beyond the plane described in S4. NHTSA chose the language "physically compatible" instead of "designed to fit" to emphasize that manufacturers must take into consideration not only the specific wheel rim/axle combination(s) on which the hub cap was envisioned or intended to be used, but also any other combinations that the hub cap can fit.

Mr. Deane stated that this preamble language suggests manufacturers may manufacture and distribute hub caps incorporating winged projections only if the manufacturer is sure the product does not fit "any other combinations" which would result in the projections extending beyond the plane of the wheel. He noted, however, that decorative knock-off hub caps have a standardized design which consists of a two-inch long hub adapter to which a cap is installed. This design could be installed on any wheels, both deep wheels, on which the winged projections would not extend beyond the plane of the wheel, and shallower wheels on which the projections would extend beyond such plane. Mr. Deane therefore concluded that complying with the preamble's language would be virtually impossible for nearly all manufacturers of these products, and that the practical effect is to continue to prevent the manufacture and distribution of knock-off hub caps.

Mr. Deane believed that the language of the amendment itself did not create this result and requested a letter of clarification. On review, however, NHTSA concluded that the result at issue is a direct consequence of the regulatory language. That text reads as follows:

Requirements. As installed on any physically compatible combination of axle and wheel rim, wheel nuts, wheel discs, and hub caps for use on passenger cars and multipurpose passenger vehicles shall not incorporate winged projections that extend beyond the plane that is tangent to the outboard edge of the wheel rim at all points around its circumference. \* \* \* (Emphasis added.)

The usage of the term "any" is explained in 49 CFR 571.4 as follows:

The word "any," used in connection with a range of values or set of items in the requirements, conditions, and procedures of the standards or regulations in this chapter, means generally the totality of the items or values, any one of which may be selected by the Administration for testing, except where clearly specified otherwise.

Therefore, the regulatory language requires that each hub cap with winged projections, as used in each and every *physically compatible* combination of axle and wheel rim, may not be located such that the winged projections extend beyond the plane of the wheel.

## NHTSA's Review of Standard No. 211 and Proposal to Rescind

In reviewing Standard No. 211 under the President's directive, NHTSA was thus faced with a regulation that has the practical effect of preventing the manufacture of all hubcaps with winged projections, notwithstanding the fact that the agency has concluded that such hubcaps only pose a safety concern if the winged projections extend beyond the plane of the wheel. NHTSA strongly believes that its safety standards should not be unnecessarily design-restrictive and therefore considered whether the current standard, or any safety standard, is the best means of addressing the safety concern of winged projections that extend beyond the plane of the wheel.

NHTSA has tentatively concluded that this safety concern primarily relates to how hubcaps with winged projections are used, rather than how they are manufactured, and that the issue is therefore more appropriately addressed by the States than by a Federal motor vehicle safety standard. The agency is therefore proposing to rescind Standard No. 211 for reasons discussed below.

First, NHTSA believes that, because of product liability considerations, it is in the interest of vehicle manufacturers not to place unsafe hubcaps, such as those with winged projections extending beyond the plane of the wheel, on their vehicles. Vehicle manufacturers can ensure that winged hub caps are not used in unsafe hub cap/wheel combinations since they can control which combinations are authorized. The relevant safety concern therefore relates to the availability of such hubcaps in the aftermarket.

As discussed above, the regulatory dilemma facing NHTSA is that hubcaps with winged projections that are safe for one vehicle, since the projections do not extend beyond the plane of the wheel, might be unsafe on other vehicles with more shallow wheels. While the agency recognizes that a total ban on hubcaps with winged projections would ensure safety in this area, it would also unnecessarily restrict vehicle and hubcap design.

The agency believes that the solution to this dilemma is to leave the regulation of hubcaps with winged projections to the States. The relevant safety problem is not how such hubcaps are manufactured but instead how they are used; i.e., whether they are placed on vehicles in such a manner that the winged projections extend beyond the plane of the wheel. While NHTSA does not have the authority to regulate the

use of vehicles, the States do. Moreover, all States already regulate the use of vehicles and, to the extent that the States determine that regulations are needed in this area, they can issue ones which are not unnecessarily design-restrictive. They can do this by simply prohibiting the installation of a hub cap with winged projections so that the projections extend beyond the plane of the wheel.

NHTSA believes that rescission of Standard No. 211 would not compromise safety. The potential safety problem addressed by the standard has always been a small one. Moreover, the agency believes that, should there be any significant trend toward vehicle owners installing hubcaps with winged projections in a manner that causes injuries to pedestrians, the States could address that problem through their motor vehicle use regulations.

## **Proposed Effective Date**

Because the proposed rescission of Standard No. 211 would relieve restrictions without compromising safety, the agency tentatively has determined that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Accordingly, the agency proposes that, if adopted, the effective date for the final rule be 30 days after its publication in the **Federal Register**.

## **Rulemaking Analyses and Notices**

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The proposed rule would not impose any costs or yield any significant savings. It would instead relieve a restriction and thereby provide vehicle and equipment manufacturers with greater flexibility in the design and installation of wheel nuts, wheel discs, and hub caps. Moreover, consumers would likely have a greater choice of hub cap styles. For these reasons, the impacts would be so minimal that they would not warrant preparation of a full regulatory evaluation.

## 2. Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on