

pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036.

D. Ordering Clauses

54. It is ordered, pursuant to sections 1, 4(i) and (j), 201–209, 218–222, 254, and 403 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 218–222, 254, and 403 that this Further Notice of Proposed Rulemaking is hereby adopted and comments are requested as described above.

55. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–32803 Filed 12–9–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 98–4813; Notice 1]

RIN 2127–AF75

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

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

ACTION: Supplementary notice of proposed rulemaking.

SUMMARY: This document proposes amendments to Standard No. 108, the Federal motor vehicle safety standard on lighting, which are intended to harmonize the geometric visibility requirements of the United States for

signal lamps and reflectors with those of the Economic Commission for Europe (ECE). Harmonization of motor vehicle safety regulations worldwide, without reducing safety, would allow manufacturers to produce products in compliance with a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade.

The amendments proposed would adopt either the ECE geometric visibility specifications or those of the Society of Automotive Engineers (SAE), as an option to the present requirements. One of these specifications would be chosen for inclusion in the final rule. Mandatory compliance with the chosen specification would be required approximately five years after issuance of the final rule.

This action responds to comments to a notice of proposed rulemaking published on this subject in 1995, which implemented the grant of a petition for rulemaking submitted by the Groupe de Travail Bruxelles 1952.

DATES: Comments are due March 10, 1999.

ADDRESSES: Comments should refer to the docket number indicated above and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 10:00 a.m. to 5:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Rich Van Iderstine, Office of Safety Performance Standards, NHTSA (Phone: 202–366–5275; FAX: 202–366–4329).

SUPPLEMENTARY INFORMATION: This supplementary notice of proposed rulemaking is based upon a notice of proposed rulemaking (NPRM) published on October 26, 1995 (60 FR 54833, Docket No. 95–72; Notice 1). The reader is referred to that notice for further background on this rulemaking action.

Harmonization of Geometric Visibility Requirements

As the NPRM explained, the Groupe de Travail Bruxelles 1952 ("GTB") is composed of vehicle and lamp manufacturers from Europe, Japan, and the United States. GTB is an advisory group for the two organizations operating under the United Nations' Economic Commission for Europe (ECE) that are involved in establishing motor vehicle lighting standards: the Meeting of Experts on Lighting and Light Signalling (GRE) and the Working Party on the Construction of Motor Vehicles (WP29).

GTB is seeking to "harmonize" the geometric visibility requirements of the United States and Europe through petitioning NHTSA for an amendment

to Standard No. 108, and petitioning GRE and WP29 for amendments to ECE Regulation No. 48 *Uniform Provisions Concerning the Approval of Vehicles With Regard to the Installation of Lighting and Light-Signalling Devices* ("ECE R48"), specifically ECE R48.01. Under present lighting regulations, motor vehicle manufacturers must produce four different lighting packages for the same vehicle in order for it to be sold in the United States, the United Kingdom, continental Europe, and Japan. Harmonizing these lighting requirements, without reducing safety, would reduce costs to manufacturers and purchasers, and improve the flow of trade.

In its petition of June 15, 1994, GTB asked NHTSA to amend or introduce geometric visibility requirements for the following lamps and reflectors: backup lamps, front and rear turn signal lamps, stop lamps including the center high-mounted stop lamp, parking lamps, taillamps, rear fog lamps, reflectors (front, intermediate, side, and rear), marker lamps (front, intermediate, and side), and daytime running lamps. The petition noted that rear fog lamps are not presently included in Standard No. 108, and that many items of lighting equipment are not presently subject to geometric visibility requirements.

The NPRM explained that "geometric visibility" is not a defined term in Standard No. 108. It refers to the visibility of a lamp or reflector mounted on a vehicle through a range of viewing angles from left to right, and from up to down, with reference to the lens centerpoint (e.g., from 45 degrees left to 45 degrees right). With the exception of the center high-mounted stop lamp (S5.1.1.27), the geometric visibility requirements for motor vehicle lamps are not set out in full in the text of Standard No. 108, but are contained in related SAE Standards that have been incorporated by reference in Standard No. 108. SAE requirements are not uniform and were adopted on an ad hoc basis.

The changes that GTB requested would affect passenger cars only, and would expand the range of visibility requirements for many lamps, especially turn signal lamps and parking lamps. GTB believed that a majority of vehicles being sold in the United States in 1994 already met the requirements. For those that do not, the petitioner suggested that "the necessary design changes should not be difficult to implement, assuming that adequate lead time is provided."

