kg) an additional year to comply with the upgraded side impact requirement. Vehicles with a GVWR of 6,000 lb (2,722 kg) or less must comply with the upgrade on and after September 1, 2004.

In the December 2003 final rule, the agency stated that less than one percent of the vehicles tested failed FMVSS No. 301's fuel leakage requirements using the FMVSS No. 214 side impact test. The agency expects less than one percent of vehicles to require modification in order to comply with the side impact upgrade, including vehicles with a GVWR greater than 6,000 lb (2,722 kg). However, vehicles with a GVWR greater than 6,000 lb (2,722 kg) have not previously been subject to the FMVSS No. 214 side impact test. Therefore, we are providing these vehicles with an additional year of lead time to comply with the new side impact requirement.

Conversely, vehicles with a GVWR of 6,000 lb (2,722 kg) or less have previously been subject to the FMVSS No. 214 side impact test. As stated in the final rule, the agency does not anticipate difficulty in certifying these vehicles to the upgraded requirements and the petitioner has not provided any data to demonstrate any such difficulty. Therefore, the Alliance's request to extend the effective date for vehicles with a GVWR of 6,000 lb (2,722 kg) or less is denied.

Alterers, Multistage Manufacturers, and Small Volume Manufacturers

Under the December 2003 final rule, manufacturers will have to comply with the upgraded side impact requirements on and after September 1, 2004. Several multistage manufacturers, second stage manufacturers, and small volume manufacturers requested additional lead time for complying with the upgraded side impact requirements.

Both NTEA and Braun stated that multistage manufacturers and alterers would be unable to begin compliance efforts until a chassis manufacturer has made a production-ready model. Petitioners explained that a multistage

[1] The Alliance is a trade association of motor vehicle manufacturers including BMW group, DaimlerChrysler, Ford Motor Company, General Motors, Mazda, Mitsubishi Motors, Porsche, Toyota, and Volkswagen.

manufacturer or alterer cannot ascertain vehicle compliance with the upgraded standard until they receive a chassis manufactured after the September 1, 2004 date. Therefore, they continued, multistage manufacturers and alterers are restricted to design and re-certification analysis on compliant vehicles obtainable only after the standard takes effect. Petitioners argued that they cannot reasonably produce a vehicle for several months after the upgraded side impact requirements take effect. As such, NTEA requested that multistage manufacturers and alterers be excluded from the application of the upgraded requirements. In the alternative, NTEA and Braun, requested an additional year of lead time for multistage manufacturers and alterers to follow the September 1, 2004 effective date. The Alliance requested a similar delay for second stage manufacturers.

Ferrari argued that current vehicle designs have not been subjected to the FMVSS No. 214 side impact procedure for purposes of fuel system integrity and that it would be burdensome to test vehicles that are nearing end of production. The petitioner requested that the agency provide small volume manufacturers with either a phase-in option, two years of additional lead time, or exclusion for carlines that will no longer be produced after September 1, 2005.

Agency response: The agency is granting the petitioners' request to provide multistage manufacturers and alterers with an additional year of lead time beyond that provided other manufacturers for the side impact upgrade.

The agency agrees with Braun and NTEA in that multistage manufacturers and alterers would not be able to ascertain vehicle compliance with the upgraded side impact standard until they receive a chassis manufactured after the respective compliance date. An additional year of lead time will permit multistage manufacturers and alterers to rely on the incomplete certification of a vehicle without delaying production capabilities. Therefore, multistage manufacturers and alterers must certify vehicles with a GVWR of 6,000 lb or less as complying with the upgraded side impact requirement beginning September 1, 2005. Multistage manufacturers and alterers must certify all vehicles as complying with the upgraded side impact requirement beginning September 1, 2006.

The agency is denying the petitioners' request to provide small volume manufacturers with an additional year of lead time. As with other manufacturers, the agency does not anticipate that vehicles previously subject to the side impact procedure under FMVSS No. 214 will have any difficulty in certifying compliance with the new requirement starting September 1, 2004. Further, the petitioners did not demonstrate that any vehicle would be unable to meet the requirements.

