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MOTOR VEHICLE SAFETY ACT

Regulations Amending the Motor Vehicle Safety Regulations (Various Amendments)

P.C. 2009-1893 November 26, 2009

Whereas, pursuant to subsection 11(3) of the *Motor Vehicle Safety Act* (see footnote a), a copy of the proposed *Regulations Amending the Motor Vehicle Safety Regulations (Various Amendments)*, substantially in the form set out in the annexed Regulations, was published in the *Canada Gazette*, Part I, on May 2, 2009 and a reasonable opportunity was thereby afforded to interested persons to make representations to the Minister of Transport with respect to the proposed Regulations;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to subsection 11(1) of the *Motor Vehicle Safety Act* (see footnote b), hereby makes the annexed *Regulations Amending the Motor Vehicle Safety Regulations (Various Amendments)*.

REGULATIONS AMENDING THE MOTOR VEHICLE SAFETY REGULATIONS (VARIOUS AMENDMENTS)

AMENDMENTS

1. (1) The definition “dispositif de frein anti-blocage” ou “ABS” in subsection 2(1) of the French version of the *Motor Vehicle Safety Regulations* (see footnote 1) is repealed.

(2) The definition “engine type” in subsection 2(1) of the Regulations is replaced by the following:

“engine type” means a power source distinguished by the fuel utilized, number of cylinders, displacement, net power or other characteristics; (*type de moteur*)

(3) The definitions “autobus scolaire” and “masse du véhicule sans charge” in subsection 2(1) of the French version of the Regulations are replaced by the following:

“autobus scolaire” Autobus conçu ou équipé principalement pour le transport des élèves pour aller à l'école et en revenir. (*school bus*)

“masse du véhicule sans charge” Masse d'un véhicule dont les réservoirs sont remplis à capacité des liquides nécessaires à son fonctionnement, mais sans chargement ni occupant. (*unloaded vehicle mass*)

(4) The expression “(*dispositif de frein anti-blocage ou ABS*)” at the end of the definition “antilock brake system” or “ABS” in subsection 2(1) of the English version of the Regulations is replaced by “(*dispositif de frein antiblocage ou ABS*)”.

(5) Subsection 2(1) of the French version of the Regulations is amended by adding the following in alphabetical order:

« dispositif de frein antiblocage » ou « ABS » S'entend de la partie d'un système de frein de service qui contrôle automatiquement le niveau de glissement d'une ou de plusieurs roues lors du freinage de la manière suivante :

a) en détectant la vitesse angulaire de rotation des roues;

b) en transmettant des signaux relatifs à la vitesse angulaire de rotation des roues à un ou plusieurs dispositifs de commande qui interprètent ces signaux et produisent en réaction des signaux de commande;

c) en transmettant ces signaux de commande à un ou plusieurs modulateurs qui règlent l'énergie nécessaire pour activer les freins en réaction à ces signaux. (*antilock brake system or ABS*)

(6) Subsection 2(2) of the Regulations is repealed.

2. Sections 2.1 and 2.2 of the Regulations are replaced by the following:

METRIC OR IMPERIAL SYSTEM

2.1 If, in the application to a vehicle of a portion of a section of these Regulations or a portion of a provision of a technical standards document, either the metric or the imperial system of measurement is used, the same system of measurement shall be used in the application to the vehicle of any other portion of the section or provision.

NUMBER OF WHEELS

2.2 Two wheels are considered to be one wheel if they are mounted on the same axle and the distance between the centres of their areas of contact with the ground is less than 460 mm.

DESIGNATED SEATING CAPACITY

2.3 In the case of any bench or split-bench seat having more than 1 270 mm of hip room, as measured in accordance with sections 6.1.34, 6.2.31 and 6.4.27 of SAE Recommended Practice J1100, *Motor Vehicle Dimensions* (February 2001), in a passenger car, truck or multi-purpose passenger vehicle having a GVWR of less than 4 536 kg, the seat shall be deemed to contain not less than three designated seating positions unless the seat design or vehicle design is such that the central space is not capable of being used as a seating position.

PRESCRIBED CLASS OF A VEHICLE

2.4 (1) In order to determine the prescribed class of a vehicle, any space in the vehicle designed for use by a person in a wheelchair is deemed to contain four designated seating positions for the purpose of determining the designated seating capacity if

(a) the vehicle was designed to have a designated seating capacity of more than 10; and

(b) any of the intended designated seating positions are replaced by a space designed for use by a person in a wheelchair.

