[4910-EX-P]

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA-2014-0083; Docket No. FMCSA-2022-0004]

RIN 2126-AB63

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2016-0087]

RIN 2127-AK92

Federal Motor Vehicle Safety Standards; Federal Motor Carrier Safety Regulations; Parts and Accessories Necessary for Safe Operation; Speed Limiting Devices; Withdrawal

AGENCY: Federal Motor Carrier Safety Administration (FMCSA) and National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); advance notice of supplemental proposed rulemaking (ANSPRM); withdrawal.

SUMMARY: FMCSA and NHTSA withdraw the September 7, 2016 joint NPRM that proposed to require that heavy vehicles (those with a gross vehicle weight rating (GVWR) of more than 11,793 kilograms (26,000 pounds)) be equipped with a speed limiting device that is maintained at a set speed. FMCSA also withdraws its May 4, 2022 ANSPRM, which announced FMCSA's intent to proceed with a speed limiter rulemaking. The ANSPRM stated that FMCSA was preparing a supplemental notice of proposed rulemaking (SNPRM) to propose that motor carriers operating commercial motor vehicles (CMVs) in interstate commerce with a gross vehicle weight or GVWR of at least 11,794 kilograms (26,001 pounds), whichever is greater, and that are equipped

with an engine control unit (ECU) capable of governing the maximum speed, be required to limit the CMV to a speed to be determined by the rulemaking and to maintain that ECU setting for the service life of the vehicle. In light of significant policy and safety concerns and continued data gaps that create considerable uncertainty about the estimated costs, benefits, and other impacts of the proposed rule, FMCSA and NHTSA have decided to withdraw the proposal.

DATES: FMCSA and NHTSA withdraw the NPRM published September 7, 2016, at 81 FR 61942 as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. FMCSA withdraws the ANSPRM published May 4, 2022, at 87 FR 26317 as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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NHTSA: Mr. Markus Price, Office of Vehicle Rulemaking; (202) 366-1810; markus.price@dot.gov; or Mr. David Jasinski, Office of Chief Counsel; david.jasinski@dot.gov. Mailing address of these officials: NHTSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2016, in response to separate petitions[1] from the American Trucking Associations (ATA) and Schneider National, Inc. et al. (including 9 other ATA-member motor carriers), NHTSA and FMCSA issued a joint NPRM proposing to require heavy vehicles with a GVWR of more than 11,793 kilograms (26,000 pounds) be

[1] These petitions were granted. By granting a petition, NHTSA and FMCSA agreed to commence a rulemaking action, which was accomplished by publishing the NPRM. The ATA petition can be found at https://www.regulations.gov/document/NHTSA-2007-26851-0005 and the Schneider National, Inc. et al. petition can be found at https://www.regulations.gov/NHTSA-2007-26851-0001.

equipped with a speed limiting device initially set to a speed no greater than a speed to be specified in a final rule. NHTSA and FMCSA also proposed to require motor carriers operating such vehicles in interstate commerce to maintain the speed limiting devices for the service life of the vehicle (81 FR 61942). NHTSA and FMCSA requested comment on speeds ranging from 60 to 68 miles per hour (mph). The estimated economic impacts of the joint NPRM varied widely based upon the set speed, with annual costs ranging from $209 million to $1.561 billion. The Agencies also estimated that, at a 65 mph set speed, the proposed rule would save between 63 and 214 lives annually, monetized at between $716 million and $2.4 billion using both the value of statistical life in 2013 as well as economic costs and would also result in $848 million in fuel and emissions savings based on then-current price estimates.

The NPRM was based on a review of the available data, which suggested that limiting the speed of these heavy vehicles would reduce the severity of crashes involving these vehicles. However, NHTSA and FMCSA were not able to estimate the effects of speed reduction on the number of crashes occurring (i.e., collision avoidance), and the proposal did not include estimated costs or benefits related to crash reductions or increases. The NPRM sought comment on the analysis of the costs and benefits of amending the Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carrier Safety Regulations (FMCSRs) to require speed limiting devices and their usage.

