

| Commodity                                      | Parts per million |
|------------------------------------------------|-------------------|
| * * * *                                        | *                 |
| Nut, tree, group 14 .....                      | 0.10              |
| * * * *                                        | *                 |
| Pineapple .....                                | 0.04              |
| Pineapple, processed residue .....             | 0.15              |
| Pistachio .....                                | 0.10              |
| Pomegranate .....                              | 0.30              |
| * * * *                                        | *                 |
| Spice, subgroup 19B, except black pepper ..... | 1.7               |
| * * * *                                        | *                 |

[FR Doc. E9-19195 Filed 8-12-09; 8:45 am]

BILLING CODE 6560-50-S

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. NHTSA-2009-0145]

RIN 2127-AK04

**Federal Motor Vehicle Safety Standards; Controls, Telltales and Indicators**

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

**ACTION:** Final rule.

**SUMMARY:** In an August 2005 final rule, we updated our standard regulating motor vehicle controls, telltales and indicators. The standard specifies requirements for the location, identification, and illumination of these items. In May 2006, we published a response to four petitions for reconsideration, including one asking us to reconsider a requirement for color contrast between identifiers and their backgrounds. We denied this petition for reconsideration.

In response to another petition for reconsideration from the Alliance of Automobile Manufacturers (the Alliance) of the color contrast requirement, specifically for the horn control identifier, in this final rule, we amend the standard to provide that an identifier is not required if the horn control is placed in the middle of the steering wheel. If the horn control is placed elsewhere in the motor vehicle, the control would be required to be identified by the specified horn symbol in a color that stands out clearly against the background.

**DATES:** *Effective Date:* The effective date for this final rule is February 9, 2010. The compliance date for vehicles under

10,000 pounds GVWR for S5.4.3 continues to be September 1, 2011.

Compliance date for the extension of the standard's control, indicator, and telltale requirements to vehicles at 10,000 pounds GVWR or greater over continues to be September 1, 2013.

Optional early compliance is permitted as of the date today's final rule is published.

*Petitions for reconsideration:* Petitions for reconsideration of today's final rule must be received not later than September 28, 2009.

**ADDRESSES:** Petitions for reconsideration of the final rule must refer to the docket number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues you may call Ms. Gayle Dalrymple, Office of Crash Avoidance Standards at (202) 366-5559. Her FAX number is (202) 366-7002. For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366-2992. Her FAX number is (202) 366-3820. You may send mail to both of these officials at National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:****I. Background**

NHTSA issued Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays*, in 1967 (32 FR 2408) as one of the initial FMVSSs. The standard applies to passenger cars, multipurpose passenger vehicles (MPVs), trucks, and buses. The purpose of FMVSS No. 101 is to assure the accessibility and visibility of motor vehicle controls and displays under daylight and nighttime conditions, in order to reduce the safety hazards caused by the diversion of the driver's attention from the driving task, and by mistakes in selecting controls.

At present, FMVSS No. 101 specifies requirements for the location (S5.1), identification (S5.2), and illumination (S5.3) of various controls and displays. It specifies that those controls and displays must be accessible and visible to a driver properly seated wearing his or her safety belt. Table 1, "Controls, Telltales and Indicators with Illumination or Color Requirements," and Table 2, "Identifiers for Controls, Telltales and Indicators with No Color or Illumination Requirements," indicate which controls and displays are subject to the identification requirements, and how they are to be identified, colored,

and illuminated. For the horn control, Table 2 specifies the horn symbol in Column 2, and the word "Horn" in Column 3.

**II. 2005 and 2006 Final Rules**

In a final rule published in the **Federal Register** (70 FR 48295) on August 17, 2005, NHTSA amended FMVSS No. 101 by extending the standard's telltale and indicator requirements to vehicles of Gross Vehicle Weight Rating (GVWR) 4,536 kilograms (10,000 pounds) and over, updating the standard's requirements for multi-function controls and multi-task displays to make the requirements appropriate for advanced systems, and reorganizing the standard to make it easier to read. Table 1 and Table 2 continue to include only those symbols and words previously specified in the controls and displays standard or in another applicable FMVSS.

The final rule specified an effective date of February 13, 2006 for requirements applicable to passenger cars, multipurpose passenger vehicles, trucks and buses under 4,536 kg GVWR (10,000 pounds).<sup>1</sup>

NHTSA received petitions for reconsideration of the August 17, 2005 final rule, including one from the Alliance. In the August 17, 2005 final rule, the requirement that the identifier for each telltale must be in a color that stands out clearly against the background was extended to identifiers for controls and indicators (see S5.4.3). The Alliance asked for reconsideration of this requirement, stating that not all identifiers are in a color that stands out clearly against the background. The Alliance further stated that it is not needed, citing as an example the horn identifier.