B. Rear Impact Test

Alterers, Multistage Manufacturers, and Small Volume Manufacturers

The December 2003 final rule established a phase-in for the upgraded rear impact test, beginning on September 1, 2006, according to the following percentages of production: 40%, 70% and 100%. Braun and NTEA requested that second stage manufacturers and alterers not be required to comply with the rear impact upgrade until one year following the 100 percent compliance date. Petitioners presented the same arguments for requiring one year of additional lead time for the rear impact upgrade as with the side impact upgrade.

Lotus and Ferrari both requested that the small volume manufacturers be permitted to comply with the following percentages of production: 0%, 0%, and 100%. Both Lotus and Ferrari argued that because small volume manufacturers have smaller numbers of carlines, they could be required to comply with the upgraded rear impact requirements at a higher percentage of production than required.

Agency response: The agency is granting the petitioners' request to provide multistage manufacturers and alterers an additional year of lead time following the 100 percent compliance date for the rear impact upgrade. The agency is also permitting small volume manufacturers to wait until the end of the phase-in to comply with the rear impact upgrade.

The compliance difficulties present for multistage manufacturers and alterers in the side impact upgrade are also present in the rear impact upgrade. Multistage manufacturers and alterers would not be able to ascertain vehicle compliance with the upgraded rear impact standard until they receive a chassis manufactured after the 100 percent compliance date. Again, an additional year of lead time will permit multistage manufacturers and alterers to rely on the incomplete certification of a vehicle without delaying production capabilities. Therefore, multistage manufacturers and alterers must comply with the upgraded rear impact requirement beginning September 1, 2009.

We have also decided to exclude small volume manufacturers (*i.e.,* manufacturers of less than 5,000 vehicles per year produced for the U.S. market) from the phase-in because of their small size. We note that, unlike the advanced air bag or tire pressure monitor system rulemakings, in which the technologies used to comply with the standard are relatively new, the technologies for complying with the upgraded rear impact requirement are well established. Accordingly, these manufacturers are unlikely to face the supply-and-demand problems anticipated in the afore-referenced rulemakings. However, based on the small size of these manufacturers, we are providing additional flexibility to comply with the rear impact upgrade.

Advanced Credits and Phase-in Schedule

Honda requested that the agency permit use of carry-forward credits during the phase-in period for vehicles that comply in advance. Honda argued that carry-forward credits would act as an incentive to introduce vehicles compliant with the upgraded rear impact requirement into the market sooner. In the alternative, Honda petitioned for the agency to reduce the required percentage in the first year of the phase-in from 40 percent to 30 percent. With regard to calculating vehicle production for the phase-in percentages, Honda requested that the alternatives of using the three year average annual production, or one year annual production, include the phase-in year. Honda stated that inclusion of the phase-in year would allow for possible drastic changes in vehicle sales within the phase-in year to be factored into the production numbers.

Agency response: The agency is denying Honda's requests for advanced credits under the rear impact phase-in schedule, but is amending the final rule to include the phase-in year in the production calculation.

NHTSA recognizes that, under some circumstances, allowing carry-forward credits during a phase-in can enhance safety by encouraging manufacturers to build and certify vehicles that comply with the new requirements earlier. In fact, we have authorized such credits in the past. *See, e.g.,* S14 of FMVSS No. 208, *Occupant Protection,* 63 FR 49958, 49961 (Advanced Air Bag Rule; May 12, 2000). However, in that case, it was clear that no existing vehicles complied with the new requirements and that manufacturers would have to make major design changes to bring their vehicles into compliance with the standard. Allowing manufacturers to

use carry-forward credits for vehicles certified to the standard prior to the first year of the phase-in to help satisfy the percentage requirements in the later years of the phase-in acted as an incentive to encourage manufacturers to make those design changes earlier than they would otherwise have done. However, that principle does not apply here, since our testing program demonstrates that many existing vehicles can already comply with the upgraded rear impact requirements. Thus, allowing credits for vehicles produced between now and September 1, 2006 could *reduce* the number of vehicles that would have to be redesigned for the first two years of the phase-in.

Further, the agency is denying Honda's request to reduce the production percentage required to comply with the first stage of the phase-in. The agency has provided a three-year lead time prior to the phase-in, which the agency believes to be sufficient for most vehicles in need of modification. While Honda requested a reduced percentage for the initial phase-in period, it did not provide data demonstrating that its vehicles would need modification or, if modifications were required, that additional time would be needed.

