

Expiration of the ~~one (1)-year~~ period without filing of the suit. However, such agency head determination does not affect the Contractor's or subcontractor's right to damages against the United States where its restrictive markings are ultimately upheld or to pursue other relief, if any, as may be provided by law.

(iv) The Government agrees that it will be bound by the restrictive marking where an appeal or suit is filed pursuant to the Contract Disputes Act until final disposition by an agency Board of Contract Appeals or the United States Claims Court. Notwithstanding the foregoing, where the head of an agency determines, on a nondelegable basis, following notice to the Contractor that (A) the Contractor has failed to diligently prosecute its appeal, or (B) that urgent or compelling circumstances significantly affecting the interest of the United States will not permit awaiting the decision by such Board of Contract Appeals or the United States Claims Court, the Contractor or subcontractor agrees that the agency may cancel and ignore such restrictive markings as an interim measure pending final adjudication. However, such agency head determination does not affect the Contractor's or subcontractor's right to damages against the United States where its restrictive markings are ultimately upheld or to pursue other relief, if any, as may be provided by law.

(g) *Final disposition of appeal or suit.*

(1) If the Contractor or subcontractor appeals or files suit and if, upon final disposition of the appeal or suit, the Contracting Officer's decision is sustained—

(i) The restrictive marking on the technical data shall be canceled, corrected, or ignored; and

(ii) If the restrictive marking is found not to be substantially justified, the Contractor or subcontractor, as appropriate, shall be liable to the Government for payment of the cost to the Government of reviewing the restrictive marking and the fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Government in challenging the marking, unless special circumstances would make such payment unjust.

(2) If the Contractor or subcontractor appeals or files suit and if, upon final disposition of the appeal or suit, the Contracting Officer's decision is not sustained—

(i) The Government shall continue to be bound by the restrictive marking; and

(ii) The Government shall be liable to the Contractor or subcontractor for payment of fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Contractor or subcontractor in defending the marking, if the challenge by the Government is found not to have been made in good faith.

(h) *Survival of right to challenge.* The Government retains its right to challenge the validity of a restrictive marking asserted under this contract without limitation as to time and without regard to final payment. However, after issuing a decision sustaining the validity of a restrictive marking, the Government agrees not to rechallenge the validity of a restrictive marking under this clause unless additional evidence not

originally available to the Contracting Officer becomes available that indicates the restrictive marking is invalid.

(i) *Privy of contract.* The Contractor or subcontractor agrees that the Contracting Officer may transact matters under this clause directly with subcontractors at any tier that assert restrictive markings. However, this clause neither creates nor implies privy of contract between the Government and subcontractors.

(j) *Flowdown.* The Contractor or subcontractor agrees to insert this clause in subcontracts at any tier requiring the delivery of technical data.

(End of clause)

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. I-204]

Organization and Delegation of Powers and Duties; Federal Highway Administration; Drinking Age and speed Limit

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment delegates to the Federal Highway Administrator certain authorities resulting from the enactment of the Surface Transportation Assistance Act of 1982 (STAA) and an amendment to title 23, United States Code, concerning the national minimum drinking age. The rule also clarifies existing delegations concerning the establishment and certification of enforcement of the national speed limit.

DATE: The effective date of this amendment is October 24, 1985.

FOR FURTHER INFORMATION CONTACT: Becky L. Bentson, Office of the General Counsel, Department of Transportation, Washington, DC, (202) 472-5577.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

The Secretary has determined that certain authority vested in her by the Surface Transportation Assistance Act of 1982 (STAA; Pub. L. 97-424), related to the construction and financing of highways and other matters, and by an amendment to Title 23, United States Code (Pub. L. 98-363), which provides penalties for States that fail to have a minimum age of 21 for consumption and public possession of alcoholic

beverages, should be delegated to the Federal Highway Administrator. The Federal Highway Administrator's authority to (1) certify enforcement of speed limits, (2) withhold Federal-aid highway funds from States whose data exhibits an overly high percentage of drivers exceeding the speed limit and, (3) withhold Federal-aid highway funds from States who fail to enact a minimum age 21 drinking law, will be subject to the concurrence of the National Highway Traffic Safety Administrator. Finally, a reference to section 22 of the Urban Mass Transportation Act of 1964 contained in § 1.48(r)(3) has been deleted since the section has been repealed.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended to read as follows:

PART 1-[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

§ 1.48 Delegations to Federal Highway Administrator.

