

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Parts 564 and 571**

[Docket No. NHTSA-2007-28322; Notice 2]

**Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment****AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This final rule delays the effective date of an amendment that reorganizes and improves the structure and clarity of the Federal motor vehicle safety standard on lamps, reflective devices, and associated equipment, from September 1, 2008 to December 1, 2009. The final rule reorganizing the lighting standard was published on December 4, 2007.<sup>1</sup> The agency received fifteen petitions for reconsideration of the final rule, including two that requested a delay in the effective date of the rule, and others which raised concerns that the reorganization of FMVSS No. 108 imposed new requirements. To allow for more time for the agency to analyze the petitions prior to the rule taking effect, the agency is delaying the effective date until December 1, 2009.

**DATES:** The effective date of the final rule amending 49 CFR parts 564 and 571 published at 72 FR 68234 is delayed until December 1, 2009. The incorporation by reference of certain publications listed in the rules is approved by the Director of the Federal Register as of December 1, 2009. Optional early compliance continues to be permitted. Any petitions for reconsideration of today's final rule must be received by NHTSA not later than October 14, 2008.

**ADDRESSES:** Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Docket Room W12-140, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mr. David Hines, Office of Crash Avoidance Standards (Phone: 202-493-0245; FAX: 202-366-7002). For legal issues, you may call Mr. Ari Scott, Office of the Chief Counsel (Phone: 202-366-2992; FAX: 202-366-3820). You may send

mail to these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:****I. Background**

Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps Reflective Devices, and Associated Equipment*, specifies requirements for original and replacement lamps, reflective devices, and associated equipment. The purpose of FMVSS No. 108 is to reduce traffic accidents and deaths and injuries resulting from traffic accidents, by providing adequate illumination of the roadway, and by enhancing the conspicuity of motor vehicles on the public roads so that their presence is perceived and their signals understood, both in daylight and in darkness or other conditions of reduced visibility.

On December 4, 2007, NHTSA published a final rule amending FMVSS No. 108 to reorganize the standard and provide a more straightforward and logical presentation of the applicable regulatory requirements (*see* 72 FR 68234). Related amendments were made to 49 CFR part 564, *Replacement Light Source Information*. While the final rule greatly reduced the number of third-party standards incorporated by reference, it did not impose any new substantive requirements on manufacturers. Along with the changes made, the final rule specified an effective date of September 1, 2008 for these amendments and permitted voluntary early compliance immediately upon publication.

**II. Petitions for Reconsideration**

In response to the December 4 final rule, the agency received fifteen petitions for reconsideration. Petitions for reconsideration were submitted by Grote Industries, LLC, Alliance of Automobile Manufacturers (Alliance), Motor and Equipment Manufacturers Association (MEMA)<sup>2</sup>, Nissan North America, Inc., Valeo Sylvania, Calcoast Industrial Testing Laboratory, Harley-Davidson Motor Company, Koito Manufacturing Co, Ltd., Ford Motor Company, Toyota Motor North America, Inc., GE Consumer & Industrial Automotive Lighting, SABIC Innovative Plastics, Valeo Lighting Systems, Vehicle Services Consulting, Inc., and American Association for Justice. The petitions addressed a wide range of

<sup>2</sup> MEMA submitted a petition for reconsideration collectively with the Transportation Safety Equipment Institute and the Motor Vehicle Lighting Council.

FMVSS No. 108 subjects, including technical amendments to the rule, concern that the reorganization imposed new requirements, and requests to change the effective date of the final rule. Among the latter, specifically, the Alliance requested that the final rule take effect on September 1, 2009 and Harley-Davidson requested, unless the agency granted all of the items contained in its petition, that the effective date be delayed until September 1, 2010.

**III. Agency Response to Petitions**

In the December 2007 final rule, the agency set a September 1, 2008 effective date. The fifteen petitions for reconsideration have asked the agency to reconsider many aspects of that rulemaking. However, NHTSA's consideration of the petitions has not yet concluded, and given the imminence of the September 1, 2008 effective date, the agency has determined that it is appropriate to first partially respond to petitions concerning the effective date of the December 2007 final rule. Accordingly, the agency is delaying the effective date of the December 2007 final rule until December 1, 2009, when manufacturers will be required to meet the new requirements of FMVSS No. 108. Other issues raised in the petitions for reconsideration will be addressed by the agency in a separate document.

NHTSA believes that a partial response to the petitions for reconsideration is necessary based upon the number of issues raised in the petitions for reconsideration, and the impact of the revised requirements on compliance documentation. As such, the agency has determined that delaying the effective date is appropriate. The agency notes that the Alliance originally requested an effective date of September 1, 2009, one full year after the final rule in its comments to our Notice of Proposed Rulemaking.<sup>3</sup>

NHTSA expects that all other issues raised in the petitions will be fully addressed prior to the new December 1, 2009 effective date. In the event, however, that these issues have not been resolved, all affected manufacturers will be required to meet the new requirements. Effective dates of agency final rules are not stayed due to outstanding petitions for reconsideration of those rules.

**IV. Effective Date of This Document**

Because September 1, 2008 (the original effective date for the FMVSS

<sup>3</sup> *See* 70 FR 77454 (December 30, 2005) (Docket No. NHTSA-2006-23634-3).

<sup>1</sup> *See* 72 FR 68234.

No. 108 final rule) is fast approaching, NHTSA finds for good cause that this action delaying the effective date should take effect immediately. Today's final rule makes no substantive changes to FMVSS No. 108, but delays the effective date of the December 4, 2007 final rule until December 1, 2009 while the agency responds to the petitions for reconsideration of the rule.

## V. Rulemaking Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This action delays the effective date of an administrative rewrite of FMVSS No. 108. It was not reviewed by the Office of Management and Budget under E.O. 12866. The agency has considered the impact of this action under the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979), and has determined that it is not "significant" under them.

This final rule delays the effective date of a December 4, 2007 final rule, from September 1, 2008, to December 1, 2009. Neither that rule nor today's action will have any measurable effect on costs or benefits since the rule merely reorganizes and clarifies existing requirements.

### B. 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://docketsinfo.dot.gov/>.

### C. Other Rulemaking Analyses and Notices

In the December 2007 final rule, the agency discussed relevant requirements

related to the Regulatory Flexibility Act, the National Environmental Policy Act, Executive Order 13132 (Federalism), the Unfunded Mandates Reform Act, Civil Justice Reform, the National Technology Transfer and Advancement Act, the Paperwork Reduction Act, and Executive Order 13045 (Protection of Children from Environmental Health and Safety Risks). Since that final rule was an administrative rewrite of existing requirements and since today's action simply delays the effective date of that final rule, today's rule does not affect the agency's analyses in those areas.

**Authority:** 49 U.S.C 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50 and 501.8.

Issued: August 21, 2008.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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