

218, 225, 226, 228, and 254 (k) unless otherwise noted.

2. Revise § 64.1300 (c) to read as follows:

§ 64.1300 Payphone compensation obligation.

* * * * *

(c) In the absence of an agreement as required by paragraph (a) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate of \$0. __.

[FR Doc. 03-30309 Filed 12-5-03; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-03-16601]

RIN 2127-AJ12

Federal Motor Vehicle Safety Standards; Low Speed Vehicles

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal addresses two petitions for rulemaking regarding the exclusion of trucks from the definition of "low-speed vehicle" (LSV). The proposed definition would expand the LSV class to include trucks, but would limit the class to small vehicles. In addition, the proposed definition is more complete than the current definition.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than February 6, 2004.

ADDRESSES: You may submit comments [identified by the DOT DMS Docket Number] by any of the following methods:

- Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Requests for Comments heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the discussion of the Privacy Act under the Comments heading.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Gayle Dalrymple, Office of Crash Avoidance Standards, NVS-123, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone 202-366-5559, facsimile 202-493-2739, e-mail gayle.dalrymple@nhtsa.dot.gov.

For legal issues: Christopher Calamita, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone 202-366-2992, facsimile 202-366-3820.

SUPPLEMENTARY INFORMATION:

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I. Background

On June 17, 1998, the National Highway Traffic Safety Administration (NHTSA) published a final rule establishing a new Federal Motor Vehicle Safety Standard (FMVSS) No. 500, "Low-speed vehicles," and added a definition of "low-speed vehicle" (LSV) to 49 CFR 571.3 (63 FR 33194). This new FMVSS and vehicle classification responded to the growing public interest in using golf cars and other similarly sized small vehicles to make short trips for shopping, social and recreational purposes primarily within retirement or

other planned, self-contained communities. These vehicles, many of which are electric-powered,¹ offer comparatively low-cost, energy-efficient, low-emission, quiet transportation. Electric LSVs are also known as Neighborhood Electric Vehicles (NEVs). The current definition of LSV is "a 4-wheeled motor vehicle, other than a truck,² whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface."

In the preamble to the notice of proposed rulemaking, in the preamble to the final rule, in response to petitions for reconsideration of the final rule, and in letters of interpretation of the definition of LSV, we made it clear that our vision of an LSV is a small, lightweight vehicle that could not meet FMVSSs appropriate for larger and heavier vehicles. (The citations for these documents are provided later in this preamble.) In the NPRM, we proposed the "creation of a new class of vehicle * * * with a definitional criterion of speed alone." Trucks were not excluded; however, low-speed vehicles with "work performing features" (such as a street sweeper) would have been excluded from the equipment requirement of the proposed standard. Not excluding trucks from the LSV definition would have had the unintended result of rendering some vehicles that already met FMVSSs subject to neither those standards nor even the minimum requirements applying to LSVs. In the preamble to the final rule, we noted:

vehicles with "work performing equipment" (*i.e.*, certain trucks) would have been LSVs under the proposal, although not required to meet Standard No. 500. Under the final rule, these vehicles are no longer included and must continue to meet truck FMVSSs. This change is consistent with the rationale of this rulemaking, which is to eliminate a regulatory conflict involving passenger-carrying vehicles. Further, NHTSA concludes that the truck FMVSSs remain appropriate for trucks with a speed capability between 20 and 25 miles per hour and that these standards have not inhibited their introduction in the past. (63 FR 33194, 33197.)

The trucks under discussion in the above paragraph were heavy vehicles, such as street sweepers and other slow-moving special task vehicles. The

¹ Upon review of LSVs currently manufactured, the agency is not aware of an LSV designed with a non-electric power source.

² A "truck" is defined at 49 CFR 571.3(b) as "a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment."

exclusion of trucks added in the final rule was meant to prevent these heavy vehicles, which already complied with the appropriate FMVSS, from falling into the new LSV class.

The purpose of low speed vehicles was represented to us at the public meetings prior to the NPRM to establish the LSV class and in comments to that notice, as convenient, low-cost, low-emission transportation of up to four people within the confines of a planned, often gated, community. However, as of July 2002, 17 states allow LSVs to operate on public roads with speed limits up to 35 miles per hour and one state allows their operation on roads with speed limits of up to 40 miles per hour. The laws of 27 states allow LSV operation on public roads, while not specifically regulating them, and the laws of six states prohibit LSVs on public roads without a specific authorizing regulation.³

We continue to urge states to be very careful when contemplating the use of these vehicles on public roads. States must remain aware that LSVs do not have the occupant protection capability of other motor vehicles, that their lightweight makes their occupants very vulnerable in any collision with a non-LSV vehicle, and that the force involved in that collision increases proportional to the square of the velocity of travel. For example, the result of a vehicle collision at 35 mph is twice as severe as the same collision at 25 mph. We continue to anticipate that LSV use on roads outside confined, controlled areas will be limited by the fact that occupants will not want to travel at less than 25 miles per hour in mixed-vehicle traffic for other than very short trips, regardless of how states may or may not restrict their use.

