

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Accounting and Audits Division, Common Carrier Bureau, (202) 418-0844.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1997, the Commission published a Report and Order, which defined the "Indexed revenue threshold for a given year" in § 32.9000, Glossary of terms. This new definition in § 32.9000 is the subject of this correction.

Correction

Accordingly, in the publication of 62 FR 39776, July 24, 1997 of the final rule on page 39777, column 3, remove instruction number 3, and on page 39778, in the final column, remove the definition in § 32.9000 for "Index revenue threshold for a given year."

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97-25738 Filed 9-29-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 64

[CC Docket No. 90-337, FCC 96-459]

Regulation of International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission amended its rules to permit U.S. carriers to negotiate alternative settlement payment arrangements. Certain of these rules contained new and modified information collection requirements. These rules became effective on March 21, 1997.

EFFECTIVE DATE: The amendments to 47 CFR §§ 43.61 and 64.1002 became effective on March 21, 1997 (62 FR 5535, February 6, 1997).

FOR FURTHER INFORMATION CONTACT: Kathryn O'Brien, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418-1470.

SUPPLEMENTARY INFORMATION: On November 26, 1996, the Commission adopted an order permitting flexibility in international accounting rate policies, a summary of which was published in the **Federal Register**. See 62 FR 5535, February 6, 1997. Certain amendments

to the Commission's rules imposed new or modified information collection requirements. We stated that "the amendments to §§ 43.61 and 64.1002 take effect either upon approval by the Office of Management and Budget (OMB) or March 10, 1997, whichever occurs later. When approval is received, the agency will publish a document announcing the effective date." The information collections were approved by OMB on March 21, 1997. See OMB Nos. 3060-0106 and 3060-0764. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules.

List of Subjects in 47 CFR Parts 43 and 64

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97-25679 Filed 9-29-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 87-124; FCC 97-242]

Access to Telecommunications Equipment and Services by Persons With Disabilities (Hearing Aid Compatibility); Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of August 14, 1997 (62 FR 43481), an *Order on Reconsideration* that amended rules for the provision of telephones with volume control. This document corrects a typographical error in the regulatory text of the amended rules.

EFFECTIVE DATE: September 30, 1997.

FOR FURTHER INFORMATION CONTACT: Andy Firth, Attorney, 202/418-1898, Fax 202/418-2345, TTY 202/418-2224, afirth@fcc.gov, Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: In FR Doc. 97-20899, published in the **Federal Register** of August 14, 1997 (62 FR 43481), a typographical error appeared in § 68.112(b)(3) of the amended rules. The following correction removes the error.

Correction

§ 68.112 [Corrected]

On page 43484, in the second column, in § 68.112, in paragraph (b)(3)(iii) introductory text, line 3, the reference "(b)(3)(i)(A)" is corrected to read "(b)(3)(i)".

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97-25790 Filed 9-29-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket 85-06; Notice 13]

RIN 2127-AG35

Federal Motor Vehicle Safety Standards; Hydraulic Brake Systems; Passenger Car Brake Systems

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

ACTION: Final rule.

SUMMARY: This document extends the requirements of Federal motor vehicle safety standard (FMVSS) No. 135, Passenger Car Brake Systems, to trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 3,500 kilograms (7,716 pounds) or less. Manufacturers of such vehicles have the option of complying with either FMVSS No. 105, Hydraulic Brake Systems, or FMVSS No. 135 for an interim period of five years, after which all such vehicles with a GVWR of 3,500 kilograms or less must comply with FMVSS No. 135. This amendment is consistent with the agency's policy of achieving international harmonization whenever such harmonization is also consistent with the statutory authority to ensure motor vehicle safety.

DATES: Effective Date: The amendments of this final rule are effective December 1, 1997. As of this date, manufacturers have the option of complying with either FMVSS No. 105 or FMVSS No. 135. Compliance with FMVSS No. 135 becomes mandatory on September 1, 2002.

Petitions for Reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than November 14, 1997.

ADDRESSES: Petitions for reconsideration should be submitted to: Administrator,

National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel Daniel, Jr., Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington D.C. 20590 (202) 366-4921.

