

subcontractor employee submitting a whistleblower complaint of reprisal in accordance with 41 U.S.C. 4712 or 10 U.S.C. 2409; or a third party in the name of the United States under the False Claims Act, 31 U.S.C. 3730. For any such proceeding that does not result in a disposition described at 31.205–47(b)(1) through (5), or to which 31.205–47(c) exceptions apply, the cost of that proceeding shall be subject to the limitations in 31.205–47(e).

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

- 18. Amend section 52.203–17 by—
a. Revising the section heading;
b. Removing from the introductory text “3.908–9” and adding “3.906” in its place;
c. Revising the date of the clause; and
d. Revising paragraphs (a) and (b) to read as follows:

**52.203–17 Contractor Employee Whistleblower Rights.**

\* \* \* \* \*

**Contractor Employee Whistleblower Rights (Date)**

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies established at 41 U.S.C. 4712 and FAR 3.901 through 3.905.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in FAR 3.901 through 3.905.

\* \* \* \* \*

- 19. Amend section 52.212–4 by revising the date of the clause; and removing from paragraph (r) “41 U.S.C. 4712 and”. The revised text reads as follows:

**52.212–4 Contract Terms and Conditions—Commercial Items.**

\* \* \* \* \*

**Contract Terms and Conditions—Commercial Items (Date)**

\* \* \* \* \*

- 20. Amend section 52.212–5 by:
a. Revising the date of the clause;
b. Redesignating paragraphs (b)(4) through (60) as paragraphs (b)(5) through (61), respectively;
c. Adding a new paragraph (b)(4);
d. Redesignating paragraphs (e)(1)(ii) through (xxii) as paragraphs (e)(1)(iii) through (xxiii), respectively;
e. Adding a new paragraph (e)(1)(ii);
f. Revising the date of Alternate II;
g. Redesignating paragraphs of Alternate II; (e)(1)(ii)(C) through (T) as paragraphs (e)(1)(ii)(D) through (U), respectively; and
h. Adding a new paragraph (e)(1)(ii)(C).

The revised and added text reads as follows:

**52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.**

\* \* \* \* \*

**Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Date)**

\* \* \* \* \*

(b) \* \* \*

(4) 52.203–17, Contractor Employee Whistleblower Rights (Date) (41 U.S.C. 4712)

\* \* \* \* \*

(e)(1) \* \* \*

(ii) 52.203–17, Contractor Employee Whistleblower Rights (Date) (41 U.S.C. 4712)

\* \* \* \* \*

Alternate II (Date). \* \* \*

\* \* \* \* \*

(e)(1) \* \* \*

(ii) \* \* \*

(C) 52.203–17, Contractor Employee Whistleblower Rights (Date) (41 U.S.C. 4712)

\* \* \* \* \*

- 21. Amend section 52.213–4 by revising the date of the clause and paragraph (a)(2)(viii) to read as follows:

**52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).**

\* \* \* \* \*

**Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Date)**

(a) \* \* \*

(2) \* \* \*

(viii) 52.244–6, Subcontracts for Commercial Items (Date).

\* \* \* \* \*

- 22. Amend section 52.244–6 by—

- a. Revising the date of the clause;
b. Redesignating paragraphs (c)(1)(iii) through (c)(1)(xix) as paragraphs (c)(1)(iv) through (c)(1)(xx), respectively;
c. Adding a new paragraph (c)(1)(iii).

The revised and added text reads as follows:

**52.244–6 Subcontracts for Commercial Items.**

\* \* \* \* \*

**Subcontracts for Commercial Items (Date)**

\* \* \* \* \*

(c)(1) \* \* \*

(iii) 52.203–17, Contractor Employee Whistleblower Rights (Date) (41 U.S.C. 4712) relating to whistleblower protections, if the subcontract is over the simplified acquisition threshold; this clause does not apply to contracts of DoD, NASA, the Coast Guard, or

applicable elements of the intelligence community—see FAR 3.900(a).

\* \* \* \* \*

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. NHTSA–2010–0012]

RIN 2127–AK58

**Federal Motor Vehicle Safety Standards; Motor Vehicle Brake Fluids**

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

ACTION: Proposed rule; withdrawal.

SUMMARY: NHTSA withdraws its notice of proposed rulemaking (NPRM), published on February 3, 2010, proposing amendments to the Federal Motor Vehicle Safety Standard (FMVSS) No. 116, Motor Vehicle Brake Fluids. Since publication of the NPRM and after review of the comments, the agency has determined that updates and corrections outside the scope of the notice are necessary in order to publish a final rule. Based on this, the agency has decided to withdraw the proposal to amend FMVSS No. 116.

DATES: The NPRM “Federal Motor Vehicle Safety Standards; Motor Vehicles Brake Fluids,” RIN 2027–AK58, published February 3, 2010 (75 FR 5553), is withdrawn as of December 26, 2018.

ADDRESSES: Electronic Access: You can view and download related documents and public comments by going to the website https://www.regulations.gov. Enter the docket number NHTSA–2010–0012 in the search field.

FOR FURTHER INFORMATION CONTACT: Joshua Fikentscher, Office of Crash Avoidance Standards (Phone: 202–366–1810; Fax: 202–493–0073) or Sara R. Bennett, Office of the Chief Counsel (Phone: 202–366–2992; Fax: 202–366–3820). You may send mail to both of these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

**Background**

Federal Motor Vehicle Safety Standard (FMVSS) No. 116, “Motor Vehicle Brake Fluids,” specifies

requirements for fluids for use in hydraulic brake systems of motor vehicle, containers for these fluids, and labeling of the containers. The purpose of this standard is to reduce failures, which may occur because of the manufacture or use of improper or contaminated fluid, in the hydraulic braking systems of motor vehicles. This standard applies to all fluid for use in hydraulic brake systems of motor vehicles.

