proposed rule. In response, EPA reopened the public comment period until March 1, 1999, in order to ensure that all parties, including those that may lack access to the various publications in which EPA has publicized the issuance of the proposal, have sufficient opportunity to submit their comments. Notice of this extension was published in the **Federal Register** of January 14, 1999 (43 FR 2460) (FRL–6056–1).

EPA has also decided to hold a public meeting with interested members of the Agency's National Environmental Justice Advisory Council (NEJAC) and the public to offer additional opportunity for representatives of the environmental justice community to participate in the rulemaking process. During the first hour of the meeting, EPA officials will provide an overview of the proposal, focusing on environmental justice-related. In the second hour of the meeting, NEJAC members will have the opportunity to offer oral comments on the proposed rule. Other members of the public may offer oral comment on a first come, first served basis. Individuals interested in speaking must register at the meeting and are requested to limit their presentations to 3 minutes in order to allow as many persons as possible a fair chance to participate.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS–62156G (including comments and data submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC. Electronic comments can be sent directly to EPA at:

oppt.ncic@epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–62156G. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead-based paint, Lead poisoning, Reporting and recordkeeping requirements.

Dated: January 28, 1999.

William H. Sanders, III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 99–2674 Filed 2–1–99; 2:55 pm]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–5045]

RIN 2127–AH11

Federal Motor Vehicle Safety Standards: Air Brake Systems

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

ACTION: Notice of proposed rulemaking; partial grant/partial denial of petition for rulemaking.

SUMMARY: Pursuant to the agency's partial grant of a petition for rulemaking from the Truck Manufacturers Association, NHTSA proposes to amend the air brake standard to correct an inconsistency between two provisions concerning emergency brake stops, provide that single-unit truck axles should not be overloaded, clarify the wheel-lock provisions by adding a definition of ''tandem axle,'' and permit the use of roll bars on vehicles undergoing brake testing.

NHTSA denies requests by the petitioner to amend the standard by revising the braking test sequence, changing the provisions regarding manual brake adjustments, changing the burnish procedure, specifying application of the service brake prior to applying the parking brake, and clarifying that emergency brake requirements for trucks and buses do not become effective until March 1, 1998.

DATES: Comment closing date: Comments on this notice must be received by NHTSA not later than April 5, 1999.

Proposed effective date: If adopted, the amendments proposed in this notice would become effective 30 days after publication of the final rule. Optional early compliance would be permitted on and after the date of publication of a final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket number for this rule noted above and be submitted to: Docket Management Room, PL–401, 400 Seventh Street, SW, Washington, DC 20590. Docket Room hours are from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Mr. Joseph Scott, Safety Standards Engineer, Office of Crash Avoidance Standards, Vehicle Dynamics Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366–2720, fax (202) 493–2739.

For legal issues: Mr. Walter Myers, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366–2992, fax (202) 366–3820.

SUPPLEMENTARY INFORMATION:

1. Background

Federal Motor Vehicle Safety Standard (Standard) No. 121, *Air brake systems,* specifies performance and equipment requirements for trucks, buses, and trailers equipped with air brake systems to ensure safe braking performance under normal and emergency conditions.

Pursuant to the March 4, 1995 directive entitled ''Regulatory Reinvention Initiative'' from the President to the heads of departments and agencies of the Federal government, NHTSA reviewed its standards and regulations to identify superseded or unneeded regulations as well as to amend and update regulations as appropriate. One such regulation identified by NHTSA for revising and upgrading was Standard No. 121. Consequently, on May 31, 1996, NHTSA published a revision of Standard No. 121 in the **Federal Register** to remove obsolete provisions and update and reorganize the standard (61 FR 27288). The revision substantially clarified and simplified the standard without changing any of its substantive requirements. The effective date of this revision was March 1, 1997. Optional early compliance with the revised standard was permitted for vehicles manufactured prior to that date.

2. The Petition

The Truck Manufacturers Association (TMA) submitted a petition for rulemaking to NHTSA dated January 6, 1997. The TMA is a trade association

whose members include all the major U.S. manufacturers of medium and heavy trucks, i.e., those trucks with a gross vehicle weight rating (GVWR) greater than 8,845 kilograms (19,500 pounds). The petition was a followup to TMA's comments submitted in connection with the rulemaking action culminating with the final rule of May 31, 1996, discussed above.

