

time is not computed as either time on duty or time off duty.

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Jolene M. Molitoris,

Federal Railroad Administrator.

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Federal Highway Administration

49 CFR Part 397

RIN 2125-AD90

Transportation of Hazardous Materials Regulations; Technical Amendment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This document makes a technical amendment to correct the authority citation for 49 CFR part 397. A citation which was erroneously deleted will be reinserted, and other specific references will be added to update this authority citation.

EFFECTIVE DATE: May 7, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Nathan C. Root, Office of Motor Carrier Research and Standards, (202) 366-4009 or Raymond W. Cuprill, Office of Chief Counsel, (202) 366-0834. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

In 1988, in the course of making other changes to part 397, the Federal Highway Administration (FHWA) inadvertently eliminated from the authority citation the reference to section 204 of the Interstate Commerce Act, as amended (formerly found at 49 U.S.C. 304). The FHWA did not intend to eliminate this reference, and with this rulemaking, the FHWA is simply reinserting into the authority citation this reference (now codified at 49 U.S.C. 31502). The FHWA is also adding to the authority a reference to 49 U.S.C. 31136 (formerly section 206 of the Motor Carrier Safety Act of 1984). This citation refers to the authority of the Secretary of Transportation to prescribe regulations on commercial motor vehicle safety. In addition, the FHWA is amending in the authority section the current reference to 49 U.S.C. 5101 *et seq.* in order to reflect the specific sections of the law—49 U.S.C. 5112 and 5125—that provide the authority for the regulations found in subparts C through E of 49 CFR part 397.

Rulemaking Analyses and Notices

This final rule simply revises the authority citation for the FHWA's Transportation of Hazardous Materials regulations to remove an incorrect reference and to insert several references, one of which was used previously but was then erroneously removed. Thus, the FHWA believes that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B). Similarly, due to the editorial nature of this final rule, the FHWA has determined that prior notice and opportunity for comment are not required under the Department of Transportation's regulatory policies and procedures. It is not anticipated that provision of a comment period would result in the receipt of useful information. In this final rule, the FHWA is not exercising discretion in a way that could be meaningfully affected by public comment.

In addition, the FHWA finds that good cause exists to dispense with the 30-day delay in the effective date required by 5 U.S.C. 553(d) due to the minor and technical nature of these amendments. Thus, the FHWA is proceeding directly with a final rule which will be effective on its date of publication.

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

Because this rule simply makes minor, technical corrections to the authority citation for 49 CFR part 397, this rulemaking is not likely to have an annual effect on the economy of \$100 million or more. It is also not expected to cause an adverse effect on any sector of the economy. In addition, no serious inconsistency or interference with another agency's actions or plans will result. Thus, the FHWA has determined that this action is not a significant regulatory action under Executive Order 12866. Neither is it a significant rulemaking under the Department of Transportation's regulatory policies and procedures because it also does not concern a matter about which there is substantial public interest or controversy; it will not have a substantial effect on State and local governments or raise a major transportation safety problem; in addition, it will not initiate a substantial regulatory program or change in policy. Therefore, a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the

FHWA has evaluated the effects of this rule on small entities. Based upon this evaluation, the FHWA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

The FHWA has reviewed this action to ensure its compliance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not raise sufficient federalism issues to warrant the preparation of a separate Federalism Assessment. This final rule will not preempt any State law or State regulation, and no additional costs or burdens will be imposed on the States. In addition, this rule will have no effect on the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

National Environmental Policy Act

The agency has reviewed this action to ensure compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and has determined that this action will have no effect on the quality of the environment. Thus, an environmental impact statement is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned 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. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 397

Hazardous materials transportation, Highway safety, Highways and roads, Motor carriers, Motor vehicle safety.

Issued on: April 29, 1996.
Rodney E. Slater,
Federal Highway Administrator.

The FHWA hereby amends 49 CFR part 397 by revising the authority citation to read as follows:

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES—[AMENDED]

Authority: 49 U.S.C. 322; 49 CFR 1.48. Subpart A also issued under 49 U.S.C. 31136, 31502. Subparts C, D, and E also issued under 49 U.S.C. 5112, 5125.

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National Highway Traffic Safety Administration

49 CFR Parts 564 and 571

[Docket No. 95-47; Notice 2]

RIN 2127-AF65

Replaceable Light Source Information; Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Final rule.

SUMMARY: This document amends the Federal motor vehicle safety standard on lighting to allow high intensity discharge (HID) light sources to be used in replaceable bulb headlamp systems, in addition to their presently allowed use in integral beam headlamp systems. Adoption of this amendment requires corresponding amendments to part 564, the regulation under which Docket No. 93-11 was established as a depository for replaceable light source information. However, if the life of the light source approaches that of the vehicle, as is the case with HIDs, interchangeability will no longer be so important. Therefore, NHTSA is adding Appendix B to part 564 which allows a manufacturer to submit fewer items of dimensional information if it can demonstrate that the rated laboratory life of its light source is not less than 2,000 hours.