Since the publication of the final rule, we have received two petitions regarding the exclusion of trucks from the definition of LSV. The first was a petition for reconsideration of the final rule by Solectria (seconded by Electric Transportation Coalition) asking us to reconsider the exclusion of trucks from the definition of LSV because Solectria manufactures a micro electric pickup truck. Solectria said its truck was "suitable" for many uses off the public roads, such as airport and college properties and in parks. Solectria asked that we amend the definition of LSV to exclude only trucks with a curb weight greater than 2,200 pounds.

In our response to Solectria's petition for reconsideration (65 FR 53219;

September 1, 2000), we reiterated the discussion from the preamble to the final rule that we believed excluding trucks from Standard 500 "ensures that such trucks must continue to meet the Federal standards that have always applied to trucks with a maximum speed of more than 20 miles per hour" and that we believed the decision to be "consistent with the rationale of this rulemaking, which is to eliminate a regulatory conflict involving passenger-carrying vehicles." We noted that FMVSSs applicable to trucks with a maximum speed between 20 and 25 miles per hour had not inhibited the introduction of such trucks in the past. However, we also stated,

We are still considering this petition, and have not reached a decision whether to grant or to deny it. Our decision will be reflected in the notice of proposed rulemaking under consideration for establishing performance requirements for safety equipment on LSVs.

Subsequently, the agency received a petition regarding the LSV definition from Global Electric Motorcars (GEM), a DaimlerChrysler company, in January of 2002. GEM asked that NHTSA change the definition of LSV, "to include "trucks" or vehicles designed primarily for the transportation of property or special purpose equipment, so long as they meet the existing vehicle speed limitations of the definition." GEM noted that the NPRM stated "LSVs would include all motor vehicles, other than motorcycles * * *, whose speed * * * does not exceed 25 mph," and that the agency recognized, "that there is no reasonable justification for subjecting low-speed vehicles like golf carts and mini-bikes to full range of safety standards that apply to heavier, faster vehicles."

GEM contends that excluding trucks from the LSV class "will severely limit manufacturers' ability to fully realize the potential benefits of the LSV rule." GEM currently produces two- and four-passenger LSVs with a cargo bin and a two-passenger model with a short or long metal cargo bed. It would like to expand its line of LSVs to include "small community ambulances, and fire trucks," and believes that applying all truck FMVSS's to these proposed NEV trucks,

is completely arbitrary because the vehicles are not materially different from their LSV passenger vehicle cousins, and there is no evidence that somehow the vehicles are less safe than those passenger vehicle cousins. * * * Requiring these vehicles to meet the Federal standards for side impact, front impact and air bags would require a vehicle design that would be too heavy for its intended LSV uses.

As a result of the petitions received by both GEM and Solectria, the agency has decided to reconsider the LSV definition. We tentatively agree with the petitioners that the current exclusion of trucks from the LSV definition is too broad and does not fully reflect current interpretations. Therefore, in this notice, we are proposing to drop the exclusion of trucks from the definition, and to limit the LSV class in a more complete way.

II. Proposed Change to Definition of Low-Speed Vehicle

The agency is proposing to amend the definition of low-speed vehicle, in response to the two petitions discussed above. If made final, the amended definition of LSV would eliminate an overly broad restriction on LSVs with cargo carrying capacity and establish a more complete definition.

The current definition of LSV is:

Low-speed vehicle means a 4-wheeled motor vehicle, other than a truck, whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface. (49 CFR 517.3(b))

The agency is proposing the following definition:

Low-speed vehicle means

- (a) a 4-wheeled motor vehicle,
- (b) whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface,
- (c) whose rated cargo load is at least 36 kilograms (80 pounds), and
- (d) whose GVWR is less than 1,134 kilograms (2,500 pounds).

The amended definition would eliminate the exclusion of "trucks" from the LSV classification and address the petitioners' claim that no logical basis exists to differentiate between passenger and cargo-carrying low-speed vehicles. At the same time, the proposed definition would be more complete and would better communicate the concept that NHTSA has always expressed: LSVs are a class of vehicles for which the FMVSS for cars, trucks, and multipurpose passenger vehicles are inappropriate because of the small size of the vehicles in this class.