Most vehicle models use the horn symbol as the identifier, which is molded into the air bag cover, without a color "that stands out clearly against the background" filled in. The Alliance commented that: "The symbol is the same color as the background, but it can still be recognized because the embossment stands out against the background." The Alliance petitioned for the regulatory text at S5.4.3 to be changed to: "The identification required by Table 1 or Table 2 for a telltale, control or indicator shall contrast with the background."

In the May 15, 2006 final rule, response to petitions for reconsideration (71 FR 27964), we noted that over the years, the agency had received numerous complaints regarding the

<sup>1</sup> The effective date was subsequently extended to September 1, 2006 (71 FR 3786, January 24, 2006).

inability to locate the horn control. NHTSA's Office of Defects Investigation's ARTEMIS database has recorded 120 complaints in the past ten years from consumers reporting trouble locating the horn control. Of these 120 complaints, consumers reported 12 crashes, 9 near misses, and an allegation of a fatality. In the response, NHTSA explained that filling in the horn symbol with a color that "that stands out clearly against the background" would make the horn control more visible and would help drivers to find the control more readily. For these reasons, we denied this part of the Alliance's petition.

To minimize costs on industry resulting from this requirement, NHTSA delayed the compliance date to meet S5.4.3 for five years, to September 1, 2011 to "allow manufacturers to implement the necessary changes on most products during the planned product changes in normal product development cycles."

### III. Petition for Reconsideration of the Color Contrast Requirement

In a submission dated June 29, 2006, the Alliance petitioned for a reconsideration of the color contrast requirement for the horn symbol. This was the only issue raised in the petition. Again, the Alliance petitioned for the regulatory text at S5.4.3 to be changed to: "The identification required by Table 1 or Table 2 for a telltale, control or indicator shall contrast with the background." In support of its petition, the Alliance stated that:

- NHTSA denied the Alliance's previous petition based on a previously undisclosed analysis of complaints;
- "[I]t is unclear and cannot be evaluated whether the complaints referred to by NHTSA were related to actual horn symbol identification,"
- The complaint information should be submitted to the DOT Docket;
- "[S]ignificant cost and investment will still be required across the industry," to accomplish color contrast of the horn symbol on the background of the steering wheel, despite the fact that the Alliance agrees that the lead time afforded by the May 2006 final rule is adequate "for compliance with this section in order to minimize the associated financial impact \* \* \*";
- A "significant concern" is the "compatibility of materials that may be used to assure long term symbol identification durability and contrast \* \* \*" and that this new combination of materials may "adversely affect airbag cover performance, requiring further engineering development. Environmental and manufacturing issues related to providing horn symbol

contrast cannot be assessed until the materials and processes are defined" and;

- The UN working group considering a GTR<sup>2</sup> on controls and displays is the appropriate forum to understand and discuss horn identification problems.

On October 17, 2006, the Alliance presented a data analysis to NHTSA staff of complaints regarding horn control identification on various member companies' vehicles. (The presentation has been placed in The DOT Docket at NHTSA-2006-23651.) The analysis revealed that as manufacturers have adopted membrane switches in the center of the steering wheel to activate the horn, consumer complaints about horn identification have decreased substantially.

### IV. Grant of Petition for Reconsideration and Notice of Proposed Rulemaking

In a **Federal Register** document of October 4, 2007 (72 FR 56713), NHTSA stated that it has been persuaded by the Alliance's petition and accompanying data, and granted its petition for reconsideration regarding S5.4.3. NHTSA stated its belief that the Alliance's analysis provided on October 17, 2006 has merit. Driver confusion as to the location of the horn control has decreased as the horn control is returned where drivers intuitively expect to find it to the center of the steering wheel hub on more vehicles. If the horn control is located where most drivers expect it, NHTSA stated its belief that there is little safety benefit from the presence of the horn identifier. In fact, requiring the identifier on or adjacent to the control, may contribute to driver confusion as manufacturers opt to place the identifier adjacent to the control, rather than too close to the large, multi-colored, company logo displayed on many vehicles at the center of the wheel.