We are amending the annual production calculation for the phase-in to include the phase-in year. This will allow manufacturers to account for an unanticipated and drastic drop in sales of a particular line and is consistent with the calculation method used in the advanced air bag rule.

C. Test Severity

The Center for Auto Safety and the Automotive Safety Research Institute petitioned the agency to increase the severity of the upgraded test requirements. The Center for Auto Safety requested that the agency adopt a 60 mph (95 km/h) side impact test and the Automotive Safety Research Institute requested a 50 mph (80 km/h) side impact test requirement. The Center for Auto Safety also petitioned for the agency to adopt an 80 mph (128 km/h) rear impact test requirement, stating that in the absence of a fire, a crash at this impact speed would be survivable.

Agency response: The agency is not amending the impact speed of either the side or rear impact requirement established in the December 2003 final rule. The Center for Auto Safety and the Automotive Safety Research Institute did not provide the data or analysis regarding the potential benefits for increasing the speed of the side and rear impact requirements. As we stated in the December 2003 final rule, the impact test procedures established in the final rule effectively reproduce the damage profile seen in real world crashes that most often lead to fires. Further, an amendment to increase the impact side speed to 50 (80 km/h) or 60 (95 km/h) mph and increase the rear impact speed to 80 mph (128 km/h) is beyond the scope of the notice of proposed rulemaking that led to the December 2003 final rule.

III. Correction

General Motors stated that in upgrading the rear impact test, the agency inadvertently amended the requirements of FMVSS No. 305, *Electric-powered vehicles: electrolyte spillage and electrical shock protection.* FMVSS No. 305 requires vehicles that use electricity as propulsion power to meet requirements for limitation of electrolyte spillage, retention of propulsion batteries during a crash, and electrical isolation of the chassis from the high-voltage system. Section 7.4 of FMVSS No. 305 (Rear moving barrier impact test conditions) references the test conditions in S7.3 of FMVSS No. 301, including the impact speed and barrier. General Motors noted that by amending the rear impact test procedure in FMVSS No. 301, the agency also amended, most likely unintentionally, the rear impact test procedure applicable to electric-powered vehicles.

General Motors is correct in that NHTSA did not intend to amend the rear impact test requirements for electric vehicles. This notice amends S7.4 of FMVSS No. 305 to maintain the current rear impact test requirements for electric-powered vehicles.

Additionally, the agency is amending S6.2 *Rear moving barrier impact* of FMVSS No. 305 to permit manufacturers to comply with the rear moving barrier impact requirements under the applicable conditions of the upgraded FMVSS No. 301. Prior to the upgrade of the FMVSS No. 301 rear moving barrier impact test, compliance with the FMVSS Nos. 301 and 305 rear moving barrier requirements was based on similar test conditions and procedures. The similarity in test conditions gave manufacturers of gas-electric hybrid vehicles the opportunity to conduct one test instead of two to determine compliance with the two sets of rear impact requirements. Gas-electric hybrid vehicles with a GVWR of 4536 kg or less are subject to the rear moving impact requirements of both FMVSS Nos. 301 and 305, if they use both liquid fuel and more than 48 nominal volts of electricity as propulsion power. As a result of the FMVSS No. 301 upgrade, compliance with the FMVSS Nos. 301 and 305 rear moving barrier requirements is no longer based on similar test conditions and procedures. The differences in the conditions and procedures could eliminate the opportunity to conduct one test instead of two for gas-electric hybrid vehicles.

To reinstate the opportunity to conduct two tests instead of one, we are amending FMVSS No. 305 to permit compliance with the electrolyte spillage, battery retention and electrical isolation rear moving barrier impact requirements of FMVSS No. 305 under the upgraded FMVSS No. 301 rear moving barrier test conditions. As stated in the December 2003 final rule, the upgraded FMVSS No. 301 rear moving barrier test conditions are more stringent than the current conditions. Therefore, this revision will permit manufacturers of gas-electric hybrid vehicles to conduct fewer tests, while maintaining, if not improving, current levels of vehicle safety. A manufacturer's decision to certify under this option must irrevocably be made not later than the time of certification.

