litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.617 [REMOVED]

2. Section 117.617 is removed.

Dated: January 25, 2000.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 00–2896 Filed 2–8–00; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans

CFR Correction

In Title 40 of the Code of Federal Regulations, part 52 (§§ 52.01 to 52.1018), revised as of July 1, 1999, page 533, § 52.820 is corrected by adding the effective date note following the source note as follows:

§ 52.820 Identification of plan.

* * * * *

Effective Date Note: At 64 FR 25827, May 13, 1999, § 52.820, paragraph (c) was amended by revising the entries for ''567–20.2'' in Chapter 20, ''567–22.1, 567–22.203, and 567–22.300'' in Chapter 22, ''567–23.1'' in Chapter 23, ''567–25.1'' in Chapter 25, and ''567–28.1'' in Chapter 28, effective July 12, 1999. For the convenience of the user, the superseded text is set forth as follows:

* * * * *

[FR Doc. 00–55502 Filed 2–8–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Docket No. NHTSA 2000–6740

RIN 2127–AH64

Federal Motor Vehicle Safety Standards; Hydraulic and Electric Brake Systems; Passenger Car Brake Systems

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

ACTION: Response to petitions for reconsideration; final rule.

SUMMARY: This document responds to two petitions for reconsideration of amendments we made in September 1997 to Federal Motor Vehicle Safety Standards Nos. 105 and 135 specifying requirements for brake systems on electric vehicles (EV). In response to the petition by Hydro-Quebec of Canada, we are allowing the use, under certain conditions, of a regenerative braking system (RBS) for EV testing in accordance with S7.7 of Standard No. 135. This action is taken to facilitate new technology in the braking system of an EV. We are not amending Standard Nos. 105 and 135 in response to the petition for reconsideration by Toyota Motor Sales USA Inc. Amending the Standards as requested by Toyota may degrade the safety of EVs by reducing the stringency of the thermal tests.

DATES: The final rule is effective March 27, 2000.

FOR FURTHER INFORMATION CONTACT: Samuel Daniel, Vehicle Dynamics Division, Office of Vehicle Safety Standards, NHTSA (phone: 202–366–4921).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

On September 5, 1997, we amended Federal Motor Vehicle Safety Standards (FMVSS) Nos. 105, Hydraulic Brake Systems, and 135, Passenger Car Brake Systems to accommodate EV brake systems. See 62 FR 46907 for full background information on this rule.

Electrically-powered vehicles have unique performance characteristics that do not permit them to be tested for braking performance in the same way that other light-duty vehicles are tested. For example, because of the limited range of EVs and the extensive travel distance specified in several Federal brake test series, we established procedures for re-charging or replacing the propulsion batteries during testing. Most EVs have a feature called a ''regenerative braking system'' (RBS) designed to extend the range of the vehicle by as much as 10 to 20 percent through conversion of vehicle kinetic energy into electrical energy when the vehicle is being decelerated. When operating, the RBS provides a vehicle deceleration, or braking force. The September 1997 amendments also established procedures for testing EV braking systems and EVs equipped with RBS.

We received two petitions for reconsideration of the final rule, from Hydro-Quebec of Canada (HQ), and from Toyota Motor Sales Corporation USA Inc. (Toyota).

II. Petitions for Reconsideration

A. HQ's Petition for Reconsideration

1. *The petition.* HQ commented that S7.7.3(h) of FMVSS No. 135, which specifies that an EV with an RBS be tested with the RBS inoperative during the S7.7 Stops with Engine Off tests, is inconsistent with other parts of FMVSS No. 135. Specifically, the stopping distance performance requirements of S7.5, Cold Effectiveness and S7.7, Stops with Engine Off, are identical; each test requires that the vehicle be stopped from 100 km/h (62 mph) within a distance of 70 m (230 ft.). However, the

RBS must be inoperative for S7.7 testing but operative for S7.5 testing. According to HQ, its EV brake system cannot meet the requirements of S7.7 without use of the RBS.

