FRA acknowledges that domestic sourcing plans may contain material the submitter considers to be confidential commercial information or trade secrets (collectively, CCI), and not customarily released to the public. Project sponsors should indicate as such domestic sourcing plans they consider to be CCI and not customarily released to the public, and request that the information be protected from release. To the extent permitted by law, FRA will not release such information. FRA will handle subsequent Freedom of Information Act, 5 U.S.C. 552, requests for the information according to the regulatory process described at 49 CFR part 7.

Industry Day

High speed rail manufacturing, assembly, installation, and maintenance all have the potential to not only support policies on sustainability and climate, but also to create good-paying, union jobs in the United States. DOT is interested in hearing from the public, including stakeholders (such as State and local agencies, the rail manufacturing industry, component suppliers, labor unions, related associations, and transportation advocates), to gather information on manufacturing and assembly processes in the United States for high-speed rail.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2023–05874 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0063; Notice 2]

Daimler Trucks North America, LLC, Denial of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Denial of petition.

SUMMARY: Daimler Trucks North America, LLC (DTNA), has determined that certain model year (MY) 2020–2021 Freightliner Cascadia motor vehicles (heavy trucks) do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* DTNA filed a noncompliance report dated May 12, 2020, and amended the report on December 23, 2021. DTNA subsequently petitioned NHTSA (the ''Agency'') on June 4, 2020, and later amended its petition on July 13, 2020, and again on January 19, 2022, for a decision that the subject noncompliances are inconsequential as they relate to motor vehicle safety. This notice announces the denial of DTNA's petition.

FOR FURTHER INFORMATION CONTACT: Leroy Angeles, Office of Vehicle Safety Compliance, NHTSA, (202) 366–5304.

SUPPLEMENTARY INFORMATION:

I. Overview

DTNA has determined that certain MY 2020–2021 Freightliner Cascadia heavy trucks do not fully comply with the requirements of paragraphs S4, S6.1.5.1, S9.6.2, S14.9.3.9.3, and Figure 2 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). DTNA filed a noncompliance report dated May 12, 2020, and amended the report on December 23, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* DTNA subsequently petitioned NHTSA on June 4, 2020, and later amended its petition on July 13, 2020,[1] and again on January 19, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that these noncompliances are inconsequential as they relate to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of DTNA's petition was published with a 30-day public comment period, on April 13, 2022, in the **Federal Register** (87 FR 22019). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2020–0063.''

II. Trucks Involved

Approximately 24,282 MY 2020–2021 Freightliner Cascadia heavy trucks manufactured between January 16, 2019, and March 27, 2020, are potentially involved.

III. Noncompliances

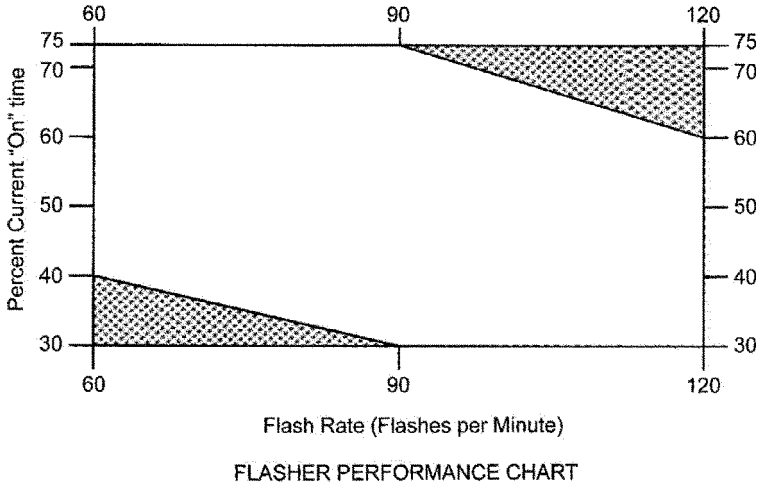
DTNA identified two noncompliances pertaining to the subject trucks' hazard warning signal lamps. First, the hazard warning signal lamps do not meet the flash rate required by paragraph S6.1.5.1 of FMVSS No. 108 under all operating conditions. Specifically, if a subject vehicle is operated at a speed of 20 miles per hour[2] (MPH) or more during the emergency braking (EB) phase of an Active Brake Assist (ABA) event, the subject trucks' hazard warning signal lamps are actuated at a flash rate of 140 flashes per minute when the flash rate should be between 60 and 120 flashes per minute. Second, the subject truck automatically activates the hazard warning signal lamps during certain operating conditions, specifically, when the subject truck has progressed to the third phase of an ABA event. Automatic activation of the hazard warning signal lamps is contrary to the definition of the ''vehicular hazard warning signal operating unit,'' which states it is a driver-controlled device.

IV. Rule Requirements

Paragraphs S4, S6.1.5.1, S9.6.2, S14.9.3.9.3, and Figure 2 of FMVSS No. 108 include the requirements relevant to this petition. Paragraph S4 defines the ''vehicular hazard warning signal operating unit'' as a driver-controlled device that causes all required turn signal lamps to flash simultaneously to indicate to approaching drivers the presence of a vehicular hazard. Paragraph S6.1.5.1 requires that ''[i]n all passenger cars, multipurpose passenger vehicles, trucks, and buses, the activation of the vehicular hazard warning signal operating unit must cause to flash simultaneously sufficient turn signal lamps to meet, as a minimum, the turn signal photometric requirements of this standard.'' Paragraph S9.6.2, in part, requires that the vehicular hazard warning signal operating unit must provide a means for actuating all switches simultaneously by a single driver action. Paragraph S14.9.3.9.3, in part, requires that the flash rate cannot exceed 120 flashes per minute under the conditions shown in Figure 2.