IV. Effective Date

The agency is making the amendments in this final rule effective on August 31, 2004. The agency is making them effective in less than 30 days because of the imminence of September 1, 2004, the compliance date for the upgraded side impact test, as established by the December 2003 final rule. Specifying an effective date for today's final rule prior to that compliance date is necessary to establish a new compliance date. This will prevent manufacturers from having to certify vehicles at potentially great expense on September 1, 2004, when those vehicles are provided additional compliance lead time in this document.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action has been determined to not be significant under the Department's regulatory policies and procedures. The amendments made in this final rule do not significantly impact the costs and benefits of the December 2003 final rule.

The agency has concluded that the impacts of today's amendments are so minimal that a regulatory evaluation is not required.

In response to petitions for rulemaking to the December 2003 FMVSS No. 301 upgrade, we are providing additional lead time for specified vehicles and manufacturers. Manufacturers of motor vehicles with a gross vehicle weight rating greater than 6,000 lb (2,722 kg) are provided an additional year of lead time to comply with the upgraded side impact requirements to determine what changes if any need to be made. The agency is also providing multistage manufacturers and alterers an additional year of lead time to comply with both the upgraded side and rear impact requirements. This will permit alterers and multistage manufacturers to rely on an incomplete vehicle certification without delaying production. Additionally, small volume manufacturers are permitted to comply with the rear impact upgrade phase-in with the following percentages of production: 0%, 0%, and 100%. This allows small manufacturers to avoid the expense of testing and possibly modifying a model going out of production during the first two years of the phase-in, and delays their costs to the final year. The agency is also providing flexibility for manufacturers of vehicles that are required to comply with both FMVSS Nos. 301 and 305, which may reduce the amount of vehicle testing performed.

B. 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 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.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The December 2003 final rule, which this notice amends, was certified as not having a significant economic impact on a substantial number of small entities. The amendments made by this final rule do not substantially impact the economic effects of the December 2003 final rule, except that this final rule provides multistage manufacturers and alterers, many of which are small entities, additional time to comply with the December 2003 final rule.

Consequently, the agency has concluded that this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

NHTSA has analyzed these amendments for the purposes of the National Environmental Policy Act and determined that they will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule has no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. 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). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This final rule will 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. Consequently, no Unfunded Mandates assessment has been prepared.

F. Executive Order 12778 (Civil Justice Reform)

This final rule does not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 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.

G. 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 OMB control number. This rule does not establish any new information collection requirements.

H. 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.

I. Executive Order 13045

Executive Order 13045 applies to any rule that: (1) is determined to be ''economically significant'' as defined

under E.O. 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.

This rulemaking does not involve decisions about health risks that disproportionately affect children.

J. 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 NHTSA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This final rule does not address matters such as performance requirements or test conditions, procedures or devices. It addresses compliance schedules only. Therefore, the voluntary consensus standards are not relevant to this final rule. In the December 2003 final rule, the agency noted that there were not any voluntary consensus standards available at that time. It stated further that NHTSA would consider any such standards when they become available.

K. 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 petition (or signing the comment or petition, 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

49 CFR Part 571

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

49 CFR Part 586

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

■ In consideration of the foregoing, NHTSA is amending 49 CFR Part 571 and Part 586 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, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.301 is amended by adding paragraphs S6.2(c), S6.3(c), S6.3(d) and S6.3(e), and by revising S6, S8.1(a), S8.1(b), S8.2.1 and S8.2.2 to read as follows:

§ 571.301 Standard No. 301; Fuel system integrity.

* * * * *

S6. *Test requirements.* Each vehicle with a GVWR of 4,536 kg or less shall be capable of meeting the requirements of any applicable barrier crash test followed by a static rollover, without alteration of the vehicle during the test sequence. A particular vehicle need not meet further requirements after having been subjected to a single barrier crash test and a static rollover test. Where manufacturer options are specified in this standard, the manufacturer must select an option not later than the time it certifies the vehicle and may not thereafter select a different option for that vehicle. Each manufacturer must, upon request from the National Highway Traffic Safety Administration, provide information regarding which of the compliance options it has selected for a particular vehicle or make/model.