HQ recommends amendments to S7.7.3(h) that it believes are consistent with the intent of S7.7, and allow RBS use during the test. Amending FMVSS No. 135 as petitioned for by HQ would allow that company to meet the brake performance requirements in FMVSS No. 135 without altering its present EV brake system design. We anticipate that most EV manufacturers will certify their vehicles to FMVSS No. 135 rather than to FMVSS No. 105, because the latter will not apply to passenger cars built on and after September 1, 2000. What's more, FMVSS No. 105 will not apply to any vehicles with a GVWR less than 3,500 kg. (7,716 lb.) produced on and after September 1, 2002. HQ's petition refers specifically to FMVSS No. 135. We shall also, below, examine its relevance to compliance with brake performance requirements of FMVSS No. 105.

2. *Design of HQ's EV brake system.* According to its petition, HQ is developing a four-wheel drive power-train technology which features four in-wheel electric motors. The technology is aimed at producing sport utility vehicles and passenger cars with improved energy consumption, safety, and emissions. The RBS and the hydraulic brake system have approximately the same braking force capability. According to HQ, the braking force developed by the RBS is not dependent on the state of charge of the propulsion system batteries, unlike most production RBS. In the HQ system, when the electrical energy produced by the RBS is greater than the recharging rate of the batteries, the excess electrical energy is dissipated. As described in the petition, the HQ EV RBS will function if the propulsion batteries are disabled or if the motors are not supplied with electrical energy. According to HQ, the hydraulic braking system has a lower priority than the RBS in a series compound braking system and does not have the braking capacity to meet the S7.7 requirements of FMVSS No. 135, independent of the RBS.

3. *Amendments recommended by HQ.* HQ cannot comply with S7.7.3(h) of FMVSS No. 135, which specifies that EVs must be tested for compliance with S7.7, Stops with Engine Off, without RBS. HQ offered two versions of amendments for S7.7 that would allow RBS to be operative during this test. HQ believes that allowing the use of RBS during the test specified in S7.7.3(h) would not violate the intent of the test. According to HQ, switching off the power supply to the electric motors of its EV does not disable the RBS.

HQ had previously commented on this issue in responding to the Notice of Proposed Rulemaking (NPRM), 60 FR 49544. HQ requested in its comments on the NPRM that a definition or interpretation be provided for the term ''no electromotive force'' in S7.7.3(h). HQ also indicated in its comments that the HQ EV design had no failure mode that would be directly analogous to an engine stalling in an internal combustion engine (ICE) vehicle.

Engine stalling of a vehicle with an internal combustion engine (ICE) results in loss of power to vacuum or hydraulically operated brake power units, brake power assist units, and components of some antilock brake systems (ABS). The purpose of the S7.7 test in FMVSS No. 135 is to ensure that these components have sufficient reserve capacity to bring the vehicle to a complete stop, with acceptable effectiveness, in the event of engine stalling. We want to offer similar assurances for the braking performance of EVs.

In Section 7.C of the preamble for the September 5, 1997 final rule, we agreed with the comments on the NPRM from other EV manufacturers stating that the RBS is designed to convert some of the kinetic energy dissipated during braking into electrical energy to charge the propulsion batteries, thus extending the vehicle's travel range. At that time, the information available to us indicated that the RBS system would not be a major contributor to the braking capacity of EVs. We decided, in the September 1997 final rule, to require EVs to meet the stopping performance requirements of S7.7 without RBS.

According to HQ's petition, the front-wheel hydraulic brakes would need to be re-designed with increased braking capacity for its EV to meet the requirements of S7.7 without use of the RBS. According to HQ, this would limit HQ EV braking technology to small vehicles and would not be feasible for some intended applications such as installation on compact sport utility vehicles.

