

ACTION: Notice of technical workshop.

SUMMARY: This document announces that NHTSA will hold a technical workshop to give NHTSA an opportunity to make sure it understands the petitioners' issues concerning some of the test procedures for the advanced air bag final rule issued earlier this year.

DATES: The workshop will be held December 6, 2000, at the address listed below. Lists of persons wishing to participate in the workshop and the names of the vehicle models that participants wish to bring to the workshop to demonstrate test dummy positioning problems should be provided to Ed Jettner at the address or telephone number listed below by November 22, 2000. Due to space and time limitations, NHTSA may have to limit the number of representatives per organization as well as the number of problematic vehicles that will be examined.

ADDRESSES: The workshop will be held at the Vehicle Research and Test Center (VRTC), 10820 State Route 347, East Liberty, Ohio 43319. Directions to VRTC and the final agenda will be sent to participants.

FOR FURTHER INFORMATION CONTACT: Ed Jettner, Office of Crashworthiness Standards, NPS-11, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-4917, Fax (202) 366-4329, e-mail ejettner@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION: On May 12, 2000, NHTSA published a final rule amending Standard No. 208, *Occupant Crash Protection*, to require that future air bags be designed to create less risk of serious air bag-induced injuries than current air bags, particularly for small women and young children; and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology. (65 FR 30680; Docket No. NHTSA 00-7013; Notice 1) The period for submitting petitions for reconsideration closed June 26, 2000.

NHTSA received nine petitions for reconsideration of the final rule, some of which raised questions concerning some of the new test procedures in the final rule. We also received three requests for clarification of those procedures. To enable interested parties and NHTSA personnel to better understand the questions concerning those test procedures, we believe that it would be desirable to hold a technical workshop. The workshop will be limited to those procedures that petitioners have raised as legitimate technical issues. It will not

address procedures that were the subject of policy-based objections. For example, NHTSA did not provide detailed test procedures on how to position the child or child dummy in static suppression tests. This lack of specificity was intentional since we wanted this technology to be robust enough to protect all children generally situated in the positions required by the final rule. While there may be a difference of opinion about the appropriateness of the agency's position, there is no need to review that issue at a technical workshop. The agency will respond to this and other non-technical issues in the notice responding to the petitions for reconsideration.

We believe that the petitioners raised legitimate technical issues about the following test procedures, and therefore that only those issues should be addressed at the workshop:

1. Cinchdown procedure for child restraints in vehicles equipped with static suppression technology to comply with the advanced air bag requirements.

2. Procedures for positioning the 6-year-old and 3-year-old child dummies in the passenger seating position in vehicles equipped with low-risk deployment technology to comply with the advanced air bag requirements. The workshop will address the method used to achieve the final position and the effect that the vehicle seat may have on achieving that position.

3. Procedures for positioning for the 5th percentile adult female dummy in the driver seating position for demonstrating compliance with the low-risk deployment test of the advanced air bag requirements. The workshop will address the method used to achieve the final chin-on-rim position, and the effect that the vehicle seat may have on achieving the chin-on-rim and chest-on-module positions.

NHTSA will announce any resolution of these issues in the notice responding to the petitions for reconsideration.

Several petitioners noted that they had problems with the above-listed test procedures in particular vehicles. We request that participants who have experienced problems with specific vehicles bring the vehicles to the workshop so that we may address as many of the different vehicle configurations as possible. If no problematic vehicles are presented at the workshop, we will limit the workshop to the cinchdown procedure for child seats.

We request that persons wishing to participate in the workshop notify Ed Jettner not later than November 22, 2000. Interested persons should indicate the company or organization which they

represent. Interested persons wishing to bring a particular vehicle to demonstrate the dummy positioning difficulties should also identify for Mr. Jettner the vehicle models they would like to bring to the workshop. Once we compile a list of interested persons and problematic vehicles, we will determine whether the number of representatives per participant must be limited due to space and time constraints. If this proves to be necessary, we will equitably allocate the available space among the participating companies and organizations and among the identified problematic vehicles.

To facilitate communication, NHTSA will provide auxiliary aids to participants as necessary during the meeting. To ensure their availability, any person desiring assistance of auxiliary aids (e.g., sign-language interpreter) should contact Ed Jettner.