The Amendments That NHTSA Proposed in 1995

The NPRM proposed a new paragraph S5.1.1.30, applicable to the vehicles covered by Tables III and IV (i.e., those less than 2032 mm (80 inches) in overall width). Proposed S5.1.1.30 would allow continued conformance to any visibility requirements existing in Standard No. 108 or a requirement for the "geometric visibility of at least 12.5 square centimeters for the light-emitting surface through a field of view as indicated in Table V, except for side marker lamps and reflex reflectors which have no area requirement." Although the petitioner did not request a phaseout of the existing requirements, the agency proposed that the existing requirements be phased out in favor of the harmonized requirements after two years, as part of its effort to promote the compatibility of standards worldwide. The definition of "Light-emitting Surface" that appears in SAE Standard J387 "Terminology, Motor Vehicle Lighting" would be added and defined to mean "that part of the exterior surface of the lens that encloses the light source and is required for conformance with photometric and colorimetric requirements." This definition was deemed necessary because the term appeared in the proposed requirement.

The NPRM would have added new Table V to cover 15 items of lighting equipment (lamps and reflectors), including rear fog lamps. While a rear fog lamp is not required by Standard No. 108, if a manufacturer chooses to provide one, the lamp would be required to meet the geometric visibility requirements (but no other requirements would apply at the present time).

The visibility requirements were expressed with relation to the Horizontal (H) and Vertical (V) axes of the lamp or reflector. As an example, the geometric visibility requirement for a front turn signal lamp would be that it should be seen through a range from minus 45 degrees to plus 45 degrees at Horizontal, and minus 15 degrees to plus 15 degrees at Vertical.

NHTSA, however, did not propose to adopt ECE's backup lamp geometric visibility requirements because of a possibly adverse effect on safety. Standard No. 108 requires that the center of the backup lamp lens be seen from anywhere on a vertical transverse plane located 3 feet behind the vehicle and extending 3 feet on either side of the vehicle, starting from 2 feet and ending at 6 feet above the road surface. For a minivan whose backup lamps are about 33 inches above the road surface, Standard No. 108's requirements creates

upward visibility angles greater than 45 degrees. For passenger cars with lower lamp heights, the angles are even larger. Allowing these angles to be as small as ECE's 15 degrees upward would allow a significant reduction in the ability of a pedestrian to see the lamp's signal.

In its efforts to promote worldwide compatibility of standards, NHTSA also proposed to allow amber as an optional color for rear side marker lamps and reflectors, in addition to the red which has been required for vehicles sold in the United States.

Another aspect of motor vehicle lighting that NHTSA thought could be appropriate for harmonization was the regulation of front and rear fog lamps. These are not items of motor vehicle equipment mandated by Standard No. 108. They are regulated by the States as each jurisdiction deems appropriate. NHTSA had no information as to the extent that European and Japanese manufacturers must modify the fog lamps and their installations on their vehicles in order to meet the regulations of the States. The NPRM asked whether NHTSA should assert its jurisdiction over that aspect of motor vehicle equipment performance and specify performance requirements (in addition to geometric visibility) for front and rear fog lamps as optional equipment, that would preempt State regulations and could afford windows of harmonization with the ECE standards. The performance requirements that appeared appropriate to NHTSA were those of SAE Standard J583 JUN93 "Front Fog Lamps" and SAE Standard J1319 JUN93 "Fog Tail Lamp".

Responses to the 1995 Proposal; the 1998 SNPRM

There were 25 commenters to the notice: GTB (the petitioner), Truck Safety Equipment Institute (TSEI), Nissan N.A., Osram-Sylvania (O-S), David Cameron of Embry-Riddle Aero. Univ. (Cameron), Chrysler Corporation (Chrysler), Advocates for Auto and Highway Safety (Advocates), Mercedes-Benz of N.A. (MBNA), GE Lighting (GE), Koito Mfg. Co. (Koito), Fiat Auto R&D U.S.A. (Fiat), Porsche Cars North America (Porsche), American Honda Motor Co. (Honda), Ichikoh Industries (Ichikoh), Wisconsin DOT (WDOT), United States Motorcycle Manufacturers Association (USMMA), Sierra Products (Sierra), Hella Inc. (Hella), Volvo Cars of N.A. (Volvo), Volkswagen (VW), G.J.M. Meekel (Chairman, GRE), and the American Automobile Manufacturers Association (AAMA).

Front and rear fog lamps: On the issue of federal regulation of front and rear fog lamps, those who commented were

unanimous in their support for regulation. This issue has been addressed separately by a termination notice to assure NHTSA the freedom to pursue efforts with industry to achieve internationally harmonized performance that can be adopted in the future in the lighting standard (62 FR 8883, February 27, 1997).

