

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
<b>Lincoln County, Missouri, and Incorporated Areas</b>				
Cuivre River .....	At confluence with Mississippi River at East Sycamore Road, east of City of Old Monroe.	+445	+444	Unincorporated Areas of Lincoln County, City of Old Monroe.
McLean Creek .....	At confluence with Mississippi River, just east of City of Winfield.	+446	+445	Unincorporated Areas of Lincoln County, City of Winfield.
Mississippi River .....	At southern county boundary, east of City of Old Monroe.	+445	+444	Unincorporated Areas of Lincoln County, City of Elsberry, City of Foley, City of Old Monroe, City of Winfield.
Sandy Creek .....	At northern county boundary at Dameron Road .....	+451	+450	Unincorporated Areas of Lincoln County, City of Foley.
	At confluence with Mississippi River, east of City of Foley.	+447	+446	

\* National Geodetic Vertical Datum.

+ North American Vertical Datum.

# Depth in feet above ground.

^ Mean Sea Level, rounded to the nearest 0.1 meter.

\*\* BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Elsberry**

Maps are available for inspection at 201 Broadway Street, Elsberry, MO 63343.

**City of Foley**

Maps are available for inspection at 617 Elm Street, Foley, MO 63347.

**City of Old Monroe**

Maps are available for inspection at 151 Main Street, P.O. Box 212, Old Monroe, MO 63369.

**City of Winfield**

Maps are available for inspection at 51 Old Troy Highway, P.O. Box 59, Winfield, MO 63389.

**Unincorporated Areas of Lincoln County**

Maps are available for inspection at 201 Main Street, Troy, MO 63379.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: May 27, 2009.

**Deborah S. Ingram,**

*Acting Deputy Assistant Administrator for Mitigation, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. E9-14039 Filed 6-12-09; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 578**

**[Docket No. NHTSA-2009-0066; Notice 1]**

**RIN 2127-AK40**

**Civil Penalties**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to increase the maximum civil penalty amounts for violations of motor vehicle safety requirements involving school buses, bumper standards, consumer information requirements, odometer tampering and disclosure requirements, and vehicle theft protection

requirements. This action would be taken pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires us to review and, as warranted, adjust penalties based on inflation at least every four years.

**DATES:** Comments on the proposal are due July 15, 2009.

**ADDRESSES:** You may submit comments electronically [identified by DOT Docket ID Number NHTSA-2009-0066] by visiting the following Web site:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200

New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* (202) 493-2251.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://www.dms.dot.gov> or <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

**FOR FURTHER INFORMATION CONTACT:** Jessica Lang, Office of Chief Counsel, NHTSA, telephone (202) 366-5902, facsimile (202) 366-3820, 1200 New Jersey Avenue, SE., Washington, DC 20590.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In order to preserve the remedial impact of civil penalties and to foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (28 U.S.C. 2461, Notes, Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) (referred to collectively as the "Adjustment Act" or, in context, the "Act"), requires us and other Federal agencies to adjust civil penalties for inflation. Under the Adjustment Act, following an initial adjustment that was capped by the Act, these agencies must make further adjustments, as warranted, to the amounts of penalties in statutes they administer at least once every four years.

NHTSA's initial adjustment of civil penalties under the Adjustment Act was published on February 4, 1997. 62 FR

5167. At that time, we codified the penalties under statutes administered by NHTSA, as adjusted, in 49 CFR Part 578, Civil Penalties. On July 14, 1999, we further adjusted certain penalties. 64 FR 37876. In 2000, the Transportation Recall Enhancement, Accountability and Documentation ("TREAD") Act increased the maximum penalties under the National Traffic and Motor Vehicle Safety Act as amended (sometimes referred to as the "Motor Vehicle Safety Act"). We codified those amendments in Part 578 on November 14, 2000. 65 FR 68108. On August 7, 2001, we also adjusted certain penalty amounts pertaining to odometer tampering and disclosure requirements and vehicle theft prevention. 66 FR 41149. On September 28, 2004, we adjusted the maximum penalty amounts for a related series of violations involving the agency's provisions governing vehicle safety, bumper standards, and consumer information. 69 FR 57864. On September 8, 2005, the agency adjusted its penalty amounts for violations of its vehicle theft protection standards and those involving a related series of odometer-related violations. 70 FR 53308. On May 16, 2006, the agency adjusted its penalty amounts for violations of the Motor Vehicle Safety Act, as amended, and codified amendments made to the Motor Vehicle Safety Act by the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU), 119 Stat. 1144, 1942-43 (Aug. 10, 2005). 71 FR 28279. Most recently, on February 25, 2008, the agency made adjustments to odometer-related violations and violations of certain administrative provisions of the Energy Policy and Conservation Act. 73 FR 9955.

