OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0820	Amendment to Parts 22, 24, 27, 90 and 101 of the Commission's Rules Concerning Non-Substantial Assignments of Wireless Licenses and Transfers of Control Involving Telecommunications.	09/30/98
3060–0821	DTV Engineering Analysis for De Minimis Standards	09/30/98
3060–0823	Pay Telephone Reclassification, Memorandum Opinion and Order, CC Docket No. 96–128.	09/30/98
3060–0824	FCC 498	09/30/98
3060–0825	Requirements for Toll-Free Service Access Codes 888/877	10/31/98
3060–0827	Request for Radio Station License Update	10/31/98
3060–0828	State Forward-Looking Cost Studies for Federal Universal Service Support (Public Notice).	10/31/98
3060–0829	Streamlining of Mass Media Applications, Rules and Processes	07/31/01
3060–0830	Year 2000 Data Request	10/31/98
983060–0831	MDS and ITFS Two-Way Transmissions	07/31/01
3060–0832	Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance, CC Docket No. 98–56.	07/31/01
3060–0834	Reconsideration of Rules and Policies for the 220–222 MHz Radio Service	12/31/98
3060–0835	Ship Inspection Certificates, FCC 806, 824, 827 and 829	12/31/98
3060–0836	Network Preempted Children's Television Education and Informational Programming.	12/31/98
3060–0839	Study of the Nexus Between Broadcast Ownership by Minorities and Non-Minorities and News Public Affairs Content.	11/30/98

[FR Doc. 98–26230 Filed 9–30–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4483]

RIN 2127–AG82, RIN 2127–AH02

Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

ACTION: Final rule, correction.

SUMMARY: This document adopts as final most of the amendments made by interim final rules to the air bag warning label requirement in Standard No. 213, ''Child Restraint Systems'' (49 CFR 571.213). The required label warns that a rear-facing child restraint must never be placed in a vehicle front seat with an air bag. The interim final rules modified the label to allow the phrase ''unless air bag is off'' to be added to the end of the warning, if the child seat is equipped with a device that deactivates the air bag and provides a signal that the air bag has been disabled. This document adopts the amendments of the interim rules, except that the signal that the air bag is deactivated must be provided for a longer duration than that specified in the interim rules.

This document also corrects a labeling provision in Standard 213 that required child restraints to provide an installation diagram showing the child restraint system installed in the ''right front'' outboard seating position equipped with a continuous-loop lap/shoulder belt and the ''center rear'' seating position equipped with only a lap belt. The agency is removing the references to ''right front'' and ''center rear'' as being unnecessary and potentially confusing.

DATES: *Effective date:* March 30, 1999. Because this final rule revises a provision of the June 1997 interim rule, a 180 day effective date is adopted to provide manufacturers with sufficient leadtime to implement any needed changes to their vehicles or child restraint systems as a result of this rule.

Petitions for Reconsideration: Petitions for reconsideration of this rule must be received by the agency not later than November 16, 1998.

ADDRESSES: Petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

For nonlegal issues: Mary Versailles, Office of Safety Performance Standards, NPS–31, telephone (202) 366–2057.

For legal issues: Deirdre Fujita, Office of Chief Counsel, NCC–20, telephone (202) 366–2992.

Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION: This document amends Standard No. 213, ''Child Restraint Systems,'' on a permanent basis to modify the air bag warning label which rear-facing child seats have been required to bear from May 1997. This document adopts all but one of the amendments made in interim final rules published on April 17, 1997 (62 FR 18723) and June 4, 1997 (62 FR 30464). The one amendment that differs from the interim final rule relates to the length of time a signal that the air bag is deactivated must operate after deactivation. Rather than operate for at least 10 seconds after deactivation, the signal must operate for at least 60 seconds after deactivation.

Original Final Rule

The requirement for the air bag warning label was adopted in a November 27, 1996 final rule (61 FR 60206) [1], which also adopted new warning label requirements for vehicles with air bags. The requirement for the enhanced child seat label is set forth in S5.5.2(k) of Standard 213. The requirement specifies, among other things, the exact content of the message that must be provided on the label. The message of the label must be preceded by a heading (''WARNING''), with an alert symbol, and state the following:

DO NOT place rear-facing child seat on front seat with air bag.