In the NPRM, NHTSA stated that at present, S5. *Requirements* of FMVSS No. 101 states: "Each passenger car, multipurpose passenger vehicle, truck and bus that is fitted with a control, a telltale or an indicator listed in Table 1 or Table 2 must meet the requirements of this standard for the location,

identification, color, and illumination of the control, telltale, or indicator." The horn control indicator is specified in Table 2. So that horn controls that are in the middle of the steering wheel would not have to meet S5., in the NPRM, we proposed to amend S5.4.3 of FMVSS No. 101 to read:

Each identifier used for the identification of a telltale, control or indicator must be in a color that stands out clearly against the background. However, no identifier is required for a horn control activated by the driver pressing on the center of the face plane of the steering wheel. For vehicles with a GVWR of under 4,536 kg (10,000 pounds), the compliance date for this provision is September 1, 2011.

The word "symbol" was proposed to be changed to "identifier" to more accurately include words and abbreviations as identifiers which are required to contrast with their backgrounds, as was done in the previous final rules to other sections of the standard. This was pointed out by the Alliance in its current petition.

NHTSA did not propose to amend FMVSS No. 101 with the Alliance's suggested language ("The identification required by Table 1 or Table 2 for a telltale, control or indicator shall contrast with the background.") because we stated our belief that the suggested language would allow non-contrasting identifiers for telltales, indicators and controls whenever they appear in the vehicle (such as the instrument panel).

At present, S5.2.1 states in part: "\* \* \* No identification is required for any horn (i.e., audible warning signal) that is activated by a lanyard or for a turn signal \* \* \*" To make S5.2.1 consistent with the changes to S5.4.3, in the October 2007 NPRM, we proposed to revise the fourth sentence in S5.2.1 to state in part: "\* \* \* No identification is required for any horn (i.e., audible warning signal) that is activated by a lanyard or by the driver pressing on the center of the face plane of the steering wheel \* \* \*"

### V. Comments to the October 2007 NPRM and NHTSA Discussion of the Comments

In response to the NPRM, we received comments from the Alliance, the Association of International Automobile Manufacturers, Inc. (AIAM) and from Mr. Michael Tebbi, a private individual.

Mr. Tebbi stated that he agreed with the agency that the center of the steering wheel is where he expects the horn to be, and "therefore no icon is needed." However, he expressed concern about the possibility that horns placed in the centers of steering wheels could lead to injuries since "a consumer will be

<sup>2</sup>The United States participates in the United Nations/Economic Commission for Europe World Forum for Harmonization of Vehicle Regulations (also known as Working Party 29 or WP.29) under a 1990 agreement known as the 1998 Global Agreement. The 1998 Global Agreement provides for the establishment of global technical regulations (GTRs) regarding, among other things, the safety of motorized wheeled vehicles, equipment and parts. The Agreement contains procedures for establishing GTRs by either harmonizing existing regulations or developing new ones.

honking the car's horn as he collides with another vehicle. If the air bag deploys while the driver's hand is pressing against the center of the steering wheel, I believe there may be a possibility of injury to the driver's arm or shoulder." This rulemaking addresses requirements for identification of the horn control. Since the horn control is optional, we do not address where in a motor vehicle the horn control must be placed. However, based on normal body kinematics during a crash, we believe that it is very unlikely that in crashes with deceleration great enough to cause air bag deployment, that the driver's hand will still be on the air bag cover at the time of the deployment. Since the introduction of driver air bags, the usual location for the horn control has been under the air bag cover. No problems regarding horn use such as that described by Mr. Tebbi have come to NHTSA's attention.

The AIAM supported the proposed amendment to FMVSS No. 101. AIAM did not suggest changes to the proposed regulatory text. However, AIAM identified two related issues that it asked us to clarify in the preamble to the final rule. The first was, if a manufacturer provides a horn control activated by pressing on the center of the steering wheel<sup>3</sup> and provides a second horn control "off-center, near the edge of the hub, to identify the supplemental horn control that operates by tilting the plane of the hub" whether the second control must meet the S5.4.3 requirement for color contrast. As a rationale for arguing that no identification should be required, AIAM stated that "[h]istorically, NHTSA has taken the position that voluntarily installed items (i.e., items not mandated by an FMVSS) are not subject to regulation by NHTSA so long as such items do not interfere with the operation of regulated systems or equipment." In support of its position, AIAM cited a January 28, 1992 letter to Honda and what it described as an "undated" letter to Mazda regarding redundant heating/ventilator controls. The date of the letter to Mazda is July 5, 1984.

