

While the agency issued an interpretation in November 1992 clarifying the reach of the May 1990 final rule, that interpretation did not eliminate the practical consequences of the industry's confusion, since the manufacturers could not immediately comply with it. The agency's efforts to address those consequences led it to grant Mazda's petition for rulemaking and to take the more fundamental step of reexamining the rationale for the agency's adoption of the requirement. That reexamination led to the agency's issuing the March 1994 NPRM proposing a more limited requirement to address rollaway incidents, on the ground that the misshift aspect of the rollaway problem might be too small to address at all. Final adoption of the proposal would have eliminated the practical consequences of the confusion.

The agency is changing the transmission locking requirement on only a temporary basis because a relatively short-term change is sufficient to eliminate consequences of confusion within the industry over the extent of the original requirement. Nearly all manufacturers have told NHTSA in response to noncompliance investigation letters that they are now in compliance with the more stringent requirements. Considering the relatively minor nature and expense of the necessary design changes, the agency concludes that the relatively few remaining vehicles that do not satisfy the more stringent requirement can be modified to do so by September 1, 1996.

An additional consideration leading the agency to make the change a temporary one is that while it believes the difference in safety benefits between the existing requirement and the less stringent temporary one is small, eliminating even the small possibility of misshift-induced rollaway is justified because the likely beneficiaries are children, which the agency has historically taken special care to protect.

NHTSA observes that the rollaway accidents at issue that could arise from misshifting are a part of the problem the agency was intending to address in the earlier rulemaking, i.e., crashes resulting from the rollaway of parked vehicles with automatic transmissions as a result of children moving the shift mechanism out of the "park" position. Apart from the issue of dealing with the legacy of the industry's confusion, there is no reason to single out this part of the problem for special treatment. Indeed, this part of the problem is addressed by the same basic countermeasure as the rest of the problem, i.e., a transmission shift lever lock.

NHTSA believes that the brief duration of less stringent transmission lock requirement will minimize the possibility of any adverse safety impacts from this rulemaking. As already noted, nearly all manufacturers are now in compliance with the more stringent requirements. The duration of the more limited requirement is so short that it would not be worthwhile for vehicle manufacturers to redesign transmissions to allow misshifting for only a year. The agency believes that manufacturers will respond to this notice by quickly redesigning any remaining transmissions that do not comply with the future requirements.

NHTSA believes that its decision to adopt the less stringent requirement on a temporary, short-term basis renders moot all or most of the commenters' concerns about a possible loss of safety benefits. As indicated above, some commenters argued that the agency lacked any basis for saying that the safety risks associated with misshifts was such a small part of the rollaway problem. They further argued that NHTSA had underestimated the noncompliant portion of the vehicle population being produced annually. They also suggested that the noncompliant vehicle population might increase. The agency notes that those concerns were expressed in response to the proposed permanent change in the requirement.

NHTSA notes further that its analysis of the original May 1990 final rule indicated that installation of the required technology in its estimate of the number of the cars and light trucks not voluntarily equipped by the standard's effective date would prevent an estimated 50 to 100 child-injuring rollaway accidents annually. While the agency cannot provide a precise estimate of the extent to which these benefits could have been reduced by permanently adopting the proposed more limited requirement, NHTSA believes that it would have been small. This is because any such reduced child injury prevention benefits would occur only in the rare combination of events described above, and only for the few vehicles still in noncompliance with the existing requirement. Regarding Advocates' comment that the agency does not have enough information on the costs and benefits of this rule, NHTSA notes that it has provided estimates within the limits of available data.

In response to Advocates' charge that the agency underestimated the noncompliant portion of the fleet, thereby also underestimating the benefits in 1990 (and the costs of this

rule), the agency notes that its analysis would not have changed markedly had it used Advocates' higher estimate. Most of the benefits projected in the 1990 rule are already being achieved since they are associated with the addition of a transmission lock. Transmission locks have been added to all cars equipped with automatic transmissions. Thus, benefits are being obtained even from those vehicles that do not satisfy the more stringent requirements. Moreover, as stated above, any potential degradation of safety is marginal because their current transmission locks allow misshifting events only under very rare circumstances.

In summary, the agency believes that twin goals of addressing the legacy of the industry's confusion and securing the benefits of the existing requirement can be most reasonably achieved by allowing vehicles manufactured before September 1, 1996 to meet the more limited requirements proposed in the March 1994 NPRM and requiring vehicles manufactured on or after that date to meet the slightly more stringent requirement originally adopted by the agency in May 1990.

NHTSA believes that there are essentially no costs associated with this final rule. The only relevant costs are those associated with the May 1990 final rule which will be temporarily suspended and then reinstated on September 1, 1996. The basic cost is related to the addition of a transmission shift lever lock. Such a lock is needed to meet either the more limited, temporary requirement or the more stringent, permanent requirement. For vehicles which currently meet only the more limited requirement, some minor design changes will be needed in the lock to meet the more stringent requirement when it again becomes effective. By providing over one year of leadtime before the broader requirement must be met, those residual costs of the May 1990 final rule will be minimized.

The agency agrees with the industry commenters that the change of the conjunctive "or" to "and" in S4.2.1(a) was not necessary and that locking either the transmission shift lever or the transmission itself, will have the same practical effect. Therefore, the regulatory text has been corrected to make it clear that locking of either the transmission or the shift lever is sufficient, provided this action prevents vehicle rollaway.

NHTSA also agrees that the NPRM's "rollaway" definition of more than 100 mm of vehicle movement is unnecessarily restrictive. However, it cannot agree to allow an unspecified amount of movement, or up to 400 mm