### The NPRM

On February 3, 2010, NHTSA published a Notice of Proposed Rulemaking (NPRM) proposing to amend FMVSS No. 116 to include tests to measure the impact of brake fluid on ethylene, propylene, and diene terpolymer (EPDM) rubber, update references to industry standards, and correct minor errors in the standard.<sup>1</sup> The supporting rationale for the proposed EPDM testing amendment was that the motor vehicle industry had shifted over the last two decades from using styrene-butadiene rubber (SBR), which is currently covered by FMVSS No. 116, to EPDM rubber. The proposed rule informed the public about the agency's proposal to amend the standard by: (1) Adding the testing of a terpolymer of ethylene, propylene, and diene (EPDM) rubber to the corrosion test and the temperature sensitivity test; (2) updating the Society of Automotive Engineers International (SAE) and American Society for Testing and Materials (ASTM) references; and (3) correcting minor errors.

### Comments Received

NHTSA received comments on the 2010 NPRM from three manufacturers of brake fluid/components, an international standards organization, and an individual. Two of the manufacturers mentioned that the Compatibility Fluid, RM-66-05, was no longer available, and had been replaced by RM-66-06 or ISO 4926 fluid. All three manufacturers suggested changes to a performance test that was unmentioned in the agency's proposal. The international standards organization suggested changes that reflected more recent SAE standards. The individual opposed the incorporation of industry standards into Federal regulations and suggested additional performance tests.

### Reason for Withdrawal

Although the agency proposal in 2010 provided amendments to add EPDM rubber to the standard and update the

references to industry standards, further research and studies are necessary to develop a proposed upgrade to FMVSS No. 116 that would effectively provide minimum performance requirements for the type of EPDM rubber currently available. The rubber formulations included in recent updates to industry standards have changed, and the blends referenced in the NPRM include ingredients that are no longer available.

In addition to changes to the SBR and EPDM rubber formulations, the agency determined other corrections are necessary that were not included in the NPRM. One such correction brought up by commenters is the reference to the Compatibility Fluid, RM-66-05, which had been replaced by the RM-66-06 fluid. Another correction needed is the hardness test procedure for the EPDM rubber, which had been inadvertently omitted from the proposed performance tests in the NPRM. Finally, NHTSA notes SAE International and the ASTM have updated several of the industry standards and tests referenced in the NPRM since the publication of the notice in 2010.

Since publication of the NPRM and after review of the comments, the agency has determined that updates and corrections outside the scope of the notice are necessary in order to publish a final rule, and additional research and data analyses are needed. Accordingly, NHTSA has determined that the proposed updates in the 2010 NPRM to FMVSS No. 116 should not be adopted at this time and is withdrawing the NPRM.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

**Heidi Renate King**,  
Deputy Administrator.

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## SURFACE TRANSPORTATION BOARD

### 49 CFR Parts 1002 and 1312

[Docket No. EP 743]

### Water Carrier Tariff Filing Procedures

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Surface Transportation Board (STB or Board) proposes a new procedure for water carriers operating in the noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection. As explained in this notice of proposed rulemaking (NPRM), the Board proposes to update its water carrier tariff filing

regulations to reflect current business practices.

**DATES:** Comments are due by January 25, 2019. Reply comments are due by February 25, 2019.

**ADDRESSES:** Comments may be submitted either via the Board's e-filing format or in paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's website at [www.stb.gov](http://www.stb.gov) at the E-FILING link. Any person submitting a filing in paper format should send an original and 10 paper copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 743, 395 E Street SW, Washington, DC 20423-0001. Written comments and replies will be posted on the Board's website and can also be obtained by contacting the Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) at [RCPA@stb.gov](mailto:RCPA@stb.gov) or (202) 245-0238.

**FOR FURTHER INFORMATION CONTACT:** Michael Higgins at 202-245-0284. Assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** In April 2017, the Board established its Regulatory Reform Task Force (RRTF), with the primary objective of identifying Board rules and practices that are burdensome, unnecessary, or outdated and to recommend how they should be addressed. *See Regulatory Reform Task Force*, EP 738 (STB served June 20, 2017). The RRTF identified the current water carrier tariff regulations at 49 CFR part 1312 as imposing significant costs on the carriers as well as the Board. *See RRTF 90-Day Status Report* (issued May 25, 2017); *RRTF Status Report* (issued Nov. 21, 2017).<sup>1</sup> Accordingly, the proposed rules would update the Board's regulations to allow water carriers<sup>2</sup> to electronically publish, file, and keep tariffs available for public inspection. The Board anticipates that the new procedures would significantly reduce costs and burdens that water carriers incur in complying with tariff-related statutory requirements.

*Background.* Water carriers operating in the noncontiguous domestic trade<sup>3</sup>

<sup>1</sup> These status reports can both be accessed on the Board's website at <https://www.stb.gov/stb/about/RRTF.html>.

<sup>2</sup> Many water carriers use third-party service providers to manage and maintain their tariffs on the internet.

<sup>3</sup> Noncontiguous domestic trade means "transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States." 49 U.S.C. 13102(17).

<sup>1</sup> 75 FR 5553 (Feb. 3, 2010).