Compliance: Required as indicated, unless accomplished previously.

To prevent intermittent sticking of the relays on the roll trim printed circuit board (PCB) in either the open or closed position, which could result in an out-of-trim condition that could require using considerable control wheel force to keep the wings level, and consequent reduced controllability of the airplane, accomplish the following:

Inspection and Replacement, if Necessary

(a) Within 200 flight hours or 6 months after the effective date of this AD, whichever occurs first, perform an inspection to determine the part number of the A194 roll trim PCB, in accordance with Raytheon Service Bulletin SB 27–3464, dated December 2001.

(1) If the A194 roll trim PCB has a part number of 128–364122–7 or higher (*i.e.,* 128–364122–9, –11, etc.): No further action is required by this paragraph.

(2) If the A194 roll trim PCB does not have a part number of 128–364122–7 or higher: Before further flight, replace the A194 roll trim PCB with a PCB having a part number of 128–364122–7 or higher, in accordance with the service bulletin.

Parts Installation

(b) As of the effective date of this AD, no person may install on any airplane an A194 roll trim PCB having part number 128–364122–1 or 128–364122–5.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, Wichita Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

Issued in Renton, Washington, on October 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–27669 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–1999–6550; Notice 3]

RIN 2127–AI63

Federal Motor Vehicle Safety Standards; Hydraulic and Electric Brake Systems

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this document, NHTSA proposes to amend the Federal motor vehicle safety standard on hydraulic and electric brake systems to include an option for the use of a roll bar structure during specified testing of brake systems in single unit trucks and buses. This option is already available during similar testing of air braked trucks and buses. We tentatively conclude that permitting the use of a roll bar structure would help protect drivers and technicians in the event of a rollover during testing of hydraulically-braked trucks and buses. The safety of drivers and technicians is a primary concern during vehicle testing. The use of a roll bar structure would offer protection to the drivers and technicians performing brake tests conducted at lightly loaded vehicle weight.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than January 5, 2004.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number NHTSA–1999–6550] by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Submission of Comments heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Samuel Daniel Jr., Safety Standards Engineer, Office of Crash Avoidance Standards, Vehicle Dynamics Division, at (202) 366–4921, and fax him at (202) 493–2739.

For legal issues, you may call Christopher Calamita of the NHTSA Office of Chief Counsel, at (202) 366–2992, and fax him at (202) 366–3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

I. Background

NHTSA has two brake standards for medium and heavy vehicles. Federal Motor Vehicle Safety Standard (FMVSS) No. 105, *Hydraulic and electric brake systems,* applies to vehicles with hydraulic brakes. FMVSS No. 121, *Air brake systems,* applies to vehicles with air brakes.

FMVSS No. 105 and 121 have similar brake performance requirements, but the two standards differ with respect to their specifications concerning the use of a roll bar during these tests. Roll bars are sometimes added to vehicles for brake testing if there are concerns about a possible vehicle rollover.

Air braked vehicles—roll bar use in braking-in-a-curve test. On March 10, 1995, NHTSA published a final rule amending FMVSS No. 121 requiring all air braked vehicles to be equipped with antilock brake systems (ABS) (60 FR 13216). The amendments to FMVSS No. 121 included a braking-in-a-curve performance test for truck tractors. Due to concern of potential vehicle rollover, the agency also included a manufacturer's option for using a roll bar structure during performance of that test at lightly loaded vehicle weight (LLVW). Loading of a vehicle to test at the gross vehicle weight rating (GVWR) already afforded manufacturers the opportunity to use a roll bar structure.

Air braked vehicles—roll bar use in straight line stop and parking brake grade holding tests. In response to a petition from the Truck Manufacturers Association, we published a final rule correcting and clarifying the air brake standard (66 FR 64154; December 12, 2001). The December 2001 final rule permitted the use of a roll bar structure for vehicles tested at lightly loaded vehicle weight in certain FMVSS No. 121 tests, including the 60 mph straight-line stop and the parking brake grade holding tests. In extending the option

for using a roll bar structure to these tests, we determined that the roll bar option is equally appropriate for tractors as well as single-unit vehicles.