In its petition, the TMA stated that it, through a Society of Automotive Engineers (SAE) task force, reviewed Standard No. 121 in detail. As a result of that evaluation, SAE developed a recommended practice, J1626, *Braking, Stability, and Control Performance Test Procedures for Air-Brake Equipped Trucks (REV APR96),* to provide a process for verifying vehicle compliance while minimizing test variability. TMA commended NHTSA for its efforts to update and reorganize Standard No. 121, but stated that some inconsistencies remain. TMA stated that Standard No. 121 and SAE J1626 should be aligned to improve test efficiency and decrease testing costs to the industry with no detrimental impact on motor vehicle safety. Accordingly, TMA suggested amending Standard No. 121 as follows:

a. Test sequence. Change the braking test sequence to perform the unloaded straight line stops and then the loaded straight line stops immediately following the braking-in-a-curve test. TMA asserted that the standard currently allows the truck tractor braking-in-a-curve control and stability tests to be performed loaded and unloaded (bobtail) on a surface with 0.5 coefficient of friction. This simplifies the logistics of moving vehicles from one test site to another and limits the need to water the test track to only a single time. TMA asserted, however, that the test sequence has little impact on the test results as long as the burnish procedure is performed first and final inspection follows all other required tests. The number of times that a vehicle must be loaded and unloaded has a significant impact on the time and effort to complete the sequence of tests. Thus, the suggestion to conduct the unloaded straight line stops before the loaded straight line stops would eliminate one loading/unloading sequence, thereby simplifying the test sequence to that extent.

b. Brake adjustments. Adopt the following language of SAE J1626: ''(O)ther than during the burnish, brakes can be adjusted per the vehicle manufacturer's procedure at any time.'' Although automatic brake adjusters are required by the standard, TMA stated that some automatic brake adjusters overadjust during Standard No. 121 testing, but not in normal service. SAE J1626 recognizes this and would allow brakes to be adjusted in accordance with the manufacturer's procedure at any time to reduce brake performance variability.

c. Brake test and burnish procedure. Require that the entire brake test procedure, including the burnish procedure, be conducted with the transmission in neutral or with the clutch disengaged. Standard No. 121 specifies that tests are conducted with the vehicle's transmission in neutral or with the clutch disengaged. This minimizes the effect of engine and driveline drag on stopping distance test results and also relieves the manufacturer of the burden of having to test every engine and driveline package offered on a given chassis. TMA asserts that engine and driveline drag can also affect burnish temperatures and the conditioning that brake linings receive. Thus, TMA argues that conducting the entire test sequence as well as the burnish procedure with the transmission in neutral or the clutch disengaged would eliminate variability in the burnish and the need to test with numerous combinations of engines and drivelines that are offered with each chassis.

d. Service brake application prior to parking brake application. Permit a full service brake application prior to applying the parking brakes, and clarify S5.6.3.1 to provide that it applies to the case in which a single leakage failure occurs in the service brake system after the parking brakes are applied. As a practical matter, when parking on a hill, the vehicle operator first applies the service brakes to hold the vehicle in place, then applies the parking brake before releasing the service brakes. TMA stated that it is not clear whether S5.6 permits this procedure. It argues that Standard 105, *Hydraulic and electric brake systems,* clearly permits a procedure in which the service brake is applied prior to application of the parking brake. Further, that standard permits reapplication of the service brake and parking brake up to two additional times if the vehicle does not hold on the grade. Thus, TMA requests that NHTSA clarify the parking brake requirements of Standard No. 121 to make them more consistent with those of Standard No. 105 in permitting a full application of the service brakes prior to application of the parking brake, with reservoirs at compressor cut-out pressure.

e. Clarify that emergency brake requirements for trucks and buses do not become effective until March 1, 1998. Section S5.3 of the standard specifies a schedule of effective dates for service brake stopping distance requirements, which indicates that trucks and buses have until March 1, 1998 to comply. Section S5.7 does not contain such a schedule for emergency brake requirements. TMA considers that an oversight on the agency's part that should be clarified.

f. Correction of inconsistency. TMA stated that the rulemaking process confirmed that emergency brake stops for loaded tractors with unbraked control trailers (item 4(b), Table I) are ''inappropriate.'' Subsection S5.7.3(b), however, retained the loaded tractor emergency test that was in effect earlier. Therefore, TMA requested that NHTSA delete S5.7.3(b) to correct the inconsistency.