The Federal Highway Administrator is delegated authority to—

(b) Administer the following sections of Title 23, U.S.C.:

(23) 141, with the concurrence of the National Highway Traffic Safety Administrator as it relates to certification of the enforcement of speed limits:

(27) 146 through 152 and 155 through 157, inclusive;

(28) 154 and 158 each with the concurrence of the National Highway Traffic Safety Administrator;

(c) Administer the following laws relating generally to highways:

(2) Sections 103, 104, 11(b), 128(b), 131, 133(b), 135, 136, 141, 147, 149, 154, 158, 159, 160, 161, 163, 203, 206, 401 and 402 of the Federal-Aid Highway Act of 1973, as amended (Pub. L. 93-87, 87 Stat. 250; Pub. L. 93-643, 88 Stat. 2281).

(19) The Surface Transportation Assistance Act of 1982, Pub. L., 97424, as amended,

2. Section 1.48 is amended by revising paragraphs (b) (23) and (27), (c) (2) and (19) and (r)(3); redesignating paragraphs (b)(28)-(34) as (b)(29)-(35); and adding new paragraph (b)(28) to read as follows. The introductory text of the section and the introductory text of paragraphs (b) and (c) are reprinted for the convenience of the reader.

(i) except sections 165 and 531 as they relate to matters within the primary responsibility of the Urban Mass Transportation Administrator: 105(f), 413; 414(b) (1) and (2); 421, 426, and Title III; and

(ii) Section 414(b)(1), with the concurrence of the National Highway Traffic Safety Administrator;

(r) * * *

(3) Section 18 as it relates to the formula grant program for non-urbanized areas in the Commonwealth of Puerto Rico.

* * * * *

Issued in Washington, DC, on October 11, 1985.

Elizabeth Hanford Dole,
Secretary of Transportation.
[FR Doc. 85-25198 Filed 10-23-85; 8:45 am]
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National Highway Traffic Safety Administration

49 CFR Parts 541 and 567

[Docket No. T84-01; Notice 71]

Vehicle Theft Prevention Standard and Selection of Covered Major Parts—Motor Vehicle Theft Law Enforcement Act of 1984

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

SUMMARY: This rule establishes a vehicle theft prevention standard, as required by the Motor Vehicle Theft Law Enforcement Act of 1984. The standard contains performance requirements for inscribing or affixing identification numbers onto original equipment major parts and the replacement parts for those original equipment parts on passenger motor vehicle lines selected as high theft lines. The rule also specifies which parts are the major parts that must be so identified. Finally, it sets forth the manner and form for certifying compliance with the standard.

DATE: This rule is effective on and after April 24, 1986. This means that the theft prevention standard applies to passenger cars and major replacement

parts beginning with the 1987 model year.

Any petitions for reconsideration of this rule must be received by NHTSA not later than November 25, 1985.

ADDRESS: Send petitions to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Brian McLaughlin, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-426-1740).

SUPPLEMENTARY INFORMATION:

The Motor Vehicle Theft Law Enforcement Act of 1984

The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act; Pub. L. 98-547) added Title VI to the Motor Vehicle Information and Cost Savings Act (Cost Savings Act). Title VI requires NHTSA, by delegation from the Secretary of Transportation, to promptly complete a series of rulemaking actions designed to mount a comprehensive attack on the problem of vehicle theft: This rule contains the most significant of those mandated rulemaking actions, the theft prevention standard setting forth the performance criteria for affixing or inscribing covered major parts of passenger motor vehicles with identifying numbers or symbols, as required by section 602 of the Cost Savings Act (15 U.S.C. 2022).

Additionally, this rule carries out the following statutory mandate:

- (1) It identifies the major parts which must be marked, as specified in section 603(a)(2);
- (2) It establishes the cost limitation for marking major replacement parts, as specified in section 604; and
- (3) It establishes the form and manner of certifying compliance with the theft prevention standard, as specified in section 606(c) of the Cost Savings Act.

The Notice of Proposed Rulemaking

To carry out these statutory mandates, NHTSA published a notice of proposed rulemaking (NPRM) at 50 FR 19728, May 10, 1985. The agency has received more than 240 comments on the NPRM, representing the opinions of vehicle and parts manufacturers, law enforcement groups, insurers, automobile dealers, members of Congress, direct importers of vehicles, and individual consumers. "Direct importers" are individuals and commercial enterprises that obtain foreign cars not originally manufactured for sale in the United States, bring those cars into this country under bond, and

modify the cars so that they can be certified as being in compliance with the U.S. vehicle safety, emissions, and bumper standards. Each of these comments has been considered and the most significant points are addressed below.

The NPRM contained a detailed background discussion of the provisions of the Theft Act and explained in detail the agency's rationale for proposing each of the requirements. This preamble follows the same organizational format used in the NPRM, so that readers can easily compare the two documents. A brief summary highlighting the most important points of this final rule follows.