Our Rationale for Proposing that LSVs Have a Maximum GVWR of 2500 Pounds and a Minimum Rated Cargo Load of 80 Pounds

The NPRM that proposed to establish the LSV class, initiated "rulemaking based upon oral presentations at the agency's public meetings and written comments received on the appropriate

³ "Use of Low-speed Vehicle on Public Roads"; Insurance Institute for Highway Safety; July 19, 2002.

classification and safety regulations for golf cars and other small, light-weight vehicles that are capable of being driven on the public roads.” (62 FR 1077, January 8, 1997) In every discussion of LSVs by the agency—from the public meetings preceding the 1997 NPRM through the 2002 NPRM on LSV conspicuity (67 FR 46149, July 12, 2002) ⁴—the agency’s main reason for excluding these vehicles from compliance with other FMVSS was the idea that such compliance was inappropriate for a class of “small, lightweight vehicles.” On June 28, 2000, NHTSA replied to a request for legal interpretation regarding the definition of LSV from Thomas Dahl of Lampasas, Texas. Mr. Dahl asked, “whether speed governing devices are allowed by the NHTSA to meet the interpretation of low-speed vehicle.” In its response, the agency stated, in part:

The preambles of the rulemaking notices under which the definition and Federal Motor Vehicle Safety Standard No. 500, *Low-Speed Vehicles* were adopted, clearly indicate that the purpose of the rulemaking was to accommodate a new category of small motor vehicle which was making its appearance in retirement communities. * * * Because of their small size and light weight, these vehicles could not meet Federal motor vehicle safety standards appropriate for larger and heavier vehicles, such as requirements to be met in 30 mph barrier crashes. The common feature of this emerging class of motor vehicle appeared to be a maximum speed capability of not more than 25 miles per hour as designed and

manufactured, and we decided upon that as the principal feature of the definition.

These vehicles needed to be excluded from the FMVSS because of their small size. This decision was appropriate because of the vehicles’ low operating speed and restricted areas of use.

It has become apparent from the Solectria and GEM petitions, and letters like Mr. Dahl’s, that there is a need to limit the LSV class to small vehicles, to prevent attempts to circumvent the FMVSS for cars, trucks and multipurpose passenger vehicles by applying the LSV classification to vehicle types that are able to meet the standards, and to make the definition more complete. The exclusion of trucks from the definition of LSV does not accomplish this goal. As such, we are proposing to limit the definition of LSV to small vehicles objectively through the use of a limitation on the Gross Vehicle Weight Rating (GVWR) combined with a requirement for a minimum rated cargo load (RCL).

We have tentatively identified vehicles with a GVWR of less than 2,500 pounds as constituting a class of motor vehicles so small that vehicles in this class are generally unable to meet all of the FMVSS required for passenger cars, multipurpose vehicles, and trucks. When trucks were originally excluded from the definition of LSV, the agency was considering heavy, slow moving vehicles (e.g., street cleaners) that, because of their heavier weight, were able to meet all of the FMVSS

applicable to trucks. Under the proposed definition, these heavier, but slower moving trucks would still be excluded from the definition of LSV and thus would still be required to meet all of the FMVSSs applicable to trucks.

The tentative GVWR limit is a result of examining the GVWRs of existing NEVs, GVWR ranges submitted by companies registering with NHTSA as intending to manufacture LSVs, and, as a comparison group, small passenger cars, multipurpose passenger vehicles, and trucks that are certified to all applicable FMVSS. We also note that the Society of Automotive Engineers Surface Vehicle Standard J2358, *Low Speed Vehicles*, includes in its scope: any powered vehicle with a minimum of 4-wheels, a maximum level ground speed of more than 32 km/h (20 mph) but less than 40 km/h (25 mph), a maximum rated capacity of 500 kg (1100 lb), and a maximum gross vehicle weight of 1135 kg (2500 lb), that is intended for transporting not more than four (4) persons and operating on designated roadways where permitted by law.