Amber color for rear side marker and reflex reflectors: There was significantly mixed opinion on whether amber should be an alternative to red as a color for rear side marker and reflex reflectors. TSEI strongly opposed allowing amber for side-mounted devices at the rear, especially for large trucks. It argued that at night the only true indicator of the end of the vehicle is a red lamp at the end of a string of amber lamps down the side of the vehicle. The agency agrees that this is an important point and that it ought to be especially cautious in permitting a color change for rear side markers and reflex reflectors on large vehicles or trailers.

Cameron did not specifically comment for or against this proposal. However, he argued that the only red lamps on a vehicle should be stop lamps and that all other lamps could be white or amber. This infers he would support amber for the rear side marker lamps and reflectors.

AAMA agreed with amber as a rear marker color for light duty vehicles and saw no safety issues involved with the change.

Advocates strongly opposed allowing amber, stating that there are no data on which to make such a monumental change to safety policy, and suggested a supplemental NPRM that would discuss the issue in depth. The agency does not agree that there were no data presented supporting the proposal. There is a research report titled "Side Marker Lamps for Passenger Cars", TNO Defense Research, TM 1994 C-14, by Jan Theeuwes and J.W.A.M. Alferdink. The report supports the use of a system of front and rear amber side marker lamps. It studied the likelihood of vehicles with amber markers being recognized earlier than non-amber-equipped vehicles, and concluded that there would be a safety benefit.

Notwithstanding this report, NHTSA believes that a significant change in the standardized signals used by vehicles in the United States for many years should be accompanied by additional supportive data. The study cited above does not contain data indicating whether it is important for drivers to know which end of a vehicle is about to emerge into their path. That is the key issue here.

Additionally, the European system of all-amber side marker lamps and reflex reflectors is very different from the U.S. system of amber at the front (and at intermediate positions on long vehicles) and red at the rear. Only vehicles longer than 6 meters (19.5 ft.) in Europe are required to have side marker lamps and reflex reflectors. For all other vehicles, these devices are optional. Because of this, the European vehicle fleet has virtually no light duty vehicles with side marker lamps and reflectors. Even when fitted, the mounting location is appreciably different than in the U.S. In Europe, the devices must be located in the first third of the vehicle on the side and in the last third of the vehicle on the side. This contrasts significantly with the requirement of Standard No. 108 that the devices be located as far forward or as far rearward as practicable.

Given these major differences and the lack of data noted above, NHTSA has decided to terminate rulemaking that would allow an option of providing amber rear side marker lamps and reflectors.

Geometric Visibility

The NPRM proposed to add most of the harmonized geometric visibility requirements requested by GTB. However, the agency did not propose to incorporate the intensity measurement method for determining geometric visibility that is currently used in ECE Regulation 48. Instead, NHTSA proposed to determine geometric visibility based on a projected lens area measurement method, which is the approach long used in Standard No. 108. As noted above, the agency had decided not to reference Regulation 48 in its proposal.

All but one of the commenters agreed that the proposed GTB alternative geometric visibility requirements would be acceptable as an alternative. However, many commented that NHTSA should have proposed to have the ECE intensity measurement method as an alternative method to the proposed area measurement method as a way of determining geometric visibility. Others noted that the current SAE standards have different and smaller angles of geometric visibility for turn signal and parking lamps, and for reflex reflectors. Advocates did not agree with the proposal and asked for a supplemental NPRM that would discuss the issues in depth.

Mercedes, Koito, Fiat, Honda, Ichikoh, Sierra, GTB, Volvo, Volkswagen, Meekel, and AAMA all asked the agency to include the ECE intensity measurement method as an

alternative method of determining geometric visibility. Essentially, this method determines the geometric visibility of a lamp by measuring the intensity of the lamp's illumination throughout the range of the defined geometric visibility angles. To determine compliance, a test of intensity is performed with the test lamp installed in the vehicle or an appropriate part thereof to assure that the intensity is available at the pertinent locations, irrespective of the remainder of the vehicle body design and its potential for blocking the signal. In Europe, this typically entails having a working prototype or production lamp and testing it on a real or simulated vehicle body. Testing cannot be conducted until after significant development and prototyping of both the lamp and vehicle are completed.

The intensity measurement method contrasts with the area measurement method, long used in Standard No. 108. This method specifies a minimum projected luminous lens area of the lamp as installed on the vehicle which must be seen throughout the prescribed visibility angles. While testing can be performed on a prototype vehicle as in the European method, the advantage of the American method is that compliance can be judged by the manufacturer by using only computer-generated engineering drawings at a time in the vehicle development stage long before any actual hardware is produced. This helps achieve a greater certainty of production compliance and fewer running changes than the use of the intensity measurement method.