The Energy Independence and Security Act of 2007 (EISA), Public Law 10-140, 121 Stat. 1492, 1506-07 (Dec. 19, 2007) (codified at 49 U.S.C. 32304A) established a separate penalty provision for a new consumer tire information provision. As a matter of organization, we intend to include this penalty provision in 49 CFR 578.6(d). In order to avoid confusion with the consumer information penalty regarding crashworthiness and damage susceptibility currently in this section, we would bifurcate to 49 CFR 578.6(d) into two parts. The first would address crashworthiness and damage susceptibility; the second would codify consumer tire information under EISA.

We have reviewed the civil penalty amounts in 49 CFR Part 578 and, in this notice, propose to adjust certain penalties under the Adjustment Act. The civil penalties that we propose to

adjust are available for violations of the (1) Motor Vehicle Safety Act involving school buses (single violations and a related series of violations), (2) bumper requirements (a related series of violations), (3) consumer information requirements regarding crashworthiness and damage susceptibility (a related series of violations), (4) odometer requirements including tampering and disclosure (a related series of violations), and (5) the vehicle theft protection requirements (daily violations and a series of related violations).

##### **Method of Calculation—Proposed Adjustments**

Under the Adjustment Act, we first calculate the inflation adjustment for each applicable civil penalty by arithmetically increasing the maximum civil penalty amount per violation by a cost-of-living adjustment. Section 5(b) of the Adjustment Act defines the "cost-of-living" adjustment as:

The percentage (if any) for each civil monetary penalty by which—

(1) The Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds

(2) The Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

Because the proposed adjustment is intended to be effective before December 31, 2009, the "Consumer Price Index [CPI] for the month of June of the calendar year preceding the adjustment" is the CPI for June 2008. This figure, based on the Adjustment Act's requirement of using the CPI "for all-urban consumers published by the Department of Labor," is 655.5.<sup>1</sup>

Two of the penalty amounts that NHTSA proposes to adjust involve a related series of violations of bumper standards and of consumer information requirements regarding crashworthiness and damage susceptibility. These amounts were both last adjusted in 2004 (CPI = 568.2). Accordingly, the factor that we use to calculate the proposed increases is 1.15 (655.5/568.2) for these penalties.

The other penalty amounts that NHTSA proposes to adjust are for single violations and a related series of violations pertaining to school bus

<sup>1</sup> Individuals interested in deriving the CPI figures used by the agency may visit the Department of Labor's Consumer Price Index Home Page at <http://www.bls.gov/cpi/home.htm>. Scroll down to "Most Requested Statistics" and select the "All Urban Consumers (Current Series)" option, select the "U.S. ALL ITEMS 1967=100—CUUR0000AA0" box, and click on the "Retrieve Data" button.

safety, a related series of violations involving odometer tampering and disclosure, as well as single violations and a related series of violations involving vehicle theft protection. These amounts were last adjusted in 2005 (CPI = 582.6). Accordingly, the factor that we use to calculate the proposed increases is 1.13 (655.5/582.6).

Next, using these inflation factors, increases above the current maximum penalty levels are calculated and are then subject to a specific rounding formula set forth in section 5(a) of the Adjustment Act. 28 U.S.C. 2461, Notes. Under that formula:

Any increase shall be rounded to the nearest:

- (1) Multiple of \$10 in the case of penalties less than or equal to \$100;
- (2) Multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;
- (3) Multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;
- (4) Multiple of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;
- (5) Multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and
- (6) Multiple of \$25,000 in the case of penalties greater than \$200,000.