The U.S. Department of Energy conducted a Field Operations Program, “NEVAmerica”. We examined the vehicle specifications of the vehicles involved in that program. Five examples are: the Columbia ParCar four-passenger, Ford Think four-passenger, GEM E825 long bed utility, GEM E825 short bed utility, Frazer-Nash 4XLSV NEV. Specifications for these vehicles are given in the table below.

| Vehicle | Configuration | GVWR ⁵ in pounds |
|--|--|-----------------------------|
| GEM E825 Short Bed Utility | 2-passenger seating, 4-foot aluminum cargo bed | 1,790 ⁶ |
| GEM E825 Long Bed Utility | 2-passenger seating, 6-foot aluminum cargo bed | 2,300 |
| Ford Think Neighbor ⁷ | 4-passenger seating, | 2,300 |
| Columbia ParCar | 4-passenger seating, | 2,460 |
| Frazer-Nash 4XLSV NEV | 2-passenger seating, pick-up truck-like bed | 3,304 |

⁵ As listed in the NEV America results.

⁶ GEM sales literature lists this vehicle as 1,850 pounds.

⁷ Ford no longer produced the Think vehicle.

Thirty-nine manufacturers have registered with NHTSA as intending to manufacture LSVs. Of these, six manufacturers have listed the GVWR range of their vehicles as including vehicles over 3,500 pounds, five more list the GVWR range of their vehicles as

including vehicles over 2,500 pounds, and three manufacturers do not list a GVWR range. We do not know how many of these 39 manufacturers are currently manufacturing and selling vehicles certified as LSVs or the GVWR of any vehicles certified as LSVs.

For comparison purposes, we sought out passenger cars, multipurpose passenger vehicles, and trucks that are certified as fully compliant with all applicable FMVSS. Example vehicles and their GVWR are shown below (model year 2003).

| Vehicle | Type | GVWR in pounds |
|-------------------------|---------------------|----------------|
| Honda Insight | Passenger car | 2,212 |
| Toyota Echo | Passenger car | 3,010 |
| Hyundai Accent | Passenger car | 3,310 |
| Chevrolet Tracker | SUV | 3,483 |
| Honda Civic | Passenger car | 3,485 |
| Toyota Prius | Passenger car | 3,615 |
| Ford Focus | Passenger car | 3,620 |

| Vehicle | Type | GVWR in pounds |
|---------------------|----------------------------|----------------|
| Toyota RAV4 | SUV | 3,841 |
| Jeep Wrangler | SUV | 4,450 |
| Ford Ranger | Extended cab pick-up | 4,800 |

It is obvious from this table that there are vehicles currently available, certified to the FMVSS, with a GVWR less than the GVWR of some NEVs. At this time, we believe that there can be no logical justification for allowing wholesale exclusion from the FMVSS of vehicles that are heavier than some fully-certified vehicles, other than providing some weight allowance for an electric propulsion system (which is generally heavier than a small internal-combustion engine). We believe that many LSVs are electric. We are especially hesitant to allow heavier vehicles to be certified as LSVs when there are currently no performance requirements for service brakes and tires appropriate for the weight of the vehicle. We are proposing to set the GVWR ceiling for the LSV class at 2,500 pounds to allow for the generally heavier electric propulsion systems and need for storage batteries. We are currently working on a rulemaking to establish performance standards for LSVs and the issue of the appropriate GVWR for LSVs could be revisited when such requirements are identified. We seek comment from vehicle manufacturers and users on the issue of the appropriate GVWR limit for LSVs.

We are tentatively proposing an additional requirement of a minimum RCL of 80 pounds. Eighty pounds is the approximate weight of two full golf bags. GVWR must be greater than the sum of the unloaded vehicle weight, RCL, and 150 pounds times the number of designated seating positions (DSPs). (49 CFR 567.4(g)(3).) Given the lack of a tire performance standard applicable to this vehicle type, risk of tire failure due to vehicle overloading is increased. Combining a minimum RCL with a maximum GVWR ensures some load carrying capacity in addition to the regulatory requirement of 150 pounds per DSP. Given that these vehicles typically have only two DSPs, they are more likely than an ordinary passenger vehicle to driven fully loaded. We seek comment on our rationale for imposing a minimum RCL, and what that minimum should be.

In summary, the proposed change to the definition of LSV would make the definition more complete and less open to the necessity of interpretation, clearer as to the type of vehicle NHTSA intended to be excluded from the

FMVSS for cars, trucks and multipurpose passenger vehicles under the LSV definition, and allow the manufacturers of LSVs more flexibility in the design of their products without sacrificing the safety of the vehicles' users. Further, the crash avoidance and crash protection requirements for an LSV are appropriate for that vehicle's size regardless of whether the vehicle is designed to transport passengers or cargo.