* * * * *

S6.2 *Rear moving barrier crash.** * *

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(c) *Small volume manufacturers.* Notwithstanding S6.2(b) of this standard, vehicles manufactured on or after September 1, 2004 and before September 1, 2008 by a manufacturer that produces fewer than 5,000 vehicles worldwide annually may meet the requirements of S6.2(a). Vehicles manufactured on or after September 1, 2008 by small volume manufacturers must meet the requirements of S6.2(b).

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S6.3 *Side moving barrier crash.*

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(c) Notwithstanding S6.3(b) of this standard, vehicles having a GVWR greater than 6,000 lb (2,722 kg) may meet S6.3(a) of this standard until September 1, 2005. Vehicles that have a GVWR greater than 6,000 lb (2,722 kg) and that are manufactured on or after September 1, 2005 must meet the requirements of S6.3(b).

(d) Notwithstanding S6.3(b) of this standard, vehicles with a GVWR of 6,000 lb (2,722 kg) or less that are manufactured in two or more stages or altered (within the meaning of 49 CFR 567.7) after having been previously certified in accordance with Part 567 of this chapter may meet S6.3(a) of this standard until September 1, 2005. Vehicles with a GVWR of 6,000 lb (2,722 kg) or less that are manufactured in two or more stages or altered (within the meaning of 49 CFR 567.7) after having been previously certified in accordance with Part 567 of this chapter and that are manufactured on or after September 1, 2005 must meet the requirements of S6.3(b)

(e) Notwithstanding S6.3(b) and (c) of this standard, vehicles with a GVWR greater than 6,000 lb (2,722 kg) that are manufactured in two or more stages or altered (within the meaning of 49 CFR 567.7) after having been previously certified in accordance with Part 567 of this chapter may meet S6.3(a) of this standard until September 1, 2006. Vehicles with a GVWR greater than 6,000 lb (2,722 kg) that are manufactured in two or more stages or altered (within the meaning of 49 CFR 567.7) after having been previously certified in accordance with Part 567 of this chapter and that are manufactured on or after September 1, 2006 must meet the requirements of S6.3(b).

* * * * *

S8.1 *Rear impact test upgrade.* (a) *Vehicles manufactured on or after September 1, 2006 and before September 1, 2007.* For vehicles manufactured on or after September 1, 2006, and before September 1, 2007, the number of vehicles complying with S6.2(b) of this standard must not be less than 40 percent of:

(1) The manufacturer's average annual production of vehicles manufactured on or after September 1, 2004, and before September 1, 2007; or

(2) The manufacturer's production on or after September 1, 2006, and before September 1, 2007.

(b) *Vehicles manufactured on or after September 1, 2007 and before September 1, 2008.* For vehicles

manufactured on or after September 1, 2007 and before September 1, 2008, the number of vehicles complying with S6.2(b) of this standard must not be less than 70 percent of:

(1) The manufacturer's average annual production of vehicles manufactured on or after September 1, 2005, and before September 1, 2008; or

(2) The manufacturer's production on or after September 1, 2007, and before September 1, 2008.

* * * * *

S8.2.1 Vehicles manufactured on or after September 1, 2006 and before September 1, 2009 are not required to comply with the requirements specified in S6.2(b) of this standard.

S8.2.2 Vehicles manufactured on or after September 1, 2009 must comply with the requirements specified in S6.2(b) of this standard.

* * * * *

■ 3. Section 571.305 is amended by revising S6.2 and S7.4 to read as follows:

§ 571.305 Standard No. 305; Electric powered vehicles: electrolyte spillage and electrical shock protection.

* * * * *

S6.2 *Rear moving barrier impact.* The vehicle must meet the requirements of S5.1, S5.2, and S5.3, when:

(a) it is impacted from the rear by a barrier moving at any speed up to and including 48 km/h, with a dummy at each front outboard designated seating position, or

(b) at the manufacturer's option (with said option irrevocably selected prior to, or at the time of, certification of the vehicle), it is impacted at 80 ± 1.0 km/h with 50th percentile test dummies as specified in part 572 of this chapter at each front outboard designated seating position under the conditions specified in S7.3(b) of FMVSS No. 301 and S7 of this section as applicable.

