

of movement, as GM suggests. GM's 400 mm figure is a worst-case estimate of how far certain trucks might roll. This larger amount of movement would be more likely to create the possibility of trapping children and adults under the car than would lesser amounts of movement. It is unclear to this agency why GM products cannot satisfy the 150 mm criterion suggested by Ford and Chrysler. Therefore, to account for some amount of "play" in U-joints, the amount of gear lash in transmissions, transfer cases, and differentials, plus the fact that a vehicle may have to roll slightly to completely engage the parking pawl, NHTSA has increased the amount of permissible roll to 150 mm.

NHTSA does not agree with GM's comment that the 10 percent grade specification in the test procedure is unnecessarily steep, and has retained the specification in the final rule. The agency notes that the grade level differential associated with the transmission grade holding ability in S7.7 of the parking brake test in Standard No. 105, *Hydraulic Brake Systems*, is 10 percent. That test requires the vehicle to hold on a 20 percent grade with the parking brake and on a 30 percent grade with the automatic transmission in "park" and with the parking brake on. NHTSA notes that the vehicle-on-grade test specified in this rule is not intended to verify the performance of the holding capability already required of vehicles in Standard No. 105, but to verify that the transmission is operating in a vehicle holding mode.

#### **The GM Petition**

In response to comments about the need to move disabled vehicles, the agency amended Standard No. 114 on March 26, 1991 to permit a key-operated override device which would allow the transmission to be moved from park after key removal. The final rule did not require steering lock-up to occur as a result of using the override device. In response to petitions for reconsideration, on January 17, 1992, the agency again amended the rule to permit override devices operated by means other than the key. In allowing keyless override devices, the preamble stated that the agency would require that steering lock-up occur as a result of using keyless override devices. The lock-up would act as a theft deterrent. The preamble concluded "the agency emphasizes that the amendment permits a keyless emergency override only if theft protection is ensured by a steering lock" (58 FR 12467). However, while the preamble discussed steering lockup only for keyless override devices, the

regulatory language of S4.2.2 required steering lockup for any override device, including those operated by a key.

On March 22, 1994, NHTSA received a petition for rulemaking from Mr. Gerald Gannon of GM's legal staff, suggesting that the words "provided that steering is prevented when the key is removed" were misplaced in the regulatory text. He correctly assumed that NHTSA did not intend to require steering lockup for override devices operated by a key. Indeed, moving these words as GM suggests produces the intended result.

There is adequate cause to amend the rule, pursuant to the GM petition, using only a technical amendment. The preamble of the 1990 rule, which addresses steering locks for keyless override devices only, supports the suggestion that an error was made in the regulatory text of the January 1992 final rule. The focus of that preamble indicates that key-operated override devices were not intended to be covered by the restriction. Moreover, it is illogical from an anti-theft perspective to require steering lockup in a vehicle when the transmission lock override device itself is operated by the key that would unlock the steering anyway. Thus, with evidence in the record that the word placement was in error and with the existing requirement being illogical, a technical amendment is appropriate. Notice and comment procedures are not necessary.

#### **Rulemaking Analyses and Notices**

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

NHTSA has considered the impacts of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This action has been determined to be not "significant" under either. As explained above, the amendments would impose no new requirements but would temporarily provide additional flexibility to manufacturers, with respect to transmission shift lock designs, with no measurable impact on safety or costs. No manufacturer of vehicles that satisfy the preexisting requirements is likely to redesign its transmissions in response to this rule.

The cost of making the minor changes to the few transmission locks that are still being produced not in compliance with the existing rule is likely to be a small but undeterminable fraction of the cost of adding transmission locks. NHTSA notes that these costs are attributable to and were already counted in the 1990 rule. As stated earlier, the portion of the fleet that currently does

not satisfy the more stringent requirements is likely to be much smaller than the 668,000 vehicles that the NPRM estimated, based on manufacturer responses to NHTSA's investigation. NHTSA cannot quantify how much smaller the portion is now because it has not conducted any recent compliance testing. Due to the probable minimal cost of compliance per vehicle and the small number of vehicles affected, NHTSA believes that the remaining costs of the 1990 rule are insignificant.

Since this final rule does not increase costs or provide any cost savings, a full regulatory evaluation is not warranted.

#### *Regulatory Flexibility Act*

NHTSA has also considered the effects of this regulatory action under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The vehicle manufacturers affected by the requirements typically do not qualify as small businesses. Further, since no price changes should be associated with this rule, small businesses, small organizations and small governmental entities will not be affected in their capacity as purchasers of new vehicles.

#### *Executive Order 12612 (Federalism)*

The agency has analyzed this rule in accordance with the principles and criteria set forth in Executive Order 12612. NHTSA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### *Civil Justice Reform*

This rule does not impose any retroactive burdens. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. § 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

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

Imports, Motor vehicle safety, Motor vehicles.