

• Mid America Coach of Kansas City, MO, sells full-size wheelchair vans with a FMVSS No. 220 roll cage.<sup>64</sup>

• Safety Vans, LLC, of Hagerstown, MD, sells vans with reinforced roofs for which “[r]oof load tests (FMVSS 220 compliant) demonstrate how the SafetyVan, under the weight of nearly 6 tons, is still capable of allowing access into and egress from the passenger area!”<sup>65</sup> According to the company, standard features for these vans include them being built on GM’s Model CG 33706—Express/Savanna: Pass. Van Ext. 3500, 9,600 GVW.<sup>66</sup>

Furthermore, the agency conducted a FMVSS No. 220 roof strength test on a Roadtrek Class B MPV motorhome (Test No. 693) with a GVWR of 3,901 kg (8,600 pounds). The motorhome was built on a General Motors incomplete vehicle van body where the multi-stage manufacturer added a raised fiberglass roof to the body. The results of the test showed the vehicle met the 1.5 SWR required under the standard within 130 mm (5.125 inches) of displacement of the load application plate. The test illustrated that it is practicable for multi-stage vehicles with a raised or altered roof and with a GVWR greater than 2,722 kg (6,000 pounds) but less than 4,536 kilograms (10,000 pounds), to conform to the requirements of FMVSS No. 220 as an option.

#### *G. There Is Little Cost for Multi-Stage Manufacturers To Comply With FMVSS No. 216a*

NTEA commented that in proposing to upgrade FMVSS No. 216, the agency ignored more than 20 million dollars in compliance tests primarily placed on small businesses. That organization stated that there are at least 1,085 identifiable vehicle configurations in the affected weight category that would require separate testing. NTEA multiplied this figure by \$5,000 per test plus a vehicle value loss of \$15,000, resulting in a total of \$21,700,000. The 1,085 vehicle configuration number included 798 that were based on chassis-cabs.<sup>67</sup>

These cost projections are grossly exaggerated. As indicated above, testing, as provided in a FMVSS, is not required as a matter of law to certify a vehicle.

<sup>64</sup> <http://www.midamericacoach.com/category/full-size-wheelchair-vans> (last accessed on January 17, 2010).

<sup>65</sup> <http://www.safetyvans.com/index.html> (last accessed on January 17, 2010).

<sup>66</sup> <http://www.safetyvans.com/specs.html> (last accessed on January 17, 2010).

<sup>67</sup> NTEA stated that there are 42 chassis-cab models in the affected weight category that could accommodate 19 different body and/or equipment configurations. Multiplying 42 by 19 results in the 798 number.

A manufacturer may choose any valid means of evaluating its products to determine whether the vehicle or equipment will comply with the safety standards when tested by the agency according to the procedures specified in the standard and to provide a basis for its certification of compliance.

NTEA’s projected costs assume, inaccurately, that pass-through certification is not available for any of its member’s vehicles, and, that they, as final-stage manufacturers, will need to conduct testing for these vehicles. However, for the reasons discussed earlier, final-stage manufacturers will be able to rely on the IVDs for vehicles built using chassis-cabs or incomplete vehicles with a full exterior van body. They will be able to certify their vehicles using pass-through and engineering judgment and will not need to incur testing costs for these vehicles.

Moreover, the agency did not adopt the proposal in the NPRM to extend FMVSS No. 216 to multi-stage trucks with a GVWR greater than 2,722 kilograms (6,000 pounds) not built on a chassis-cab and not built on an incomplete vehicle with a full exterior van body, e.g., those built using cutaways and stripped chassis. Therefore, there will not be any FMVSS No. 216 compliance costs for these vehicles.

As to other multi-stage vehicles, final-stage manufacturers will have the option of certifying with the FMVSS No. 216 test or the FMVSS No. 220 test. The FMVSS No. 220 test option will minimize the costs of compliance for these vehicles. As noted above, these vehicles are used to transport passengers. Various mobility, para-transit and other vehicles were also being designed to meet the FMVSS No. 220 test prior to this rulemaking. Models are produced in sufficient quantities and do not vary such that compliance tests would be required for each variation. In light of the above, the requirements are reasonable. Also, RVIA supported this aspect of the proposal.

We also observe that new procedures adopted by the agency in the 2005 and 2006 certification rules for applying for temporary exemptions are available, although we are not aware of any specific situations in which they would be needed.

#### *H. Conclusion*

While NTEA commented that the proposed upgrade of FMVSS No. 216 would be impracticable for its members, the final rule we adopted is not impracticable for final-stage manufacturers.

Final-stage manufacturers that build their vehicles using chassis-cabs will be able to rely on pass-through certification. A reasonable reading of the provided IVDs demonstrates this, as does the fact of the number of multi-stage vehicles on the road today that are certified to comply with many FMVSSs. In extending FMVSS No. 216 to heavier light vehicles, we did not include trucks other than those built using a chassis-cab or incomplete vehicle with a full exterior van body—a change from the NPRM. Also, for multi-stage vehicles other than those built using chassis-cabs, NHTSA provided an alternative test procedure that is used for school buses and has also been used by a number of States for para-transit buses. Many manufacturers are already building vehicles to this alternative.

Issued: April 2, 2010.