DEATH OR SERIOUS INJURY can occur.

[1] Corrected December 4, 1996 (61 FR 64297), December 11, 1996 (61 FR 65187), and January 2, 1997 (62 FR 31).

The back seat is the safest place for children 12 and under. Also required on the label is a pictogram showing a rear-facing child seat being impacted by an air bag, surrounded by a red circle with a slash across it. Flexibility as to the content of the label is not provided; thus, wording other than that specified in the standard is not permitted.

First Interim Final Rule

On April 17, 1997 (62 FR 18723), NHTSA amended S5.5.2(k) to permit, for some child restraints, the addition of the phrase ''unless air bag is off'' after the sentence stating ''DO NOT place rear-facing child seat on front seat with air bag.'' The amendment responded to a request from Mercedes-Benz concerning rear-facing child seats that have features enabling the seat to deactivate the passenger-side air bag.

Mercedes developed a rear-facing child seat with a device that automatically turns off the passenger-side air bag in vehicles designed to respond to such a device. The cutoff feature makes it possible to use a child restraint system on the front seat of these vehicles without subjecting the child to risk of injury from an air bag deployment. Mercedes believed that the first statement (''DO NOT place rear-facing child seat on front seat with air bag'') was inappropriate for child restraints with a feature that turns off the air bag, and could be potentially confusing to owners of child restraints that are marketed as compatible with a complementary air bag system. Mercedes suggested that the amended label should be permitted on a child restraint that is equipped with a cutoff device, if the cutoff device automatically deactivates the passenger-side air bag and activates a telltale light in the vehicle that complies with S4.5.4.3 of Standard No. 208, ''Occupant Crash Protection'' (49 CFR § 571.208). S4.5.4.3 states:

> A telltale light on the dashboard shall be clearly visible from all front seating positions and shall be illuminated whenever the passenger air bag is deactivated. The telltale light: (a) Shall be yellow; (b) Shall have the identifying words ''AIR BAG OFF'' on the telltale or within 25 millimeters of the telltale; (c) Shall remain illuminated for the entire time that the passenger air bag is deactivated; (d) Shall not be illuminated at any time when the passenger air bag is not deactivated; and, (e) Shall not be combined with the readiness indicator required by S4.5.2 of [Standard 208].

In the April 17, 1997 interim final rule, NHTSA agreed with Mercedes that adding the phrase ''unless air bag is off'' would clarify the message of the label and reduce the likelihood of confusing owners of child seats that are intended for use on and marketed as appropriate for front seat positions on vehicles equipped with air bag cutoff devices. The agency tentatively agreed that the conditions of (a) automatic deactivation and (b) a telltale meeting S4.5.4.3 of Standard 208, ''reduce[d] the likelihood that a child restraint would be used with an active air bag.'' Because NHTSA saw no diminution of safety resulting from the change, the agency amended the standard to accommodate Mercedes' request.

Second Interim Rule

After the April 17, 1997 interim final rule was issued, Porsche contacted the agency asking whether the conditions for automatic deactivation and a telltale meeting S4.5.4.3 were necessary requisites to allowing the phrase ''unless air bag is off'' to be added to the child seat warning label.

Porsche had also developed a rear-facing child seat with a device that turns off the passenger-side air bag in vehicles designed to respond to such a device. However, unlike Mercedes', the device is not automatic. To turn off the passenger-side air bag, a specialized buckle tongue on the child seat must be inserted into a buckle receiver installed under the front passenger seat. The Porsche system does not include a telltale light complying with S4.5.4.3 of Standard No. 208. Instead, the air bag readiness indicator flashes for 10 seconds to inform the driver that the child seat has properly cut off the passenger-side air bag. If the vehicle ignition is on when the special buckle is inserted in the receiver, the warning light flashes upon insertion of the buckle. If the vehicle ignition is off when the special buckle is inserted, the warning light flashes each time the ignition is turned on. Porsche believed that its design, while different from the Mercedes design, also warrants the addition of the phrase ''unless air bag is off'' to the child seat warning label on Porsche's rear-facing child seats.

