

words for a brake wear indicator lamp (S5.5.5(d)(5)) is expressed as follows:

If a separate indicator is provided to indicate brake lining wear-out as specified in S5.5.1(d), the words "Brake Wear" shall be used.

S5.5.1(d), which specifies one of the conditions for which a brake indicator must be activated, reads as follows:

Brake lining wear-out, if the manufacturer has elected to use an electrical device to provide an optical warning to meet the requirements of S5.1.2(a).

Since S5.5.5(d)(5)'s wording requirement applies to a separate indicator provided to indicate brake lining wear-out "as specified in S5.5.1(d)," and since S5.5.1(d) only applies where a manufacturer has "elected" to use an electrical device to meet the standard's brake wear status requirement, it is NHTSA's interpretation that the wording requirement does not apply where a manufacturer has elected options other than an electrical device to provide an optical warning. Therefore, the agency concurs with the result suggested by Mercedes, although not necessarily with the petitioner's stated rationale.

NHTSA notes that Mercedes is correct that, unless specifically prohibited, manufacturers may voluntarily provide more features or information than required by a safety standard. The agency cautions, however, that this principle, by itself, does not necessarily mean that voluntarily provided safety features are not subject to particular requirements set forth in a safety standard. Such a result could be highly dependent on a specific factual situation and on the specific wording of a safety standard. If a manufacturer has a question about how a safety standard applies in a specific situation, it may, of course, request an interpretation from NHTSA's Chief Counsel.

NHTSA will now address Mercedes' request that Standard No. 135 be amended to permit use of the international symbol for worn brake linings instead of the words "brake wear." The agency notes that Standard No. 135 specifies the use of words for several brake indicator functions, and that the international symbol for worn brake linings is part of a family of related symbols which address a number of brake functions. Therefore, Mercedes' request is part of a broader issue of whether Standard No. 135 should permit the use of symbols instead of words for the various brake indicator functions.

In the preamble to the February 1995 final rule, NHTSA stated:

Notice 5 and this final rule (Section S5.5.5(a)) allow the use of ISO symbols in addition to the required labeling for the purpose of clarity. However, the agency has decided not to allow the ISO symbol alone to be used as a substitute for the required words. NHTSA believes that the ISO symbol can be ambiguous to some drivers since the ISO symbol, is not universally understood to represent brakes. The agency notes that the commenters did not provide any data showing that the ISO brake failure warning indicator is clearly understood by drivers in countries in which it is currently in use. Moreover, the meaning of the symbol is not readily apparent from its appearance, in contrast to some symbols, such as the one for horns, whose meaning is understandable on its face. 60 FR 6414, February 2, 1995.

NHTSA has decided to conduct a separate proceeding in which it will reconsider permitting the use of symbols for brake system indicators. The agency believes that, before making any change in this area, specific comment should be sought on each of the symbols in question and on what steps can be taken to ensure that drivers would learn the meaning of the symbols.

NHTSA is granting the petitions to the extent discussed above; the agency is otherwise denying the petitions.

The agency is making the amendments effective 30 days after publication of the final rule. NHTSA finds good cause for such an effective date. The amendments do not impose any new requirements or make existing requirements more stringent. The amendments instead either make corrections in the new standard or very minor changes in the test conditions specified by the standard.

Rulemaking Analyses and Notices

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

This notice was not reviewed under Executive Order 12866. NHTSA has examined the impact of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. NHTSA has further determined that the effects of this rulemaking are so minimal that preparation of a full regulatory evaluation is not warranted. The effects of today's rule are minimal because the rule makes only very minor changes in the test conditions specified by Standard No. 135. The rule will not have any quantifiable impact on testing costs or vehicle costs. The agency's detailed analysis of the economic effects of Standard No. 135, set forth in the Final Regulatory Evaluation prepared to accompany the February 1995 final rule

establishing that standard, remains valid.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, today's final rule makes only very minor changes in the test conditions specified by Standard No. 135, and will not have any quantifiable impact on testing costs or vehicle costs. For these reasons, neither manufacturers of passenger cars, nor small businesses, small organizations or small governmental units which purchase motor vehicles, will be significantly affected by the rule. Accordingly, no regulatory flexibility analysis has been prepared.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96-511), NHTSA notes that there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.