g. Roll bar provision. Permit the use of a roll bar for any vehicle conducting the brake test sequence, including the 60-mile-per-hour (mph) straight-line stops and the 30-mph stops in a curve. TMA asserted that the safety of drivers and technicians is a primary concern during vehicle testing, and that use of a roll bar would protect them in the event of a vehicle rollover. TMA pointed out that truck tractors are permitted to be so equipped during the braking-in-a-curve stability and control tests. It said that this protection is just as important for short-wheelbase, high center of gravity trucks. A roll bar would ensure the safety of the driver in all tests and would eliminate the need to remove the roll bar after completing the braking-in-a-curve test sequence.

h. Single-unit truck axles should not be overloaded. Paragraph 6.1.10.4 of the standard provides for loading the tractor control trailer in such a manner as to avoid overloading the tractor's axles. The axles of a single-unit truck should likewise not be overloaded to achieve GVWR. Thus, the same provision should be incorporated into paragraph S5.3.1.1.

i. Need for additional clarification of the wheel lock provisions. TMA stated that the wheel lock provisions are not consistent with the ABS provisions. Specifically, TMA pointed out that paragraph S5.1.6.1(b) provides that ''the wheels of at least one rear axle'' of a truck tractor must be equipped with an antilock brake system (ABS) that directly controls the wheels on that axle. On the other hand, TMA stated that subparagraph S5.3.1(a) places wheel lock restrictions on 2 rear axles, and that S5.3.1(b) allows one of those 2 axles to lock up both of its wheels, but only if it is a tandem axle. TMA believes that the wheel lock provisions were originally written for the stopping

distance NPRM, when it was not clear that ABS would be mandatory. When the ABS and stopping distance proposals were combined for the final rule, however, the conflict developed but went unnoticed until recently.

By way of illustration of the suggested inconsistency between the ABS and wheel lock requirements, TMA gives the example of a 3-axle truck, bus or tractor. If the vehicle had 2 driven rear axles in tandem, known as a 6x4 configuration, the wheels on both sides of one rear axle might lock up during an entire stopping distance test. Conversely, if one of the two rear axles were a nonliftable tag or pusher axle, known as a 6x2 arrangement, then neither of the rear axles could lock up on both its wheels. Thus, TMA argues that the 6x4 vehicle needs ABS control on only one of its rear axles, while the 6x2 must have ABS control on both rear axles.

TMA stated that drive axles are the most logical location on the vehicle's rear for ABS, regardless of the number of axles trailing behind. These axles have the greatest rolling inertia, are the heaviest loaded, and are the only axles that can be used for traction control. The wheel lockup provisions, however, discourage this approach on vehicles with nonliftable tag axles. TMA therefore requested that the wheel lockup provisions of S5.3.1(a) through (d) be rescinded, and that S5.3.1 be redrafted to read:

S5.3.1 Stopping distance—trucks and buses. When stopped six times * * * without any part of the vehicle leaving the roadway.

j. Typographical errors. TMA pointed out 2 typographical errors:

- Paragraph S6.1.8, line 23, ''* * * in 1 mph* * *'' should read ''* * * in 1 mile * * * ;'' and
- Paragraph S6.2.5, line 2, ''* * * dynamometer or responding * * *'' should read ''* * * dynamometer corresponding * * *.''

3. Denials of Certain Requests by the Petitioner

a. Test sequence (see 2a above). TMA suggested allowing the tester to ''perform the unloaded straight line stops and then the loaded straight line stops immediately following the braking-in-a-curve tests.'' The following table shows the current test sequence and TMA's proposed sequence:

Current sequence	TMA's proposed sequence
1. Burnish (GVWR) ...	1. Burnish (GVWR)
2. a. Braking-in-Curve (GVWR); b. Braking-in-Curve (LLVW).	2. a. Braking-in-Curve (GVWR); b. Braking-in-Curve (LLVW)
3. Service Brake (GVWR); Emergency Brake (GVWR).	3. Service Brake (LLVW); Emergency Brake (LLVW)
4. Parking Brake (GVWR).	4. Parking Brake (LLVW)
5. Service Brake (LLVW).	5. Service Brake (GVWR)
6. Emergency Brake (LLVW).	6. Emergency Brake (GVWR)
7. Parking Brake (LLVW).	7. Parking Brake (GVWR)
8. Final Inspection	8. Final Inspection

This request is denied because—

(1) The current GVWR/LLVW (lightly-loaded vehicle weight) is consistent with the other tests in the overall test sequence.