To deny HQ's petition would require it to conform with the apparent design practices of the rest of the industry and to redesign its brake system to meet the final rule. However, we do not believe it is in the public interest to restrict alternative technology this early in the development of RBS.

To resolve this issue, we have decided to allow use of RBS during the S7.7.3(h) test, if the RBS remains functional after the supply of electric power to the propulsion motor(s) has been switched off (EV equivalent to engine stalling in an ICE vehicle). If switching off the electric power supply to the propulsion motor(s) disables the RBS, then S7.7.3(h) must be conducted without use of the RBS.

We have decided to remove the term ''electromotive force'' from S7.7.3(h) since the term may cause confusion, and to replace it with the term ''electrical power.'' Accordingly, we are amending S7.7.3(h) of FMVSS No. 135 to read: For an EV, this test is conducted with no electrical power supplied to the vehicle's propulsion motor(s), but with the RBS and brake power or power assist still operating, unless cutting off the supply of electrical power to the propulsion motor(s) also disables those systems.

We believe that this approach to a resolution of the RBS use issues raised by HQ will allow adequate flexibility in EV braking system technology. According to HQ, the technology is available to produce in-wheel motor regenerative braking with deceleration rates only slightly lower than the average deceleration rate required by FMVSS No. 135 (0.56 g) for a fully operational, cold brake system.

HQ also commented that there is an inconsistency in the final rule between S7.7, Stops with Engine Off, S7.10, Hydraulic circuit failure, and S7.11, Brake power unit or brake power assist unit inoperative (System depleted). HQ correctly noted that the maximum stopping distance specified in S7.10 and S7.11, which is 168 m, is more than twice the stopping distance specified in S7.7, whereas under the final rule, all the EV tests, S7.7, S7.10, and S7.11 were to be conducted without use of the RBS.

The procedure in S7.7 is a test of the fully functional brake system rather than a partially failed brake system, as is the case with S7.10 and S7.11. The inconsistency between the requirements of these tests has been eliminated with our decision to allow RBS use for testing under S7.7.3(h) as long as switching off the supply of electrical power to the propulsion motor(s) does not disable the RBS. The intent of the S7.7 test is to ensure that brake system will stop the vehicle with normal effectiveness when the vehicle's engine is not operating. For ICE vehicles, the test is conducted by switching off the engine ignition prior to brake application. We are amending the standard to require the analogous test procedure for EVs.

We have also decided to retain the requirement that an EV manufacturer must certify that the vehicle meets S7.10 of FMVSS No. 135, test procedures conducted to evaluate brake system

performance under partial brake failure conditions. The test conditions and procedures in S7.10.3(f) require that an EV be tested for stopping performance with the RBS disabled and all other braking systems intact. Since the S7.10 test procedures apply to vehicles with a partially disabled brake system, a longer stopping distance is specified.

In addition to the amendments noted above, we have decided that the specification in S7.11(n) that EVs be tested without RBS should be removed because the RBS test requirements for EVs in S7.10 and S7.11 are identical.

4. *Conclusions.* We believe that HQ has identified some key issues with regard to the test conditions and requirements for EVs in the final rule amending FMVSS No. 135. The HQ petition has made us more aware that the EV braking amendments adopted in 1997 need further revisions to accommodate alternative EV braking systems. According to HQ, its EV braking system prioritizes RBS over the hydraulic brake system. The two systems are essentially connected in a series arrangement in which the hydraulic braking system is activated when braking force requirements approach the maximum capacity of the RBS. The HQ EV braking system design is based on in-wheel motor technology, which may be used in the future by other EV manufacturers.

We believe that these amendments will maintain the safety benefits of FMVSS No. 135 while improving the ability of the standards to accommodate unique EV brake system design features. Vehicles in which RBS is functional when the propulsion motor(s) are not being supplied with electrical power will be able to use the RBS for testing designed to simulate loss of power to the propulsion motor(s).

