

an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

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Issued in Washington, DC on January 27, 1998.

Kelley S. Coyner,

Acting Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket NHTSA-98-3345]

RIN 2127-AG06

Federal Motor Vehicle Safety Standards; Stability and Control of Medium and Heavy Vehicles During Braking

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

ACTION: Final rule; petitions for reconsideration.

SUMMARY: This document amends Federal Motor Vehicle Safety Standard (FMVSS) No. 121, Air Brake Systems, to allow the alternate placement of the external antilock braking system (ABS) malfunction indicator lamp on trailers that have limited or non-existent structures to which the lamp and associated wiring can be attached. The purpose of the malfunction indicator lamp is to inform drivers, and maintenance and inspection personnel, of malfunctions in a trailer's ABS. The agency will permit the placement of the lamp on certain trailers (such as liquid tank, dry bulk, container chassis, and lowbed trailers) on the left side of the trailer near the red rear side marker lamp, or the front face of the left rear fender of trailers equipped with fenders. In addition, this document defines the methodology that is used to measure distances between the lamps (closest edge of the effective projected luminous lens area of each lamp). This rulemaking allows designers and manufacturers maximum design flexibility in the location of the malfunction indicator lamp while still ensuring that the lamp will serve its purpose.

DATES: *Effective Date:* The amendments in this final rule are effective March 1, 1998. Optional early compliance with

these changes is permitted beginning February 17, 1998.

Petitions for Reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than April 3, 1998.

ADDRESSES: Petitions for Reconsideration should be submitted to: U.S. Department of Transportation, Docket Management, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph P. Scott, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 366-8525.

SUPPLEMENTARY INFORMATION:

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I. Background

On September 23, 1996, NHTSA published a final rule (Docket 92-29; Notice 11) amending Federal Motor Vehicle Safety Standard (FMVSS) No. 121, Air Brake Systems, to specify the location, labeling, color, activation protocol, and photometric intensity of antilock braking system (ABS) malfunction indicator lamps on the exterior of trailers and trailer convertor dollies. (61 FR 49691). The purpose of this malfunction indicator lamp is to inform drivers, and maintenance and inspection personnel, of malfunctions in a trailer's ABS.

New truck tractors are required to be equipped with ABS as of March 1, 1997, and new air-braked trailers and single-unit trucks will be required to be so equipped beginning March 1, 1998. These vehicles will also be required to be equipped with indicator lamps to alert their drivers of ABS malfunctions. Each truck, including a truck tractor, equipped to tow trailers will be required to be equipped with two in-cab warning lamps: one to indicate malfunctions in its own ABS, and another to indicate ABS malfunctions on units it tows. Trailers will be required to be equipped with an electrical circuit capable of signaling a trailer ABS malfunction to the cab of the towing unit.

NHTSA recognized that, during the initial transition period, there is a high likelihood that new ABS-equipped trailers will frequently be towed by

older, non-ABS-equipped tractors or trucks that will not have the capability to receive ABS malfunction signals transmitted from trailers. Accordingly, to provide the driver, maintenance, and Federal and State inspection personnel with the ability to determine a malfunction with the trailer ABS, the agency requires that trailers, including convertor dollies, also be equipped with a separate external ABS malfunction indicator. A final rule responding to petitions for reconsideration extended this requirement until March 1, 2009 (61 FR 5949, February 15, 1996). During this interim eleven-year period, external ABS malfunction indicator lamps must be installed on trailers. The agency reasoned that, after that time period, there would be sufficient new ABS-equipped truck tractors and towing trucks fitted with the in-cab trailer ABS malfunction warning indicator lamps to obviate the need for the separate trailer-mounted ABS malfunction warning lamp.