* * * * *

S7.4 *Rear moving barrier impact test conditions.* In addition to the conditions of S7.1 and S7.2, the rear moving barrier test conditions for S6.2(a) are those specified in S8.2 of Standard No. 208 (49 CFR 571.208), except for the positioning of the barrier and the vehicle. The rear moving barrier is described in S8.2 of Standard No. 208 of this chapter. The barrier and test vehicle are positioned so that at impact—

(a) The vehicle is at rest in its normal attitude;

(b) The barrier is traveling at 48 km/h with its face perpendicular to the longitudinal centerline of the vehicle; and

(c) A vertical plane through the geometric center of the barrier impact surface and perpendicular to that surface coincides with the longitudinal centerline of the vehicle.

* * * * *

PART 586—FUEL SYSTEM INTEGRITY UPGRADE PHASE-IN REPORTING REQUIREMENTS

■ 4. The authority citation for Part 586 continues to read as follows:

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

■ 5. Section 586.6 is amended by revising paragraph (a)(4) as follows:

§ 586.6 Reporting requirements.

(a) Phase-in reporting requirements.

* * *

* * * * *

(4) Contain a statement regarding whether or not the manufacturer complied with the requirements of S6.2(b), or S6.2(c) if applicable, of Standard No. 301 (49 CFR 571.301) for the period covered by the report and the basis for that statement;

* * * * *

Issued: August 12, 2004.

Jeffrey W. Runge,

Administrator.

[FR Doc. 04–18968 Filed 8–18–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 574

[Docket No. NHTSA–04–17917]

RIN 2127–AJ36

Tire Safety Information; Correction

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

ACTION: Correcting amendments.

SUMMARY: On June 3, 2004, the National Highway Traffic Safety Administration (NHTSA) published a final rule; response to the petitions for reconsideration of a final rule on tire safety information published on November 18, 2002. We inadvertently omitted regulatory text related to several issues raised by petitioners. This document corrects these omissions.

DATES: Effective September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. George Feygin, Office of Chief Counsel (Telephone: 202–366–2992) (Fax: 202–366–3820), 400 7th, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In response to a final rule on tire safety information published on November 18, 2002 (67 FR 69600), we received a request for an interpretation asking whether laser etching of the date code portion of the Tire Identification Number (TIN) is permitted.[1] Specifically, S5.5 of FMVSS No. 139 requires that each new pneumatic tire for light vehicles must be ''marked'' with the TIN in accordance with 49 CFR 574.5. In responding to this request, the agency issued a letter of interpretation indicating that 49 CFR 574.5 permitted laser etching of the date code portion of the TIN, as ''long as it occurred in-line, *i.e.*, as part of the manufacturing process of the tire.'' We also indicated in that letter that in responding to petitions for reconsideration of the November 2002 tire safety information final rule, we would amend 49 CFR 574.5 to codify the interpretation.[2]

We inadvertently omitted the codifying amendment from the response to the petitions for reconsideration published on June 3, 2004. In order to avoid ambiguities associated with defining ''in-line'' or ''part of the manufacturing process,'' this correcting amendment includes a time limit within which the date code can be laser etched into the tire.

In addition to omitting the codifying amendment, we inadvertently omitted making certain changes to the regulatory text discussed in the preamble on page 31315.

Correcting the omission of the codifying amendment will not impose or relax any additional substantive requirements or burdens on manufacturers. Therefore, NHTSA finds for good cause that any notice and opportunity for comment on these correcting amendments are not necessary.

■ In FR Doc. 04–11963 published on June 3, 2004 (69 FR 31306), make the following corrections:

PART 571—[CORRECTED]

■ 1. On page 31317, second column, amendatory instruction 2 is corrected as follows:

''2. Section 571.110 is amended by revising paragraph S4.2.2, S4.3, S4.3.4(c), adding paragraph S4.3.5, and revising Figures 1 and 2 at the end of § 571.110, to read as follows:''

[1] *See http://dmses.dot.gov/docimages/pdf86/245047_web.pdf.*

[2] *See http://www.nhtsa.dot.gov/cars/rules/interps/files/firestonelaser-2.html.*