(2) In order to determine the prescribed class of a vehicle resulting from the alteration of a bus by the replacement of any designated seating position with a space designed for use by a person in a wheelchair, the space may, at the option of the manufacturer, be considered to be equivalent to four designated seating positions for the purpose of calculating the designated seating capacity.

3. (1) Paragraph 15(1)(b) of the Regulations is replaced by the following:

(b) the prescribed class of each vehicle in respect of which the notice is given and the vehicle's make, model, model year and vehicle identification number, the period during which it was manufactured and any other information necessary to permit its identification;

(2) Paragraph 15(2)(a) of the Regulations is replaced by the following:

(a) the number of vehicles affected by the notice of defect and the number of those vehicles in each prescribed class;

4. The portion of item 116 of Schedule III to the Regulations in column II is replaced by the following:

Item (CMVSS)	Description
116	Motor Vehicle Brake Fluids

5. The portion of item 123 of Schedule III to the English version of the Regulations in column II is replaced by the following:

Column I	Column II
Item (CMVSS)	Description
123	Motorcycle Controls and Displays

6. The portion of item 305 of Schedule III to the French version of the Regulations in column II is replaced by the following:

Colonne I	Colonne II
Article (NSVAC)	Description
305	Déversement d'électrolyte et protection contre les décharges électriques

7. The portion of item 401 of Schedule III to the French version of the Regulations in column II is replaced by the following:

Colonne I	Colonne II
Article (NSVAC)	Description
401	Mécanisme de déverrouillage interne du coffre

8. The table to subsection 106(2) of Schedule IV to the Regulations is replaced by the following:

TABLE

Item	Column 1	Column 2
1.	ASTM B 117 – 03, <i>Standard Practice for Operating Salt Spray (Fog) Apparatus</i>	ASTM B 117 – 07a, <i>Standard Practice for Operating Salt Spray (Fog) Apparatus</i>
2.	ASTM D 471 – 98 ^{E1} , <i>Standard Test Method for Rubber Property – Effect of Liquids</i>	ASTM D 471 – 06 ^{E1} , <i>Standard Test Method for Rubber Property – Effect of Liquids</i>
3.	ASTM D 4329 – 99, <i>Standard Practice for Fluorescent UV Exposure of Plastics</i>	ASTM D 4329 – 05, <i>Standard Practice for Fluorescent UV Exposure of Plastics</i>
4.	ASTM E 4 – 03, <i>Standard Practices for Force Verification of Testing Machines</i>	ASTM E 4 – 08, <i>Standard Practices for Force Verification of Testing Machines</i>
5.	ASTM G 151 – 97, <i>Standard Practice for Exposing Nonmetallic Materials in Accelerated Test Devices that Use Laboratory Light Sources</i>	ASTM G 151 – 06, <i>Standard Practice for Exposing Nonmetallic Materials in Accelerated Test Devices that Use Laboratory Light Sources</i>
6.	ASTM G 154 – 00, <i>Standard Practice for Operating Fluorescent Light Apparatus for UV Exposure of Nonmetallic Materials</i>	ASTM G 154 – 06, <i>Standard Practice for Operating Fluorescent Light Apparatus for UV Exposure of Nonmetallic Materials</i>

9. The portion of item 4 of the table to subsection 116(2) of Schedule IV to the Regulations in column 2 is replaced by the following:

Item	Column 2
4.	ASTM D 1193 – 06, <i>Standard Specification for Reagent Water</i>

10. The portion of item 6 of the table to subsection 116(2) of Schedule IV to the Regulations in

column 2 is replaced by the following:

Item Column 2

6. ASTM D 446 – 07, *Standard Specifications and Operating Instructions for Glass Capillary Kinematic Viscometers*
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11. Subsection 123(14) of Schedule IV to the Regulations is replaced by the following:

(14) Despite S5.2.5 of TSD 123, it is not necessary for a footrest for a passenger on a motorcycle to fold rearward and upward when not in use.