NHTSA reexamined the first interim final rule and determined that the phrase ''unless air bag is off'' may appropriately be added to a child seat that can deactivate an air bag, whether or not the deactivation is automatic. In addition, the agency determined that specified telltale requirements are unnecessary so long as a signal is provided to the driver that the air bag has been disabled.

NHTSA explained that if an air bag were deactivated by a device incorporated into a child safety seat, the danger that the label on the seat warns against (i.e., an active air bag) will not be present. This result can be achieved as effectively by non-automatic means as by automatic means. The question raised by a non-automatic device such as Porsche's is whether a person installing the seat in a vehicle will install it correctly. If the likelihood of correct installation is very high, allowing the addition of the phrase ''unless air bag is off'' to the label would help resolve any confusion on the part of the person installing the seat.

The agency noted:

> In the case of the device employed by Porsche, the child safety seat is equipped with a single buckle that fits into a buckle receiver under the vehicle's seat. The buckle fits no other part of the vehicle. The correctness of its installation is evident, both by the click of the buckle upon its insertion into the receiver and by the activation of a visual signal on the vehicle's dash. These features offer sufficient assurance of correct installation, in the agency's view, to warrant the modification of the label.

62 FR at 30465.

The agency also addressed the issue of the nature of the visual signal. NHTSA determined that it is essential to have a means of notifying the driver that the air bag has been disabled. In the first interim rule, NHTSA said that the phrase may be added if the child seat has a device that activates a telltale complying with S4.5.4.3 of Standard 208. Upon reexamining the need for notifying the driver, the agency determined that the telltale requirements of Standard 208 are not necessary, as stated in the first interim final rule, to ''reduce the likelihood that a child restraint would be used with an active air bag.'' NHTSA stated that the telltale requirements were originally specified for a cutoff device that operates in a way that could allow an adult to use the front passenger seating position with the air bag deactivated. The requirements ensure that there is a reminder that the cutoff device should be reset whenever the vehicle's front seat is no longer carrying an infant, so that the air bag would be ready when needed. The telltale requirements are intended to inform an adult passenger, to enable him or her to see the warning light and understand that the air bag is not activated. The agency explained:

> In contrast, air bag deactivation systems of the types developed by Mercedes and Porsche deactivate the air bag when and only when a child restraint is present and reactivate the air bag when the child restraint is removed. Such systems render it highly unlikely that an unknowing adult could be seated in the front seating position with the air bag deactivated. Because of this difference, a telltale meeting S4.5.4.3 of Standard 208 does not appear needed.

NHTSA decided, however, that the driver should be alerted as to whether the child seat has deactivated the air bag. The agency concluded that the signal must continue for at least 10 seconds after deactivation of the air bag. A visual signal could include a dashboard light. Because the rule did not require that a dashboard light must remain illuminated for the entire time that the passenger air bag is deactivated, the agency believed that the light may be combined with the readiness indicator required by S4.5.2 of Standard 208, provided that such combination does not affect the compliance of the readiness indicator with S4.5.2.

Response and Analysis

The agency received one comment responding to the first interim final rule (''Mercedes rule''), from the Center for Auto Safety (CAS). Four commenters, CAS, the Insurance Institute for Highway Safety (IIHS), Advocates for Highway and Auto Safety (Advocates), and National Association of Pediatric Nurse Associates & Practitioners, Inc. (''NAP'') responded to the second (''Porsche rule''). All commenters opposed the amendments.

CAS and NAP believed that adding the phrase ''unless air bag is off'' confuses the warning label and may lead consumers to place a rear-facing child seat in the front seat of a vehicle that is not equipped with the on-off device. CAS said that confusion will also result from allowing two child seat systems, Mercedes' and Porsche's, that are not compatible with each other. The commenter was concerned that a consumer may use a Mercedes child seat in a Porsche, or vice versa, and may not know that the child restraint has not deactivated the air bag.