TSEI recommended that NHTSA adopt the contemporary SAE standards for geometric visibility performance, instead of a version of the ECE requirements. The SAE standard permits the manufacturer to choose a geometric visibility either based on area or on intensity, but specifies an inboard (toward the center of the vehicle) angle for turn signals and parking lamps of 20 degrees and not 45 degrees as in the European standard and GTB's requested table (the comments of Nissan and O-S agreed). TSEI also recommended deletion of reflex reflectors from the proposal because it considers the 45 degree horizontal angle to be too large.

The issue of adopting contemporary standards is timely, because the agency intends to incorporate the latest versions of all currently referenced and subreferenced SAE standards in a comprehensive revision of Standard No. 108 to be proposed late in 1998. Consequently, the agency will need to decide whether to require the SAE angles or the GTB/ECE angles and

whether or when they should become mandatory. It is not necessary for this supplemental NPRM to decide this issue, but only to propose that the SAE values be considered as well as the GTB/ECE values. The SAE values are similar to the GTB/ECE values except for the turn signal lamps, parking lamps, and reflex reflectors as mentioned above. With adequate lead time either the SAE values or the GTB/ECE values could become mandatory, with the GTB/ECE values for those lamps slightly more difficult to meet because of aerodynamically shaped front-ends of vehicles, but offering greater visibility to vehicles at intersections.

TSEI's comment that the reflex reflector angle of 45 degrees is too large is based upon the fact that Standard No. 108 requires reflex reflector performance only to angles of 20 degrees left and right. Thus requiring these devices to be seen at 45 degrees would, in TSEI's view, make the angle too large for visibility needs. However, current reflex reflectors provide light return at angles larger than 20 degrees, often out to 30 degrees. Thus, logic would suggest that geometric visibility should be something greater than just the photometric performance of the reflector. Also, it should be noted that the contemporary SAE Standard J2041 *Reflex Reflectors for use on Vehicles 2032 mm or More in Width*, specifies reflective performance to the left and right of 45 degrees. It would appear that the geometric visibility of reflex reflectors on wider vehicles would of necessity also be at least 45 degrees or larger to the left and right. While these J2041 devices are not yet specified for all wide vehicles, Standard No. 108 requires all trailers over 10,000 pounds GVWR to be equipped with conspicuity treatment that replaces normally required reflex reflectors and that provides retroreflective performance out to 45 degrees on the side and rear. In summary, geometric visibility angles larger than required for the specified photometric performance are appropriate for improving vehicle conspicuity. The ECE values are reasonable for all vehicles and TSEI's objection is not persuasive.

Nissan commented that 45 degree inboard geometric visibility for parking and front turn signal lamps is too large to be practicable and too costly. The fronts of vehicles are becoming more rounded and may present difficulty in meeting inboard (toward the vehicle center) visibility angles, especially if the design incorporates recessed lens faces for front park and turn lamps. The front fascia toward the center of the vehicle can become obstructive to a lamp's light

emission, and impair its geometric visibility. The 45-degree inboard requirement for parking lamps and front and rear turn signal lamps has existed in the ECE regulations for many years with the requirement being a minimum of 0.05 and 0.3 candela respectively. Only recently as a result of GTB action did the ECE regulation accept the area measurement method for the narrower geometric visibility angles typical of SAE standards. When the ECE regulations changed, the inboard angles became 45 degrees at a time when the SAE angles were zero inboard. More recently, the SAE changed inboard angles to 20 degrees. This is the angle in the current SAE standards and the angle that Nissan, and the other commenters on this issue, TSEI and O-S, prefer. Permitting the inboard angle to be 20 degrees would make the requirement less costly. However, the argument about practicability appears not well taken, since millions of cars are produced annually in Europe that meet the 45 degrees inboard requirement.

The GTB, Koito, Fiat and Ichikoh commented that for the rear turn signal lamps, there appeared to be an error in that the proposed values were -15 to +45 degrees instead of the more typical -45 to +45 degrees range. This has been corrected in the proposed tables.

The NPRM proposed a new definition of "light-emitting surface." This is refined in the supplementary NPRM. NHTSA now proposes slightly different definitions of lens area and uses those definitions in the proposed specifications for geometric visibility. NHTSA also intends to use these definitions in its anticipated forthcoming administrative revision of Standard No. 108.

With respect to the first term, NHTSA proposes a redefinition of "effective projected luminous lens area." This is currently defined as:

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 $\frac{1}{2}$ deg. radius around the test point).