SUPPLEMENTARY INFORMATION:

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I. Background

A. History of FMVSS No. 135

On February 2, 1995, NHTSA published in the **Federal Register** (60 FR 6411) a final rule (Docket 85-06, Notice 8) to establish Federal motor vehicle safety standard (FMVSS) No. 135, Passenger Car Brake Systems. The intent of the new standard is to provide international harmonization of light passenger vehicle brake system test procedures and requirements. Although Standard No. 135 currently applies to passenger cars only, the agency stated in the final rule preamble that it would consider applying FMVSS No. 135 to additional light vehicles at a later date. A petition for reconsideration filed by General Motors (GM) in response to the final rule included the recommendation that the standard be extended to cover light trucks and vans (LTVs). GM indicated that the harmonized European light vehicle standard, Economic Commission for Europe (ECE) Regulation, R13-H, is applicable to passenger cars and vehicles that are analogous to LTVs in this country.

In this final rule, after considering the public comments to the Notice of Proposed Rulemaking (NPRM), Notice 11 of Docket 85-06, NHTSA has extended the applicability of FMVSS

No. 135 to LTVs with a GVWR of 3,500 kilograms or less. This document explains the changes incorporated in the final rule and the reasons for the agency's decision.

B. Harmonization of U.S. and European Braking Regulations

In order to eliminate any unnecessary non-tariff barriers to trade in accordance with the General Agreement on Tariffs and Trade (GATT), the United States has participated in discussions held within the Meeting of Experts on Brakes and Running Gear (GRRF) of the United Nations Economic Commission for Europe (ECE). As a result of these discussions, NHTSA has developed and published FMVSS No. 135 for passenger cars, and the GRRF has also developed and published a new Regulation, R13-H, which would be compatible with FMVSS No. 135.

NHTSA has emphasized throughout the rulemaking that any requirements it adopts must also be consistent with the need for safety and the Safety Act. The agency repeats that safety will not be compromised in its efforts to harmonize the FMVSS with ECE Regulations.

C. Summary of Notice of Proposed Rulemaking

On May 2, 1996, NHTSA published in the **Federal Register** (61 FR 19602) an NPRM (Docket 85-06, Notice 11) proposing to apply FMVSS No. 135 to trucks, buses and multipurpose passenger vehicles with a GVWR of 4536 kilograms (10,000 pounds) or less. The NPRM further proposed that manufacturers of such vehicles have the option of complying with either FMVSS No. 105 or FMVSS No. 135 for an interim period of five years, after which time all vehicles with a GVWR of 10,000 pounds or less would be required to comply with Standard No. 135. Notice 11 stated that the extension of the applicability of Standard No. 135 to LTVs would be consistent with the agency policy of achieving international harmonization whenever possible and consistent with the agency's statutory mandate to ensure motor vehicle safety.

II. Summary of Comments (Docket 85-06, Notice 11)

The agency received eight written comments in response to the NPRM, five from vehicle manufacturers, two from vehicle trade associations, and one from a safety advocacy group. In general, the vehicle manufacturers and the trade associations conditionally supported the rulemaking for LTVs up to 8,000 pounds GVWR while the safety advocacy group opposed it.

A. Gross Vehicle Weight Limit for FMVSS No. 135 Applicability

Notice 11 proposed to extend Standard No. 135 to passenger vehicles with a GVWR of 10,000 pounds (4,536 kg) or less, including trucks, buses, and multipurpose vehicles (LTVs).

GM indicated that it participated in the development of the American Automobile Manufacturers Association (AAMA) response to this NPRM. The AAMA submission requested that the requirements of Standard No. 135 be applied to vehicles with a GVWR of 8000 pounds (3,629 kilograms) or less. According to GM, AAMA believes the 500-Newton pedal force specified in Standard No. 135 is inappropriate for vehicles with a GVWR above 8,000 pounds.

The Japanese Automobile Manufacturers Association (JAMA) supported the extension of Standard No. 135 to LTVs, but was concerned that adoption of the requirements as proposed would not further international harmonization, a goal stated by the agency in the preamble. JAMA recommended that NHTSA consult further with the ECE and JAMA before moving ahead with the proposed amendment. JAMA contended that extending Standard No. 135 to LTVs with a GVWR of 10,000 pounds or less would decrease the similarity between Standard No. 135 and R13-H. R13-H is applicable to the "M1" vehicle category in the European classification scheme, which includes all types of passenger vehicles with a maximum capacity of eight. A table in the JAMA submission shows that the test conditions and requirements in No. 105 and ECE R13 are similar and are applicable to vehicles of similar weight. The table also highlights the differences between test conditions and requirements in Standard No. 135 and the conditions and requirements for LTVs in Standard No. 105 and ECE R13.