#### **Proposed Amendments to Maximum Penalties**

*Change to Maximum Penalty (Single Violations and a Related Series of Violations) Under the School Bus Safety Provisions, 49 U.S.C. Chapter 301, (49 CFR 578.6(a)(2))*

The maximum civil penalty for a single violation under the school bus safety provisions is \$10,000, as specified in 49 CFR 578.6(a)(2)(ii). The underlying statutory provision is 49 U.S.C. 30165(a)(2), as amended in 2005. Applying the appropriate inflation factor (1.13) raises the \$10,000 to \$11,300, an increase of \$1,300. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000. Accordingly, we propose that § 578.6(a)(2)(ii) be amended to increase the maximum civil penalty for a single violation from \$10,000 to \$11,000.

The maximum civil penalty for a related series of violations under the school bus safety provisions is \$15,000,000, as specified in 49 CFR 578.6(a)(2)(ii). The underlying statutory provision is 49 U.S.C. 30165(a)(2), as amended in 2005. Applying the appropriate inflation factor (1.13) raises

the \$15,000,000 to \$16,950,000, an increase of \$1,950,000. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of \$25,000 in the case of penalties greater than \$200,000. Accordingly, we propose that § 578.6(a)(2)(ii) be amended to increase the maximum civil penalty from \$15,000,000 to \$16,950,000 for a series of related violations.

*Change to Maximum Penalty (Related Series of Violations) Under the Bumper Standards Provision, 49 U.S.C. Chapter 325 (49 CFR 578.6(c))*

The maximum civil penalty for a related series of violations of the bumper standards provision or a regulation prescribed thereunder is \$1,025,000 as specified in 49 CFR 578.6(c)(2). The underlying statutory civil penalty provision is contained in 49 U.S.C. 32506. Applying the appropriate inflation factor (1.15) raises the \$1,025,000 figure to \$1,178,750, an increase of \$153,750. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of \$25,000 in the case of penalties greater than \$200,000. In this case, the increase would be \$150,000. Accordingly, we propose that § 578.6(c) be amended to increase the maximum civil penalty from \$1,025,000 to \$1,175,000 for a related series of violations.

*Change to Maximum Penalty (Related Series of Violations) Under the Consumer Information Regarding Crashworthiness and Damage Susceptibility Requirements, 49 U.S.C. Chapter 323 (49 CFR 578.6(d))*

The maximum civil penalty for a related series of violations of the consumer information regarding crashworthiness and damage susceptibility requirements is \$500,000, as specified in 49 CFR 578.6(d). The underlying statutory civil penalty provision is 49 U.S.C. 32308(b). Applying the appropriate inflation factor (1.15) raises the \$500,000 figure to \$575,000, an increase of \$75,000. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of \$25,000 in the case of penalties greater than \$200,000. In this case, the increase would be \$75,000. Accordingly, we propose that § 578.6(d) be amended to increase the maximum civil penalty from \$500,000 to \$575,000 for a series of related violations.

*Change to Maximum Penalty (Related Series of Violations) Under the Odometer Tampering and Disclosure Requirements, 49 U.S.C. Chapter 327 (49 CFR 578.6(f))*

The maximum civil penalty for a related series of violations of the odometer requirements is \$130,000, as specified in 49 CFR 578.6(f)(1). The underlying statutory penalty provision is 49 U.S.C. 32709. Applying the appropriate inflation factor (1.13) raises the \$130,000 to \$146,900, an increase of \$16,900. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000. Accordingly, we propose that § 578.6(f)(1) be amended to increase the maximum civil penalty from \$130,000 to \$150,000 for a series of related violations.

*Change to Maximum Penalty (Daily Violation and a Related Series of Violations) Under the Vehicle Theft Protection Provisions, 49 U.S.C. Chapter 331 (49 CFR 578.6(g)(1), (2))*

The maximum civil penalty for a daily violation of vehicle theft protection provisions is \$130,000, as specified in 49 CFR 578.6(g)(2). The underlying statutory penalty provision is 49 U.S.C. 33114(a)(5). Applying the appropriate inflation factor (1.13) raises the \$130,000 figure to \$146,900, an increase of \$16,900. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000. Accordingly, we propose that § 578.6(g)(2) be amended to increase the maximum civil penalty from \$130,000 to \$150,000 for a daily violation.