Hydraulic braked vehicles—roll bar use in braking-in-a-curve test. On August 11, 2003, NHTSA published a final rule for braking-in-a-curve test requirements for ABS equipped single-unit trucks and buses with a GVWR greater than 10,000 pounds (68 FR 47485). Again, the concerns regarding possible rollover led NHTSA to grant manufacturers the option to use a roll bar structure for single-unit trucks and buses undergoing the braking-in-a-curve test under FMVSS No. 105.

II. Proposal To Permit Use of Roll Bar in Additional Brake Performance Tests of Hydraulically-Braked Trucks and Buses

In this document, we are proposing to amend FMVSS No. 105 to give manufacturers the option of using a roll bar structure for medium and heavy vehicles during additional brake testing at lightly loaded vehicle weight. Performance testing of brake systems at LLVW on vehicles with a GVWR greater than 10,000 pounds may result in vehicle rollover because of the configuration of these vehicles. Trucks and buses with a GVWR greater than 10,000 pounds often have a high center of gravity resulting in a low rollover threshold. Rollover threshold is the lateral acceleration at which a vehicle will roll over and for trucks and buses with a GVWR greater than 10,000 pounds it is usually 0.5 g or less. In contrast, a typical light vehicle has a rollover threshold between 0.8 g and 1.2 g. For tests performed at GVWR, manufacturers can already include roll bar structure weight in the vehicle weight to provide test drivers and technicians additional safety. This proposal would permit, at manufacturer's option, the use of a roll bar structure on these vehicles undergoing testing at LLVW.

Hydraulically-braked vehicles with a GVWR greater than 10,000 pounds must meet the requirements of FMVSS No. 105, including 60 mph straight-line stopping distance requirements and, for heavy school buses, parking brake requirements. During straight line stop testing, an equipment malfunction or a problem with the ABS can create the potential for these trucks and buses to yaw. Because of the low rollover threshold, these vehicles may roll over if they experience yaw at test speeds. During the parking brake test, while the vehicle is in the forward direction on a 20 percent grade, a failure of the brake system on one side of the vehicle can also cause the vehicle to yaw and perhaps roll over.

Currently, heavy school buses are the only vehicles with a GVWR greater than 10,000 pounds required by FMVSS No. 105 to meet the parking brake requirements. However, the agency has requested comments on a proposal that would require all hydraulically braked vehicles with a GVWR greater than 10,000 pounds to have parking brakes that meet these same requirements (67 FR 66098).

The agency also notes that single-unit trucks with a GVWR greater than 10,000 pounds may undergo brake system testing either as completed trucks or as chassis-cabs without bodies or equipment that would normally be installed by a final-stage manufacturer. A completed vehicle is likely to have more structure to protect a test driver than an incomplete vehicle. If a completed truck were to roll over, the impact force would be distributed across the body and cab of the truck. In the absence of a body or additional equipment during testing of a chassis-cab, the vehicle cab would receive a greater impact force during a rollover, increasing the potential of harm to the driver. Permitting the use of a roll bar would allow manufacturers to provide additional protection for the test driver in the event of a rollover.

The same concerns for vehicle rollover present in testing for FMVSS No. 121 are present in testing for FMVSS No. 105. Under FMVSS No. 121, NHTSA gives manufacturers the option of using a roll bar structure on trucks and buses tested at LLVW to improve safety for test drivers and technicians. This proposed amendment would permit the use of a roll bar structure on any vehicle with a GVWR greater than 10,000 pounds during FMVSS No. 105 compliance testing of the parking brake system at LLVW, the service brake system at LLVW, and the service brake system in partial failure mode at LLVW.