Comments were solicited on the NPRM for a total of 90 days, ending December 7, 2016. A total of 7,225 comments were received by that date[2] from individuals, motor carriers, industry organizations, and advocacy groups.

Overview of Comments to the NPRM

Individual drivers supporting the NPRM discussed a variety of topics. Many drivers of light vehicles (i.e., vehicles with a GVWR of less than 3,856 kilograms (8,500

[2] FMCSA received a total of 4,633 comments, and NHTSA received a total of 2,592 comments.

pounds)) supported the NPRM, stating that it would contribute to overall driving safety. They gave numerous examples of perceived dangerous driving by heavy vehicles based upon personal experiences and asserted that slowing down heavy vehicles would improve safety. Many individuals who responded in favor of the NPRM indicated that the rule should be expanded to apply to all heavy vehicles that already have speed governing equipment installed by the manufacturer.

Individual drivers opposed to the NPRM raised concerns about a host of potential impacts. The most common concern was about the potential speed differential between speed-limited heavy vehicles and light vehicles. Commenters indicated the relative differences in vehicle speeds could lead to more interactions between heavy vehicles heavy and light vehicles and could lead to increased or risky driving behavior by light vehicles trying to pass the slower heavy vehicles. Many commenters stated that the proposed requirements would slow traffic in general, particularly if two speed-limited heavy vehicles tried to pass one another. Some commenters stated that speed limiters would lead to increased speeding by heavy vehicles on surface streets with lower speed limits due to drivers trying to make up time. Others stated that the proposed rule would amount to government over-regulation, and result in increased costs for the trucking industry and slower overall delivery times. Commenters suggested increasing training for both heavy truck and light vehicle drivers as well as the alternative of increasing enforcement of existing speed limit laws.

The comments received from industry and advocacy groups were also mixed. Those in favor of the proposed rule, like Coach USA, supported a 68 mph speed limit, indicating that, as of December 2016, they have been using speed limiters in their fleet of buses for about 10 years, and that their speed limiters are set to 68 mph. The Insurance Institute for Highway Safety (IIHS) supported the NPRM, stating that lowering speeds would also lower the kinetic energy of crashes (thus reducing injuries), and that speed

differentials already exist between trucks and cars on the highway. IIHS stated that the rule should require speed limiters to be added to existing heavy vehicles. Some opposing the rule, like the Michigan Department of Transportation (MDOT), stated that it would set a national speed limit for trucks, preempting State laws. MDOT also stated that the increased speed differential between heavy vehicles and light vehicles would possibly lead to more crashes. The Owner-Operator Independent Drivers Association (OOIDA) stated that speed limiters would increase driver fatigue and "[t]he agencies have made no attempt to examine the externalities of a speed limiter mandate other than to evaluate the societal costs incurred at the event of a heavy vehicle crash, whereas congestion costs are largely omitted."

In the NPRM, three different speed limits were analyzed for heavy vehicles: 60, 65, and 68 mph. Analysis was conducted on each speed limit with the predicted improvement to safety given for each speed. The NPRM requested that commenters indicate which speed would be most appropriate. Relatively few of the commenters responded to this request. Among those that did, the preferred speed was nearly evenly split among the three proposed speeds.

FMCSA ANSPRM

On May 4, 2022, FMCSA published in the *Federal Register* (87 FR 26317) an ANSPRM announcing the Agency's intent to proceed with a speed limiter rulemaking to follow up on the joint 2016 NPRM. The ANSPRM explained that FMCSA intended to issue an SNPRM that, if adopted, would impose speed limitations on certain CMVs subject to the FMCSRs. Specifically, the Agency indicated that it would propose to require motor carriers to limit speeds for certain CMVs operated in interstate commerce that were already equipped with an electronic engine control unit (ECU) capable of setting speed limits. The maximum speed of affected CMVs was to be determined by the

rulemaking, and motor carriers would have been required to maintain that maximum limit in the ECU for the service life of the vehicle.

