

Federal Communications Commission.
Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 69 as follows:

PART 69—ACCESS CHARGES

1. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

2. Section 69.152 is amended by adding paragraph (h) to read as follows:

§ 69.152 End user common line for price cap local exchange carriers.

* * * * *

(h) Only one of the residential subscriber lines a price cap LEC provides to a location shall be deemed to be a primary residential line.

(1) For purposes of § 69.152(h), "residential subscriber line" includes residential lines that a price cap LEC provides to a competitive LEC that resells the line and on which the price cap LEC may assess access charges.

(2) If a customer subscribes to residential lines from a price cap LEC and at least one reseller of the price cap LEC's lines, the line sold by the price cap LEC shall be the primary line, except that if a resold price cap LEC line is already the primary line, the resold line will remain the primary line should a price cap LEC subsequently sell an additional line to that residence.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

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

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

SUMMARY: This document sets forth our interpretation of the location requirements for identification and clearance lamps mounted on the rear of trucks and trailers whose overall width is more than 2032 mm (80 in.). Federal Motor Vehicle Safety Standard No. 108

requires that identification lamps be mounted as close to the top of a vehicle as practicable. The identical requirement applies to clearance lamps, except when the rear identification lamps are mounted at the extreme height of the vehicle. In the past, we have stated that the manufacturer may make the initial determination as to whether it is practicable to mount these lamps near the top of a vehicle, and that it has been our enforcement policy to accept the manufacturer's determination of practicability unless that decision appears clearly erroneous. Under this approach, identification lamps on many vehicles, especially van-type trailers, have been mounted on the lower sill below the rear doors under various conditions, even on vehicles where the header was up to 3 inches wide. Our enforcement policy was based in part on the unavailability of narrow lamps. However, narrow lamps are now readily available. Effective on the publication of this interpretive rule, we interpret Standard No. 108 to require manufacturers to satisfy an objective standard of practicability; i.e., if, under all the circumstances, it would be practicable to locate lamps above the rear doors, the manufacturer must do so. We will no longer defer to a manufacturer's subjective determination of practicability.

DATES: Effective April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (Phone: 202-366-5263; FAX: 202-366-3820).

SUPPLEMENTARY INFORMATION:

Requirements of Federal Motor Vehicle Safety Standard No. 108 for the Location of Identification and Clearance Lamps on Large Trucks and Trailers

Table I of Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, requires trucks and trailers whose overall width is 2032 mm (80 inches) or more to be equipped with a rear lighting system that includes three red identification lamps and two red clearance lamps. Table II specifies that the identification lamps are to be mounted on the rear "as close as practicable to the top of the vehicle at the same height, as close as practicable to the vertical centerline." Table II also requires that the clearance lamps shall be mounted on the rear "to indicate the overall width of the vehicle, one on each side of the vertical centerline, at the same height, and as near the top thereof as practicable." However, clearance lamps need not be located

near the top "when the rear identification lamps are mounted at the extreme height of a vehicle," * * * S5.3.1.4).

In general, location requirements specified by Standard No. 108 for motor vehicle lamps and reflectors are expressed in terms of practicability. Under this approach, the required lighting equipment can be installed without unduly restricting the design of vehicles.

Past Policy Regarding the Meaning of "Practicability" With Respect to the Upper Mounting Location for Identification and Clearance Lamps

In 1968, when Standard No. 108 became effective for wide vehicles, lighting technology had not advanced to the level where it is today, and, in order to provide the required photometric performance, generally lamps were somewhat larger than lamps that are now commercially available. Manufacturers advised us that, in their opinion, it would not be practicable to mount the lamps on the rear header of some vehicles. Rather than make individual practicability assessments in an enforcement context, we advised the industry that we would not contest manufacturers' decisions to mount identification and clearance lamps below the cargo doors, on an approximate horizontal plane with other rear lamps, except where the manufacturer's decision was clearly erroneous.

This deferential approach originated as a matter of enforcement policy. Indeed, it was first articulated in a June 18, 1981 letter to the Division of State Patrol of the Wisconsin DOT from Francis Armstrong, who was the Director of NHTSA's Office of Vehicle Safety Compliance. Over the years this enforcement policy was restated in several letters signed by NHTSA's Chief Counsels.

However, over the years, narrow lamps have become available for use on trucks and trailers with relatively narrow headers. Since it appears that it is now "practicable" to locate clearance and identification lamps on or above such headers, we decided to review the issue and reconsider our earlier enforcement policy.

As part of our review, we conducted a field survey in which we took photographs and measured rear lighting configurations of several typical trailers. The photographs showed that some trailer manufacturers are locating identification and clearance lamps on the lower sill of many trailer models, even though there is sufficient space to

put those same lamps in the header area.

NHTSA's Preliminary Evaluations and Manufacturers' Responses

Based on the field survey information, we opened Preliminary Evaluations and sent information requests to eight van trailer manufacturers in November 1997. The manufacturers responded that each produces some models with identification and clearance lamps on the lower sill. Of a total production of these manufacturers totaling over 440,000 vehicles, the number with identification lamps located on the lower sill was approximately 225,000, or over half.

