

recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1803, 1815 and 1852

Government procurement.

Deidre A. Lee,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1803, 1815 and 1852 are proposed to be amended as follows:

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1. The authority citation for 48 CFR Parts 1803, 1815 and 1852 continue to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In section 1803.104-5, the introductory text of paragraph (c) is revised and paragraph (c)(11) is added to read as follows:

1803.104-5 Disclosure, protection, and marking of proprietary and source selection information.

* * * * *

(c) Government employees serving in the following positions are authorized access to proprietary or source selection information, but only to the extent necessary to perform their official duties:

* * * * *

(11) Duly designated ombudsman.

* * * * *

PART 1815—CONTRACTING BY NEGOTIATION

3. Subpart 1815.70 is added to read as follows:

Subpart 1815.70—Ombudsman

1815.7001 NASA Ombudsman Program.
1815.7002 Commerce Business Daily announcements, solicitations and contracts.

* * * * *

Subpart 1815.70—Ombudsman

1815.7001 NASA Ombudsman Program.

NASA's implementation of an ombudsman program is in NMI 1210.XX, NASA Ombudsman Program.

1815.7002 Commerce Business Daily announcements, solicitations and contracts.

The contracting officer shall include a statement similar to that contained in the clause at 1852.215-84, Ombudsman, in Commerce Business Daily announcements of competitive procurements. Also, a clause substantially the same as the one at 1852.215-84 shall be included in

Section L of solicitations, including draft solicitations, and in all contracts.

3. Section 1852.215-84 is added to read as follows:

1852.215-84 Ombudsman.

As prescribed in 1815.7002, insert the following clause:

Ombudsman

(XXX 1995)

An ombudsman has been appointed to hear concerns from offerors, potential offerors, and contractors during the preaward and postaward phases of this acquisition. The purpose of the ombudsman is not to diminish the authority of the contracting officer, the Source Selection Board, or the selection official, but to communicate concerns, issues, disagreements, and recommendations of interested parties to the appropriate Government personnel and to work to resolve them. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The ombudsman does not participate in the evaluation of proposals, the source selection process, or the arbitration of formal contract disputes. Interested parties are invited to call the installation ombudsman _____ [Insert name] at _____ [Insert telephone number]. Concerns, issues, disagreements, and recommendations which cannot be resolved at the installation may be referred to the NASA ombudsman _____ [Insert name] at _____ [Insert telephone number].

(End of Clause)

[FR Doc. 95-12776 Filed 5-24-95; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Air Brake Systems; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking, submitted by Rocky Mountain Technology Engineering Corporation, to require that all air braked trailers using adjustable axles be equipped with an automatic pneumatic locking device. According to the petitioner, its device will ensure that the adjustable axles are automatically locked in place while the vehicle is in motion. It will help prevent back injuries now reportedly resulting from the misuse of manual systems. After conducting its review, the agency has determined that the petition should not be granted because measures designed to prevent back injuries and the

unintended movement of adjustable axles do not raise significant safety problems.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Carter, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-65274.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems* (49 CFR 571.121), establishes performance requirements for braking systems on vehicles equipped with air brakes. The purpose of the standard is to ensure safe braking performance under normal and emergency braking conditions.

Neither FMVSS No. 121 nor any other FMVSS presently addresses the locking of adjustable axles on trailers.¹ Such adjustable axles are also referred to as slider axles. Adjustable axles can move backward and forward on semi-trailers. Such adjustability allows the axles to be moved so as to balance the loading on the various axles of the trailer. In this way, users of semi-trailers can avoid exceeding the weight limit on each axle. The adjustability also allows the distance between the coupling and the rear axle to be limited in order to improve trailer mobility. Currently, most adjustable axles incorporate a mechanical system for locking the axles in place.