FMCSA solicited comments concerning the ANSPRM for a total of 75 days, ending July 18, 2022. A total of 15,638 comments were received by that date. The comments were from individuals, motor carriers, industry associations, safety advocacy groups, technology developers, governmental entities, and research organizations. The issues raised by commenters to the ANSPRM, both supporting and opposing, were largely identical to those raised by commenters to the 2016 NPRM. Public comments were varied in both support and opposition to the proposals discussed in the ANSPRM. In many cases, a given commenter argued both in support of certain provisions of a proposed rule and in opposition to other provisions. Commenters included CMV drivers, trucking and bus companies, industry associations, safety organizations, technology developers, a research institute, and a non-law enforcement governmental entity. The comments and FMCSA responses are organized topically and summarized below.

Support for Moving Forward with the Rulemaking

Overall, approximately 300 comments provided some type of support for continued development of the proposals described in the ANSPRM. Commenters supporting the notice generally identified increased highway safety and positive impacts on truck drivers, the trucking industry, the economy, and the environment as reasons to support the ECU carrier-based approach. Commenters that included a government entity, safety organizations, and industry organizations, such as The Trucking Alliance, National Safety Council, Safe Operating Speed Alliance, C.R. England, Inc, National Transportation Safety Board, Truckload Carriers Association (TCA), The Law Firm for Truck Safety LLP, Institute for Safer Trucking, and Road Safe America supported the implementation of required speed limiter technology throughout the trucking industry in order to increase highway safety overall for all drivers and vehicles. Certain commenters,

including Road Safe America, TCA, The Law Firm for Truck Safety LLP, and Advocates, supported using speed limiting devices and stated that the technology has been around for some time. A few even suggested maximum speeds to be considered in a proposed rulemaking. The Law Firm for Truck Safety LLP supported the ANSPRM and cited the positive impacts the proposal would have on truck drivers based on interviews of truck drivers conducted in the summer of 2022.

Certain individuals and safety organizations believed that the proposals would improve fuel efficiency and provide positive impacts on the environment. These commenters included The Law Firm for Truck Safety, LLP, and IIHS, which also supported the ANSPRM from a carrier-based approach.

Opposition to Moving Forward with the Rulemaking

More than 15,000 comments included statements opposing the rulemaking. Some questioned FMCSA's authority and whether the proposal would reduce highway safety by creating speed differentials and increasing traffic congestion. The opponents also cited potential impacts on the industry, driver pay, the economy, and the environment.

Commenters questioning FMCSA's statutory authority included the Texas Public Policy Foundation and several industry organizations, including OOIDA; AWM Associates, LLC; and SSTL Inc. Numerous individuals, companies and industry organizations such as OOIDA, United Parcel Service, and Real Women in Trucking, cited concerns that there would be a reduction in highway safety due to speed differentials and traffic congestion that would potentially reduce drivers' ability to merge or pass and would thereby increase traffic, which could lead to fatigue, aggressive driving, and other less safe driving situations.

Several commenters, including OOIDA, indicated that limiting a truck's speed would have adverse impacts on driver's' incomes, because reducing travel speeds would reduce the number of miles traveled as well as the number of pick-ups and deliveries.

Other commenter issues included higher fuel costs, impacts to driver well-being and ease of parking due to additional hours a driver might have to spend driving to complete a job. Those commenters included OOIDA, the American Bus Association, and the Kansas Livestock Association. There were similar concerns regarding impacts to the trucking industry, economy, and environment. Numerous agricultural organizations and many individuals expressed concerns related to supply chain issues that they stated would place small business owners at a disadvantage in meeting deadlines. Many individual commenters also expressed concern that the proposal would cause drivers to leave the industry, which many noted is already experiencing a driver shortage.

A few commenters also expressed opposition to a carrier-based approach, stating that most vehicle crashes are caused by passenger cars, and some even suggested training drivers in all license classes to be aware of CMVs.

Rationale for Withdrawal

NHTSA and FMCSA have determined that the 2016 NPRM lacks a sufficiently clear and compelling safety justification for its implementation and raises significant concerns regarding federalism. NHTSA and FMCSA's research and analyses contained significant data gaps regarding potential safety benefits and economic impacts, and information obtained through the public comment process did not provide the information necessary to proceed to a final rule. NHTSA and FMCSA therefore withdraw the September 7, 2016 NPRM. For the same reasons, FMCSA also withdraws the May 4, 2022 ANSPRM.