No further amendments to FMVSS No. 105 appear necessary. The standard does not contain a test for the fully functional brake system with the engine off in contrast to S7.7 of FMVSS No. 135. As a result, FMVSS No. 105 does not include a test for the fully functional brake system of an EV without use of the RBS.

B. Toyota's Petition for Reconsideration

1. *The petition.* Toyota stated it is ''disappointed'' that the September 1997 final rule amendments did not achieve more harmonization with the European light duty vehicle braking regulation, ECE R13–H. Its petition did not make specific recommendations for amendments to FMVSS No. 135, but asked us to harmonize the thermal test procedures with those of ECE R13–H.

2. Comparison of the thermal tests in FMVSS No. 135 and ECE R13–H.

a. *Overall test specifications.* FMVSS No. 135 and ECE R13–H are essentially the same with respect to the thermal test procedures, conditions, and requirements (Heating snubs, Hot performance, Cooling stops, and Recovery performance) for ICE vehicles, but not for Evs. ECE R13–H allows use of the RBS, whether or not the RBS is part of the service brake system, for the entire thermal test. FMVSS No. 135 allows an RBS that is not part of the service brake system to be used only in the burnish procedures, and not during any other phases of brake system performance testing, including the thermal tests.

b. *Comparison of four phases in the thermal tests.* The first phase of the thermal test in ECE R13–H and S7.13 of FMVSS No. 135, Heating procedure and Heating Snubs, respectively, have identical test procedures and conditions for ICE vehicles. ECE R13–H (Annex 3 Paragraph 1.5.1, Heating procedure) provides a specific procedure for testing EVs, which is designed to accommodate vehicles with insufficient power and energy to complete the brake heating procedure (in FMVSS No. 135, S7.13, Heating Snubs) on a single charge. The ECE procedure requires that the EV be accelerated to the test speed (120 km/h or 80 percent of maximum vehicle velocity) for the first of 15 decelerations (snubs) that reduce the vehicle speed to one-half the initial speed. For each subsequent deceleration in the procedure, the speed for initiation of braking is the speed reached after 45 seconds of maximum acceleration, which may be lower than the speed specified for the first test. By contrast, FMVSS No. 135 does not provide specific EV procedures or conditions for the thermal tests.

In the second phase of the thermal test series, ECE R–13H allows for the initial speed for the Hot performance tests to be the vehicle speed for the last test run of the Heating Procedure. The Hot performance test consists of two braking tests with a 100 km/h test speed immediately following the Heating Procedure. The Hot Performance test conditions and performance requirements in ECE R13–H and No. 135 (S7.14) are nearly identical for ICE vehicles and EVs. Each vehicle must meet a performance criterion that is based on a comparison of Hot performance (No. 135, S7.14) test results with the vehicle's Cold effectiveness test results (No. 135, S7.5).

The third phase of the thermal test is referred to as the Recovery procedure in ECE R13–H (Annex 3; 1.5.3) and Brake cooling stops in FMVSS No. 135 (S7.15). These procedures, which are identical in the two regulations for all vehicles, specify four stops from 50 km/h (31.1 mph) beginning immediately after the Hot performance tests. These stops are conducted at a constant deceleration rate and are designed to simulate normal braking.

The final phase of the thermal test procedure is called Recovery performance in both ECE R13–H and FMVSS No. 135 (S7.16). This phase of the thermal tests is designed to test the performance of the brakes after heating followed by normal brake use. The performance requirements for this phase of the thermal test are based on the cold effectiveness test results for the vehicle. Two recovery tests are required beginning immediately after completion of the fourth cooling stop (in FMVSS No. 135, S7.16.3(f) and (i)). In this phase, neither ECE R13–H nor FMVSS No. 135 include specific procedures for testing EVs.