Authority: 15 U.S.C. 1392, 1401, 1403, 1407, delegation of authority at 49 CFR 1.50.

Issued on November 7, 2000.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 578 and 592

[Docket No. NHTSA 2000-8253]

RIN 2127-A118

Civil Penalties; Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards

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

ACTION: Final rule.

SUMMARY: This document amends NHTSA's regulations on civil penalties and registered importers to reflect related amendments to 49 U.S.C. 30165(a) and 30120(g)(1) made by sections of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, signed by the president on November 1, 2000. Under these amendments, the civil penalty for a single violation of 49 U.S.C. Chapter 301—Motor Vehicle Safety is increased from \$1,100 to \$5,000, and the maximum civil penalty for a related series of violations is increased from \$925,000 to \$15,000,000.

However, if 49 U.S.C. 30166 (inspections, investigations, and records) or a regulation thereunder has been violated, the maximum penalty is \$5,000 per violation per day, and the maximum penalty for a related series of daily violations is \$15,000,000.

In addition, the TREAD Act extends from 8 to 10 years the period for which a manufacturer must remedy without charge a noncompliance or safety-related defect. This also requires conforming amendments to the remedial obligations of Registered Importers.

DATES: Effective date: November 1, 2000.

FOR FURTHER INFORMATION CONTACT:

Taylor Vinson, Office of Chief Counsel, NHTSA, telephone (202) 366-5263, facsimile (202) 366-3820, electronic mail "TVinson@nhtsa.dot.gov", 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: 49 CFR Part 578 *Civil Penalties* is NHTSA's regulation setting forth the civil penalties authorized by each of the statutes that the agency enforces. It reflects adjustments to penalties in statutes that NHTSA administers, pursuant to the Federal Civil Penalty Monetary Penalty Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134). The principal motor vehicle safety statute is 49 U.S.C. Chapter 301—Motor Vehicle Safety. The civil penalties that have been adopted for each violation of Chapter 301, or a regulation promulgated under its authority, are a minimum of \$1,100 for each violation, and a maximum of \$925,000 for a related series of violations (49 CFR 578.6(a)). Penalties for violations of Chapter 301 are authorized by 49 U.S.C. 30165(a).

On November 1, 2000, the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act was signed into law (PL 106-414). Section 5(a) of the TREAD Act amends Section 30165 to establish a new Section 30165(a)(1), which increases the maximum penalty to \$5,000 for each violation and the maximum penalty to \$15,000,000 for a related series of violations. These penalties are effective as of the date of enactment of the amendment. We are publishing a conforming amendment to 49 CFR 578.6(a) to reflect the statutory increase in these penalties. This amendment will redesignate Section 578.6(a) as 578.6(a)(1) in order to accommodate the separate civil penalty the TREAD Act establishes for violations of Section 30166.

Heretofore, Section 30165(a) has authorized the same penalties for violations of Section 30166 relating to investigations, inspections, and records, as for violations of other sections of Chapter 301. This has also been reflected in 49 CFR 578.6(a). However, Section 5(a)(2) of the TREAD Act amends Section 30165(a) to add a new section (a)(2), *Section 30166*. The new section provides that any person who violates Section 30166 or any regulation issued thereunder is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty for such violation has been set at \$5,000 per violation per day. The maximum penalty for a related series of daily violations is \$15,000,000. We are therefore amending Section 578.6(a) to add a new section (a)(2) implementing Section 5(a)(2) of the TREAD Act. These penalties apply as of the date of enactment to obligations existing under Section 30166 that were unchanged by the TREAD Act. They also apply to violations of new Sections added by TREAD. For example, this includes *Reporting of Defects in Motor Vehicles and Products in Foreign Countries* under 30166(l). They will also apply to violations of new rules to be published under TREAD such as *Early Warning Reporting Requirements* (30166(m)) *Sale or Lease of Defective or Noncompliant Tire* (30166(n)) upon promulgation of those regulations.