The benefits estimation in the NPRM was based on the value of equivalent lives saved, plus property damage reduction, plus fuel savings. This analysis had limitations, which together create significant uncertainty regarding its conclusions.

First, considering advancements made in crash avoidance technologies in recent years, NHTSA and FMCSA believe there is a large degree of uncertainty about the

baseline number of crashes (i.e., the crashes projected to occur without the rulemaking in the future), which calls into question the magnitude of the estimated safety benefits of the rulemaking. In particular, rear-end crashes involving heavy vehicles (where the truck is the striking vehicle) could be reduced by crash avoidance technologies designed to mitigate or prevent such crashes, such as automatic emergency braking (AEB) and forward collision warning (FCW).[3] An increasing percentage of vehicles, including heavy vehicles, will be equipped with crash avoidance technologies in the future as more fleet owners purchase trucks with those technologies.[4]

On October 16, 2015, NHTSA granted a petition for rulemaking to establish a safety standard to require automatic forward collision avoidance and mitigation systems on certain heavy vehicles (80 FR 62487). On July 6, 2023, NHTSA and FMCSA published a joint NPRM proposing to adopt a new FMVSS to require AEB systems on heavy vehicles, i.e., vehicles with a GWVR greater than 4,536 kilograms (10,000 pounds), and new FMCSRs to require mandated AEB and electronic stability control (ESC) systems to be active during vehicle operation (88 FR 43174). An AEB system uses multiple sensor technologies and sub-systems that work together to sense when the vehicle is in a crash imminent situation and applies the vehicle brakes automatically if the driver has not done so or applies more braking force automatically to supplement the driver's applied braking. The NPRM followed NHTSA's 2015 grant of the petition mentioned above. The NPRM also responded to a mandate under section 23010 of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58, 135 Stat. 429, 766, Nov.

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[3] These technologies are being installed on both passenger vehicles and heavy vehicles and will thus potentially alter impact speeds in complex ways as all vehicles achieve more efficient braking capability than reflected in the current on-road fleet.

[4] In 2020, the market share rate of AEB was estimated to be less than 50 percent of new class 8 truck sales. (See the report, "Research and Testing to Accelerate Voluntary Adoption of Automatic Emergency Braking (AEB) on Commercial Vehicles," https://rosap.ntl.bts.gov/view/dot/49335.) Also see the discussion of projected AEB penetration rates in chapter 4 of the Preliminary Regulatory Impact Analysis for the joint NHTSA and FMCSA NPRM on heavy vehicle AEB (2127-AM36, 2126-AC49) at https://www.regulations.gov/document/NHTSA-2023-0023-0009.

15, 2021). IIJA section 23010 directs the Department to prescribe an FMVSS that requires heavy CMVs with an FMVSS-required electronic stability control (ESC) system to be equipped with an AEB system. IIJA section 23010 further directs the Department to prescribe an FMCSR that requires such heavy CMVs to use their FMVSS-mandated AEB systems at any time the CMV is operating. The NPRM proposed FMCSRs requiring the ESC and AEB systems to be active during vehicle operation.

NHTSA and FMCSA believe a portion of the crashes that they assumed would be mitigated by speed limiters may also be mitigated by AEB and FCW systems. ATA commented that safety technologies such as AEB and adaptive cruise control have evolved since the publication of the 2016 NPRM and may mitigate some of the concerns about speed differentials, productivity, and safety. Both ATA and Road Safe America advocated for establishing a higher speed limiter setting of 70 mph for vehicles equipped with and using AEB and AEC. However, OOIDA[5] and an anonymous commenter expressed concern that AEB triggers false or unexpected activation of the brake system and causes dangerous driving situations. Because advanced crash avoidance technologies that could prevent or mitigate crashes affected by the 2016 NPRM were not considered, the baseline in the analysis may not accurately project potential safety benefits and costs of speed limiting devices. Regulation in this area should not proceed until a more certain assessment of the effect of advanced crash avoidance technologies can be made, which would inform the analysis of the potential impacts of speed limiter technologies. The voluntary development and adoption of new crash-avoidance technologies, such as AEB, demonstrates that markets are progressing toward goals similar to those a speed limiter regulation would be expected to achieve. All recently manufactured heavy vehicles come equipped with the speed limiting devices (in the form of ECUs); the withdrawal of the

[5] OOIDA's March 2021 letter to Secretary Buttigieg may be found in the docket for this rulemaking.