Under the proposal, "effective projected luminous lens area" would be redefined as:

the area of the projection of the effective light-emitting surface of a lamp on a plane specified to define the functional lighted lens area or the geometric visibility of the lamp.

This requires a definition of the term "effective light-emitting surface." Under the proposal, this term would be defined to mean:

that portion of the light-emitting surface of a lamp 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 an area of $\frac{1}{2}$ degree radius around a test point.

These two definitions are taken directly from the existing definition of "effective projected luminous lens area" quoted above. The revision is considered necessary to clarify what lamp parts constitute the measurable surface of a lamp lens and how the area of that surface is specified. Essentially, there is no substantive change.

The NPRM had proposed that any changes to geometric visibility be applied to vehicles of overall width less than 2032 mm (80 in.). This was in response to GTB which had asked that the changes apply to passenger cars. In the U.S., the present geometric visibility requirements apply to all motor vehicles. NHTSA decided to extend GTB's request to cover all vehicles that are like passenger cars in terms of required lighting (i.e., those covered by Tables III and IV of Standard No. 108, except for motorcycles). However, doing so would leave wider vehicles (those covered by Tables I and II of Standard No. 108) subject to the present requirement after the 5-year phase-in period. NHTSA views it as inconsistent and illogical to have different visibility requirements based on whether a vehicle's overall width is less or greater than 2032 mm (80 in.). Motorcycles and wider vehicles should be afforded the same safety and harmonization benefits that passenger car-like vehicles will have upon completion of this rulemaking. Having a single requirement for the geometric visibility of lighting devices installed on all vehicles, one that is more objective than the present requirement, should enhance safety and simplify the compliance responsibility of manufacturers. Consequently, the proposals in this notice cover wider vehicles as well as narrower ones.

In summary, the agency is requesting comments on two proposals for geometric visibility, but will adopt only one. The first proposal would amend Standard No. 108 to add S5.1.1.30 and Tables V and VI (the GTB/ECE specifications for lens area and luminous intensity). Alternatively, Standard No. 108 would be amended to add a different S5.1.1.31 and different Tables VII and VIII (the specifications of the SAE for lens area and luminous intensity). This nomenclature (S5.1.1.30, Tables V and VI or the alternative S5.1.1.31 and Tables VII and

VIII) has been chosen for the NPRM to distinguish one proposal from the other. The final rule, of course, will adopt the new paragraph and Tables in the sequence that exists at the time of the final rule. For five years after adoption of the final rule, a manufacturer would be allowed to comply with either the lens area or luminous intensity geometric visibility specifications of the alternative adopted, or the visibility requirements that currently exist in Standard No. 108. The agency is proposing that the new requirements become mandatory approximately 5 years after the final rule is published, and that compliance with the current requirements would no longer be permitted after that date. Thus, after that 5-year period, manufacturers would be required to meet the geometric visibility requirements specified in the final rule for either lens area or luminous intensity of the alternative adopted.

The agency wishes to give notice that, once a manufacturer has chosen a visibility option and certifies compliance to it, the agency will regard that choice as irrevocable. Failure to comply with the option selected will constitute a noncompliance warranting notification and remedy as required by statute. However, if the manufacturer complies when its lamps are tested to another visibility option, that fact would afford a basis for seeking an inconsequentiality determination which, if granted, would relieve it from its obligation to notify and remedy.

Lead Time

Many did not comment on the issue of lead time. Of those who did, AAMA did not want a mandatory requirement, Chrysler asked for lead time enough for vehicle production life cycles. O-S and GTB requested at least four years; Nissan and Ichikoh wanted five years and TSEI asked for ten. Choosing to have alternatives added to the existing requirements would do little to improve the visibility of signals, unless it were in the best interest of manufacturers to build a single vehicle for the world market. The fact that some commenters do not want the newly harmonized requirements to be mandatory implies that they are not so much interested in harmonization as they are in being able to pick whatever requirement suits their needs. NHTSA believes that this rulemaking action presents an opportunity to provide better performance while helping to reduce costs through harmonization. For the reasons discussed above, NHTSA has decided to issue this supplemental NPRM which proposes to allow a manufacturer to choose one of two

methods to be used for determining compliance with the proposed geometric visibility requirements. Either method would achieve a lamp whose signal is visible at the requisite angles.

Proposed Effective Date

The amendments would be effective 30 days after publication of the final rule in the **Federal Register**. At that time, manufacturers would have the option until the fifth September 1st following the issuance of the final rule to conform to either the present or the harmonized geometric visibility requirements. On and after the fifth September 1st, manufacturers would have to comply with the harmonized specifications. As noted previously, it is likely that many of the proposed requirements are already being met by manufacturers selling in world markets.