Chrysler indicated that it was an active participant in the discussions that culminated in the publication of FMVSS No. 135, which Chrysler contends was intended for passenger cars. Chrysler pointed out that the proposed extension of the applicability of Standard No. 135 to LTVs up to 10,000 pounds GVWR would result in the standard being applicable to some of the vehicles in four different categories of the European vehicle classification system. These four categories include passenger vehicles with a capacity of eight or less, passenger vehicles with a capacity greater than eight and a GVWR of 11,023 pounds (5,000 kilograms) or less, non-passenger vehicles with a GVWR of

7,716 pounds (3,500 kilograms) or less, and non-passenger vehicles with a GVWR up to 26,455 pounds (12,000 kilograms). Vehicles in the latter three categories are not currently required to meet R13-H, the European counterpart of No. 135.

Nissan does not support the application of FMVSS No. 135 to LTVs with a GVWR of 10,000 pounds or less. Nissan stated that the proposed rule would decrease the similarity between Standard No. 135 and ECE R13-H, resulting in a negative impact on international harmonization. Nissan indicated that LTVs with a GVWR of 10,000 pounds or less could fall into one of four European categories, "M1", "M2", "N1", or "N2", which would make harmonization of the R13 very difficult. Nissan also stated that there is no apparent activity among ECE members to apply the harmonized light duty passenger vehicle standard, R13-H, to vehicles in the M2, N1, or N2 classes.

AAMA stated that its member companies would support extending Standard No. 135 to LTVs with a GVWR of 8,000 pounds (3,629 kilograms) or less. An 8,000-pound weight limit would better harmonize No. 135 with the requirements of ECE R13-H, which applies to category "M1" vehicles.

Ford supported the extension of Standard No. 135 to LTVs with a GVWR of 8,000 pounds or less in the interest of international harmonization. In its initial comments to this rulemaking proposal, Ford indicated that several of that company's vehicles with a GVWR below 8,000 pounds would require substantial redesign to meet all applicable Standard No. 135 requirements. In a supplemental submission, however, Ford indicated that the Standard No. 135 requirements could be met by all its vehicles with a GVWR of 8,000 pounds or less, within the proposed leadtime, without major modification or economic burden.

Advocates for Highway and Auto Safety (Advocates) did not specifically address the weight range issues cited by most commenters. Advocates is opposed to extending No. 135 to cover LTVs, regardless of vehicle weight, stating that the agency failed to demonstrate the desirability of extending No. 135 applicability to LTVs. Advocates cited a lack of actual cost or safety benefits data in the proposed rule and further indicated that the organization believes No. 135 represents a decrease in the overall brake system safety level when compared to No. 105. For example, Advocates points out that the pre-burnish, water, and dynamic emergency brake tests of No. 105 are not included

in No. 135 and longer stopping distances are permitted in No. 135 than in No. 105.

B. Brake Standard for Light Trucks and Vans With GVWR Above Standard No. 135 Limit

GM indicated that AAMA recommended that the Notice 11 proposal be modified for LTVs with a GVWR between 8,000 and 10,000 pounds to allow a maximum pedal force of 700 Newtons. GM believes the brake systems on its vehicles in this weight range would meet all requirements with a 500-Newton maximum pedal force and that company supports rulemaking as proposed in Notice 11.

JAMA supported the rulemaking proposal, but recommended that NHTSA consult further with the ECE and JAMA to enhance international harmonization of Standard No. 135 and ECE R13-H before proceeding with the proposed amendment.

Chrysler recommended that Standard No. 135 requirements be extended to include LTVs with a GVWR up to 8,000 pounds. Chrysler also recommended that a pedal force limit of 700 Newtons be allowed for vehicles with a GVWR between 8,000 pounds and 10,000 pounds vehicles, consistent with the ECE Regulations and Standard No. 105.

Nissan did not support the application of Standard No. 135 to LTVs with a GVWR below 10,000 pounds. Nissan stated that there is no apparent activity among ECE members to apply R13-H, which is harmonized with Standard No. 135, to vehicles in this class.