(2) Flat-spotting of tires is minimized when GVWR tests are conducted first. Since not all wheels are required to be ABS-controlled and are therefore permitted to lock up, conducting the LLVW tests first, particularly for the 60-mph stopping distance tests, could result in severe flat-spotting of the tires on the non-ABS-controlled axles. Subsequent vehicle test runs would be difficult with the tires in that condition.

(3) The TMA proposal would eliminate one loading/unloading sequence for truck tractors, but it would necessitate an additional unloading sequence for single unit trucks and buses. The current test sequence for single unit trucks and buses does not necessitate any load change before the stopping distance tests are conducted since these vehicles are not currently required to be tested to the braking-in-a-curve test procedure. For these vehicles, TMA's proposed sequence would require the next test after the burnish, which is conducted at GVWR, to be the 60-mph stopping distance test at LLVW. TMA did not address this issue.

(4) Not all vehicle manufacturers have the necessary test facility to conduct the braking-in-a-curve test. Some manufacturers must transfer their vehicles to a different site for testing. Therefore, if TMA's test sequence were adopted, overall test efficiency would not necessarily improve, particularly for these manufacturers.

b. Brake adjustments (see 2b above). The TMA request that the agency permit brake adjustments at any time, other than during burnish, is denied. Standard No. 121 requires air-braked vehicles to be equipped with automatic brake adjusters. The potential for over-adjustment by automatic brake adjusters during the series of full-treadle brake applications required for braking-in-a-curve tests does exist. However, the agency believes that it is important to specify when manual adjustments are allowed since this enhances repeatability for compliance testing.

The agency further believes that manual adjustment of the brakes after each test sequence is inappropriate because it would be less representative of real-world braking conditions. Standard No. 121 allows some brake adjustment during testing. For example, two manual brake adjustments are allowed, one at the end of the braking-in-a-curve test and the other at the end of the GVWR parking brake test. For single unit trucks and buses, one manual brake adjustment is allowed at the end of the GVWR parking brake test. NHTSA believes that current limitations on the number of manual brake adjustments during the test sequence sufficiently addresses the potential for brake over-adjustment while preserving a well-defined test procedure.

c. Brake test and burnish procedure (see 2c above). The TMA request that the entire brake test procedure, including the burnish procedure, be conducted with the transmission in neutral or with the clutch disengaged is denied.

Before a vehicle's brakes are tested for compliance with Standard No. 121, the vehicle's brakes are burnished, also known as ''break-in,'' by a series of brake applications called ''snubs''. The burnish procedure is intended to simulate the break-in period that a vehicle's brakes will receive when it is initially used on the public roads. The current burnish procedures, which became effective in September, 1993 (53 FR 8190, March 14, 1988) specified that the brakes on heavy vehicles be burnished without regard to the brake temperatures generated during the burnish. The agency believes that this burnish procedure is more realistic and representative of the break-in that the vehicle brakes receive in actual service without favoring one brake design over another.

The burnish procedure is required to be conducted with the vehicle in gear. The agency believes that TMA's proposal to allow the vehicle's brakes to be burnished with the clutch disengaged or the transmission in neutral will result in a higher temperature burnish similar to the old burnish procedure. The burnish procedure rulemaking rejected this temperature-based approach to burnishing brake linings on heavy vehicles. The current burnish procedure allows the brakes to reach whatever temperatures they are designed to reach when driven in typical stop-and-go driving. Therefore, any braking system

design will be conditioned fairly under this approach.

In addition, the procedure described in S7 of Standard No. 105, when testing a vehicle in neutral, requires a four-part procedure that is appropriate for a performance requirement, but would be very time-consuming if applied to a 500-snub burnish procedure. The agency believes that using this method in conducting the burnish procedure would not be in the interest of testing efficiency that manufacturers are striving to achieve.

TMA is also concerned about the burden on manufacturers to test every engine and driveline package offered on a given chassis. The agency notes that vehicle manufacturers are not required to and currently do not test every combination of engine and drivetrain that is offered on each vehicle. The legal requirement is that a manufacturer exercise due care in assuring itself that its vehicle is capable of meeting the performance requirements of applicable standards when tested as prescribed in the standards.

d. Service brake application prior to parking brake application (see 2d above). TMA's request that a full service brake application be permitted prior to applying the parking brake is denied. The agency has no test data comparing the grade holding ability of heavy truck air brake systems using full service brake application prior to engaging the parking brakes, nor did TMA supply such data.