However, when compliance with the final rule becomes mandatory, it will affect U.S. vehicle lines that are not sold in world markets. NHTSA therefore seeks comments on the appropriateness of a 5-year leadtime for mandatory compliance with the final rule, and a discussion of related costs or other impacts upon the commenter.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under Executive Order 12866. Further, it has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rulemaking action is to clarify an existing requirement and to harmonize regulations. It is anticipated that the costs of the final rule would be so minimal as not to warrant preparation of a full regulatory evaluation. Vehicles presently selling in world markets are presumed to comply with the proposed rule. NHTSA has asked for comments on the costs and other impacts associated with a 5-year leadtime for mandatory compliance of those vehicles not presently complying. This could involve relocation of certain lamps and reflectors and associated sheet metal changes, or redesign of lamps or reflectors. These could be easily accommodated within the present or next design cycle. If the comments received indicate that the impacts are more than minimal, NHTSA will prepare a full regulatory evaluation before issuing a final rule.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National

Environmental Policy Act. It is not anticipated that a final rule based on this proposal would have a significant effect upon the environment. The composition of lighting equipment would not change from those presently in production.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 et seq.). I certify that this rulemaking action would not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The proposed amendment would primarily affect manufacturers of motor vehicles. Manufacturers of motor vehicles are generally not small businesses within the meaning of the Regulatory Flexibility Act.

The Small Business Administration's regulations define a small business in part as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC), SIC Code 3711 "Motor Vehicles and Passenger Car Bodies" has a small business size standard of 1,000 employees or fewer.

For manufacturers of passenger cars and light trucks, NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Because each manufacturer serves a niche market, often specializing in replicas of "classic" cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most 500 cars manufactured per year by U.S. small businesses.

In contrast, in 1998, there are approximately nine large manufacturers producing passenger cars, and light trucks in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks per year. NHTSA does not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

Further, small organizations and governmental jurisdictions would not be significantly affected as the price of motor vehicles ought not to change as the result of a final rule based upon this supplemental NPRM.

Executive Order 12612 (Federalism)

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in

Executive Order 12612, and NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. However, for the first time, Standard No. 108 would impose an affirmative compliance obligation upon fog lamps, that of geometric visibility. This means that, under 49 U.S.C. 30103(b), states would be preempted from having geometric visibility requirements for fog lamps that differ from those of Standard No. 108 under a final rule. Heretofore, regulation of fog lamps has been entirely a matter of state law (unless they impaired the effectiveness of lighting equipment required by Standard No. 108, in which event they were not allowed (S5.1.3, 49 CFR 571.108)).

Civil Justice

A final rule based on this proposal would not have any 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. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules 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.

Unfunded Mandates Reform Act of 1995.

The Unfunded Mandates Reform Act of 1995 (P.L. 104-4) requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Because this proposed rule would not have a \$100 million effect, no Unfunded Mandates assessment has been prepared.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 would be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 would continue 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 571.108 would be amended by:

a. adding to paragraph S4, in alphabetical order, a new definition of "Effective light-emitting surface," and revising the definition of "Effective projected luminous lens area," and

b. adding new paragraph S5.1.1.30 and new Tables V and VI, the new

Tables to follow Table IV and to precede the Note to the standard, or

c. adding new paragraph S5.1.1.31 and new Tables VII and VIII, the new Tables to follow Table IV and to precede the Note to the standard, to read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S4 Definitions.

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Effective light-emitting surface means that portion of the light-emitting surface of a lamp 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 an area of 1/2 degree radius around a test point.

Effective projected luminous lens area means the area of the projection of the effective light-emitting surface of a lamp on a plane specified to define the functional lighted lens area or the geometric visibility of the lamp.

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S5.1.1.30. This paragraph specifies geometric visibility requirements that apply to each passenger car, multipurpose passenger vehicle, truck, trailer, bus, and motorcycle.

(a) Each vehicle to which this section applies shall have each lamp or reflex reflector installed in a location such that each lamp or reflex reflector complies with its individual photometric intensity requirements.

(b) Each vehicle to which this section applies that is manufactured on or after [the fifth September 1 following publication of the final rule] shall comply with the requirements of either paragraph (d) or of paragraph (e) of this section.

(c) Each vehicle to which this section applies that is manufactured before [the fifth September 1 following publication of the final rule] shall comply with the requirements of paragraph (d), paragraph (e) or with the requirements of S5.3.1.1 and S5.3.1.1.1 for geometric visibility.