12. The portion of item 6 of the table to subsection 209(7) of Schedule IV to the Regulations in column 2 is replaced by the following:

Item Column 2

6. ASTM G 152 – 06, *Standard Practice for Operating Open Flame Carbon Arc Light Apparatus for Exposure of Nonmetallic Materials*
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13. (1) The heading before section 305 of Schedule IV to the French version of the Regulation is replaced by the following:

DÉVERSEMENT D'ÉLECTROLYTE ET PROTECTION CONTRE LES DÉCHARGES ÉLECTRIQUES (NORME 305)

(2) Section 305 of Schedule IV to the Regulations is replaced by the following:

305. (1) Every passenger car and three-wheeled vehicle, and every multi-purpose passenger vehicle, truck and bus with a GVWR of 4 536 kg or less, that uses a nominal voltage of more than 60 volts direct current (VDC) or more than 30 volts alternating current (VAC) for its propulsion and that has an attainable speed of more than 40 km/h over a distance of 1.6 km on a paved level surface shall conform to the requirements of *Technical Standards Document No. 305, Electrolyte Spillage and Electrical Shock Protection* (TSD 305), as amended from time to time.

(2) S6.2, S6.3, S7.4 and S7.5 of TSD 305 do not apply to a three-wheeled vehicle.

(3) Instead of complying with S7.2.3 of TSD 305, a three-wheeled vehicle, including test devices and instrumentation, shall be loaded to its unloaded vehicle weight, except that the vehicle fuel tank shall be filled to not less than 90 per cent and not more than 95 per cent of the vehicle fuel tank capacity.

(4) Instead of being tested in accordance with S6.2 of TSD 305, a vehicle referred to in subsection (1), other than a three-wheeled vehicle, may be tested in accordance with the requirements of S6.2(b) of TSD 301, except the fuel spillage requirements, under the applicable conditions set out in S7.3(b) of TSD 301.

(5) A vehicle tested in accordance with subsection (4) shall conform to the requirements of S5.1, S5.2 and S5.3 of TSD 305.

(6) This section expires on June 1, 2013.

14. Subsection 401(3) of Schedule IV to the Regulations is replaced by the following:

(3) This section does not apply to vehicles equipped with a back door. For the purposes of this subsection, "back door" has the same meaning as in TSD 401.

15. Subparagraphs 2(b)(i) to (iii) of Schedule V.1 to the Regulations are replaced by the following:

(i) section 3 of *Test Method 1106 — Noise Emission Tests* (August 2005), the exterior sound level does not exceed 83 dBA when a value of 2 dBA is subtracted from the highest average sound level recorded during the test, in the case of a bus with a GVWR of more than 4 536 kg,

(ii) SAE Recommended Practice J986, *Sound Level for Passenger Cars and Light Trucks* (August 1994), or SAE Standard J1470, *Measurement of Noise Emitted by Accelerating Highway Vehicles* (March 1992), the exterior

sound level does not exceed 83 dBA when a value of 2 dBA is subtracted from the highest average sound level recorded during the test, in the case of a bus, multi-purpose passenger vehicle, truck or incomplete vehicle fitted with a cab with a GVWR of more than 2 722 kg and not more than 4 536 kg, and

(iii) SAE Recommended Practice J986, *Sound Level for Passenger Cars and Light Trucks* (August 1994), or SAE Standard J1470, *Measurement of Noise Emitted by Accelerating Highway Vehicles* (March 1992), the exterior sound level does not exceed 80 dBA when a value of 2 dBA is subtracted from the highest average sound level recorded during the test, in the case of a passenger car regardless of its GVWR or any other vehicle with a GVWR of 2 722 kg or less.

16. Subparagraphs 3(b)(i) and (ii) of Schedule V.1 to the French version of the Regulations are replaced by the following:

(i) aux essais prévus à l'appendice I-2, sous-parties D et E, partie 205, chapitre I, titre 40 du *Code of Federal Regulations* des États-Unis, tel qu'il a été modifié par le vol. 45, n° 252, du *Federal Register* des États-Unis, publié le 31 décembre 1980, pages 86727 et 86728, le niveau sonore extérieur n'est pas supérieur à 70 dBA, dans le cas d'une motocyclette avec une cylindrée d'au plus 50 cm³ et une vitesse maximale de 48 km/h sur une surface asphaltée plane,

(ii) aux essais prévus à l'appendice I-1, sous-parties D et E, partie 205, chapitre I, titre 40 du *Code of Federal Regulations* des États-Unis, tel qu'il a été modifié par le vol. 45, n° 252, du *Federal Register* des États-Unis, publié le 31 décembre 1980, pages 86726 et 86727, le niveau sonore extérieur n'est pas supérieur à 80 dBA, dans les autres cas.