III. Compliance Date

The amendments proposed here do not impose any new requirements. Instead, the agency proposal would simply allow manufacturers the option of a roll bar as an added safety measure during the specified compliance tests. Since these proposed amendments would relieve a restriction and promote safety for test drivers, NHTSA proposes that they become effective 30 days after publication of the final rule in the **Federal Register**.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budget impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. It is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

This document proposes to amend 49 CFR 571.105 by including a manufacturer's option for the use of a roll bar structure during the performance testing of hydraulic brake systems. The proposed amendment would allow at manufacturer's option the use of a roll bar structure when testing hydraulic braked vehicles with a GVWR greater than 10,000 pounds at lightly loaded vehicle weight. Because of the configuration of these vehicles they are susceptible to roll over during testing. We tentatively conclude that permitting the use of a roll bar structure would help protect drivers and technicians in the event of a rollover during these tests. As noted above, the amendments proposed here do not impose any new requirements. Instead, the agency proposal would simply allow manufacturers the option of a roll bar as an added safety measure during the specified compliance tests. The proposal's impacts are so small that a full regulatory evaluation was not prepared.

B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this proposed action on small entities. 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 weight trucks. The Small Business Administration (SBA) regulation at 13 CFR part 121 organizes size standards according to the Standard Industrial Classification (SIC) codes. SIC code number 3711, *Motor Vehicles and Passenger Car Bodies,* prescribes a small business size standard of 1,000 or fewer employees. SIC codes No. 3714, *Motor Vehicle Part and Accessories,* prescribes a small business size standard of 750 or fewer employees.

Most of the intermediate and final stage manufacturers of vehicles built in two or more stages have 1,000 or fewer employees. However, the agency expects testing for FMVSS No. 105 to be conducted by the original equipment manufacturers, most, if not all, of which do not qualify as a small business under SBA guidelines. Further, if adopted, the proposed amendments would not require use of the roll bar structure and therefore would not require any increased costs or other burdens on truck manufacturers. The proposed amendments to FMVSS No. 105 would permit the use of a roll bar structure at the manufacturer's option, on test vehicles undergoing brake testing. 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. 13132

NHTSA has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132, Federalism and has determined that this proposal does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The proposal would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

D. National Environmental Policy Act

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

E. Paperwork Reduction Act

This proposed rule does not contain any collection of information requirements requiring review under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

F. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Society of Automotive Engineers (SAE) Recommended Practice J1626 APR96, *Braking, Stability, and Control Performance Test Procedures for Air-Brake-Equipped Truck Tractors,* includes an option for using a roll bar structure for testing at LLVW. While the SAE practice applies to air braked trucks, the SAE tests performed at LLVW are similar to tests performed at LLVW under FMVSS No. 105. The proposed amendment would permit the use of a roll bar structure in a similar manner as the SAE recommended practice.

G. Civil Justice Reform

This proposal would not have any retroactive effect. Under 49 U.S.C. 21403, 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 procured for the State's use. 49 U.S.C. 21461 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.

H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, 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 (adjusted for inflation with base year of 1995). This rulemaking would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

I. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

J. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, health, or safety risks that disproportionately affect children. The proposed rule, if made final, would permit manufacturers to use a roll bar structure when testing medium and heavy hydraulic braked trucks and buses at LLVW.

K. Executive Order 13211

Executive order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply of, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If made final, this rulemaking would permit the voluntary and limited use of

a roll bar structure during brake testing. Therefore this proposal was not analyzed under E.O. 13211.

L. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

M. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

V. Submission of Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.** Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. Please note, if you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[1]

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

[1] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

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, NHTSA proposes to amend 49 CFR part 571 as set forth below.

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 571.105 would be amended by revising S6.1.2, S7.7.3, S7.8, and S7.9.1 to read as follows:

§ 571.105 Standard No. 105; Hydraulic and electric braking systems.

* * * * *

S6.1.2 For applicable tests specified in S7.5(a), S7.7, S7.8, and S7.9, vehicle weight is lightly loaded vehicle weight, with the added weight, except for the roll bar structure allowed for trucks and buses with a GVWR greater than 10,000 pounds, distributed in the front passenger seat area in passenger cars, multipurpose passenger vehicles, and trucks, and in the area adjacent to the driver's seat in buses.

* * * * *

S7.7.3 *Lightly loaded vehicle.* Repeat S7.7.1 or S7.7.2 as applicable except with the vehicle at lightly loaded vehicle weight or at manufacturer's option, for a vehicle with GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle.