(d) When a vehicle to which this section applies is equipped with any lamp listed in Table V, other than a side-marker lamp, not less than 12.5 square centimeters of the lamp's effective projected luminous lens area shall be visible when viewed from any point in the field of view indicated in Table V for each such lamp. Some portion of side marker lamps and reflex reflectors shall be visible when viewed from any point in the field of view

indicated in Table V for each such side marker lamp and reflex reflector.

(e) When a vehicle to which this section applies is equipped with any lamp or reflector listed in Table VI, each such lamp or reflector shall provide, in accordance with Table VI, the minimum luminous intensity in candela through the field of view specified for it.

(f) The manufacturer of a vehicle shall certify to only one of the compliance options specified in paragraphs (a) through (e), and it may not thereafter choose a different option for that vehicle.

S5.1.1.31 This section specifies geometric visibility requirements that apply to each passenger car, multipurpose passenger vehicle, truck, trailer, bus, and motorcycle.

(a) Each motor vehicle to which this section applies shall have each lamp or reflex reflector installed in a location such that each lamp or reflex reflector complies with its individual photometric intensity requirements.

(b) Each vehicle to which this section applies that is manufactured on or after [the fifth September 1 following publication of the final rule] shall comply with the requirements of either paragraph (d) or of paragraph (e) of this section.

(c) Each vehicle to which this section applies that is manufactured before [the fifth September 1 following publication of the final rule] shall comply with the requirements of paragraph (d), paragraph (e), or with the requirements of S5.3.1.1 and S5.3.1.1.1 for geometric visibility.

(d) When a vehicle to which this section applies is equipped with any lamp listed in Table VII, other than a side-marker lamp, not less than 13 square centimeters of the lamp's effective projected luminous lens area shall be visible when viewed from any point in the field of view indicated in Table VII for each such lamp. Some portion of side marker lamps and reflex reflectors shall be visible when viewed from any point in the field of view indicated in Table VII for each such side marker lamp and reflex reflector.

(e) When a vehicle to which this section applies is equipped with any lamp or reflector listed in Table VIII, each such lamp or reflector shall provide, in accordance with Table VIII, the minimum luminous intensity in candela through the field of view specified for it.

(f) The manufacturer of a vehicle shall certify to only one of the compliance options specified in paragraphs (a) through (e), and it may not thereafter

choose a different option for that vehicle.

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TABLE V

Requirements for Geometric Visibility of Installed Lighting Devices
Area Measurement Method
(GTB/ECE derived)

LIGHTING DEVICE	AXIS	GEOMETRIC VISIBILITY REQUIREMENT
Front Turn Signal Lamp	H V	-45° TO +45° -15° TO +15° ¹
Rear Turn Signal Lamp	H V	-45° TO +45° -15° TO +15° ¹
Stop Lamp	H V	-45° TO +45° -15° TO +15° ¹
Front Parking Lamp	H V	-45° TO +45° -15° TO +15° ¹
Tail Lamp	H V	-45° TO +45° -15° TO +15° ¹
Rear Fog Lamp	H V	-10° TO +10° -5° TO +5°
Rear Reflex Reflector	H V	-30° TO +30° -10° TO +10° ¹
Front Side Reflex Reflector	H V	-45° TO +45° -10° TO +10° ¹
Intermediate Side Reflex Reflector	H V	-45° TO +45° -10° TO +10° ¹
Rear Side Reflex Reflector	H V	-45° TO +45° -10° TO +10° ¹
Front Side Marker Lamp	H V	-45° TO +45° -10° TO +10° ¹
Intermediate Side Marker Lamp	H V	-45° TO +45° -10° TO +10° ¹
Rear Side Marker Lamp	H V	-45° TO +45° -10° TO +10° ¹
High Mounted Stop Lamp	H V	-10° TO +10° -5° TO +10°
Daytime Running Lamp	H V	-20° TO +20° -10° TO +10°

¹Angle below horizontal may be reduced to 5° if the lamp is less than 750 mm. above the ground.