3. *Amendments recommended by Toyota.* Toyota stated that harmonization between ECE R13–H and FMVSS No. 135 had not been achieved with the September 1997 amendments to FMVSS No. 135 and also indicated that the fade test (thermal test) should be further harmonized. Specifically, ECE R13–H allows use of RBS by EVs, whether or not the RBS is part of the service brake system, during all phases of the thermal test. Toyota's petition requests that we allow RBS use during the thermal tests for vehicles in which RBS is not part of the service brake system.

The ECE R13–H Heating procedure for EVs allows a reduction of the test speed during the acceleration and braking cycles if a vehicle cannot maintain the specified test speed for the entire procedure. The regulation does not specify, however, a minimum test speed below which the EV Heating procedure tests should not be conducted. Test speeds below 40 km/h (25 mph) are typically too low to allow proper evaluation of a vehicle's brake system. Further, ECE R13–H does not provide procedures or requirements for charging or replacing the propulsion batteries for an EV that is unable to accelerate to test speed during the test procedure. Also, ECE R13–H does not provide EV test procedures for the Recovery procedure portion of the thermal tests. These tests are to be conducted immediately after the Hot performance stops. Therefore, an EV that completed the Hot performance tests at a reduced speed due to depleted batteries may not be able to accelerate to the Recovery procedure test speed of 50 km/h.

For those reasons, the thermal test procedures for EVs in ECE R13–H are not sufficiently clear or objective to be adopted in FMVSS No. 135.

Toyota indicated that EVs in which RBS is not part of the service brake system may not be able to complete the thermal tests on a single battery charge. Toyota further implied that ECE R13H's allowance of RBS use may increase the range of all EVs, including EVs in which RBS is not part of the service brake system, and enhance their ability complete the thermal tests.

We do not believe the power and energy requirements of the heating cycle, or the entire thermal test, are beyond the capability of the propulsion systems of marketable EVs. We estimate that the entire thermal tests (S7.13 Heating Snubs, S7.14 Hot performance, S7.15 Brake cooling stops, and S7.16 Recovery performance) specified in FMVSS No. 135 and ECE R13–H can be completed with a total vehicle travel distance of 30 kilometers (19 miles) or less. However, the heating procedure/snubs phase of the thermal test series is essentially a series of 15 maximum accelerations with short intervals between to allow for braking. The heating procedure/snubs phase is a severe test of the power capacity of the batteries although the energy requirements are modest. However, if a vehicle cannot complete the test protocol on a single charge, the system can be recharged pursuant to S6.11.3.

An RBS that is not part of the service brake system may be deactivated by the vehicle driver at any given time, thus eliminating the braking force provided by the RBS. NHTSA usually specifies tests in our brake performance standards that represent the most stringent conditions that would be faced by drivers on the road. Following this practice, the final rule of September 7, 1997 did not allow use of RBS that is not part of the service brake system (driver-controlled), during brake performance testing in FMVSS Nos. 135 and 105. It is also possible that the stringency of the Hot performance test and the Recovery performance test would be reduced if these EVs with driver-controlled RBS were allowed to use RBS. The service brakes would reach a lower temperature during the S7.13 Heating snubs with RBS operational than they would with the RBS disabled. The magnitude of this temperature reduction has not been quantified, but any service brake temperature reduction for the Hot performance and Recovery performance tests would tend to reduce the stringency of the tests. The improvement in brake performance resulting from RBS use is a safety benefit for EVs in which RBS is part of the service brake system, but would not necessarily be realized with RBS controlled by the driver. Toyota did not provide test data or other information with which to evaluate the effect of RBS use on the safety benefits of the thermal tests. For these reasons, we do not believe FMVSS No. 135 should be amended to allow use of RBS that is not part of the service brake system during any phase of the thermal tests.

We did not specify unique conditions, procedures, or requirements in 1997 for conducting the thermal test on EVs. However, we did provide procedures to be used if a vehicle could not complete a given test on a single propulsion system charge (FMVSS No. 135, S6.11.3.) Since FMVSS No. 135 has provisions for testing EVs with depleted propulsion battery(s), we do not believe it is necessary to allow RBS use if RBS is not part of the service brake system, during any portion of the thermal test.