NHTSA does not agree that the phrase leads to confusion. On the contrary, the phrase clarifies the message for owners of child seats that are intended for use on and marketed as appropriate for front seat positions on vehicles equipped with complementary air bag cutoff devices. These owners know that their child restraints can be placed on the front seat with an air bag, so the added conditional language, ''unless air bag is off,'' corrects an inconsistency that could cause them to doubt or question that warning or the other messages on the label. NHTSA does not agree that the added phrase will result in owners of rear-facing child seats that do not have a cut off device erroneously placing the restraint in a position with an active air bag. Those restraints lacking a cut-off device are not permitted by the amendment to have the phrase in their labels. NAP stated that NHTSA should not permit the amendment ''for a commonly-purchased device simply because a few luxury automobile manufacturers, whose vehicles are purchased by a small number of Americans, have made technological advances making the warning imperfect for them.'' The commenter appeared to believe that the amendment would permit the phrase ''unless air bag is off'' to be placed on the warning labels of all child seats, not just those that are equipped with a device that deactivates the air bag when the child restraint is installed in the vehicle. As stated above, that understanding is incorrect. Only seats that have a cut-off feature are permitted to have the added phrase.

The agency does not agree with CAS that the phrase should not be permitted because owners of a Mercedes child restraint may use a Mercedes seat in a Porsche vehicle, or vice versa, and not realize that the child restraint did not deactivate the air bag. NHTSA believes that such an intermix will rarely, if ever, occur. Mercedes' child restraints can only be purchased from Mercedes dealers or directly from Britax, the child restraint manufacturer. Porsche's restraints can only be purchased from Porsche dealers. Because these child restraints are only sold by specialized retailers, persons buying these seats are likely to know that the restraints are intended for a specialized vehicle and cannot deactivate the air bag in vehicles other than their Mercedes or Porsche, as the case may be.

CAS, Advocates and NAP expressed concern that the amendment dilutes the safety message that children are safer riding in the rear seat than in front. The purpose of the child restraint air bag warning label is to stop parents from installing a rear-facing restraint on a seat with an active air bag. The warning label is required to have the statement ''The back seat is the safest place for children 12 and under'' after the warning against placing a rear-facing restraint on the front seat with an air bag to provide an alternative seating position to the front. For child restraints that turn off the air bag, the particular danger necessitating the warning label (the dangers of an active air bag) will not be present and thus the immediate need for an alternative seating position to the front does not arise. The agency agrees that the back seat is the safest for the child in the rear-facing restraint, as it is for all passengers. However, the general message that back seats are safer is made and reinforced a number of different ways other than by the child seat air bag warning label, including by way of conspicuous air bag alert labels required to be on the vehicle itself (S4.5.1 of Standard 208) and by way of warnings required to be in the vehicle owner's manuals (S6(b) of Standard 210) and child restraint manufacturers' instructions (S5.6.1.1 of Standard 213). The primary message of the air bag warning label is to warn against using a rear-facing seat with an active air bag. The need to make the primary message as clear as possible weighs in favor of permitting the phrase ''unless air bag is off'' to be added to the label of those child restraints that can cut off the air bag.

IIHS believed that the Porsche system provides inadequate warning of the status of the passenger airbag. The commenter believed that there should be a separate signal that remains on for the duration that the airbag is deactivated and that clearly indicates airbag status. IIHS argued that a parent could be distracted during the 10 second period that the Porsche warning light is flashing and thus would not know that the air bag was in fact deactivated. Advocates also expressed concern that the signal that the Porsche system uses may not adequately inform the driver that the air bag is off. Advocates said:

> Only those drivers who are aware of that fact will be likely to understand the meaning of that particular signal. There are also many situations in which an inattentive driver will not see the blinking indicator light when flashing and misperceive the subsequent lack of any light indication as confirmation that the air bag is deactivated.

NHTSA agrees that the 10-second duration that the signal indicating that the air bag is deactivated may be too short and has increased the minimum duration to 60 seconds. This is the same duration as what is required by Standard 208 for the warning light that warns the driver that his or her belt is not buckled.

NHTSA believes that a driver of a Porsche will know that a blinking light is the signal that the air bag has been deactivated. Unlike the Mercedes system, Porsche owners have to go to the dealership and have the vehicle component installed in their vehicle. In general, our consumer research shows that the most motivated group to seek out safety information are parents or others transporting children. Thus, we believe that a Porsche owner wanting the system installed will read up on how the system works and will know to look for the blinking light and will know what the signal means.