As stated in the September 23, 1996, **Federal Register** Notice, NHTSA decided to require that the external trailer ABS malfunction indicator lamp be located near the rear of the trailer. The agency believes that this lamp will be readily seen by the drivers using their rearview mirrors, and during walk-around inspections. The agency notes that this lamp will only activate in those situations when the trailer ABS has malfunctioned or during the check of lamp function whenever power is first applied to the ABS and the vehicle is stationary. The external trailer ABS malfunction indicator lamp must be located near the rear of the left side of a trailer when viewed from the rear of the trailer, no closer than 150 mm (5.9 inches) and not more than 600 mm (23.6 inches) from the red rear side marker lamp. The agency selected this range to ensure a standardized location of this lamp near the trailer rear, thereby facilitating its being viewed by drivers, while providing flexibility to trailer manufacturers. This requirement combined the suggestions of Midland-Grau, TTMA, ATA, and Grote concerning the specific location requirements for the trailer ABS malfunction indicator relative to the red rear side marker lamp. This decision reflects several considerations. In this standardized location, the lamp can be seen by drivers, as well as fleet maintenance and roadside inspection personnel, during pre-trip and post-trip inspections.

Also as stated in the September 23, 1996, **Federal Register** Notice, NHTSA decided—after reviewing the docket comments—to amend the standard

requiring intensity and photometric requirements of the external trailer ABS malfunction indicator lamp. The commenters requested that conformance be allowed to the July 1972 version of the SAE J592 (as well as the June 1992 version), since the earlier version is referenced in FMVSS 108 and many currently-manufactured and stocked lamps have been certified as having met the earlier version of the standard. These commenters also stated that the agency's proposal to rotate the lamp 90 degrees was inappropriate since the requirement would necessitate designing new lamps for an extremely limited market. They suggested that such a redesign would add costs for little apparent gain. Alternatively, they requested the agency to require the use of a combination clearance/side marker lamp instead of a simple side marker lamp, because the combination lamps, which have "PC" marked on the lens or housing in accordance with SAE J759, Lighting Identification Code, have a uniform and wide diffused beam pattern throughout the full 180 degrees left and right range. NHTSA amended the standard to permit conformance to either the July 1972, or June 1992 version of SAE J592. Additionally, the standard has been amended to require that a combination clearance/side marker lamp with a "PC" marked on the lens or housing in accordance with SAE J759, Lighting Identification Code, be used as the external trailer ABS warning lamp. The agency agreed with the commenters that this change will provide additional flexibility, without any detriment to safety. Based on the available information concerning the light output pattern of combination clearance/side marker lamps, the agency decided that rotating the lamp is not necessary to achieve the intended function of this lamp.

II. Petitions for Reconsideration

NHTSA received two petitions for reconsideration to the September 23, 1996, final rule. The first petition received was from Advocates for Highway Safety (Advocates). Their concerns are with the external ABS malfunction indicator lamp's (1) intensity and photometric requirements, and (2) location. The second petition was from TTMA requesting that the location requirements not be specified dimensionally, to accommodate the placement of the lamp on certain trailers (such as liquid tank, dry bulk, container chassis, and lowbed trailers) that have limited surface area to which the malfunction indicator lamp can be attached. The petitions are summarized in following two sections (a) Intensity

and Photometric Requirements, and (b) Location.

A. Intensity and Photometric Requirements

In its October 3, 1996, petition, Advocates for Highway Safety (Advocates) stated that they "support photometric standardization of ABS malfunction lamps in FMVSS No. 108, but we are concerned that marker lamp luminous intensity on very bright days with certain lighting angles by the sun may not be sufficient to ensure that truck drivers can determine that a malfunction lamp is lit."

B. Location

i. Advocates Location Petition

In its petition dated October 3, 1996, Advocates stated that "only intermittent and not continuous monitoring of the ABS status on converter dollies will be possible. Advocates is concerned about the possible negative safety implications of this outcome. Apart from this reservation, Advocates supports the new location protocol."

ii. TTMA location petition

On March 7, 1997, Truck Trailer Manufacturers Association (TTMA) petitioned NHTSA to modify 571.121 paragraph S5.2.3.3(c)(1) and be revised to read as follows—where brackets indicate deletions and underlining indicates additions:

"(c) Location requirements. (1) Each trailer that is not a trailer converter dolly shall be equipped with a lamp mounted on a permanent structure on the left side of the trailer as viewed from the rear [no closer than 150 mm (5.9 inches), and no farther than 600 mm (23.6 inches), from] near the red rear side marker lamp or on the front face of the left rear fender of trailers equipped with fenders."