17. (1) The portion of section 4 of Schedule V.1 to the Regulations before paragraph (a) is replaced by the following:

4. Every multi-purpose passenger vehicle, truck or incomplete vehicle fitted with a cab, with a GVWR of more than 4 536 kg, shall be constructed so that

(2) Subparagraphs 4(a)(i) to (iii) of Schedule V.1 to the Regulations are replaced by the following:

(i) 81 dBA, in the case of a vehicle with an engine that produces less than 75 kW,

(ii) 83 dBA, in the case of a vehicle with an engine that produces at least 75 kW but less than 150 kW, and

(iii) 84 dBA, in the case of a vehicle with an engine that produces 150 kW or more; or

(3) Paragraph 4(b) of Schedule V.1 to the Regulations is replaced by the following:

(b) where the vehicle is tested in accordance with the low speed sound emission test procedures set out in section 205.54-1, subpart B, part 205, chapter I, title 40 of the United States *Code of Federal Regulations* (revised as of December 5, 1977), the exterior sound level does not exceed 80 dBA.

18. Section 5 of Schedule V.1 to the Regulations is replaced by the following:

5. Every truck or bus with a GVWR of more than 4 536 kg shall be so constructed that, where tested in accordance with section 4 of *Test Method 1106 — Noise Emission Tests* (August 2005), the interior sound level at the driver's seating position does not exceed 90 dBA when a value of 2 dBA is subtracted from the average sound level obtained in accordance with the test.

19. The French version of the Regulations is amended by replacing "anti-blocage" with "antiblocage" in the following provisions:

(a) paragraph 101(2)(k) of Schedule IV;

(b) paragraph 101(9)(j) of Schedule IV;

(c) Table II to section 101 of Schedule IV;

(d) subsection 105(4) of Schedule IV;

(e) subsections 121(3) and (4) of Schedule IV; and

(f) subsection 135(5) of Schedule IV.

COMING INTO FORCE

20. These Regulations come into force on the day on which they are published in the *Canada Gazette*, Part II.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Issue and objectives

This amendment introduces several minor amendments to the *Motor Vehicle Safety Regulations* to clarify and correct various existing Regulations. In addition, this amendment introduces a new means of calculating the designated seating capacity to include the space designed for use by a person in a wheelchair.

Description and rationale

This amendment introduces a number of minor adjustments to the existing Regulations to correct inconsistencies between the English and French versions, make clarifications of intent, and reflect new technology, including the following changes:

- Clarifying the French version of the definitions of "autobus scolaire", "masse du véhicule sans charge", "type de moteur" and "dispositif de frein anti-blocage" and the English version of "engine type" in subsection 2(1) of the Regulations;
- Replacing "identifying classification" and "catégorie" in paragraphs 15(1)(b) and 15(2)(a) of the *Motor Vehicle Safety Regulations* by "prescribed class" and "catégorie réglementaire", to clarify that these provisions are intended to refer only to the vehicles prescribed by schedule III;
- Updating the references in several Canadian safety standards to allow manufacturers to use more recent versions of industry standards such as the American Society for Testing and Materials (ASTM) standards;
- Amending the Canadian safety standard 123, *Motorcycle Controls and Displays*, by exempting passenger footrests from the requirement of being foldable when not in use and also updating the English title in Schedule III;
- Amending the Canadian safety standard 305, *Electrolyte Spillage and Electrical Shock Protection*, which prescribes crash testing requirements for electric vehicles, by clarifying the minimum voltage to identify an electric vehicle which requires testing, distinguishing between direct and alternating electric circuits and also updating its expiration date for a further five-year period. This change offers more flexibility to manufacturers to implement new technology; the title of the French version also changes;
- Amending section 401 so that it refers to the definition "back door" (*porte arrière*) noted in the Technical Standards Document (TSD) 401; introducing the revision 2 of the Technical Standards Document 401 to reintroduce the definition "back door" (*porte arrière*); and
- Removing the terms "heavy-duty vehicle" (*véhicule lourd*) and "light-duty vehicle" (*véhicule léger*) referred to in Schedule V.1 to the Regulations and instead referring to specific vehicles since the understanding of these terms is not consistent among the manufacturers.