Volkswagen supported the proposed rule as written.

AAMA supported the extension of the applicability of Standard No. 135 to vehicles with a GVWR above 8,000 pounds provided the pedal force limit is raised from 500 Newtons to 700 Newtons for vehicles with a GVWR between 8,000 and 10,000 pounds.

Ford stated that the agency should include two provisions in the rulemaking for vehicles with a GVWR over 8000 pounds (3,629 kilograms). Ford requested that a provision be included in Standard No. 135 to allow a maximum pedal force of 700 Newtons for vehicles with a GVWR above 8,000 pounds and also requested that the stopping distance be increased for the "Engine Off" tests. Ford indicated that Standard No. 105 specifies unique performance requirements for vehicles with a GVWR between 8,000 and 10,000 pounds. Application of the No. 105 test conditions and requirements to vehicles with a GVWR between 8,000 pounds and 10,000 pounds (4,536 kilograms)

would more closely align the proposed rulemaking with ECE R13-H, the harmonized European braking standard.

III. NHTSA Decision

A. Overview

A1. Lighter Vehicles

The U.S. automobile manufacturers and the AAMA indicated that many LTVs with a GVWR less than 10,000 pounds are currently being used as passenger vehicles (small trucks, vans, and sport utility vehicles) and should meet passenger car brake system requirements. According to Ward's Automotive Yearbook, an average of about 9.4 million passenger cars and 5.6 million LTVs with a GVWR under 10,000 pounds have been sold annually in the U.S. in recent years.

Most commenters recommended that the cut-off GVWR for an extension of No. 135 applicability to LTVs be substantially less than 10,000 pounds, the value proposed in Notice 11. GM, Chrysler, Ford, and AAMA indicated that brake performance requirements are more stringent in No. 135 than in No. 105. These commenters indicated that the heavier vehicles in the weight range may not meet the performance requirements of No. 135 without substantial brake system redesign. These commenters also indicated that brake systems for vehicles with a GVWR above 8,000 pounds may have undesirable consumer characteristics such as increased noise, wear, and pedal travel, if these systems are designed to meet No. 135 requirements.

Advocates opposed the rulemaking proposed in Notice 11, stating that No. 135 represents a reduction in the safety level of brake systems when compared with Standard No. 105. Advocates made arguments in their comments to Notice 8 of Docket 85-06, the final rule establishing Standard No. 135, that are similar to its Notice 11 comments. Advocates stated in response to Notice 8 that No. 135 was less stringent than Standard No. 105 since Standard No. 135 did not include several Standard No. 105 test procedures and allowed longer stopping distances. Advocates' comparison of stopping distances is based on a simplistic conversion of stopping distances from English to metric units, which indicates that the allowed stopping distances in No. 135 are longer than No. 105 stopping distances for comparable test speeds. Advocates' evaluation, however, did not consider the conditioning of the brakes prior to a given test, which is an important factor in determining the stringency of brake performance requirements. More importantly, the

current extension of No. 135 will require LTVs to meet the same levels of braking performance required for passenger cars, something that is not required currently under No. 105. NHTSA believes that No. 135 should be applied to LTVs despite Advocates' objections. The final rule for No. 135, which did not quantify the safety benefits associated with the rulemaking, was issued over the objections of Advocates and others.

Vehicle manufacturers and the AAMA also stated that the rulemaking proposed in Notice 11 would decrease the harmonization between Standard No. 135, and the European standard for light duty passenger vehicles, ECE R13-H. Most of the vehicles covered by R13-H have a loaded weight below 8,000 pounds (3,629 kilograms), whereas the NPRM proposed extending No. 135 to LTVs with a GVWR up to 10,000 pounds (4,536 kilograms).

GM indicated that the vehicles manufactured by that company could meet the requirements of No. 135 within the 5-year leadtime proposed. However, Chrysler, Ford, and AAMA recommended that No. 135 be applied only to vehicles with a GVWR below 8,000 pounds. Based on the comments on this issue, NHTSA believes that the maximum GVWR for the application of No. 135 to LTVs should be below 8,000 pounds.