The maximum civil penalty for a related series of violations of the vehicle theft protection provisions is \$325,000, as specified in 49 CFR 578.6(g)(1). The underlying statutory penalty provisions are 49 U.S.C. 33114(a)(1)–(4). Applying the appropriate inflation factor (1.13) raises the \$325,000 to \$367,250, an increase of \$42,250. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of \$25,000 in the case of penalties greater than \$200,000. Accordingly, we propose that § 578.5(g)(1) be amended to increase the maximum penalty from \$325,000 to \$375,000 for a series of related violations.

### Effective Date of Final Rule

The amendments would be effective 30 days after publication of the final rule in the **Federal Register**. The adjusted penalties would apply to violations occurring on and after the effective date.

### Request for Comments

#### *How Do I Prepare and Submit Comments?*

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document under **ADDRESSES**. You may also submit your comments electronically to the docket following the steps outlined under **ADDRESSES**.

#### *How Can I Be Sure That My Comments Were Received?*

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

#### *How Do I Submit Confidential Business Information?*

If you wish to submit any information under a claim of confidentiality, you should submit the following to the Chief Counsel (NCC-110) at the address given at the beginning of this document under the heading **FOR FURTHER INFORMATION CONTACT**: (1) A complete copy of the submission; (2) a redacted copy of the submission with the confidential information removed; and (3) either a second complete copy or those portions of the submission containing the material for which confidentiality treatment is claimed and any additional information that you deem important to the Chief Counsel's consideration of your confidentiality claim. A request for confidential treatment that complies with 49 CFR part 512 must accompany the complete submission provided to the Chief Counsel. For further information, submitters who plan to

request confidential treatment for any portion of their submissions are advised to review 49 CFR part 512, particularly those sections relating to document submission requirements. Failure to adhere to the requirements of Part 512 may result in the release of confidential information to the public docket. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**.

#### *Will the Agency Consider Late Comments?*

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. In accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the proposed rule, we will consider that comment as an informal suggestion for future rulemaking action.

#### *How Can I Read the Comments Submitted by Other People?*

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the Internet. To read the comments on the Internet, go to <http://www.regulations.gov> and follow the on-line instructions provided.

You may download the comments. The comments are imaged documents, in either TIFF or PDF format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

### Rulemaking Analyses and Notices

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

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 under Executive Order 12866, "Regulatory Planning and Review." This action is limited to the proposed adoption of adjustments of civil penalties under statutes that the

agency enforces, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

#### *Regulatory Flexibility Act*

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that a final rule based on this proposal will not have a significant economic impact on a substantial number of small entities. The following provides the factual basis for this certification under 5 U.S.C. 605(b).

The Small Business Administration (SBA) regulations define a small business in part as a business entity "which operates primarily within the United States." 13 CFR 121.105(a). SBA's size standards were previously organized according to Standard Industrial Classification (SIC) Codes. SIC Code 336211 "Motor Vehicle Body Manufacturing" applied a small business size standard of 1,000 employees or fewer. SBA now uses size standards based on the North American Industry Classification System (NAICS), Subsector 336—Transportation Equipment Manufacturing, which provides a small business size standard of 1,000 employees or fewer for automobile manufacturing businesses. Other motor vehicle-related industries have lower size requirements that range between 500 and 750 employees.

Many small businesses are subject to the penalty provisions of Title 49 U.S.C. Chapters 301 (motor vehicles—school bus safety), 325 (bumper standards), 323 (consumer information requirements), 327 (odometer requirements) and 331 (vehicle theft protection requirements); therefore, small businesses may be affected by the proposed adjustments in this NPRM. By the proposed amendments, entities that are potentially affected vary by statute and may include manufacturers of motor vehicles and motor vehicle equipment, sellers of vehicles and equipment, repair shops and others.

The proposed adjustment to penalty amounts in 49 U.S.C. 30165(a)(2) and relating to school bus safety potentially impacts numerous entities including school bus manufacturers, school bus equipment manufacturers, school bus and equipment sellers, and schools and school systems. We do not have data on how many other entities within the ambit of 49 U.S.C. 30165(a)(2) are small businesses, but the number is considerable.