Correction

This document also makes a correction to S5.5.2(l) of Standard 213,

which requires each child restraint system to show, on a label, an installation diagram showing the system ''installed in the right front outboard seating position equipped with a continuous-loop lap/shoulder belt and in the center rear seating position as specified in the manufacturer's instructions.'' The agency is removing the reference to the ''right front outboard'' seating position because the phrase is unnecessary. The requirement, adopted in 1979, was intended to ensure that consumers were shown how to use a continuous-loop lap/shoulder belt because of the prevalence of the system and because a locking clip had to be installed on the belt to safely secure the child restraint. Consumers unfamiliar with child restraints are generally unfamiliar with what locking clips are and how to use them. In 1979, continuous-loop lap/shoulder belts were generally not in rear seating positions, and so S5.5.2(l) referenced the ''right front outboard'' seating position to identify the seating position most likely to have the belts and to show the child seat in the seating position likely to have the belts. With the advent of these belts in seating positions other than the front outboard positions, the need to reference ''right front outboard'' is no longer relevant. Similarly, the agency is removing reference to the ''center rear'' seating position as unnecessary. While it is important to depict the child restraint installed by way of a lap belt due to the presence of lap belts in center rear seating positions, specifying the exact location as ''center rear'' is unneeded. Accordingly, S5.5.2(l) is revised to read:

(l) An installation diagram showing the child restraint system installed in (1) a seating position equipped with a continuous-loop lap/shoulder belt and (2) a seating position equipped with only a lap belt, as specified in the manufacturer's instructions.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' NHTSA has considered the impact 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 ''nonsignificant'' under the Department of Transportation's regulatory policies and procedures. The amendments pertain to optional label changes that are minor in nature. The agency concludes that the impacts of the amendments are so minimal that a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rule under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

This final rule will primarily affect vehicle and child restraint manufacturers. As described above, there will be no significant economic impact on any vehicle manufacturer, whether large or small. Even if the rule were to have a significant economic impact, there is not a substantial number of small entities that manufacture vehicles. The Small Business Administration's (SBA's) size standards are organized according to Standard Industrial Classification Codes (SIC). SIC Code 3711 ''Motor Vehicles and Passenger Car Bodies'' has a small business size standard of 1,000 employees or fewer. For passenger car and light truck manufacturers (manufacturers of vehicle most likely to be affected by this rule), NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Because each manufacturer serves a niche market, often specializing in replicas of ''classic'' cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most five hundred cars manufactured per year by U.S. small businesses. In contrast, in 1996, there are approximately nine large manufacturers manufacturing passenger cars and light trucks in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks per year. NHTSA does not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

SIC Code 3714 ''Motor Vehicle Parts and Accessories'' has a small business size standard of 750 employees or fewer. The agency has considered the small business impacts of this proposed rule based on this criterion. NHTSA does not believe this rule will have a significant economic impact on these entities. The rule will not impose any new requirements or costs on child restraint manufacturers, but instead will permit a manufacturer to use an optional label on its child restraint if conditions on the use of the label are met.

The cost of new passenger cars and light trucks and of child restraints will not be affected by the final rule. Because no price increases will be associated with the rule, small organizations and small governmental units will not be affected in their capacity as purchasers of new vehicles or as purchasers of child restraints.

C. Paperwork Reduction Act

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

D. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Unfunded Mandates Reform Act

This rule does not impose any unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995.

G. Civil Justice Reform

This rule has no retroactive effect. 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.

In consideration of the foregoing, the interim final rule amending 49 CFR part 571 which was published at 62 FR 18723 on April 17, 1997, and amended as published at 62 FR 30464 on June 4, 1997, is adopted as a final rule with the following change:

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 571.213 is amended by revising S5.5.2(k)(5) to read as follows:

§ 571.213 Standard No. 213, child restraint systems.

* * * * *

S5.5.2 * * *

(k) * * *

(5) If a child restraint system is equipped with a device that deactivates the passenger-side air bag in a vehicle when and only when the child restraint is installed in the vehicle and provides a signal, for at least 60 seconds after deactivation, that the air bag is deactivated, the label specified in Figure 10 may include the phrase ''unless air bag is off'' after ''on front seat with air bag.''

* * * * *

3. In § 571.213, paragraph S5.5.2(l) is revised to read as follows:

§ 571.213 Standard No. 213; child restraint systems.