The agency estimates, based on Ward's Automotive Yearbook figures, that about 75 percent of the 5.6 million LTVs with a GVWR of 10,000 pounds or less sold annually in the US are Class 1 vehicles with a GVWR below 6,000 pounds (2,722 kilograms). NHTSA further estimates the annual sales of LTVs with a GVWR between 8,000 and 10,000 pounds to be 0.5 to 0.7 million vehicles, or about 10 to 13 percent of all LTVs with a GVWR below 10,000 pounds. The agency believes, therefore, that brake system redesign for these vehicles alone could be particularly burdensome. Also, any safety benefit that would result from the application of the Standard No. 135 requirements to this group of LTVs would be limited by the low sales volume.

The agency believes that there are two values that should be considered for the maximum weight of No. 135 applicability to LTVs. Standard No. 135 would be consistent with Standard No. 105 if the extension to LTVs covered vehicles with a maximum GVWR up to 8,000 pounds, since Standard No. 105 contains unique braking performance requirements for vehicles with a GVWR between 8,000 and 10,000 pounds. As previously stated, an 8,000-pound GVWR limit for the extension is

supported by the AAMA, Ford, and Chrysler and would cover 85 to 90 percent of all LTVs with a GVWR below 10,000 pounds.

The agency believes the effects on international harmonization that would result from the extension of Standard No. 135 as proposed in Notice 11 (10,000 pound cut-off) should be considered. The European equivalent of Standard No. 135, ECE R13-H, is applicable to vehicles in the M1 category, passenger vehicles with a passenger capacity of eight. Although there is no weight limit specified for the M1 class, these vehicles rarely have a weight capacity above 7,000 pounds. The proposed 10,000-pound GVWR limit would extend the applicability of Standard No. 135 to vehicles in three European vehicle classes not covered by R13-H. The standard that applies to these classes, R13, is not consistent with No. 135 with regard to test conditions and performance requirements; hence harmonization of Standard No. 135 and ECE R13 would be difficult.

The agency believes that 3,500 kg is a logical value for the maximum applicable GVWR for No. 135 extension to LTVs since this value is used in the European system as the maximum GVWR for vehicles in the "N1" class, or light duty non-passenger vehicles. Therefore, harmonization of Standard No. 135 and R13 would not affect all European light duty vehicles. Also, since 3,500 kilograms (7716 pounds) and 3,629 kilograms (8,000 pounds) are similar quantities, the number of vehicles affected by either choice is similar.

A2. Heavier Vehicles

The brake test specifications in No. 135 allow a maximum pedal force during braking of 500 Newtons for most of the performance test series including, Cold Effectiveness, Hot Performance, Power Brake Unit or Brake Power Assist Unit Inoperative. Most manufacturers indicated that 500 Newtons is insufficient pedal force for vehicles with a GVWR above 8,000 pounds and inconsistent with the pedal force requirements in No. 105 and ECE R13 for these vehicles.

GM indicated that it participated in the development of the AAMA response to Notice 11 of Docket 85-06 and acknowledged the reasons AAMA requested that the maximum allowable pedal force in No. 135, 500 Newton, be increased to 700 Newton for vehicles with a GVWR above 8,000 pounds. However, GM indicated vehicles manufactured by that company could meet the current No. 135 requirements over the five-year leadtime period

proposed in the NPRM. GM cited several reasons for supporting Notice 11 including the following: LTVs are being widely used to transport people; the proposed five-year leadtime should be sufficient to make necessary LTV brake changes; and, M1 class European vehicles are analogous to the vehicles that would be covered by adoption of the NPRM.

JAMA submitted a table highlighting brake test conditions and performance requirements for FMVSS No. 135, FMVSS No. 105, and ECE R13, the European standard for light weight commercial vehicles. According to the table, Standard No. 105, and R13, which applies to light duty vehicles not covered by R13-H, allow a maximum pedal force of 680 Newtons and 700 Newtons, respectively, whereas No. 135 allows a maximum pedal force of 500 Newtons. JAMA suggested that NHTSA consult further with Europe and Japan before proceeding with rulemaking based on the NPRM since the proposed rule would represent a significant divergence between the US and European light duty vehicle brake standards.

Chrysler believes that the pedal force limit of 500 Newtons specified in No. 135 is appropriate for vehicles up to 8,000 pounds GVWR. That company recommended, however, that the standard be modified to allow a pedal force of 700 Newtons for vehicles with a GVWR between 8,000 and 10,000 pounds. Chrysler indicated that a 500-Newton pedal force limit for vehicles with a GVWR above 8,000 pounds could result in braking systems that have a negative impact on customer satisfaction. Compliant braking systems for such vehicles could require higher friction linings and higher brake pedal ratios resulting in increased brake noise, wear, and pedal travel.