TTMA's petition requested that the location requirements not be specified dimensionally, so as to accommodate the placement of the lamp on certain trailers, such as liquid tank, dry bulk, container chassis, and lowbed trailers that have limited surface area to which the malfunction indicator lamp can be attached.

III. NHTSA Decision

A. Intensity and Photometric Requirements

Advocates is correct in their assertion that marker lamp luminous intensity on very bright days with certain lighting angles by the sun may not be sufficient to ensure that truck drivers can determine that a malfunction lamp is lit, but failed to note that NHTSA has the same photometric requirements for

clearance and side markers. This ABS malfunction indicator lamp is intended to be used as an indicator for the driver and maintenance and roadside inspection personnel, but is not intended to serve as an overly bright "warning beacon" to all other road users, when the ABS malfunctions. The foundation brakes are designed to function properly even when the ABS has malfunctioned.

In section "E. Intensity and Photometric Requirements" of the final rule, NHTSA specified—supported by industry comments—that the intensity and photometric requirements for the external ABS malfunction indicator lamp will be subjected to the same photometric¹ requirements as those specified in Standard No. 108.

On March 10, 1995, AAMA and TTMA petitioned NHTSA to require that the external ABS malfunction indicator lamp be subjected to the same photometric requirements as those specified in Standard No. 108. NHTSA tentatively agreed with these petitioners in its December 13, 1995, final rule and proposed that the lamps meet the photometric requirements for clearance, side marker, and identification lamps specified by SAE Recommended Practice J592 JUN92 for clearance lamps, which are referenced in Standard No. 108.

Specifically, the agency proposed that ABS malfunction indicator lamps meet the photometric performance requirements specified in SAE J592 JUN92 for the luminous intensity of side marker lamps. Those requirements specify minimum intensity values at test points of 45 degrees along a horizontal axis and 10 degrees along a vertical axis, when measured from a lamp distance of at least three meters. In addition, the agency proposed that the lamp be mounted on the trailer in such a manner that its beam is directed toward the front of the trailer and rotated 90 degrees so that its top and bottom become its sides. The agency believed that such an orientation of the lamp would ensure that its widest light beam is in a vertical plane just outboard of the side of the trailer, and hence would be more likely to be visible by the driver through the tractor's rearview mirrors.

Truck-Lite, TTMA, and Midland-Grau requested that conformance be allowed to the July 1972 version of SAE J592 (as well as the June 1992 version), since that earlier version is referenced in Standard No. 108 and many currently manufactured and stocked lamps have

¹ Photometric values specify the amount of light emitted by a lamp, when measured from a specific distance.

been certified as having met that version of the standard. These commenters also stated the agency's proposal to rotate the lamp 90 degrees was inappropriate since the requirement would necessitate designing new lamps for an extremely limited market. They suggested that such a design would add costs for little apparent gain. Alternatively, they requested the agency to require the use of a combination clearance/side marker lamp instead of a simple side marker lamp, because the combination lamps, which have "PC" marked on the lens or housing in accordance with the SAE J759, Lighting Identification Code, have a uniform and wide diffused beam pattern throughout the full 180 degree left and right range. Thus, if this type of lamp is used, rotating the lenses, or mounting the lamp facing toward the front of the trailer would be unnecessary.

After reviewing the comments, NHTSA has amended the standard to permit conformance to either the July 1972, or June 1992 version of SAE J592. Additionally, the standard is being amended to require that a combination clearance/side marker lamp with a "PC" marked on the lens or housing in accordance with SAE J759 JAN95, Lighting Identification Code, be used as the external trailer ABS warning lamp. The agency agrees with the commenters that this change will provide additional flexibility, without any detriment to safety. Based on the available information concerning the light output pattern of combination clearance/side marker lamps, the agency has decided that rotating the lamp is not necessary to achieve the intended function of this lamp.