The proposed adjustment to penalty amounts in Chapter 325 relating to bumper standards and to penalty

amounts in Chapter 323 involving crashworthiness, damage susceptibility and country of origin labeling potentially impacts manufacturers of passenger motor vehicles and, in some instances, equipment manufacturers as variously included and defined in the statutes and regulations. We estimate that of the 26 light vehicle manufacturers reporting under the early warning program (EWR), 49 CFR part 579, six are small businesses. We recognize that there are other, relatively low production light vehicle manufacturers that are not subject to comprehensive EWR reporting. In addition, these statutes cover other entities, but we do not have information on the number of small businesses.

The proposed adjustment to penalty amounts in Chapter 327 relating to odometer requirements potentially impacts a number of small businesses including repair businesses, used car dealers, businesses that are lessors of vehicles, auction houses, and entities making devices that could change an odometer's mileage. Although we do not have information on how many of these entities are small businesses, we believe a large percentage are small businesses.

The proposed adjustment to penalty amounts in Chapter 331 relating to theft prevention potentially impacts manufacturers of regulated passenger motor vehicle parts in passenger motor vehicles, some multi-purpose vehicles, and some light trucks in high theft lines. It also impacts other entities including salvaging, repair and chop shops. As previously stated, of the twenty six manufacturers of passenger vehicles, six are small businesses. Although we do not have data on the numbers of salvaging, repair or chop shops, we believe many are small businesses.

Finally, we note that the new tire fuel efficiency information program under 49 U.S.C. 32304A may affect a number of entities. That program has not yet been adopted and therefore this notice does not identify regulated entities. In any event, we note that there are 28 tire manufacturers, none of which is a small business. There are estimated to be over 50,000 tire dealers and retailers; though we do not have information on how many of these dealers and retailers are small businesses, we believe a large percentage is small businesses.

As noted throughout this preamble, this proposed rule on civil penalties would only increase the maximum penalty amounts that the agency could obtain for certain violations of provisions related to school bus safety, bumper standards, certain consumer information, odometer tampering and disclosure, and vehicle theft prevention.

This proposed rule does not set the amount of penalties for any particular violation or series of violations. Under the statutes for motor vehicle safety/school buses, consumer information, and vehicle theft prevention, the penalty provisions require the agency to take into account the size of a business when determining the appropriate penalty in an individual case. See 49 U.S.C. 30165(c) (school bus safety); 49 U.S.C. 32308(b)(3) (consumer information); 49 U.S.C. 33115(a)(3) (vehicle theft prevention). The statute for odometers does not directly address small business size as a consideration, but does require consideration of "any effect on the ability to continue doing business". 49 U.S.C. 32709(a)(3)(B). The agency would consider the size of the business in such a calculation. While the bumper standards penalty provision does not specifically require the agency to consider the size of the business, the agency would consider business size under its civil penalty policy when determining the appropriate civil penalty amount. See 62 FR 37115 (July 10, 1997) (NHTSA's civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (SBREFA)).

The penalty adjustments that are being proposed would not affect our civil penalty policy under SBREFA. As a matter of policy, we intend to continue to consider the appropriateness of the penalty amount to the size of the business charged.

Since this proposed regulation would not establish penalty amounts, this proposal will not have a significant economic impact on small businesses.

Small organizations and governmental jurisdictions would not be significantly affected as the price of motor vehicles and equipment ought not to change as the result of this proposed rule. As explained above, this action is limited to the proposed adoption of a statutory directive, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

#### *Executive Order 13132 (Federalism)*

Executive Order 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will 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, as specified in Executive Order 13132. Thus, the requirements of Section 6 of the Executive Order do not apply.

#### *Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995, Public Law 104-4, requires agencies to prepare a written assessment of the cost, 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 annually. Because this proposed rule will not have a \$100 million effect, no Unfunded Mandates assessment will be prepared.

#### *Executive Order 12778 (Civil Justice Reform)*

This proposed rule does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

#### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1980, we state that there are no requirements for information collection associated with this rulemaking action.

#### **List of Subjects in 49 CFR Part 578**

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

In consideration of the foregoing, we propose to amend 49 CFR part 578 as set forth below.