The agency is concerned that, by allowing a full treadle application prior to engaging the parking brake, colloquially referred to as ''compounding,'' some vehicles may have reduced grade holding ability. For example, in some applications, such as the construction industry, trucks are often stopped on a grade in the unloaded condition by a partial treadle application, after which the driver applies the parking brake. In the lightly-loaded condition, a full treadle application may not be needed to stop the vehicle on the grade. If the vehicle were then loaded, however, it is possible that the parking brake would not hold and the vehicle would roll away.

NHTSA is also concerned about the effects of full service brake applications prior to engaging the parking brake on the durability of foundation brake components such as brake chamber support brackets. For a brief time when the air-applied service brakes and the mechanical spring brakes both exert a braking force on the slack adjusters and other foundation brake components, these additive forces can cause damage to these brake components. Another concern is the effect on foundation brake components when vehicles are parked with their brakes at high temperatures. As those brake drums cool, they would impose greater loads on the foundation brakes which could lead to permanent deformation of some components.

The agency notes that this issue is an ongoing concern to the industry in certifying vehicles to Standard No. 121. However, since NHTSA has no test data with which to evaluate the feasibility of this proposal and TMA did not provide any data to support its proposal, the agency has decided to conduct vehicle research to evaluate the issue of brake compounding. Since this research is not expected to be completed until mid-1999, the agency denies this portion of the petition. However, when our research has been completed and the test results analyzed, it is the agency's intent to propose a clarification of the test procedure or a revision of the regulatory language in S5.6.2 of Standard No. 121.

e. Clarify that emergency brake requirements for trucks and buses do not become effective until March 1, 1998 (see 2e above). This TMA request is denied as being moot. Emergency brake requirements are now in effect for all air braked vehicles as of March 1, 1998. Thus, subsection S5.7 of Standard No. 121 will not now be amended to state the effective dates of applicable requirements for the emergency brakes of trucks and buses. The following table, however, is shown here for information purposes:

EMERGENCY BRAKE REQUIREMENTS FOR TRUCKS AND BUSES: EFFECTIVE DATES

(by vehicle and brake configuration)

March 1:	
1997 (Air)	New Truck Tractors.
1998 (Air)	New air-braked trailers & single-unit trucks, buses.
1999 (Hydraulic).	New single-unit trucks and buses with hydraulic brakes.

4. Grants of Certain Requests by Petitioner; Agency Proposals

a. Correction of inconsistency (see 2f above). TMA suggested that emergency brake stops for loaded tractors with unbraked control trailers are inappropriate. TMA is correct. The agency grants the request and proposes to delete S5.7.3(b) since there is no longer a requirement for emergency brake stops for truck tractors in the loaded condition.

b. Roll bar provision (see 2g above). TMA suggested permitting the use of a roll bar for any vehicle in this test sequence, including the 60-mph straight line stops and the 30-mph stops in a curve. The agency grants the request and, in order to provide adequate protection for test vehicle drivers in the event of a rollover during testing, proposes to permit the use of roll bars in all test vehicles utilized in the braking-in-a-curve tests and the straight line stopping distance tests. Further, for the 60-mph straight line stops in the unloaded condition, NHTSA proposes to include an allowance of up to 1,500 pounds for driver, instrumentation, and roll bar. This allowance is not applicable to tests in the loaded condition since the weight of these items would be included as part of the load.

c. Single-unit truck axles should not be overloaded (see 2h above). TMA suggested that paragraph S5.3.1.1 be amended to provide that single-unit trucks should not be overloaded to achieve GVWR. The agency grants the request and proposes to amend paragraph S5.3.1.1 to so provide.

d. Need for additional clarification of the wheel lock provisions (see 2i above). TMA suggested that the wheel lockup provisions be clarified by rescinding the provisions of S5.3.1(a) through (d) (see b(9) above). Although NHTSA does not agree with TMA's rationale for deleting the wheel lock provision, the agency proposes to clarify any misconceptions about the wheel lock provisions with respect to vehicles with tandem axles.