Nissan opposed the NPRM, claiming that the harmonization of No. 135 and R13-H would be adversely affected. According to Nissan, Notice 11 proposes applying No. 135 to vehicles in this country, that are equivalent to European M2, N1, and N2 vehicles, which are not covered by the harmonized standard, R13-H.

VW supported issuance of a final rule based on the NPRM.

AAMA stated that it would support the Notice 11 NPRM if the No. 135 test conditions were changed to allow for a 700-Newton maximum pedal force for vehicles with a GVWR above 8,000 pounds. AAMA cited several reasons to justify the change including the following: improved harmonization of No. 135 with the European standard (R13-H), since the standard covering

most European vehicles that are comparable to LTVs in this country, allows a 700-Newton pedal force; the 700-Newton pedal force would affect mostly commercial, non-passenger vehicles; most sport utility vehicles and other small trucks would be required to meet the more stringent No. 135 requirements.

Ford requested that a provision be included in No. 135 to allow a maximum pedal force of 700 Newtons for vehicles with a GVWR above 8,000 pounds. Allowance of a 700-Newton pedal force is consistent with ECE R13 requirements, according to Ford, for light passenger vehicles and would more closely align and harmonize the US and European requirements.

Several vehicle manufacturers and the AAMA requested that the agency apply No. 135, modified to allow a 700-Newton peak pedal force, to LTVs with a GVWR above 8,000 pounds, instead of No. 135 as currently written, which limits pedal force to 500 Newtons.

International harmonization was cited by the commenters as a major reason for requesting that the maximum allowable pedal force be raised to 700 Newtons for vehicles with a GVWR above 8,000 pounds. The European equivalent of Standard No. 135, R13-H, applies to passenger vehicles with maximum passenger capacity of eight and allows a maximum pedal force of 500 Newtons. Although a maximum GVWR is not specified for these M1 class vehicles, their loaded weight rarely exceeds 7,000 pounds (3,175 kilograms). Other light duty vehicle classes in the European system are allowed a maximum pedal force of 700 Newtons during brake performance testing. The commenters also stated that No. 105 allows a maximum pedal force of 680 Newtons (150 pounds) for all vehicles with a GVWR of 10,000 pounds or less. Additionally, Ford, Chrysler, and AAMA indicated that a 500-Newton brake pedal force limit for vehicles in the 8,000 to 10,000-pound range could result in brake systems with low customer satisfaction due to increased noise, lining and rotor wear, and brake pedal travel.

The agency notes that GM stated that No. 135 requirements could be met by that company's LTVs, including those in the 8,000 to 10,000-pound GVWR range. GM cited several reasons for supporting Notice 11 including the observation that M1 class European vehicles are analogous to the vehicles in this country that would be covered if the NPRM were adopted. NHTSA disagrees with GM regarding the international harmonization issue. As noted above, M1 vehicles rarely exceed 7,000 pounds

GVWR. Most commenters argued that vehicles with a loaded weight above 8,000 pounds are not analogous to M1 vehicles and are not subject to the same braking requirements as M1 vehicles.

The comments and analytical data provided by Ford indicate that several of that company's 8,000 to 10,000-pound vehicles may not be able to comply with No. 135, based on computer simulations. NHTSA believes that the data provided by Ford indicate that the five-year leadtime would be adequate to obtain compliance with No. 135 (500-Newton pedal force) for its vehicles in this weight class, without a major cost burden.

The agency does not have data relating to the Chrysler and AAMA observation that brake systems meeting the No. 135 requirements for vehicles with a GVWR above 8,000 pounds would have low customer satisfaction. There is the potential for systems with low customer satisfaction, but NHTSA believes that sufficient leadtime will avoid this problem.

Advocates for Highway and Auto Safety (Advocates) objected to the proposed rulemaking stating that the agency had not addressed the associated costs and benefits. The agency has no data specifically addressing the incremental cost associated with the application of No. 135 to LTVs with a GVWR less than 10,000 pounds. NHTSA believes the cost of LTV compliance with No. 135 will be similar to the cost incurred for passenger cars, especially for the smaller LTVs. Although several manufacturers indicated that substantial brake system redesign would be necessary for vehicles with a loaded weight above 8,000 pounds to meet No. 135, none provided cost information. Additionally, the agency has not attempted to quantify the benefits that would be realized if these vehicles were in compliance with No. 135.