#### **PART 578—CIVIL AND CRIMINAL PENALTIES**

1. The authority citation for 49 CFR part 578 is amended to read as follows:

**Authority:** Pub. L. No. 101–410, Pub. L. No. 104–134, 49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115 as amended; delegation of authority at 49 CFR 1.50.

2. Section 578.6, paragraphs (a)(2)(ii), (c)(2), (d), (f)(1), and (g), are revised to read as follows:

**§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.**

(a) \* \* \*

(2) \* \* \*

(ii) Violates section 30112(a)(2) of Title 49 United States Code, shall be subject to a civil penalty of not more than \$11,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by this section. The maximum penalty under this paragraph for a related series of violations is \$16,950,000.

\* \* \* \* \*

(c) \* \* \*

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is \$1,175,000.

(d) *Consumer Information*—(1) *Crashworthiness and Damage Susceptibility.* A person that violates 49 U.S.C. 32308(a), regarding crashworthiness and damage susceptibility, is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty under this paragraph for a related series of violations is \$575,000

(2) *Consumer Tire Information.* A person that violates 49 U.S.C. 32308(c), regarding consumer tire information established under 49 U.S.C. 32304A, is liable to the United States Government for a civil penalty of not more than \$50,000 for each violation.

\* \* \* \* \*

(f) \* \* \*

(1) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order issued thereunder is liable to the United States Government for a civil penalty of not more than \$2,200 for each violation. The maximum civil penalty under this paragraph for a related series of violations is \$150,000.

\* \* \* \* \*

(g) *Vehicle theft protection.* (1) A person that violates 49 U.S.C. 33114(a)(1)–(4) is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. The failure of more than one part of a

single motor vehicle to conform to an applicable standard under 49 U.S.C. 33102 and 33103 is only a single violation. The maximum penalty under this paragraph for a related series of violations is \$375,000.

(2) A person that violates 49 U.S.C. 33114(a)(5) is liable to the United States Government for a civil penalty of not more than \$150,000 a day for each violation.

\* \* \* \* \*

Issued on: June 9, 2009.

**Stephen P. Wood,**

*Acting Chief Counsel.*

[FR Doc. E9–13933 Filed 6–12–09; 8:45 am]

**BILLING CODE 4910–59–P**

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 581**

**[Docket Number NHTSA–2009–0047]**

**Bumper Standard; Petition for Rulemaking**

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

**ACTION:** Request for comments.

**SUMMARY:** On July 1, 2008, the Insurance Institute for Highway Safety (IIHS) petitioned the agency to amend the existing bumper standard, to require compliance by light trucks, vans, and sport utility vehicles (SUVs), which NHTSA often refers to collectively as LTVs. The agency had already begun re-evaluating the bumper standard in anticipation of the vote on a Global Technical Regulation on pedestrian safety. NHTSA requests comments and information to assist the agency in determining whether to grant or deny the IIHS petition.

**DATES:** You should submit your comments early enough to ensure that Docket Management receives them not later than August 14, 2009.

**ADDRESSES:** Comments must refer to the docket notice number cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, ground level, 1200 New Jersey Ave., SE., Washington, DC 20590 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building

Ground Floor, Room W12–140, Washington, DC 20590.

- *Hand Delivery/Courier:* 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 1–800–647–5527.

- *Fax:* (202) 493–2251.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://docketsinfo.dot.gov/>.

*Docket:* For access to the docket to read background documents or comments received, go to the street address listed above. The internet access to the docket will be at <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

**FOR FURTHER INFORMATION CONTACT:** Hisham Mohamed, Consumer Standards Division, National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., West Building, Room W43–437, NVS–131, Washington, DC 20590. Mr. Mohamed’s telephone number is 202–366–0307; E-mail: [hisham.mohamed@dot.gov](mailto:hisham.mohamed@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The agency’s bumper standard, set forth at 49 CFR part 581, establishes requirements for the impact resistance of vehicles in low speed front and rear collisions. The purpose of the standard is to reduce physical damage to the front and rear ends of a passenger motor vehicle from low speed collisions. The standard applies to passenger motor vehicles other than multipurpose passenger vehicles and low speed vehicles.

The history of the Part 581 bumper standard has been long and complex. In its initial efforts in the field of bumper regulation, NHTSA issued Federal