III. Proposed Effective Date

This proposal would remove the provision that precludes the manufacture of trucks as LSVs, and add the restriction that LSVs must have a GVWR less than 2,500 pounds and RCL of at least 80 pounds. The agency has limited knowledge as to the number of manufacturers producing or intending to produce motor vehicles certified as LSVs under the existing definition of that term. Further, the agency has limited knowledge as to the exact specifications of the LSVs currently manufactured and is not aware of any LSV currently manufactured that would no longer be classified as an LSV under the proposed definition. However, based on the information the agency does have, we do not anticipate that any LSV currently produced would need to be redesigned to meet the proposed definition.

Therefore, NHTSA is proposing that an effective date 45 days after the publication of a final rule. The 45 day effective date would allow LSV manufacturers the flexibility to proceed with the introduction of new vehicles as quickly as possible. The agency is requesting comment on the appropriateness of the proposed lead time.

IV. Comments

Questions for Comment

In addition to comments on the proposed rule, the agency is seeking comments on the following specific issues.

1. Are there reasons we should allow some heavier vehicles to be certified as LSVs? If so, would GVWR be sufficient to identify those vehicles or should other criteria be used in conjunction with GVWR?

2. Is restricting the GVWR the most appropriate method of restricting the size of LSVs?
3. Is our belief that many LSVs are electric correct and is the proposed weight allowance for the electric propulsion system appropriate?
4. We request comment on the exact specifications of LSVs that manufacturers are currently producing or planning to produce to aid us in determining if a longer lead time should be provided. With respect to manufacturers contemplating the production of LSVs above the proposed limit, to what extent have investments been made to bring these vehicles to market?
5. We request information on the GVWR, RCL, and power plant specifications of LSVs currently being manufactured.

When commenting on these issues, commenters should remember that vehicles designed primarily for use off the public roads, regardless of weight or speed, are not subject to the FMVSS. Therefore, certification as an LSV is not necessary for vehicles which operate only on private roads and grounds, such as at airports, some academic and business campuses, and industrial plants and grounds.

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. (49 CFR 553.21.) 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 two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

You may also submit your comments to the docket electronically by logging onto the Dockets Management System website at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to

obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

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**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. 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. (49 CFR Part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), 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 comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov>).
2. On that page, click on "search."

3. On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."

4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. Although the comments are imaged documents, instead of word processing documents, the "pdf" versions of the documents are word searchable.

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

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 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

V. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." Based on the limited information currently available to the agency, as discussed under Section III, Proposed Effective Date, the agency tentatively concludes that the proposed amendments would not have more than a minimal impact on LSV manufacturers and users. The agency is not aware of any LSV currently produced that would no longer be classified as an LSV under the proposed definition or that would need to be redesigned because of that proposal.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. Based on the limited information currently available to the agency, as discussed under

Section III, Proposed Effective Date, I certify that the proposed amendment would not have a significant economic impact on LSV manufacturers. The proposed definition would permit more flexibility in the design of LSVs and allow manufacturers to broaden the LSV market. The agency cannot forecast the extent to which manufacturers would take advantage of that opportunity. Therefore, a Preliminary Regulatory Flexibility Analysis has not been performed. The agency is requesting comments on this certification.

Paperwork Reduction Act

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

The National Environmental Policy Act

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

The Unfunded Mandates Reform Act

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

Executive Order 13132 (Federalism)

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

13132 and has determined that it will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. This rule regulates the manufacturers of motor vehicles and motor vehicle equipment and will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

Executive Order 12778 (Civil Justice Reform)

This proposed rule has no retroactive effect. NHTSA is not aware of any state law that would be preempted by this proposed rule. This proposed rule would not repeal any existing Federal law or regulation. If this proposal were to become a final rule, it would modify existing law only to the extent that it would change the definition of a low-speed vehicle. This proposed rule would not require submission of a petition for reconsideration or the initiation of other administrative proceedings before a party may file suit in court.

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.

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.

Data Quality Guidelines

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

Executive Order 13045

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

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary

consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA’s vehicle safety authority) or otherwise impractical. In meeting that available and potentially applicable voluntary consensus standard, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards. This rule does not propose any standards, consensus-based or otherwise.

List of Subjects in 49 CFR Part 571

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

For reasons set forth in the preamble, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

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

Subpart A—General

2. Section 571.3(b) would be amended by revising the term “low-speed vehicle” to read as follows:

* * * * *

§ 571.3 Definitions.

* * * * *

(b) Other definitions * * *

* * * * *

Low-speed vehicle (LSV) means,

(a) a 4-wheeled motor vehicle,

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

(c) whose rated cargo load is at least 36 kilograms (80 pounds), and

(d) whose GVWR is less than 1,134 kilograms (2,500 pounds).

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Dated: December 3, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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