Currently, Standard No. 105 utilizes 4,536 kilograms (10,000 pounds) as the maximum GVWR for light duty vehicles and the braking test conditions, procedures, and requirements are different for vehicles with a GVWR above 4,536 kilograms. The agency will continue to use 4,536 kilograms to separate light and heavy duty vehicles with regard to brake system standards. This would ensure continued consistency with FHWA's Office of Motor Carriers, which also utilizes 10,000 pounds as the GVWR to separate light and heavy duty vehicles for application of that agency's safety regulations.

There are several options when considering the appropriate brake system standard for vehicles with a

GVWR between 3,500 and 4,536 kilograms. Both Standards No. 105 and No. 135 could be applied to these vehicles as well as Standard No. 135 modified to allow a 700-Newton brake pedal force, as requested by several commenters. The provisions in No. 135 specify wheel lock sequence performance, to address directional stability during braking, whereas No. 105 has no related requirements. The pre-burnish test, water test, and dynamic emergency brake test are provisions in Standard No. 105 that are not included in Standard No. 135. The agency believes that Standard No. 105 should be applied to vehicles with a GVWR above 3,500 kg for continuity with present requirements. Specifying Standard No. 105 compliance for these vehicles would provide most of the benefits of Standard No. 135 while alleviating the manufacturer concerns about significant brake system redesign if Standard No. 135 were applied to these vehicles.

In response to Notice 11, most vehicle manufacturers and the AAMA recommended that the agency issue a final rule in which No. 135, modified to allow 700 Newtons pedal force, be applied to vehicles with a GVWR between 3,500 and 4,536 kilograms. The agency is conducting brake system testing/analyses on vehicles in this weight range in addition to reviewing the testing data from Ford. After it finishes these testing/analyses, NHTSA will publish a separate notice for the brake systems of LTVs with a GVWR between 3,500 and 4,536 kilograms.

B. Application

B1. Lighter Vehicles

After considering the public comments to the NPRM (Notice 11), the agency has decided, with this final rule, to extend the applicability of No. 135 to LTVs with a maximum GVWR of 3,500 kilograms (7,716 pounds) instead of the 4,536 kilograms (10,000 pounds) proposed in Notice 11 of Docket 85-06. Accordingly, the title of No. 135 will be modified to reflect the extension to LTVs, as proposed in Notice 11, and the applicability section of No. 135 proposed in Notice 11 will be modified.

B2. Heavier Vehicles

Notice 11 of Docket 85-06 proposed to extend the applicability of Standard No. 135 to LTVs with a GVWR of 4,536 kilograms (10,000 pounds) or less. Most motor vehicle manufacturers objected to the proposal as written, indicating that compliance with No. 135 may require major brake system modifications for vehicles with a GVWR above 3,629

kilograms (8,000 pounds). After considering the public comments to the NPRM (Notice 11), NHTSA has decided not to extend the applicability of Standard No. 135 to LTVs with a GVWR between 3,500 kilograms (7,716 pounds) and 4,536 kilograms (10,000 pounds). The agency has further decided that No. 105 will still be applicable to LTVs with a GVWR between 3,500 and 4536 kilograms at this time.

IV. Leadtime

The five-year leadtime for the application of FMVSS No. 135 to LTVs is consistent with the leadtime provided for No. 135 applicability to passenger cars in the final rule for No. 135 (Docket 85-06, Notice 8). As is the case with passenger car applicability of No. 105, compliance with FMVSS No. 105 is optional between December 1, 1997 and September 1, 2002. It is anticipated that this leadtime is sufficient to allow manufacturers of LTVs with a GVWR of 3,500 kilograms and below to complete any required brake system modifications during scheduled redesign periods so that the economic burden will be minimal.

As previously stated, the agency is reviewing data submitted by Ford and data from recently conducted brake testing to assess the performance of vehicles with a GVWR between 3,500 and 4,536 kilograms relative to FMVSS No. 135. The agency will publish a separate notice on these vehicles in the future. If the agency determines that these vehicles should be covered by FMVSS No. 135, sufficient leadtime will be provided to ensure vehicle modifications will not cause significant burden.