DATES: *Effective Date:* The amendments to the Code of Federal Regulations, and the requirements of the amendments, are effective June 6, 1996.

Petition Date: Petitions for reconsideration must be received not later than June 21, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth O. Hardie, Office of Rulemaking (202-366-6987).

SUPPLEMENTARY INFORMATION: On June 19, 1995, NHTSA published a notice in

the Federal Register to initiate rulemaking that would amend Standard No. 108 so as to allow replaceable bulb headlamps to incorporate short arc discharge light sources (60 FR 31939).

As NHTSA noted in the NPRM, short arc discharge headlamp systems are commonly referred to as "high intensity discharge" (HID) systems. Presently, the only HID application in production for lamps covered by Standard No. 108 is in headlamps, and the only way HID headlamps can be used under Standard No. 108 is in an "integral beam headlighting system" (Section S7.4). Thus, today, HID headlamps are comprised of a headlamp body (including reflector and lens), a small transparent envelope containing a specific mixture of gases under high pressure (the discharge bulb), and an electronic ballast to convert low voltage direct current to a controlled output high voltage direct or alternating current to drive the discharge bulb.

However, by definition (S4), an integral beam headlamp (including those with HID light sources) is one with an "integral and indivisible optical assembly", and a headlamp that is "not a replaceable bulb headlamp * * *." In the event of damage to one component, such as the lens, the entire unit, ballast and all, must be replaced. The cost to replace an integral beam HID headlamp is substantially higher than the cost of replacing a more conventional headlamp. The initial HID headlamp permitted (as a result of NHTSA-initiated amendments to Standard No. 108 to facilitate their introduction) was an integral-type design. At the time, it was unknown how to define HID sources as replaceable bulb light sources. The agency is now furthering HID headlamp technology by defining HID's as "replaceable light sources", so that headlamp components may be individually replaced. This amendment to Standard No. 108 means that a vehicle manufacturer wishing to offer HID headlamps now has a choice between two types, integral and replaceable light source.

Comments in support of the NPRM were received from the American Automobile Manufacturers Association (AAMA), Ford Motor Co., Hella, Inc., Koito Manufacturing Co. Ltd., OSRAM Sylvania, Inc. (OSI), and Stanley Electronic Co., Inc. Comments opposing the proposal were received from the Insurance Institute for Highway Safety (IIHS) and Advocates for Highway and Auto Safety (Advocates).

Proposed Amendments to Standard No. 108

S4 Definitions. NHTSA proposed to add a definition of "filament" to read:

Filament means that part of the light source or light emitting element(s), such as a resistive element, the excited portion of a specific mixture of gases under pressure, or any part of other energy conversion sources, that generates radiant energy which can be seen.

No comments were received on this issue and the proposed definition is adopted.

Paragraph S7.7(i). The NPRM proposed amendments to paragraph S7.7(i). Under the final rule published on November 28, 1995 (60 FR 58522), transferring HB type light sources to part 564, paragraph S7.7(i) became paragraph S7.7(b). Under the final rule published today, paragraph S7.7(b) becomes S7.7(d). The following summary of the proposal adopts the nomenclature of the final rule, which does not significantly differ from the proposal.

Paragraph S7.7(d) discusses the procedures for measuring maximum power and luminous flux. This is followed by two new subparagraphs, the first of which, S7.7(d)(1), applies specifically to seasoning requirements for light sources with resistive element type filaments and luminous flux measurement requirements for HB Type bulbs. The second, S7.7(d)(2), applies to seasoning requirements for light sources using excited gas mixtures as filaments or discharge arcs and associated luminous flux measurement. As for seasoning of light sources using other energy conversion sources, NHTSA will address this issue when industry has identified such sources.

OSI recommended that the seasoning for resistive and excited-gas light sources (including ballasts) should be one percent of rated life, as set forth in SAE Recommended Practice J2009 FEB93 *Discharge Forward Lighting Systems* (hereafter "SAE J2009"). Ford also recommended that seasoning for excited gas light sources (including ballast) be in accordance with SAE J2009. Additionally, Ford recommended that seasoning for resistive element type filaments be in accordance with SAE J1383 APR85. NHTSA notes that its proposed amendments affecting "seasoning" are consistent with the OSI and Ford recommendations.

Ford found proposed paragraph S7.7(i) confusing and it suggested changes which it felt would clarify NHTSA's intent. NHTSA concurs, and has rewritten the provision as S7.7(b) (In addition to recommending specific