4. *Conclusions.* We believe the ECE R13–H Heating procedure and the Recovery procedure tests for EVs are not sufficiently demanding or objective when compared with the corresponding FMVSS No. 135 portions of the thermal test. Some of the test speeds reached during the R13–H Heating procedure may be too low for meaningful brake performance evaluation. The entire thermal test is required to be conducted without interruption and ECE R13–H does not provide procedures for conducting the Hot performance or the Recovery procedure tests if the vehicle is not capable of accelerating to test speed. We do not want to facilitate the introduction of EVs in the United States that are not tested in accordance with a sufficiently demanding and objective thermal test for brakes.

S6.3.11 State of charge of batteries of FMVSS No. 135 allows EVs to achieve the brake test speeds required in the thermal test series (S7.13–S7.16) under any battery state-of-charge condition. No such provisions are included in ECE R13–H. Allowing RBS to be operative during the Heating procedure may not be sufficient for some vehicles to complete the thermal test series on a single charge. As we have previously stated, FMVSS No. 135 includes procedures for EVs to assure that brake test speeds can be reached if a vehicle's batteries are depleted and need to be recharged or replaced to accelerate the vehicle to test speeds under its own power.

After our review of the Toyota petition for reconsideration, ECE R13–H, and FMVSS No. 135, we have concluded that the ECE R13–H EV thermal test conditions and procedures should not be included in FMVSS Nos. 135 and 105. We have also concluded that the use of an RBS that is not part of the service brake system during the thermal test would have a negative impact on the safety benefits of these tests, since the stringency of the tests would not be representative of encountered driving conditions.

For these reasons, we are denying Toyota's petition for reconsideration. We will continue to allow RBS use, for vehicles in which an RBS is part of the service brake system, in all testing except when the use of RBS is explicitly prohibited.

III. Additional Amendments—RBS Malfunction Indicator Lamp

The September 1997 final rule required that a RBS malfunction indicator lamp be mounted in front of and in clear view of the driver, FMVSS No. 105, S5.3 Brake system indicator lamp. S5.3 is organized with a description of the activation protocol in S5.3.1 and a description of the lamp word, symbol, and color of the lamp in S5.3.5. Inadvertently, we placed the activation protocol, the word or symbol to be used for RBS, and the color of the symbol in S5.3.1. For consistency and to eliminate confusion, we are taking this opportunity to place the various aspects of the malfunction lamp description in the proper section of FMVSS No. 105. We are making a similar amendment to FMVSS No. 135 for the same reason. Also, for the reason stated previously, the references to the color ''amber'' in the description of the RBS malfunction indicator lamp are removed and the color ''yellow'' is substituted. This change will make the color of the RBS malfunction warning indicator consistent with other malfunction indicator lamps.

Effective Dates

Because FMVSS No. 105 and FMVSS No. 135 are in effect, because EVs are being manufactured to comply with these standards, because the amendments serve to clarify existing requirements, and because the amendments do not affect existing requirements for vehicles with hydraulic brake systems, it is hereby found, for good cause shown, that an effective date earlier than 180 days after issuance of the amendments is in the public interest. Accordingly, the amendments are effective March 27, 2000.

Regulatory Analysis

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

This rulemaking has not been reviewed under Executive Order 12866. NHTSA has considered the economic implications of this regulation and determined that it is not significant within the meaning of the DOT Regulatory Policies and Procedure. The rule does not affect a substantial regulatory program or involve a change in policy.

Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action will not have a significant economic effect upon a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis has been prepared.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The amendment primarily affects manufacturers of motor vehicles. Manufacturers of motor vehicles are generally not small businesses within the meaning of the Regulatory Flexibility Act.

The Small Business Administration's regulations define a small business in part as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC), SIC Code 3711 ''Motor Vehicles and Passenger Car Bodies'' has a small business size standard of 1,000 employees or fewer.