The agency believes that the lack of a definition for ''tandem axle'' is a primary cause for the misunderstanding of the wheel lock restrictions of S5.3.1. The industry considers a tandem to be two or more drive axles that are placed in a close arrangement one behind the other, whereas NHTSA considers a tandem to be two or more axles (driven or non-driven) placed in a close arrangement one behind the other. Accordingly, NHTSA believes that for a 2-axle rear tandem with one driven axle and one pusher axle, if ABS is on the driven axle and not on the pusher axle, the two wheels on the pusher axle are permitted to lock up for the duration of the stop, while the 2 ABS-controlled wheels on the driven axle are allowed to lock up for only a duration of 1 second or less.

If, as TMA assumes, the two rear axles in the configuration of one driven and one tag or pusher axle are not considered a tandem, TMA would be correct that the lockup restriction of one wheel per axle would apply and prevent both wheels on any one of the axles

from locking simultaneously. However, NHTSA believes that TMA is incorrect in its statement that ''neither of the rear axles can have lockup on both its wheels'' because NHTSA considers the 2-axle configuration to be a tandem.

The agency believes that a definition of ''tandem axle'' is needed in the standard to clarify the wheel lock provisions. That definition would not include a requirement that all axles in a tandem be driven. That should resolve the issue of having implied differences in the stringency of the ABS requirements for heavy vehicles with 3 or more axles based on the drivetrain configuration. Thus, a 6x2 single truck (3-axle truck with one drive axle) could comply with the wheel lock provisions using a 4-sensor/2-modulator antilock system since the two rear axles would be defined as a tandem. That would allow any two wheels on the tandem, that is either the tag or the pusher axle, to lock for the duration of the test, if the axle is not ABS-controlled. This definition has recently been included in Standard No. 105, *Hydraulic and electric brake systems*, and NHTSA proposes adding it to Standard No. 121 at this time.

e. Typographical errors (see 2j above). TMA is correct that 2 typographical errors appear in S6.1.8 and S6.2.5 respectively. NHTSA will correct the 2 typographical errors identified by TMA, namely line 23 of the first paragraph of S6.1.8 which now reads ''1 mph'' will be corrected to read ''1 mile.'' Similarly, line 2 of S6.2.5 that now reads ''dynamometer or responding'' will be corrected to read ''dynamometer corresponding.''

5. Rulemaking Analyses and Notices

a. Executive Order 12866 and DOT Regulatory Policies and Procedures

This document has not been reviewed under Executive Order 12866, *Regulatory Planning and Review*.

NHTSA has analyzed the impact of this rulemaking action and has determined that it is not ''significant'' within the meaning of DOT's regulatory policies and procedures. This action proposes to clarify and amend certain provisions of Federal Motor Vehicle Safety Standard No. 121, *Air brake systems*, to permit the addition of a rollbar on test vehicles when undergoing brake testing, clarify when wheel lockup is permitted when brake testing, provide that single-unit truck axles should not be overloaded when brake testing, and delete an obsolete requirement. The amendments proposed herein would not impose any additional costs on manufacturers of medium and heavy trucks. Although the installation of roll bars on test vehicles would involve additional costs, that provision is optional to manufacturers who may voluntarily want to install them. Further, even if manufacturers chose to install the bars on their test vehicles, the number of affected vehicles would be very small. Thus, the agency estimates that implementation of the proposals herein would not result in any increased costs to manufacturers, distributors, or consumers. Accordingly, a full regulatory evaluation was not prepared.

b. Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* I hereby certify that this notice of proposed rulemaking would not have a significant impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The amendments proposed herein would primarily affect manufacturers of medium and heavy trucks. The Small Business Administration (SBA) regulation at 13 CFR part 121 defines a small business 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 (SIC) codes. SIC code No. 3711, *Motor Vehicles and Passenger Car Bodies*, prescribes a small business size standard of 1,000 or fewer employees. SIC code No. 3714, *Motor Vehicle Part and Accessories*, prescribes a small business size standard of 750 or fewer employees.