After reviewing Advocates' petition, NHTSA concluded that it provided no new information or data that was not considered previously during the rulemaking process. The agency, therefore, denies Advocates' petition with respect to the intensity and photometric requirements.

B. Location

The agency agrees with Advocates that "only intermittent and not continuous monitoring of the ABS status on converter dollies will be possible." Since the structure of a trailer converter dolly is difficult to see from the cab of a towing vehicle, NHTSA does not expect that the ABS malfunction lamp on the dolly will be seen continuously by drivers through the rearview mirror on the towing vehicle.

In the final rule published on September 23, 1996, NHTSA specified that the ABS malfunction lamp on a

trailer converter dollies be located on a permanent structure of the dolly and be visible to a person standing on the road surface near the location of the lamp. The agency believes that the lamp placement will allow it to be readily seen during a walk-around vehicle inspection. FMVSS No. 121, S5.2.3.3(c)(2) requires that the lamp be located 375 mm or higher above the road surface with no portion of the lamp being obscured by any structure on the dolly, and that the lamp must be visible to a person standing 3 meters from its location. There were no objections to this location by any commenters, when it was proposed in the Federal Register notice. Hence, the agency decided to adopt this location requirement as proposed for the ABS malfunction lamp on dollies.

The agency agrees with TTMA that certain trailers, due to their design, would not be able to accommodate an ABS malfunction indicator lamp with the location specified in S5.2.3.3(c)(1). However, the agency believes that instead of deleting the dimensionally-specific requirements for locating the lamp on standard trailers, additional requirements should be included in FMVSS 121, S5.2.3.3 to accommodate those trailers about which TTMA is concerned. Therefore, to accommodate both current and future trailer design configurations that possess limited or non-existent structures to which the lamp can be secured and to allow designers and manufacturers maximum design flexibility in the construction of their equipment, NHTSA will permit the placement of the lamp on certain trailers, such as liquid tank, dry bulk, container chassis, and lowbed trailers:

(1) Near the red rear side marker lamp—readily viewed by the driver and maintenance and roadside inspection personnel; or

(2) On the front face of the left rear fender of trailers equipped with fenders.

This action will allow the light to be installed on an existing trailer surface area that is viewable by the driver, without the need for major design modifications. Therefore, this action will hold down the cost of complying with the mandated lamp.

The current location requirements, as specified in S5.2.3.3(c)(1), provide minimum and maximum dimensions for placement of the malfunction indicator lamp relative to the red rear side marker lamp. However, the regulatory text does not specify whether these dimensions are from the centerlines of the lamps or from the edges of the lamps. In this notice, the agency clarifies this ambiguity by specifying that the dimensions are based upon an edge-to-

edge measurement between the lamps, and including a definition of the term, "effective projected luminous lens area," which is used in the regulatory text. Accordingly, the regulatory text is amended to reflect this clarification.

IV. Costs

NHTSA has already evaluated the economic impact of requiring trailers and dollies to be equipped with an external ABS malfunction indicator lamp in the final rule on heavy vehicle ABS published on March 10, 1995. The agency estimated that the unit cost of requiring an ABS lamp on trailers and dollies is \$9.43. Since this rule does not require additional equipment, but only specifies location and a definition for "effective projected luminous lens area," the rule should not have any impact on previously estimated costs or benefits. The agency notes there will be some cost savings, compared to the September 1996 final rule, since manufacturers will not have to redesign those trailers lacking a structure on which to install the lamp. A significant minority of the trailers (approximately 25 percent) would have needed a permanent structure attached to the trailer to comply with the proposed requirement. Locating the lamp in the rear of the trailer also reduces installation costs and improves durability since less wire will be needed between the ABS electronic control unit (ECU) and the light it activates, compared to locating the indicator at the front of the trailer.