The manufacturers justified this location as one permitted by previous NHTSA letters and as representing "common industry practice." They also argued that conspicuity treatment provides a sufficient delineation of vehicle size. Addressing practicability, the manufacturers contended that smaller lamps such as those using light-emitting diodes (LEDs) could not be installed on narrow headers because of the lack of availability of LEDs, the difficulty of wiring them in a narrow area, and structural problems that could arise if the trailers were redesigned to accommodate lamps at the top. Some manufacturers argued that the lower sill location is needed to provide a surface that is large enough and rigid enough for the lamps. The respondents may not have been aware of very narrow lamps. Some incandescent lamps as narrow as 17.3 mm (0.68 in.) and some LED lamps as narrow as 22.4 mm (0.88 in.) are now available.

One manufacturer also commented that lamps placed on the lower sill are more conveniently replaced when replacement becomes necessary. However, replacement would be less frequent with the use of reliable, long-life LED lamps. Another mentioned that slim-line lamps do not dissipate heat as effectively as larger incandescent lamps. However, LED lamps emit only a low level of heat. Another mentioned that narrow lamps do not seal out moisture as effectively, without also noting that narrow lamps are available that are permanently sealed. None of the manufacturers indicated that they planned to change the existing location of their clearance or identification lamps.

Canada's Rear Identification and Clearance Lamp Location Requirements

On November 10, 1996, Canadian Motor Vehicle Safety Standard No. 108 was amended to require that identification and clearance lamps be

mounted above or on the rear doors when the header extends at least 25 mm (1 in.) above the rear doors. When the header extends less than 25 mm, the lamps may be mounted above, on, or below the rear doors. Since then, Canada has enforced this standard on trucks engaged in commerce within its borders, including those manufactured in the United States that operate in Canada. Some of these U.S. manufacturers have complied with Canada's upper location requirements, but have nevertheless continued to locate lamps on the lower sill of their trailers manufactured for use in the United States which have a rear door and header assembly identical to their counterparts sold for use in Canada. The Canadian practice objectively supports the view that it would have been "practicable" to locate the lamps at the top of the U.S. vehicles.

Truck Trailer Manufacturer's Association's (TTMA) Recommended Practice for Rear Identification and Clearance Lamp Placement

TTMA restates NHTSA's past approach on practicability in its recommendations to its members on location of rear identification and clearance lamps. It goes on to recommend that the lamps be on the header when the header extends at least 50 mm (2 in.) above the rear doors when there is a flat space of at least 25 mm (1 in.).

NHTSA's New Interpretive Rule

After reviewing the matter, we have concluded that clearance and identification lamps that meet the photometric requirements of Standard No. 108, and are of a size permitting mounting on the header above the rear doors of most trailers and trucks, are available in the marketplace. The prior enforcement policy has, in practice, deferred to manufacturers who exercised their discretion to decide whether to mount these lamps above the rear doors. This approach has not assured that the safety purposes of the standard are achieved. The responses to NHTSA's information requests demonstrate that many U.S. manufacturers, including some of the largest trailer manufacturers, have placed, and are continuing to place, identification and clearance lamps below the rear doors, notwithstanding the fact that the ability of many of these same manufacturers to comply with the new Canadian requirements demonstrates that it is now practicable to mount identification and clearance lamps on the rear header in most instances.

As reflected by the responses to our information requests, many manufacturers have taken advantage of the deference conferred by our longstanding enforcement policy in deciding where to locate these lamps. In recognition of this practice, we have decided that it would be preferable to provide notice that the prior policy has been changed before bringing enforcement actions against such manufacturers without providing notice that the prior policy has been changed. Accordingly, we are publishing this interpretation of the requirement in Table II of Standard No. 108 that rear clearance lamps and identification lamps must be located "as near the top thereof as practicable" to make it clear that, henceforth, manufacturers will be required to satisfy an objective standard of practicability, i.e., if under all the circumstances it would be practicable to locate the identification and clearance lamps above the rear doors, the manufacturer must do so. Moreover, based on the experiences of manufacturers who have been able to comply with the Canadian requirements, NHTSA will presume that it is practicable to locate lamps on the header of a vehicle when the header extends at least 25 mm (1 in.) above the rear doors.

This interpretive rule is effective as of its publication in the **Federal Register**. However, as a matter of enforcement discretion, we do not intend to bring enforcement actions based on this interpretive rule immediately. This will be addressed separately.

Authority: 49 CFR 1.50 and 501.8(d)(5).

Issued on: March 30, 1999.

Frank Seales, Jr.,
Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 581

[Docket No. NHTSA 99-5458]

RIN 2127-AH59

Bumper Standard

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

ACTION: Final rule; technical amendment.

SUMMARY: This document amends 49 CFR Part 581 *Bumper Standard*, to update cross references in Sec.