The amendments proposed in this rulemaking action would amend Standard No. 121 to permit the addition of a rollbar on test vehicles when undergoing brake testing, clarify when wheel lockup is permitted when brake testing, provide that single-unit truck axles should not be overloaded when brake testing, and delete an obsolete requirement. These proposed amendments were requested by the trade organization that represents the major manufacturers of medium and heavy trucks in the U.S. The proposed amendments, if adopted, would not mandate any increased costs or other burdens on truck manufacturers, most if not all of which would not qualify as small businesses under SBA guidelines. Neither would the proposed amendments result in any increased costs for small businesses or consumers. Accordingly, there would be no significant impact on small businesses, small organizations, or small governmental units by these amendments. For these reasons, the agency has not prepared a preliminary regulatory flexibility analysis.

c. Executive Order No. 12612, Federalism

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria of E.O. 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

d. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act and has determined that implementation of this rulemaking action would not have any significant impact on the quality of the human environment.

e. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, Pub. L. 96–511, NHTSA states that there are no information collection requirements associated with this rulemaking action.

f. Civil Justice Reform

The amendments proposed herein would not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision thereof may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, the United States government, a state or political subdivision of a state may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. Section 30161 of Title 49, U.S. Code sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings is not required before parties may file suit in court.

6. Comments

Interested persons are invited to submit comments on the amendments proposed herein. It is requested but not required that any such comments be submitted in duplicate (original and 1 copy).

Comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary

arguments in concise fashion. Necessary attachments, however, may be appended to those comments without regard to the 15-page limit.

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address noted above, and 1 copy from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information called for in 49 CFR part 512, *Confidential Business Information*.

All comments received on or before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after the closing date. To the extent possible, comments received after the closing date will 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 today's proposal will be available for public inspection in the docket. NHTSA will continue to file relevant information in the docket after the comment closing date, and it is recommended that interested persons continue to monitor the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rule 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, Rubber and rubber products, and Tires.

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 571.121 would be amended in S4 by adding a definition of ''tandem axle'' in alphabetical order; by revising S5.3.1.1 (a) through (c) and S5.7.3(b); by removing and reserving S5.7.3(c); and by revising S6.1.8 and S6.2.5, to read as follows:

§ 571.121 Air brake systems.

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S4. *Definitions.*

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Tandem axle means a group or set of two or more axles placed in a close arrangement, one behind the other, with the centerlines of adjacent axles not more than 72 inches apart.

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S5.3.1.1 * * *

(a) Loaded to its GVWR so that the load on each axle, measured at the tire-ground interface, is most nearly proportional to the axles' respective GAWRs, without exceeding the GAWR of any axle.

(b) In the truck tractor only configuration plus up to 500 lbs. or, at the manufacturer's option, at its unloaded weight plus up to 500 lbs. (including driver and instrumentation) and plus not more than an additional 1,000 lbs. for a roll bar structure on the vehicle, and

(c) At its unloaded vehicle weight (except for truck tractors) plus up to 500 lbs. (including driver and instrumentation) or, at the manufacturer's option, at its unloaded weight plus up to 500 lbs. (including driver and instrumentation) plus not more than an additional 1,000 lbs. for a roll bar structure on the vehicle. If the speed attainable in two miles is less than 60 mph, the vehicle shall stop from a speed in Table II that is four to eight mph less than the speed attainable in two miles.

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S5.7.3 * * *

(b) Be capable of modulating the air in the supply or control line to the trailer by means of the service brake control with a single failure in the towing vehicle service brake system as specified in S5.7.1.

(c) [Removed and reserved]

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S6.1.8 For vehicles with parking brake systems not utilizing the service brake friction elements, burnish the friction elements of such systems prior to the parking brake test according to the manufacturer's recommendations. For vehicles with parking brake systems utilizing the service brake friction elements, burnish the brakes as follows: With the transmission in the highest gear appropriate for a speed of 40 mph, make 500 snubs between 40 mph and 20 mph at a deceleration rate of 10 f.p.s.p.s., or at the vehicle's maximum deceleration rate if less than 10 f.p.s.p.s. Except where an adjustment is specified, after each brake application accelerate to 40 mph and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If the vehicle cannot attain a speed of 40 mph in 1 mile, continue to accelerate until the vehicle reaches 40 mph or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. Any automatic pressure limiting valve is in use to limit pressure as designed. The brakes may be adjusted up to three times during the burnish procedure, at intervals specified by the vehicle manufacturer, and may be adjusted at the conclusion of the burnishing, in accordance with the vehicle manufacturer's recommendation.

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S6.2.5 The rate of brake drum or disc rotation on a dynamometer corresponding to the rate of rotation on a vehicle at a given speed is calculated by assuming a tire radius equal to the static loaded radius specified by the tire manufacturer.

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L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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