* * * * *

(l) An installation diagram showing the child restraint system installed in:

(1) A seating position equipped with a continuous-loop lap/shoulder belt; and

(2) A seating position equipped with only a lap belt, as specified in the manufacturer's instructions.

* * * * *

Issued on September 22, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–25818 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

[NHTSA–98–4438]

RIN 2127–AG83

Odometer Disclosure Requirements; Exemptions

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends an exemption from the odometer disclosure requirements for vehicles ''ten years old or older'' to clarify that the term ''years'' refers to ''model years.'' 49 CFR 580.17(a)(3). The rule also amends the exemption by including a formula for calculating the most recent model year to which the exemption applies.

The agency is taking this action following its consideration of comments received from the public on the interim final rule that was published in the **Federal Register** on September 11, 1997. 62 FR 47763, Sept. 11, 1997.

This document is published as a final rule to be effective on its publication in the **Federal Register**.

DATES: This rule is effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Eileen Leahy, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5219, Washington, DC 20590 (Telephone: 202–366–5263).

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1997, the National Highway Traffic Safety Administration (NHTSA) published in the **Federal Register** an interim final rule, 62 FR 47763, that repromulgated the exemptions to the odometer disclosure requirements of 49 CFR Part 580 under the new authority provided by Section 332 of the Transportation and Related Agencies Appropriations Act for Fiscal Year 1997. That notice also solicited public comment on the exemptions themselves. In response to that notice, the agency received comments from the following entities: the State of South Dakota Department of Revenue; the National Auto Auction Association (''NAAA''); ADT Automotive, Inc. (''ADT'') (an auto auction owner/operator); the Colorado Independent Automobile Dealers Association (''CIADA''); the State of Tennessee Department of Safety, Titling & Registration Division; the State of Idaho Transportation Department; the State of Texas Department of Public Safety; the State of Washington Department of Licensing: the Secretary of State of the State of Illinois; the Colorado Department of Public Safety; the Oklahoma Tax Commission of the State of Oklahoma; the Oregon Independent Auto Dealers Association (''OIADA''), the State of Georgia Department of Revenue, Motor Vehicle Division; and the State of California Department of Motor Vehicles. For convenience, the commenters that are state motor vehicle administrators or titling agencies will be referred to simply by the name of the state; and state agency commenters collectively will be referred to as ''the States'' or ''the State commenters.''

Discussion

The comments focused on a single area of concern: the confusion that exists about how to apply the exemption for vehicles ''ten years old or older.'' 49 CFR 580.17(a)(3). Of the fourteen commenters, seven (NAAA, ADT, ID, CIADA, OIADA, Oklahoma and Georgia) expressed the view that there was a need to make a change to clear up existing confusion; while one (California) stated that changing the wording to ''ten model years or older'' instead of ten years old or older would have only a minimal impact, and two (Colorado and Washington State) stated that changing the language of the regulation would have no impact on their operations. Texas opposed changing the number of years from ten. Illinois, South Dakota and Tennessee opposed making any change to the status quo.

None of those advocating an amendment suggested a change in the age that would qualify a vehicle for the exemption. However, all of them expressed a need to clear up confusion about when a vehicle becomes ''10 years old'' and thus eligible for the exemption from the odometer disclosure requirements, either by adding language to the rule, or by changing the agency's interpretation setting forth the formula to be applied to decide which vehicles are exempt. Three commenters, NAAA, ADT and Idaho, supported a change of the wording of the exemption, to ''10 model years old or older.'' CIADA and OIADA advocated that NHTSA revise its interpretation of the exemption, from ''current calendar year minus 10 equals the first model year for [which] a vehicle is exempt'' to ''current calendar year minus 11 equals the first model year for [which] a vehicle is exempt.''

Two states, Oklahoma and Georgia, suggested that the best means of eliminating the confusion that currently exists concerning the coverage of the exemption would be to include the method of calculating the newest model year to which the exemption would apply in the language of the exemption itself, without changing the words now used to describe qualifying vehicles: ten years old or older.

Upon evaluating the comments, NHTSA concludes that the best way to ensure that the exemption is understood correctly and applied uniformly is to include the method of calculation as part of the exemption, as Oklahoma and Georgia suggested. In this way, the means of calculating the model year to which the exemption applies will be