This amendment introduces a new means of calculating the designated seating capacity of a vehicle to include the space designed for use by a person in a wheelchair. This will assist in properly classifying vehicles equipped with any space designed for use by a person in a wheelchair. The space required for a wheelchair limits the seating capacity of a vehicle, which is one of the variables used to determine its vehicle class. For example, given that a bus is defined as a vehicle having a designated seating capacity of more than ten occupants, it is often problematic for a manufacturer to classify a vehicle built to accommodate wheelchairs as a bus because it does not always reach the minimum seating capacity of eleven spaces. As a result, this can force a vehicle, which would normally be classified as a bus, to be classified as another type of vehicle to which different safety standards would apply. This amendment specifies that for the purpose of calculating the designated seating capacity of a vehicle in order to establish its prescribed class, any space designed for use by a person in a wheelchair could be considered equivalent to four designated seating positions.

As these amendments are aligned with similar requirements in the United States, they will not introduce any

technical barriers to trade. Also, it is not expected that there will be any additional costs associated with these proposed amendments. The revisions to the Regulations are administrative in nature. The introduction of the method of calculating the designated seating capacity is also not expected to introduce any additional costs, but rather will benefit the disabled community as well as Canadian bus and school bus manufacturers. This method will aid in ensuring that vehicles that are equipped with any space designed for use by a person in a wheelchair are properly classified. Proper classification of buses will ensure that Canadians have access to the proper additional safety features such as emergency exits.

Under the Department's Strategic Environmental Assessment policy, a preliminary evaluation of the possible effects of these proposed amendments was done. It was determined that the proposed amendments will have no impact on the environment.

Consultation

The Department of Transport informs the automotive industry, public safety organizations, and the general public when changes are planned to the Regulations. This gives them the opportunity to comment on these changes by letter or email. The Department also consults regularly with the automotive industry, public safety organizations, the provinces, and the territories in face-to-face meetings or in teleconferences.

In addition, the Department meets regularly with the federal authorities of other countries. Given that harmonized regulations are key to trade and to a competitive Canadian automotive industry, the Department and the United States Department of Transportation hold semi-annual meetings to discuss problems of mutual interest and planned regulatory changes. In addition, departmental officials participate in and support the development of Global Technical Regulations, which are developed by the World Forum for the Harmonization of Vehicle Regulations under the direction of the United Nations Economic Commission for Europe.

Department of Transport officials have consulted with bus manufacturers regarding the proposal to amend the method of calculating the designated seating capacity for wheelchair-accessible vehicles. This requirement is a result of these consultations and stakeholders are supportive. There has been no specific consultation in regards to the other proposed amendments. However, stakeholders are kept informed of the intention to move forward with the amendments through the Department of Transport Regulation Plan. This plan is distributed quarterly.

The Department has received one comment and no concerns were identified following the *Canada Gazette*, Part I publication on May 2, 2009. Thus, no changes have been made since the publication of the proposal in the *Canada Gazette*, Part I other than minor modifications to the definition of "dispositif de frein anti-blocage", changes to the English title of standard 123 in Schedule III and the French title of standard 305.

Implementation, enforcement and service standards

Motor vehicle manufacturers and importers are responsible for ensuring that their products conform to the requirements of the *Motor Vehicle Safety Regulations*. The Department of Transport monitors self-certification programs of manufacturers and importers by reviewing their test documentation, inspecting vehicles, and testing vehicles obtained in the open market. In addition, when a defect in a vehicle or equipment is identified, the manufacturer or importer must issue a Notice of Defect to the owners and to the Minister of Transport, Infrastructure and Communities. If a vehicle does not comply with a Canadian safety standard, the manufacturer or importer is liable to prosecution and, if found guilty, may be fined as prescribed in the *Motor Vehicle Safety Act*.

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[Footnote a](#)
S.C. 1993, c. 16

[Footnote b](#)

S.C. 1993, c. 16

[Footnote 1](#)

C.R.C., c. 1038

NOTICE:

The format of the electronic version of this issue of the *Canada Gazette* was modified in order to be compatible with extensible hypertext markup language (XHTML 1.0 Strict).

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