For manufacturers of passenger cars and light trucks, NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Since each manufacturer serves a niche market, often specializing in replicas of ''classic'' cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most 500 passenger cars manufactured per year by U.S. small businesses.

In contrast, in 1999, there are approximately nine large manufacturers producing passenger cars, and light trucks in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks per year. NHTSA does not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

Further, small organizations and governmental jurisdictions are not be significantly affected as the price of motor vehicles ought not to change as the result of this final rule.

Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of ''regulatory policies that have federalism implications.'' The E.O. defines this phrase to include regulations ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule, which regulates the manufacture of certain motor vehicles, will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this final rule does not have a $100 million effect, no Unfunded Mandates assessment has been prepared.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action will not have a significant effect upon the environment. There is no environmental impact associated with adaptation of test procedures to make them more appropriate for vehicles already required to comply with the Federal motor vehicle safety standards. However, to the extent that this rulemaking might facilitate the introduction of EVs which are powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electric current, and which may include a nonelectrical source of power designed to charge batteries and components thereof, the rulemaking would have a beneficial effect upon the environment and reduce fuel consumption because EVs emit no hydrocarbon emissions and do not depend directly upon fossil fuels to propel them.

Civil Justice Reform (Executive Order 12778)

This rule will 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. Section 30161 of Title 49 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166; delegation of authority at 49 CFR 1.50.

§ 571.105 [Amended]

2. Section 571.105 is amended by:

a. Revising S5.3.1(g);

b. Adding S5.3.5(c)(1)(E);

c. Revising S5.3.5(c)(2).

The revised and added paragraphs read as follows:

§ 571.105 Standard No. 105; Hydraulic and electric brake systems.

* * * * *

S5.3 Brake system indicator lamp

* * *

S5.3.1 * * *

(g) For an EV with RBS that is part of the service brake system, failure of the RBS.

* * * * *

S5.3.5 * * *

(c)(1) * * *

(E) If a separate indicator is used for the regenerative brake system, the symbol ''RBS'' may be used. RBS failure may also be indicated by a lamp displaying the symbol ''ABS/RBS.''

* * * * *

(c)(2) Except for a separate indicator lamp for an anti-lock system, a regenerative system, or an indicator for

both anti-lock and regenerative system, the letters and background of each separate indicator lamp shall be of contrasting colors, one of which is red. The letters and background of a separate lamp for an anti-lock system, a regenerative system, or a lamp displaying both an anti-lock and a regenerative system shall be of contrasting colors, one of which is yellow.

§ 571.135 [Amended]

3. Section 571.135 is amended by:

a. Revising S5.5.1(g);

b. Revising S5.5.5(d)(6);

c. Adding S5.5.5(d)(7);

d. Amending S7.7.1 to add a second sentence;

e. Revising S7.7.3(h); and

f. Removing S7.11.3(n).

The revisions, additions, and amendments read as follows:

§ 571.135 Standard No. 135; Passenger car brake systems.

* * * * *

S5.5.1. Activation. * * *

(g) For an EV with a regenerative braking system that is part of the service brake system, failure of the RBS.

* * * * *

S5.5.5. Labeling. * * *

(d) * * *

(6) If a separate indicator is provided for the condition specified in S5.5.1(g), the letters and background shall be of contrasting colors, one of which is yellow. The indicator shall be labeled with the symbol ''RBS.'' RBS failure in a system that is part of the service brake system may also be indicated by a yellow lamp that also indicates ''ABS'' failure and displays the symbol ''ABS/RBS.''

(7) If a separate indicator is provided for any other function, the display shall include the word ''Brake'' and the appropriate additional labeling.

* * * * *

S7.7 * * *

S7.7.1 General information. * * * This test is also for EVs.