NPRM and ANSPRM has no impact on the ability of operators to use those devices to manage speeds. Various operators have set maximum speeds voluntarily, in part to realize many of the fuel-saving and assumed safety benefits that users attribute to the devices. The withdrawal of the proposal will have no effect on the availability of speed limiting devices and the ability of operators to limit the speed of their own vehicles if they so choose.

Second, the NPRM did not include an estimate of crashes avoided or caused. It remains unclear whether implementing the NPRM would lead to a net increase in crashes, including those involving motorists striking the rear of CMVs at a device-limited speed, which NHTSA and FMCSA have been unable to quantify. Research varies on the topic of speed differentials and their impact on crash rates.[6]

The comments did not include any clear research not already cited in the 2016 NPRM that could be used to establish the safety impacts associated with crash avoidance characteristics of the proposed rule. NHTSA and FMCSA received some comments that referenced international studies that reported specific changes in crash rates during the time period for which speed limiting devices were implemented internationally; however, it is not clear that these rate changes can be attributed to speed limiting devices, or that the same crash rate changes could be anticipated for traffic conditions in the United States.[7] One concern about international studies is that drivers behave differently in different countries and have different risk-tolerances. In addition, trucks in other countries may differ from those in the U.S. in terms of size and shape. Other comments referenced another study that was unable to provide specific quantitative risks associated with the installation of speed limiting devices and the risks associated with different car

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[6] VTRC, *The Safety Impacts of Differential Speed Limits on Rural Interstate Highways*, FHWA–HRT– 04–156, Sept. 2004; Idaho Transportation Department Planning Division. *Evaluation of the Impacts of Reducing Truck Speeds on Interstate Highways in Idaho*, Phase III, Final Report Dec., 2000, National Institute for Advanced Transportation Technology University of Idaho.

[7] Comment from Advocates for Highway and Auto Safety, https://www.regulations.gov/document/NHTSA-2016-0087-2216.

and truck travel speeds.[8] NHTSA and FMCSA do not have reliable estimates of crash avoidance benefits based on trucks driving at lower speeds or of a possible reduction in safety resulting from the risks associated with speed differentials.

Third, Executive Order (E.O.) 12866, Regulatory Planning and Review (58 FR 51735 (Oct. 4, 1993)), directs agencies to tailor their regulations to impose the least burden on society, including individuals and businesses of differing sizes, consistent with obtaining the regulatory objectives, considering, among other things, and to the extent practicable, the costs of cumulative regulations. The crash avoidance technologies under development may achieve the safety goals of this rulemaking better than a speed limiter requirement. The potential effects of the rulemaking on trucking commerce are difficult to predict because they would affect a wide range of economic activities, a limited subset of which were explored in the Preliminary Regulatory Impact Analysis (PRIA) and NPRM. As discussed in the PRIA and NPRM, NHTSA and FMCSA are unable to predict the secondary impacts of a speed limiter requirement, such as the rebound effect (as the fuel used per mile would likely decline) and driver wage rates (which have historically been based on miles, rather than hours, driven), which could have significant impacts on the trucking industry.[9] Moreover, NHTSA and FMCSA estimated that the rulemaking could put small owner-operators at a disadvantage in some circumstances, resulting in a reduction in profits (81 FR 61942, 61694).

Fourth, E.O. 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative (90 FR 10583 (Feb. 25, 2025)), directs agencies to rescind regulations that are unlawful or

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[8] Gates, Timothy, et al. *Safety and Operational Impacts of Differential Speed Limits on Two-Lane Rural Highways in Montana [Final Report]*. July 2016. Available at https://rosap.ntl.bts.gov/view/dot/31482.