Highlights of This Final Rule

1. Markings for Covered Original Equipment Major Parts

Original equipment covered major parts must be marked with the full 17-character US. vehicle identification number (VIN), except for engines and transmissions used by certain manufacturers. Manufacturers marking engines and transmissions with a VIN derivative, consisting of at least the last 8 characters of the VIN, as of the enactment date of the Theft Act may continue to use those derivatives. Section 604(b) of the Cost Savings Act provides that manufacturers engaged in identifying their engines and transmissions in a manner which "substantially complies" with the requirements of this standard shall not be required to conform to any identification system which imposes greater costs than those being incurred under the "substantially complying" identification system. NHTSA deems 8-character VIN derivatives to be substantially in compliance with this standard.

The performance requirements for both labels and other markings have been adopted substantially as proposed in the NPRM.

The only noteworthy difference is in the "footprint" requirement for labels. In response to the comments, the proposed requirement has been clarified in this final rule. Removal of a label must leave some residual part of the label or adhesive on the part, such that an investigator could defect that a label was originally present on the part.

2. Covered Major Parts

This standard specifies 14 major parts as the covered major parts which must be marked, if present, on all vehicles in lines selected as high theft lines. Those 14 parts consist of the 12 major parts

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[49 CFR Part 11

(OST Docket No. 1; Amdt. 1-204)

ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

AGENCY: Department of Transportation (DOT), Office of the Secretary

ACTION: Final Rule

SUMMARY: This amendment delegates to the Federal Highway Administrator certain authorities resulting from the enactment of the Surface Transportation Assistance Act of 1982 (**STAA**) and an amendment to title 23, United States Code, concerning the national minimum drinking age. The rule also clarifies existing delegations concerning the establishment and certification of enforcement of the national speed limit.

DATE: The effective date of this amendment is the date of publication.

FOR FURTHER INFORMATION CONTACT: Becky L. **Bentson**, Office of the General Counsel, Department of Transportation, Washington, **D. C.**, (202) 472-5577.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the Federal Register.

The Secretary has determined that certain authority vested in her by the Surface Transportation Assistance Act of 1982 (**STAA; P.L. 97-424**), related to the construction and financing of highways

and other matters, and by an amendment to Title 23, United **States** Code, (**P. L. 98-363**), which provides penalties for States that fail to **have** a minimum age of 21 for consumption and public possession of alcoholic beverages, should be delegated to the Federal Highway Administrator. The Federal Highway Administrator's authority to **1)** certify enforcement of speed limits, **2)** withhold Federal-aid highway **funds** from states whose data exhibits an overly high percentage of drivers exceeding the speed limit and, **3)** withhold Federal&aid highway funds from states who fail to enact a minimum age 21 drinking law, will be subject to the concurrence **of** the National Highway Traffic Safety Administrator. Finally, a reference to Section 22 of the Urban Mass Transportation Act of 1964 contained in **1.48(r)(3)** has been deleted since the section has been repealed.

List of Subjects in 49 CFR Part 1:

Authority delegations (government agencies);

Organization and functions (government agencies);

Transportation Department

Part 1 - [AMENDED] The authority of Part 1 continues to read as follows:

AUTHORITY:

49 U.S.C. **§322**

In consideration of the foregoing, Section 1.48 of Part 1 of Title 49, Code of Federal Regulations, is amended to read as follows:

§1.48. Delegations to Federal Highway Administrator.

The Federal Highway Administrator is delegated authority
to-

* * * * *

(b) Administer the following sections of Title 23, U.S.C.:

* * *

(23) 141, with the concurrence of the National Highway Traffic Safety Administrator as it relates to certification of the enforcement of speed **limits**;

* * *

(27) 146 through 152 and 155 through 157, inclusive:

(28) 154 and 158 each with the concurrence of the National Highway **Traffic** Safety Administrator;

(Redesignate existing (b)(28) through (34) as (b) (29) through (35).)

* * *

(c) Administer the following laws relating **generally** to highways:

* * *

(2) Sections 103, 104, **11(b)**, 128(b), 131, 133(b), 135, 136, 141, 147, 149, 154, 158, 159, 160, 161, 163, 203, 206, 401 and 402 of the Federal-Aid Highway Act of 1973, as amended (**P.L.** 93-87, 87 Stat. 250; P.L. 93-643, 88 Stat. 2281).

* * *

(19) The Surface Transportation Assistance Act of 1982, P.L.. 97-424, as amended,

(i) except sections 165 and 531 as they relate to matters within the primary responsibility of the Urban Mass Transportation Administrator; 105(f), 413; 414(b)(1) and (2); 421, 426, and Title III; and

(ii) Section 414(b)(1), with the concurrence of the National Highway Traffic Safety Administrator;

* * *

(r) (3) Section 18 as it relates to the formula grant program for non-urbanized areas in the Commonwealth of Puerto Rico.

Issued in Washington, DC, on October 11, 1985.



Elizabeth H. Dole

Elizabeth Hanford Dole

Secretary of Transportation