

the vehicle outside the specifications of the IVD, then it cannot rely on the IVD in certifying compliance of the vehicle. Absent actual testing, alternate means of certification, such as engineering analysis or computer simulation, may be sufficient to allow a final stage manufacturer to certify compliance in good faith. For example, the manufacturer or supplier of the lift axle, upon request from a final stage manufacturer, may provide service brake retardation force characteristics for the axles it sells, based on dynamometer or other testing conducted by the axle manufacturer, which can be applied through simple calculations to determine compliance with service brake stopping distance requirements. That supplier can also provide grade-holding or drawbar test data to determine, using simple calculations, that the parking brake requirements in FMVSS No. 121, for example, are met at the increased GVWR as altered by the final stage manufacturer. Other braking requirements in the FMVSSs, including emergency brake stopping distance and brake actuation and release timing, can similarly be met by performing engineering analysis, working with chassis manufacturers and brake system and axle suppliers, and installing suitable equipment, to permit the final stage manufacturer to certify compliance with FMVSS Nos. 105 or 121. In many cases, such certification can be achieved without having to conduct actual road testing, or in some cases, with only portions of road or laboratory testing required (such as hiring a consultant to perform brake application and release timing tests at the final stage manufacturer's facilities).

NHTSA recognizes that there may be unusual vehicle configurations for which complete data are not available from vehicle or component suppliers that would enable an engineering analysis to be used for certification purposes. In such cases, computer simulations or actual road testing may be necessary for certification. Final stage manufacturers should consider these facts before deciding to build unusual vehicle configurations, since it is predictable that some vehicles cannot be certified using engineering analyses prior to purchasing a chassis, body, or other equipment.

VI. Preselection of Test Condition Option

Many FMVSSs contain alternative compliance options from which vehicle manufacturers may choose. In this final rule, there is an option to use a rollbar structure of up to 1,000 pounds for vehicles tested in the lightly-loaded

condition. This has resulted in some problems when the agency conducts its compliance tests. For example, in a recent case, a vehicle was tested to FMVSS No. 135 and did not meet one of the requirements of that standard. When contacted about the non-compliance, the vehicle manufacturer stated that the vehicle should be compliance tested to FMVSS No. 105, since at that time that particular vehicle could be manufactured to either standard at the vehicle manufacturer's option. Thus, the agency was faced with having to test to two standards to determine which one applied.

To avoid confusion in the future, the agency is now conducting a review of compliance test condition options and anticipates that it will propose regulations to address this issue. However, until such rules are proposed and adopted, our practice will be to address optional test conditions in each standard. Thus, the agency is adding a statement to the general test conditions for both FMVSS No. 105 (S6.15) and 121 (S6.1.16) that directs a vehicle manufacturer to identify which option was selected for compliance test purposes. The agency does not believe that this makes any of the standard's requirements more stringent. Instead, it removes uncertainty from the compliance test program and reduces test costs to the agency.

VII. Effective Date

The amendments contained in this final rule become effective October 10, 2003. With the exception of vehicles built in two or more stages, the braking-in-a-curve test requirements contained in this final rule apply to vehicles built on or after July 1, 2005. Vehicles built in two or more stages must meet the braking-in-a-curve test's requirements on or after July 1, 2006. Single unit trucks and buses are built in a wide variety of configurations to meet a diverse array of uses and needs. Many single unit trucks and buses are built to standard designs and configurations. However, many are specialty vehicles dedicated to specific purposes. Although anti-lock brake systems suitable for use in these vehicles are readily available, adaptation of these systems for particular applications will require sufficient leadtime to allow whatever development and testing may be needed. Moreover, as many single unit trucks and buses are manufactured in two or more stages, the agency notes that many final stage manufacturers are likely to rely on incomplete vehicle manufacturers to supply chassis that meet the new requirements. The agency has determined that the approximately

two-year leadtime provided in this final rule provides sufficient time for intermediate stage manufacturers to develop complying incomplete vehicles in a sufficient number of configurations to meet the needs of final stage manufacturers. Finally, this final rule will make it necessary for some small final stage manufacturers to certify their vehicles with limited assistance from the intermediate vehicle manufacturer. The compliance date chosen by the agency affords these manufacturers sufficient time to take whatever steps may be required to meet the new requirements. Accordingly, the agency finds that good cause exists to make the compliance dates in this final rule effective more than one year after issuance.

VIII. Rulemaking Analyses and Notices

A. Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. The Office of Management and Budget did not review this rulemaking document under E.O. 12866. The document is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

This document amends 49 CFR Parts 571.105 and 571.121 by extending the application of the existing braking-in-a-curve performance test for anti-lock