[9] The rebound effect is defined as "secondary impacts that are difficult to quantify because the response of manufacturers and drivers is difficult to predict." See Preliminary Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis FMVSS No. 140 Speed Limiting Devices. NHTSA Office of Regulatory Analysis and Evaluation, p. 167. This document can be found at https://www.regulations.gov/document/NHTSA-2016-0087-0002.

undermine the National interest. It establishes classes of regulations that should be reviewed for rescission or modification, including "(iii) regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition." In light of comments from the Texas Public Policy Foundation and OOIDA stating that the 2016 NPRM would violate section 205(d) of the National Highway System Designation Act of 1995 (Pub. L. 104-59, 109 Stat. 568, 577, Nov. 28, 1995, which repealed the national maximum speed limit enacted in 1975 that was formerly codified at 23 U.S.C. 154), the proposed rule could be viewed as inconsistent with the prohibition on the adoption of traffic safety regulations in 49 U.S.C. 31147(a). Therefore, NHTSA and FMCSA believe it is appropriate to withdraw this rulemaking, consistent with the intent of E.O. 14219.

Fifth, NHTSA and FMCSA are concerned about the uncertainty regarding industry response to daily driving distance limitations that could result from the rulemaking. Because the speeds under consideration were all below the legal speed limit applicable to these vehicles on many of the Nation's highways, the rulemaking would reduce the maximum potential distance a driver could theoretically travel in a single day within the maximum allowed hours of service if the driver is currently driving the maximum number of hours allowed by law. NHTSA and FMCSA assumed that industry would respond through a combination of increased driver efficiency and team driving when such response is feasible and practicable, but other responses, such as adding additional trucks to move the same amount of goods, might also occur. NHTSA and FMCSA did not consider the possibility that the rulemaking could result in an increase in the overall number of trucks required to be on the roads, which would lead to increased costs for those trucks, reduced overall fuel savings and environmental benefits, and possible safety disbenefits from greater exposure of drivers of light vehicles to vehicles with substantial speed differentials.

Sixth, NHTSA and FMCSA attempted to estimate the aggregate economic value lost due to the depreciation of goods as a result of slower travel speeds but have been unable to consider how the cost would be distributed across industry sectors, particularly to deliveries that are time-sensitive, such as those in the agricultural industry. While commenters suggested that the rule would affect certain industry sectors disproportionately, they did not provide data to enable NHTSA and FMCSA to quantify this effect.

Seventh, while NHTSA and FMCSA considered the costs to truck operators resulting from longer travel times, they have been unable to account for the potential delays and other costs to other road users, caused by factors such as decreased speed of other vehicles traveling resulting from an inability to pass slower moving heavy vehicles. Although the potential for delays to other road uses was an issue raised by many commenters, they did not provide data enabling NHTSA and FMCSA to quantify the magnitude of this effect.

Finally, if implemented, the proposal could have, over time, displaced State authority to set speed limits for heavy vehicles, given that the speeds under consideration in the 2016 NPRM (60 mph, 65 mph, and 68 mph) are below the maximum posted daytime speed limits on many roads, including rural Interstates in over half of the States. Because many States have determined that it is safe for heavy vehicles to operate above 68 mph on certain roads, the rulemaking would, in effect, undercut the ability of those States to set the speed limits they have deemed appropriate on their roadways.

Accordingly, for the reasons discussed above, the NPRM published in the *Federal Register* on September 7, 2016 at 81 FR 61942, is hereby withdrawn. FMCSA also withdraws the May 4, 2022 ANSPRM. This action is considered a deregulatory action

under E.O. 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Jan. 31, 2025), as it withdraws an NPRM that was issued before January 20, 2025 that was determined to be "significant" under E.O. 12866.

Issued under authority delegated in 49 CFR 1.87 concerning FMCSA, and 49 CFR 1.95, 501.4, and 501.5 concerning NHTSA.

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For NHTSA:

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