NHTSA does not agree that the two cited interpretations are applicable to the rulemaking at issue. The 1992 letter to Honda interprets FMVSS No. 123, *Motorcycle controls and displays*, not FMVSS No. 101. Further, the letter addressed the nature of operation of a brake system, not the identification required for a control. The July 5, 1984 letter to Mazda, addresses a "secondary, redundant control placed in the rear

seat area facilitating operation of the heating/ventilation and audio system functions by rear seat passengers." In contrast, in the rulemaking at issue, all horn controls provided would be operable by the driver, not by "rear seat passengers." Thus, the Mazda letter does not apply to the rulemaking at issue.

While in some situations NHTSA has concluded that certain requirements do not apply to items that are voluntarily provided or redundant, this is not a general principle. In considering such an issue, the agency needs to consider the specific situation and purpose of a particular requirement.

AIAM argued that the second horn control would not be subject to FMVSS No. 101 because the second control is "voluntarily installed." All horn controls are "voluntarily installed," including those placed in the center of the face plane of the steering wheel hub. Moreover, while the second horn control would be redundant, unidentified controls in unexpected places, or controls identified in unfamiliar ways, may cause confusion to the driver. As a result of today's final rule, identification is not required for those horn controls that are placed in the center of the face plane of the steering wheel hub. All other horn controls must meet all FMVSS No. 101 requirements that apply to horns.

AIAM also argued that "since no identifier is required for a horn control that is operated at the center of the steering wheel, any identifier that is voluntarily affixed there" would not have to meet S5.2 of FMVSS No. 101. NHTSA does not agree with this position. The purpose of FMVSS No. 101 is to:

Assure the accessibility and visibility of motor vehicle controls and displays under daylight and nighttime conditions, in order to reduce the safety hazards caused by the diversion of the driver's attention from the driving task, and by mistakes in selecting controls.

Permitting manufacturer-chosen identifications of a control for which identification is specified in FMVSS No. 101 would not be consistent with the purpose of FMVSS No. 101. Such alternative horn designations (with each manufacturer possibly having a different designation) would result in drivers spending time trying to understand the meaning of the manufacturer-chosen identification and would divert the "driver's attention from the driving task." Such a result would not meet the need for safety. Therefore, in this final rule, a horn control placed in the center of the face plane of the steering wheel need not be identified. However, if

identification is voluntarily provided, the horn symbol identification in Table 2 or the word "horn" must be used.

We would agree, however, that a manufacturer could voluntarily use a horn symbol that is embossed, (i.e., without a contrasting color) to identify a horn control placed in the center of the face plane of the steering wheel. Since no identification would be required in this situation, and since the embossed horn symbol would not cause confusion, its use would be permissible.

The Alliance agreed with the proposal but suggested changes in the regulatory text as "technical corrections" to "clarify" the agency's intent. The Alliance asked for "clarification on the meaning of the term 'center of the face plane of the steering wheel' which could be narrowly interpreted and create potential questions of compliance." The Alliance therefore suggested that S5.2.1 be changed to read:

S5.2.1 No identification is required for any horn (i.e., audible warning signal) that is activated by a lanyard or by the driver pressing on the center area of the steering wheel hub \* \* \*

NHTSA agrees that use of the word "hub" provides clarification as to where activation of the horn would occur. However, we believe the term "center" is clear, and decline to adopt "center area." There will be no compliance difficulty: The center of the hub is located, the driver presses, and if the horn sounds, the condition is met, and no identification is necessary.

The second issue raised by the Alliance is "the applicability of the proposed language when manufacturers voluntarily mark horn controls that are activated by pressing on the center area of the steering wheel hub \* \* \* [I]f a manufacturer chooses to identify a horn control activated by pressing on the center area of the steering wheel hub, the proposed text could be interpreted to require the symbol to be a contrasting color." The Alliance offered the following change to S5.4.3 to "clarify this point."

S5.4.3 Each identifier used for the identification of a telltale, control or indicator must be in a color that stands out clearly against the background. This requirement does not apply to the identification of a horn control activated by the driver pressing on the center area of the steering wheel hub.

As earlier explained, we do not agree with changing "center" to "center area." As to horn controls placed in the center of the face plane of the steering wheel, we agree, also for reasons discussed earlier, that a manufacturer could use a

<sup>3</sup> A location where it was proposed in the NPRM, that no horn identifier would be required.

horn symbol (or the word horn) that is embossed in this situation, *i.e.*, without a contrasting color.