Subsection (1) of section 4, *Remedies Without Charge*, of the TREAD Act amends 49 U.S.C. 30120(g)(1) by increasing from 8 to 10 calendar years the period for which the manufacturer of a motor vehicle or an item of motor vehicle equipment other than a tire must provide a remedy without charge of a noncompliance or safety-related defect. This requires a corresponding change in 49 CFR Part 592, *Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards*. Sec. 592.6(g)(2)(i) relieves a Registered Importer (RI) of the obligation to furnish a remedy without charge of a noncompliance or safety-related defect in a vehicle if the vehicle's first sale occurred more than 8 calendar years before the date of notification by the RI. Remedy without charge is also not required if notification is provided by the original manufacturer and the date of first purchase of the vehicle is more than 8 years from the date of notification. We are amending these provisions to change 8 years to 10 years in accordance with Sec. 4(1) of the

TREAD Act. The statutory amendment also has the effect of requiring RIs to ensure that the service insurance policies provided with each vehicle cover a 10-year period.

EFFECTIVE DATE: The amendments restate statutory terms that in effect modified certain regulations; the amendments became effective on November 1, 2000. Therefore, no prior notice and opportunity to comment are required. The penalties apply to violations of 49 U.S.C. Chapter 301 occurring on and after the effective date of the statutory amendment.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have 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." This action is limited to the restatement of statutory terms that increased civil penalties for violations of 49 U.S.C. Chapter 301 and extended the period of remedy without charge. It has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that this rule will have no significant economic impact on a substantial number of small entities. The following is my statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The restatement of statutory terms primarily affect manufacturers and Registered Importers of motor vehicles. Manufacturers of motor vehicles and motor vehicle equipment, and Registered Importers, are generally not small businesses within the meaning of the Regulatory Flexibility Act.

Further, small organizations and governmental jurisdictions will not be significantly affected as the price of motor vehicles ought not to change as the result of this rule. As explained above, this action is limited to restating statutory terms in our regulations.

Finally, this action will not affect our civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (62 FR 37115, July 10, 1997). We shall continue to consider the appropriateness of the penalty to the size of the business charged.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), we state that there are no requirements for information collection associated with this rulemaking action.

National Environmental Policy Act

We have also analyzed this rulemaking action under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

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 E.O. 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.” This final rule, which increases permissible civil penalties and the length of the period for which remedy must be provided without charge, 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 E.O. 13132.

Civil Justice Reform

This rule does not have a retroactive or preemptive effect. Judicial review of the rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for

reconsideration be filed prior to seeking judicial review.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4) requires agencies to prepare a written assessment of the cost, 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. Because this rule will not have a \$100 million effect, no Unfunded Mandates assessment will be prepared.

List of Subjects in 49 CFR Parts 578 and 592

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires, Penalties.

Accordingly, 49 CFR chapter V is amended as follows:

PART 578—CIVIL PENALTIES

1. The authority citation for 49 CFR part 578 is revised to read as follows:

Authority: Pub. L. 106–414, 114 Stat. 1800 (49 U.S.C. 30165); delegation of authority at 49 CFR 1.50.

2. Section 578.6 is amended by revising paragraph (a) to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a)(1) *Motor vehicle safety.* A person who violates any of sections 30112, 30115, 30117 through 30122, 30123(d), 30125(c), 30127, or 30141 through 30147 of Title 49 of the United States Code or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than \$5,000 for each

violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum civil penalty under this paragraph for a related series of violations is \$15,000,000.

(2) *Section 30166.* A person who violates section 30166 of Title 49 of the United States Code or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$5,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is \$15,000,000.

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PART 592—REGISTERED IMPORTERS OF VEHICLES NOT ORIGINALLY MANUFACTURED TO CONFORM TO THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for 49 CFR part 592 is revised to to read as follows:

Authority: Pub. L. 106–414, 114 Stat. 1800 (49 U.S.C. 322(a), 49 U.S.C. 30141–47); delegation of authority at 49 CFR 1.50.

§ 592.6 [Amended]

2. In 49 CFR 592.6(g)(2)(i), remove the words “8 calendar years” and “8 years” and add, in their place, the words “10 calendar years.”

Issued on: November 8, 2000.

Sue Bailey,

Administrator.

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