* * * * *

S7.8 *Service brake system test—lightly loaded vehicle (third effectiveness) test.* Make six stops from 60 mph with vehicle at lightly loaded vehicle weight, or at the manufacturer's option for a vehicle with GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle. (This test is not applicable to a vehicle which has a GVWR of not less than 7,716 pounds and not greater than 10,000 pounds and is not a school bus.)

S7.9 *Service brake system test—partial failure.*

S7.9.1 With the vehicle at lightly loaded vehicle weight or at the manufacturer's option for a vehicle with a GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle, alter the service brake system to produce any one rupture or leakage type of failure, other than a structural failure of a housing that is common to two or more subsystems. Determine the control force, pressure level, or fluid level (as appropriate for the indicator being tested) necessary to activate the brake system indicator lamp. Make four stops if the vehicle is equipped with a split service brake system, or 10 stops if the vehicle is not so equipped, each from 60 mph, by a continuous application of the service brake control. Restore the service brake system to normal at completion of this test.

* * * * *

Issued on: October 29, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–27657 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 587

[Docket No. NHTSA–2003–16417]

RIN 2127–AJ11

Offset Deformable Barrier

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

ACTION: Denial of petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration submitted by Toyota Motor Corporation (Toyota). The petition asked the agency to harmonize the specifications of the offset deformable barrier (ODB) with the European standard. The agency is denying the petition because the current specifications were intentionally designed to accommodate the vehicle designs of the U.S. fleet. Further, the additional design issues raised by Toyota are performance neutral and do not justify amending the specifications.

FOR FURTHER INFORMATION CONTACT: For non-legal issues you may call Lori Summers, Office of Crashworthiness Standards, at (202) 366–1740. For legal issues, you may call Christopher Calamita, Office of the Chief Counsel, at (202) 366–2992. You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

Summary of the Petition

Toyota petitioned NHTSA to amend the ODB specifications contained in 49 CFR Part 587, for the purpose of harmonization with Economic Commission for Europe (ECE) regulation 96/79/EC, *Frontal impact.* The specifications for the ODB were published in a March 31, 2000, final rule as the first step towards using an ODB to evaluate the crashworthiness of vehicles (65 **Federal Register** 17196.) In its petition for reconsideration of the March 2000 final rule, Toyota claimed that the specified barrier height could allow the test vehicle to contact the rigid portion of the barrier, potentially affecting the results of the test. Toyota also argued that the differences in the specifications between Part 587 and the European standard were unduly burdensome on manufacturers performing compliance tests with the ODB.

Issues Raised in the Petition

In its petition for reconsideration, Toyota stated that the specifications in Part 587 allow the fixed rigid barrier portion of the ODB to be higher than the ECE barrier. Toyota argued that because of the height difference, as a vehicle crushes and rotates, it could contact the rigid portion of the barrier (the portions of the concrete block higher than the deformable barrier). The company claimed that this contact could affect the results of the test vehicle. Toyota stated that this possibility is especially true for sport utility vehicles (SUVs) and light trucks and vans (LTVs), which ride higher than passenger cars. Toyota petitioned for the minimum barrier height requirement to be harmonized with the ECE requirement.

Toyota also petitioned for an increase in the sample size of the aluminum honeycomb used to test the crush characteristics of the barrier, the removal of backing sheet material specifications, and a reduction in hole size for deformable face mounting. Toyota claimed that by harmonizing these specifications, separate test runs would not be required to meet the Part 587 and ECE specifications, reducing the burden on manufacturers.

Analysis of the Petition

Toyota expressed concern with the potential for contact between the rigid portions of the ODB and the vehicle being tested due to the barrier height specifications. Part 587.18(b) specifies that:

> The height of the fixed barrier is at least as high as the highest point on the vehicle at the intersection of the vertical transverse plane tangent to the forward most point of both front tires, when the tires are parallel to the longitudinal centerline of the vehicle, and the vertical plane through the longitudinal centerline of the vehicle.

We acknowledge that the barrier height may affect the ODB results for SUVs and LTVs, as this was our intention in establishing this height specification in the March 2000 final rule. For larger, high-riding vehicles, the agency believes that it is important for the rigid barrier height to be sufficiently high to engage the full height of the