* * * * *

S7.7.3. * * *

(h) For an EV, this test is conducted with no electrical power supplied to the vehicle's propulsion motor(s), but with the RBS and brake power or power assist still operating, unless cutting off the supply of electrical power to the propulsion motor(s) also disables those systems.

Issued on: January 19, 2000.

Frank Seales, Jr.,

Acting Administrator.

[FR Doc. 00–2923 Filed 2–8–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE55

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant Thlaspi californicum (Kneeland Prairie Penny-Cress) From Coastal Northern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for *Thlaspi californicum* (Kneeland Prairie penny-cress). *Thlaspi californicum* is known only from Kneeland Prairie in Humboldt County, California, where it grows in coastal prairie on serpentine outcrops. We consider the occurrences of *T. californicum* reported from Mendocino County to be *T. montanum,* a widely distributed species. Habitat loss, potential road realignment, and proposed airport expansion activities imperil the continued existence of *T. californicum.* The restricted range of this species, limited to a single population, increases the risk of extinction from naturally occurring events such as fire. This action implements the protection of the Act for this plant species.

DATES: This rule is effective on March 10, 2000.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Suite W2605, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp or Jan Knight, Sacramento Fish and Wildlife Office (see **ADDRESSES** section) (telephone number 916/414–6645; facsimile 916/414–6710).

SUPPLEMENTARY INFORMATION:

Background

The single known population of *Thlaspi californicum* (Kneeland Prairie penny-cress) is found on serpentine soils at a coastal prairie in Humboldt County, California. Serpentine soils are derived from ultramafic rocks (rocks with unusually large amounts of magnesium and iron) such as serpentinite, dunite, and peridotite, which are found in discontinuous outcrops in the Sierra Nevada and Coast Ranges of California from Santa Barbara County to Humboldt County. The chief constituent of the parent rock is a variant of iron-magnesium silicate. Most serpentine soils are formed in place over the parent rock and are, therefore, shallow, rocky, and highly erodible. Serpentine soils, because of the parent material, tend to have high concentrations of magnesium, chromium, and nickel and low concentrations of calcium, nitrogen, potassium, and phosphorus (Kruckeberg 1984). Serpentine soils alter the pattern of vegetation and plant species composition nearly everywhere they occur. While serpentine soils are inhospitable for the growth of most plants, some plants are wholly or largely restricted to serpentine substrates (Kruckeberg 1984).

Sereno Watson (1882) described *Thlaspi californicum* based on a collection made by Volney Rattan from Kneeland Prairie at 760 meters (m) (2,500 feet (ft)) elevation in Humboldt County, California. Payson (1926) maintained it as a full species in his monograph of the genus, whereas it was referred to as *T. alpestre* var. *californicum* in Jepson's (1925) manual and *T. glaucum* ssp. *californicum* by Munz (1959). Holmgren (1971) assigned the name *Thlaspi montanum* var. *californicum* and gave its range as Kneeland Prairie (including a 1952 specimen from a serpentine rockpile toward Ashfield Butte). She noted that the plant had last been collected in 1962. Rollins (1993a, 1993b) has elevated it to a full species—*Thlaspi californicum.*

Thlaspi californicum is a perennial herb in the mustard family (Brassicaceae) that grows from 9.5 to 12.5 centimeters (cm) (3 to 6 inches (in)) tall, with a basal cluster of leaves that develops at the base of the plant prior to the flowering stage. The margins of the basal leaves range from entire to toothed. The white flowers have strongly ascending pedicels (flower stalks). The fruit is a sharply pointed silicle (a short fruit typically no more than 2 to 3 times longer than wide). *Thlaspi californicum* flowers from May to June. Characteristics that separate *T. californicum* from *T. montanum* include the orientation of the pedicel, shape and notching of the fruit, and length/width ratio of the fruit. *Thlaspi montanum* has pedicels perpendicular to the stem, not strongly ascending, and the silicles are either truncate or shallowly notched, but not as acute at the apex as they are in *T. californicum* (Meyers 1991).