**David L. Strickland,**  
*Administrator.*

[FR Doc. 2010-7907 Filed 4-6-10; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-2009-0093]

RIN 2127-AG51

### Federal Motor Vehicle Safety Standards; Roof Crush Resistance

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** In May 2009 we published a final rule that upgraded the agency’s safety standard on roof crush resistance. In this document, we correct two errors in that rule. We also identify errors in the preamble to that rule.

**DATES:** This rule is effective May 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Christopher J. Wiacek, NHTSA Office of Crashworthiness Standards, telephone 202-366-4801. For legal issues, you may call J. Edward Glancy, NHTSA Office of Chief Counsel, telephone 202-366-2992. You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** On May 12, 2009, as part of a comprehensive plan for reducing the serious risk of rollover crashes and the risk of death and serious injury in those crashes, NHTSA published in the **Federal Register** (74 FR 22348) <sup>1</sup> a final rule substantially upgrading Federal Motor Vehicle Safety Standard (FMVSS) No. 216, *Roof Crush Resistance*. The upgraded standard is designated FMVSS No. 216a.

In this document, we correct two errors in that rule. We also identify errors in the preamble to that rule.

We note that we are also publishing two separate documents related to the May 2009 final rule. One is a fuller response to comments submitted by the National Truck Equipment Association on our proposal to upgrade FMVSS No. 216. The other is a response to petitions for reconsideration of the May 2009 final rule.

### Correcting Amendments

One of the correcting amendments incorporates a provision that was discussed in the preamble but inadvertently omitted from the regulatory text. As explained in the preamble, the agency decided to exclude a narrow category of multi-stage vehicles from FMVSS No. 216, multi-stage trucks with a GVWR greater than 2,722 kilograms (6,000 pounds) not built using a chassis cab or using an incomplete vehicle with a full exterior van body. We included a specific discussion concerning incomplete vehicles with a full exterior van body in the preamble,<sup>2</sup> but the regulatory text inadvertently omitted the reference to incomplete vehicles with a full exterior van body. We are correcting FMVSS No. 216a by adding that phrase at S3.1(a)(4).

The other correcting amendment corrects a cross-reference to the seat positioning procedure for the 50th percentile male dummy of FMVSS No. 214 *Side Impact Protection*. The reference is included in the introductory text of S7.2 of FMVSS No. 216a. As corrected, S7.2 specifically cross-references the seat positioning procedure for the 50th percentile male ES-2re dummy in S8.3.1 of FMVSS No. 214.

### Errors in Preamble

Safety Analysis & Forensic Engineering, LLC (SAFE) brought to our attention errors in the preamble that incorrectly attributed to it the comments of another organization, Safety Analysis,

Inc. Both of these organizations submitted comments.

The errors were included in a section of the preamble titled "Roof Crush as a Cause of Injury" beginning at 74 FR 22378, and in the immediately following section titled "Agency Response" at 74 FR 22379. Each of the references to SAFE in these sections should have been attributed to Safety Analysis, Inc. SAFE noted that there is no affiliation between SAFE and Safety Analysis, Inc. and also stated the most of the positions taken by SAFE in its comments are diametrically opposed to the positions taken by Safety Analysis, Inc. We apologize for these errors.

### List of Subjects in 49 CFR Part 571

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

■ Accordingly, 49 CFR part 571 is corrected by making the following correcting amendments:

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 of title 49 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 571.216a is amended by revising S3.1(a)(4) and S7.2 introductory text to read as follows:

#### § 571.216a Standard No. 216a; Roof crush resistance; Upgraded standard.

\* \* \* \* \*

##### S3.1 Application.

(a) \* \* \*

(4) Trucks built in two or more stages with a GVWR greater than 2,722 kilograms (6,000 pounds) not built using a chassis cab or using an incomplete vehicle with a full exterior van body.

\* \* \* \* \*

S7.2 Adjust the seats in accordance with S8.3.1 of 49 CFR 571.214. Position the top center of the head form specified in S5.2 of 49 CFR 571.201 at the location of the top center of the Head Restraint Measurement Device (HRMD) specified in 49 CFR 571.202a, in the front outboard designated seating position on the side of the vehicle being tested as follows:

\* \* \* \* \*

Issued on: April 2, 2010.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 2010-7909 Filed 4-6-10; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-2009-0093]

### Federal Motor Vehicle Safety Standards; Roof Crush Resistance

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

**ACTION:** Final rule; response to petitions for reconsideration.

**SUMMARY:** This document responds to two petitions for reconsideration of a May 12, 2009 final rule that upgraded the agency's safety standard on roof crush resistance. The first petition requested the agency to reconsider its decision to apply a lower roof strength-to-weight ratio requirement to heavier light vehicles, *i.e.*, ones with a gross vehicle weight rating greater than 2,722 kilograms (6,000 pounds), than to other light vehicles. The second requested reconsideration of that decision as well as the agency's decision not to adopt a dynamic rollover test requirement as part of this rulemaking. After carefully considering the petitions, we are denying them. This document also responds to supplemental requests made by the petitioners.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Christopher J. Wiacek, NHTSA Office of Crashworthiness Standards, telephone 202-366-4801. For legal issues, you may call J. Edward Glancy, NHTSA Office of Chief Counsel, telephone 202-366-2992. You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

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<sup>1</sup> Docket No. NHTSA-2009-0093.

<sup>2</sup> 74 FR at 22373.