## VI. Leadtime

For vehicles under 10,000 pounds, the compliance date for S5.4.3 continues to be September 1, 2011. The compliance date for the extension of the standard's control, indicator, and telltale requirements to vehicles with at GVWR of 4,536 kg (10,000 pounds) or greater continues to be September 1, 2013. Optional early compliance is permitted as of the date the final rule is published.

## VII. Rulemaking Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have 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 is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

For the following reasons, NHTSA concludes that this final rule will not have any quantifiable cost effect on motor vehicle manufacturers. The rule will not impose any new requirements but instead relieves a restriction. In this

final rule, NHTSA excludes horn controls activated by the driver pressing on the center of the face plane of the steering wheel from the standard's requirement that an identifier be provided. This final rule will have no measurable effect on safety. As discussed above, driver confusion as to the location of the horn control decreases as the horn control returns to the center of the steering wheel hub, where drivers intuitively expect to find it. If the horn control is located where drivers expect it, there is no apparent safety benefit from the presence of the horn identifier. As a result of this final rule, vehicle manufacturers are spared the costs of embossing a horn symbol in the center of the steering wheel hub and coloring in the symbol.

Because the economic effects of this final rule are minimal, no further regulatory evaluation is necessary.

### 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 that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certify that this rule will not have a significant economic impact on a substantial number of small entities. The rule does not impose any new requirements but relieves a restriction.

For these reasons, and for the reasons described in our discussion on Executive Order 12866 and DOT Regulatory Policies and Procedures, NHTSA concludes that this final rule will not have a significant economic

impact on a substantial number of small entities.

### C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

### D. Executive Order 13132 (Federalism)

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rule does not have federalism implications, because the rule does not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Further, no consultation is needed to discuss the issue of preemption in connection with today's rule. The issue of preemption can arise in connection with NHTSA rules in at least two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemptive provision: "When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter." 49 U.S.C. 30103(b)(1). It is this statutory command that unavoidably preempts State legislative and administrative law, not today's rulemaking, so consultation would be unnecessary.

Second, the Supreme Court has recognized the possibility of implied preemption: In some instances, State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict is discerned, the Supremacy Clause of the Constitution makes the State requirements unenforceable. *See Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000). However, NHTSA has considered the nature and purpose of today's rule and does not currently foresee any potential State requirements that might conflict

with it. Without any conflict, there could not be any implied preemption.

*E. Executive Order 12988 (Civil Justice Reform)*

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

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above in connection with E.O. 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

*F. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. This final rule does not require any collections of information, or recordkeeping or retention requirements as defined by the OMB in 5 CFR Part 1320.

*G. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of

Automotive Engineers (SAE). The NTTAA directs the agency to provide Congress, through the OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

After conducting a search of available sources, we have determined that there is no applicable voluntary consensus standard for this final rule.

*H. 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. Accordingly, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

*I. 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.

**List of Subjects in 49 CFR Part 571**

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

■ In consideration of the foregoing, 49 CFR part 571 is amended as set forth below:

**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 571.101 is amended by revising the fourth sentence in S5.2.1, adding a fifth sentence to S5.2.1, and by revising S5.4.3, to read as follows:

**§ 571.101 Standard No. 101, Controls, telltales, and indicators.**

\* \* \* \* \*

S5.2.1 \* \* \* No identification is required for any horn (i.e., audible warning signal) that is activated by a lanyard or by the driver pressing on the center of the face plane of the steering wheel hub; or for a turn signal control that is operated in a plane essentially parallel to the face plane of the steering wheel in its normal driving position and which is located on the left side of the steering column so that it is the control on that side of the column nearest to the steering wheel face plane. However, if identification is provided for a horn control in the center of the face plane of the steering wheel hub, the identifier must meet Table 2 requirements for the horn.

\* \* \* \* \*

S5.4.3 Each identifier used for the identification of a telltale, control or indicator must be in a color that stands out clearly against the background. However, this requirement does not apply to an identifier for a horn control in the center of the face plane of the steering wheel hub. For vehicles with a GVWR of under 4,536 kg (10,000 pounds), the compliance date for this provision is September 1, 2011. For vehicles with a GVWR of 4,536 kg (10,000 pounds) or over, the compliance date for this provision is September 1, 2013.

\* \* \* \* \*

Issued on: August 7, 2009.

**Ronald L. Medford,**

*Acting Deputy Administrator.*

[FR Doc. E9-19396 Filed 8-12-09; 8:45 am]

**BILLING CODE 4910-59-P**