V. Regulatory Analysis and Notices

1. Executive Order 12866 (Federal Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking was not reviewed under Executive Order 12866, *Regulatory Planning and Review*. NHTSA has analyzed this proposal and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The impacts of the rule are so minimal as not to warrant preparation of a full regulation evaluation. As noted above, NHTSA has already evaluated the economic impact of requiring an external ABS malfunction indicator lamp. For details, see the Final Economic Assessment (FEA) titled, "Final Rules FMVSS Nos. 105 & 121 Stability and Control While Braking Requirements and Reinstatement of Stopping Distance Requirements for Medium and Heavy Vehicles," published in June 1994.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendment will not have a significant economic impact on a substantial number of small entities. Vehicle and brakes manufacturers typically do not qualify as small entities. Further, aside from the relatively small cost impacts noted above, the amendments will not affect costs or benefits beyond those addressed in the FEA for the ABS final rule. Accordingly, no regulatory flexibility analysis has been prepared.

3. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws are affected.

4. 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.

5. 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 is amending FMVSS No. 121,

Air Brake Systems, in title 49 of the Code of Federal Regulations, 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 571.121 is amended by adding a new definition of "Effective Projected Luminous Lens Area" to S4; by revising S5.2.3.3(c)(1); and by adding S5.2.3.3(c)(3) to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S4. Definitions

* * * * *

Effective projected luminous lens area means that area of the projection on a plane perpendicular to the lamp axis of that portion of the light-emitting surface that directs light to the photometric test pattern, and does not include mounting hole bosses, reflex reflector area, beads or rims that may glow or produce small areas of increased intensity as a result of uncontrolled light from small areas ($\frac{1}{2}$ degree radius around the test point).

* * * * *

S5.2.3.3 Antilock malfunction indicator

(c) Location requirements. (1) Each trailer that is not a trailer converter dolly shall be equipped with a lamp mounted on a permanent structure on the left side of the trailer as viewed from the rear, no closer than 150 mm (5.9 inches), and no farther than 600 mm (23.6 inches) from the red rear side marker lamp, when measured between the closest edge of the effective projected luminous lens area of each lamp.

* * * * *

(3) Each trailer that is not a trailer converter dolly and on which the malfunction indicator lamp cannot be placed within the location specified in S5.2.3.3(c)(1) shall be equipped with a lamp mounted on a permanent structure on the left side of the trailer as viewed from the rear, near the red rear side marker lamp or on the front face of the left rear fender of a trailer equipped with fenders.

* * * * *

Issued: February 5, 1998.

Ricardo Martinez, M.D.

Administrator.

[FR Doc. 98-3629 Filed 2-13-98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 970829217-8025-02; I.D. 081597E]

RIN 0648-AJ79

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 18

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 18 to the Northeast Multispecies Fishery Management Plan (FMP). Framework Adjustment 18 allows pelagic midwater trawling for herring and mackerel in Multispecies Closed Areas I and II, the Gulf of Maine (GOM) multispecies closure areas, and in the Nantucket Lightship Closed Area, under certain conditions. The intent of this rule is to provide greater economic opportunity for pelagic midwater trawl vessels to harvest herring and mackerel while maintaining the conservation benefits of the current multispecies management measures.

DATES: Effective February 17, 1998.

ADDRESSES: Copies of Amendment 7 to the FMP, its regulatory impact review (RIR), and the final regulatory flexibility analysis (FRFA) contained within the RIR, its final supplemental environmental impact statement, and Framework Adjustment 18 documents are available upon request from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, NMFS, Fishery Policy Analyst, 508-281-9279.

SUPPLEMENTARY INFORMATION:

Background

In 1994, at the request of the New England Fishery Management Council (Council), NMFS, by emergency action, closed three large areas of the Northeast multispecies fishery for the duration of the emergency to all fishing gear capable of catching multispecies (59 FR 63926, December 12, 1994, and amended at 60 FR 3102, January 13, 1995). These areas, known as Closed Areas I and II and the Nantucket Lightship Closed Area, cover approximately 4,800 square miles