TABLE VI

Requirements for Geometric Visibility of Installed Lighting Devices
Intensity Measurement Method
(GTB/ECE derived)

LIGHTING DEVICE	AXIS	GEOMETRIC VISIBILITY REQUIREMENT	MINIMUM LUMINOUS INTENSITY (candela)
Front Turn Signal Lamp	H V	-45° TO +80° -15° TO +15° ¹	0.3
Rear Turn Signal Lamp	H V	-45° TO +80° -15° TO +15° ¹	0.3
Stop Lamp	H V	-45° TO +45° -15° TO +15° ¹	0.3
Front Parking Lamp	H V	-45° TO +80° -15° TO +15° ¹	0.05
Tail Lamp	H V	-45° TO +80° -15° TO +15° ¹	0.05
Rear Fog Lamp	H V	-25° TO +25° -5° TO +5°	75 in the diamond shaped area contained by H,5U; V,10R; H,5D; and V,10L
Rear Reflex Reflector	H V	none	Must comply with photometric intensity requirements as installed
Front Side Reflex Reflector	H V	none	Must comply with photometric intensity requirements as installed
Intermediate Side Reflex Reflector	H V	none	Must comply with photometric intensity requirements as installed
Rear Side Reflex Reflector	H V	none	Must comply with photometric intensity requirements as installed
Front Side Marker Lamp	H V	-45° TO +45° -10° TO +10° ¹	0.6
Intermediate Side Marker Lamp	H V	none	Must comply with photometric intensity requirements as installed
Rear Side Marker Lamp	H V	-45° TO +45° -10° TO +10° ¹	0.6 (amber) 0.25 (red)
High Mounted Stop Lamp	H V	none	Must comply with photometric intensity requirements as installed
Daytime Running Lamp	H V	none	Must comply with photometric intensity requirements as installed

¹Angle below horizontal may be reduced to 5° if the lamp is less than 750 mm. above the ground.

TABLE VII

Requirements for Geometric Visibility of Installed Lighting Devices
Area Measurement Method
(SAE derived)

LIGHTING DEVICE	AXIS	GEOMETRIC VISIBILITY REQUIREMENT
Front Turn Signal Lamp	H V	-20° TO +45° -15° TO +15° ¹
Rear Turn Signal Lamp	H V	-20° TO +45° -15° TO +15° ¹
Stop Lamp	H V	-45° TO +45° -15° TO +15° ¹
Front Parking Lamp	H V	-20° TO +45° -15° TO +15° ¹
Tail Lamp	H V	-45° TO +45° -15° TO +15° ¹
Rear Fog Lamp	H V	signal from lamp be visible -45° TO +45°
Rear Reflex Reflector	H V	Must comply with photometric intensity requirements as installed
Front Side Reflex Reflector	H V	Must comply with photometric intensity requirements as installed
Intermediate Side Reflex Reflector	H V	Must comply with photometric intensity requirements as installed
Rear Side Reflex Reflector	H V	Must comply with photometric intensity requirements as installed
Front Side Marker Lamp	H V	Must comply with photometric intensity requirements as installed
Intermediate Side Marker Lamp	H V	Must comply with photometric intensity requirements as installed
Rear Side Marker Lamp	H V	Must comply with photometric intensity requirements as installed
High Mounted Stop Lamp	H V	signal from lamp be visible -45° TO +45°
Daytime Running Lamp	H V	Must comply with photometric intensity requirements as installed

¹Angle below horizontal may be reduced to 5° if the lamp is less than 750 mm. above the ground.

TABLE VIII
Requirements for Geometric Visibility of Installed Lighting Devices
Intensity Measurement Method
(SAE derived)

LIGHTING DEVICE	AXIS	GEOMETRIC VISIBILITY REQUIREMENT	MINIMUM LUMINOUS INTENSITY (candela)
Front Turn Signal Lamp	H V	-45° TO +80° -15° TO +15° ¹	0.3
Rear Turn Signal Lamp	H V	-45° TO +80° -15° TO +15° ¹	0.3
Stop Lamp	H V	-45° TO +45° -15° TO +15° ¹	0.3
Front Parking Lamp	H V	-45° TO +80° -15° TO +15° ¹	0.05
Tail Lamp	H V	-45° TO +80° -15° TO +15° ¹	0.05
Rear Fog Lamp	H V	-45° TO +45°	signal must be visible
Rear Reflex Reflector	H V	none	Must comply with photometric intensity requirements as installed
Front Side Reflex Reflector	H V	none	Must comply with photometric intensity requirements as installed
Intermediate Side Reflex Reflector	H V	none	Must comply with photometric intensity requirements as installed
Rear Side Reflex Reflector	H V	none	Must comply with photometric intensity requirements as installed
Front Side Marker Lamp	H V	none	Must comply with photometric intensity requirements as installed
Intermediate Side Marker Lamp	H V	none	Must comply with photometric intensity requirements as installed
Rear Side Marker Lamp	H V	none	Must comply with photometric intensity requirements as installed
High Mounted Stop Lamp	H V	-45° TO +45°	signal must be visible
Daytime Running Lamp	H V	none	Must comply with photometric intensity requirements as installed

¹Angle below horizontal may be reduced to 5° if the lamp is less than 750 mm. above the ground.

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