V. Regulatory Analysis

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impacts of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency believes that application of FMVSS No. 135 to LTVs with a GVWR of 3,500 kilograms or less will ensure an equivalent level of safety for those aspects of performance covered by FMVSS No. 105. This final rule will add brake performance and offer safety benefits in areas not addressed in FMVSS No. 105.

In the final rule for FMVSS No. 135 (60 FR 6411), the agency indicated that the incremental cost of passenger car compliance with No. 135 as compared

to No. 105 compliance would be minor. These minor incremental costs are associated with differences in the actual compliance testing costs and minor brake system redesign for some marginal brake systems. Compliance testing costs were estimated to be slightly less for No. 135 testing than for No. 105 testing since the No. 135 procedures are shorter. The agency also believes the Adhesion Utilization (AU) properties of LTVs may be different from the AU properties of most passenger cars. The NHTSA estimates that some brake system adjustments will be required for LTVs to comply with the AU, or directional stability test in Standard No. 135. The agency stated in the Notice of proposed rulemaking (61 FR 19603) that the application of Standard No. 135 to LTVs would not impose significant costs on vehicle manufacturers. The agency further stated that the cost impacts are so minimal as not to warrant a full regulatory evaluation and NHTSA believes that the impact assessment in the NPRM is still valid. The substantial lead time proposed for mandatory LTV compliance should enable manufacturers to incorporate necessary changes as part of model change over, in phases if necessary.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of both this proposal under the Regulatory Flexibility Act. I hereby certify that it would not have a substantial economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

NHTSA concluded that the FMVSS No. 135 final rule had no significant impact on a substantial number of small entities. That conclusion is also valid for this final rule since most of the vehicles affected by this rulemaking are manufactured by entities that also manufacture passenger cars. Accordingly, the incremental cost would be small and would not likely affect vehicle sales.

C. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act of 1969. The agency has determined that implementation of this action will not have any significant effect on the quality of human environment. This final rule will result in no changes to motor vehicle or motor vehicle equipment production or disposal processes.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this action under the principles and criteria in Executive Order 12612. The agency believes that this rulemaking action will not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. There are no State laws affected by this final rule.

E. Executive Order 12778 (Civil Justice Reform)

This rulemaking will have no retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles produced for use in that State. The 49 U.S.C. 30161 sets forth a procedure for judicial review of rulemakings establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

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

In consideration of the foregoing, the agency amends Title 49 of the Code of Federal Regulations at Part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.105 is amended by revising S3, to read as follows:

Part 571.105—Standard No. 105; Hydraulic Brake Systems

* * * * *

S3. Application. This standard applies to hydraulically-braked vehicles with a GVWR greater than 3,500 kilograms (7,716 pounds). This standard applies to hydraulically-braked passenger cars manufactured before September 1, 2000, and to hydraulically-braked multipurpose passenger vehicles, trucks and buses with a GVWR of 3,500 kilograms or less that are manufactured before September 1, 2002. At the option of the

manufacturer, hydraulically-braked passenger cars manufactured before September 1, 2000, and hydraulically-braked multipurpose passenger vehicles, trucks and buses with a GVWR of 3,500 kilograms (7,716 pounds) or less manufactured before September 1, 2002, may meet the requirements of Federal Motor Vehicle Safety Standard No. 135, Light Vehicle Brake Systems instead of this standard.

* * * * *

3. Section 571.135 is amended by revising the heading and section S3 to read as follows:

Part 571.135—Standard No. 135; Light Vehicle Brake Systems

* * * * *

S3. Application. This standard applies to passenger cars manufactured on or after September 1, 2000 and to multi-purpose passenger vehicles, trucks and buses with a gross vehicle weight rating (GVWR) of 3,500 kilograms (7,716 pounds) or less, manufactured on or after September 1, 2002. In addition, at the option of the manufacturer, passenger cars manufactured before September 1, 2000,

and multi-purpose passenger vehicles, trucks and buses with a GVWR of 3,500 kilograms (7,716 pounds) or less, manufactured before September 1, 2002, may meet the requirements of this standard instead of Federal Motor Vehicle No. 105, Hydraulic Brake Systems.

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Issued on: September 18, 1997.

Ricardo Martinez,
Administrator.

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