On September 30, 1994, Mr. Larry Wessels, the president of Rocky Mountain Technology Engineering Corporation (Rocky Mountain), submitted a petition for rulemaking requesting that FMVSS No. 121 be amended to require semitrailers with adjustable axles to be equipped with an automatic pneumatic locking system. Such a system would be joined to the air brake system and would allow automatic retraction of the locking pins, provided that the parking spring brakes have been set. A video tape accompanying the petition highlighted two principle differences between present adjustable axle systems and the one described by the petitioner. First, Rocky Mountain's device uses four locking pins instead of two. Second, its device engages automatically through the use of air pressure, rather than manually through the use of lever arms. The petitioner contended that its device would replace manual locking systems, which it claimed fail more readily and frequently result in back injuries when

¹ The Federal Motor Carrier Safety Regulations (FMCSR) issued by the Federal Highway Administration (FHWA) specify that "Adjustable axle assemblies shall not have locking pins missing or disengaged." 49 CFR 393.207.

the driver tries to manually retract the pin to adjust the sliding axle. The petitioner also contended that its system would more likely ensure that the adjustable axles remain in place. Based on its concern, Rocky Mountain requested that the agency initiate rulemaking to require this product.

After reviewing the petition and other available information, NHTSA has determined that requiring an automatic locking pin system would not prevent injuries and fatalities related to motor vehicle accidents. In reviewing its recall and defect investigation files, NHTSA found only one agency Engineering Analysis involving adjustable axle assemblies: in 1980, the agency opened an investigation based upon six consumer complaints involving accidents in which the adjustable assembly completely separated from Freuhauf flatbed trailers. The agency conducted a number of laboratory and field tests in an attempt to dislodge the pins from the frame rails. In none of the tests performed over a broad range of conditions was the agency able to dislodge the pins. The agency closed this Engineering Analysis without ordering a recall, redesign, or any other changes to the manufacturer's product. The agency's review of its Office of Defect Investigation's (ODI's) Customer Complaint file similarly found no safety problems with respect to adjustable axles.

NHTSA also is concerned that requiring a system like Rocky Mountain's could potentially create operational problems, given that it would increase the complexity of adjustable axle locking systems. Specifically, Rocky Mountain's

automatic locking system would add approximately 20 additional air couplings, 17 more separate air lines, four additional air pistons, one fairly complex control valve, and the electrical support system to monitor the position of the pistons along with the wiring and lighting to the cab area. As a result, the system's reliability must be very good. This is so because when more components are added to a system, each component must have a high individual reliability rate to maintain the same reliability for the total system or vehicle. The mechanical systems are less complex compared with the automatic system because they have many fewer parts. However, the agency believes that they are capable of performing their intended function.

NHTSA notes that requiring Rocky Mountain's product would result in considerable costs. Rocky Mountain indicated that its device would cost approximately \$100 more than the present manual system. Given that the average annual production of trailers is approximately 186,000 units and that between 85 percent and 90 percent of trailers have adjustable axles, NHTSA estimates that requiring the petitioner's device would cost approximately \$16 million ($\$100 \times 186,000 \times 85$ percent) annually.

Rocky Mountain claimed that its device would prevent injuries caused both while the vehicle is in use and while the stationary vehicle's axle is being adjusted. Based on its review of safety data, NHTSA is aware of few injuries caused by such situations.

Based on the above considerations, NHTSA has determined that Rocky Mountain's petition should be denied.

This decision is based in part on the fact that there are no test data, other information or analyses to substantiate the petitioner's claim that the requested amendment would reduce injuries and fatalities associated with motor vehicle accidents. Moreover, such a requirement would result in significant costs without corresponding benefits.

In accordance with 49 CFR Part 552, the agency has completed its technical review of the petition and determined that there is no reasonable possibility that the requested amendment would be issued at the conclusion of a rulemaking proceeding. Accordingly, the agency is denying the petition.

Notwithstanding NHTSA's decision to deny Rocky Mountain's petition, the agency notes that neither the requirements of FMVSS No. 121 nor those of the agency's underlying statute under which the standard was issued, prohibit the installation of the petitioner's product; provided that if it is installed on a vehicle by a vehicle manufacturer, dealer, distributor or repair business, neither the act of installation nor the operation of the device makes inoperative any device or element of design installed on that vehicle in compliance with FMVSS No. 121.

Authority: 49 U.S.C. 30103 and 30162; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 19, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95-12831 Filed 5-24-95; 8:45 am]

BILLING CODE 4910-59-P