

rule must be received by NHTSA not later than July 10, 1995.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice numbers set forth at the beginning of this rule and be submitted to the following: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. It is requested, but not required, that 10 copies of any petition be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Carter, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW Washington, D.C. 20590. Mr. Carter's telephone number is: (202) 366-5274.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standards No. 106, *Brake hoses*, and No. 116, *Motor vehicle brake fluids*, specify performance requirements for brake hoses and motor vehicle brake fluid. Included in the performance requirements for Standard No. 106 is a brake fluid compatibility test, and included in Standard No. 116 are compatibility and chemical stability tests. The procedures for the compatibility and chemical stability tests currently reference the referee material brake fluid specified by the Society of Automotive Engineers (SAE) in J1703. SAE develops, blends, packages, and distributes referee material fluids for use by NHTSA and others for these tests.

Brake fluid compatibility is considered an important factor in establishing brake hose life and strength characteristics. Standard No. 106's compatibility test measures hydraulic brake hose compatibility with brake fluid. The brake hose that is being tested is filled with the SAE Compatibility Fluid for a specified number of hours at specified temperatures, and then is subjected to constriction and burst strength tests. The current compatibility fluid—RM-66-03 Compatibility Fluid (i.e., "RM-66-03")—is referenced in the test procedures for the standard's brake fluid compatibility test.

Standard No. 116's compatibility requirements determine the compatibility of brake fluid used in motor vehicles with a referee material. The SAE compatibility fluid that is used in these tests as a referee material should be representative of the fluids found in a braking system in service. The tests measure the compatibility of fluids of different chemical bases by checking whether there are undesirable chemical interactions resulting from the mixture of fluids. Section S6.10 determines the compatibility of a brake

fluid with other brake fluids. This section currently references RM-66-03 compatibility fluid as the referee material used in the test procedure.

The current compatibility fluid, RM-66-03, is a blend of four proprietary, commercial brake fluids: Dow HD50-4, Delco Supreme II, Dow 455, and Olin HDS-79. However, because one of these fluids is no longer available and a second one will soon be removed from the market, this compatibility fluid is no longer being produced. Existing quantities of the compatibility fluid have been exhausted. The SAE has already replaced RM-66-03 with a new referee material, RM-66-04.

Rulemaking Petition and Proposal

On December 27, 1991, SAE petitioned the agency to amend portions of Standard No. 106 and Standard No. 116 to specify the RM-66-04 referee material in place of the then used, but soon to be outdated, RM-66-03 compatibility fluid. The RM-66-04 material was developed specifically for the SAE J1703 *Motor Vehicle Brake Fluid* standard. It consists of four American, one Asian and one European fluid, blended equally by volume.

NHTSA proposed amending Standard Nos. 106 and 116 to specify the use of RM-66-04 referee material in place of RM-66-03. 57 FR 49162, October 30, 1992. The agency tentatively concluded that the new compatibility fluid should be specified in the standard since it will be commercially available and the current fluid would not. The agency further believed that the new referee material would be more representative of fluids that will be in service. The agency noted that the International Standards Organization (ISO) is also proposing to use RM-66-04, and that use of the same material would be consistent with international harmonization.

The agency also proposed that the change to the RM-66-04 compatibility fluid be effective on January 1, 1995, but that optional use of RM-66-04 would be permitted 30 days after publication of a final rule. The effective date is discussed further in the "Effective date" section.

Comments on the NPRM

In response to the NPRM, the agency received comments from Chrysler, Ford and General Motors. All three commenters supported the wording of the proposed regulatory text. Ford supported the proposed effective date of the amendment and the proposal to permit optional compliance.

Agency Decision

Since all comments supported its proposals, NHTSA adopts the proposals as final. Accordingly, the agency amends S5.3.9 and S6.7.1(a) of Standard No. 106, and S6.5.4.1 through S6.5.4.3, S6.10.1 through S6.10.3(a), and S7.2 of Standard No. 116. In addition, this final rule incorporates by reference Appendix B of SAE Standard J1703 JAN 1995, "Motor Vehicle Brake Fluid." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096. Copies may be inspected at the NHTSA Docket Room, 400 Seventh Street, S.W., Room 5109, Washington, D.C. 20590. (Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday), or at the Office of the Federal Register, 800 North Capitol St., N.W., Suite 700, Washington, D.C.

No adverse impact on safety is anticipated from the use of the new referee material in the test procedures of Standards No. 106 and 116. On the contrary, since the RM-66-03 compatibility fluid is no longer commercially available, ascertaining whether hoses and fluids comply with criteria related to compatibility and boiling points will be difficult. Amending the standards to allow the use of RM-66-04 compatibility fluid in place of RM-66-03 ensures that a compatibility fluid representative of today's brake fluids is readily available for the compliance tests of those standards.

Effective Date

There is good cause for the effective date for this rule. The agency believes an expedited effective date is appropriate since the RM-66-03 material is no longer being produced. Since RM-66-03 is no longer available, manufacturers should be permitted the option of using the new RM-66-04 compatibility fluid almost immediately. This rule permits manufacturers to use the RM-66-04 compatibility fluid 30 days after publication of this rule.

Rulemaking Analyses and Notice

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule was not reviewed under E.O. 12866, "Regulatory Planning and Review." NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures. The agency believes that a