[1] DTNA initially amended its petition on July 13, 2022, and DTNA subsequently resubmitted that amended petition on July 22, 2022, due to an incorrect date on the top of the amended petition.

[2] DTNA's initial petition cited a number in kilometers per hour. However, documents that DTNA provided to NHTSA at later dates cited numbers in miles per hour and, therefore, the Agency uses miles per hour in this section. Regardless, the activation speed threshold was not a factor in NHTSA's decision since the activation in general was the concern.



FLASHER PERFORMANCE CHART

FIGURE 2

V. Summary of DTNA's Petition

The views and arguments presented in this section summarize the views and arguments provided by DTNA in its petition, including amendments. They do not reflect the views of the Agency. DTNA describes the subject noncompliances and states its belief that the noncompliances are inconsequential as they relate to motor vehicle safety.

A. Noncompliance With FMVSS No. 108's Flash Rate Requirement

DTNA identifies the three phases of an Active Brake Assist (ABA) event as follows: the Optic Acoustic Warning (OAW) phase, the Warn (Haptic) Braking (WB/HB) phase, and the EB phase. DTNA explains that the first phase—the OAW phase—warns the operator of a possible collision with a pop-up and audio alert only. The truck will then move into the second phase—the WB/HB phase—to assist the driver in mitigating a possible collision if the driver does not apply sufficient deceleration to the service brakes by applying 50 percent deceleration to the vehicle. DTNA further explains that ''[i]f the system deems it necessary,'' the ABA will start the third phase—the EB phase—which applies maximum braking force to assist the driver in bringing the truck to a complete halt. Additionally, DTNA states that the warning system only engages during this third phase, and, therefore, the third phase is the only time when the hazard warning signal lamps are automatically activated at a flash rate that exceeds the allowable limit.

DTNA provides background information, detailing the development of its ABA system,[3] which is not reiterated here. DTNA states that its findings show that an EB event is an extremely rare scenario that is visible only for a short period of time in only the rarest of extreme braking events, and the amount of time that drivers of other vehicles might notice this noncompliance is negligible. DTNA states that the average EB event lasts less than 1 second, and in millions of miles of recorded data, the longest EB event observed lasted less than 3 seconds. Therefore, DTNA concludes that the difference in number of blink cycles between the maximum permissible flash rate and emergency braking flash rate on the subject trucks is minimal.

With respect to the noncompliant flash rate, DTNA further contends that the flashing warning lights provide drivers of other vehicles with a safe indication of the aggressiveness of the braking. DTNA claims that NHTSA has previously found that under certain extreme braking events, flashing warning lights may be regarded as a safe indicator for rear signaling, citing a NHTSA study, which stated that ''a rear-signaling system that extinguishes somewhat after a vehicle comes to a complete stop should provide benefit by reducing a substantial percentage of collisions with stopped lead vehicles, while reducing annoyance caused by extended signaling after a vehicle is stopped. Data suggest this type of signal would address approximately 45 percent (10 out of 22) of stopped-lead-vehicle crashes.'' [4] DTNA notes that the Federal Motor Carrier Safety Administration (FMCSA) has granted an approval for hazmat hauler tanker trucks to use amber brake activated lights, following a 30-month study by Groendyke Transportation, which found that a pulsating amber brake light reduced rear-end collisions by roughly 34 percent.[5]

Additionally, DTNA says that NHTSA has previously granted petitions for noncompliances, similar to the subject noncompliant flash rate,[6] where those noncompliances only occur ''under specific and rare conditions,'' [7] and ''were granted for short duration of occurrence.'' [8]

DTNA states that it is not aware of any accidents, injuries, owner complaints or field reports in relation to the subject noncompliances.

[3] Details of DTNA's ABA development can be found in its petition at *https://www.regulations.gov/document/NHTSA-2020-0063-0002.*

[4] DTNA cites *Analyses of Rear-End Crashes and Near-Crashes in the 100-Car Naturalistic Driving Study to Support Rear-Signaling Countermeasure Development.* DOT HS 810 846 (October 2007).

[5] *See* Groendyke Transportation's application for exemption containing the 30-month study, FMCSA's decision and all associated documents at *https://www.regulations.gov/docket/FMCSA-2018-0223.*

[6] *See* General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance, 66 FR 32871 (June 18, 2001).

[7] *See* General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 83 FR 7847 (February 22, 2018) and *General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013).

[8] *See* Volkswagen Group of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 8151 (March 6, 2019), Maserati S.p.A and Maserati North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 1676 (January 13, 2016), and General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance, 61 FR 56734 (November 4, 1996).

B. Noncompliance Due to Automatic Activation of Hazard Warning Signal Lamps

On September 13, 2021,[9] NHTSA contacted DTNA to discuss the automatic activation of the hazard warning signal lamps. DTNA clarified that based on an analysis of prior Agency interpretations, it believed that the ''limited technical parameters and operating conditions under which the hazard warning lamps would activate'' did not constitute a noncompliance with FMVSS No. 108. NHTSA informed DTNA that the prior interpretations did not support DTNA's position because the subject trucks ''have not come to a complete stop at the time the hazard warning lamps activate.'' As a result, DTNA amended its original petition to include the automatic activation of the hazard warning signal lamps as a second noncompliance.

In the amended petition, DTNA contends that this second noncompliance is also inconsequential because the ''limited context in which the hazard lamps automatically activate ensures the message which the hazard warning lamps is communicating is clear and does not confuse other drivers about the meaning of the lamps.'' DTNA again explains the phases of its ABA system and says that if the driver does not disengage the ABA system, the system will apply the maximum braking force and cause the truck to come to a complete stop. When the EB is activated during the third and final phase, while the subject truck is traveling at 20 mph or more, ''the hazard warning lamps are automatically activated and flash at a rate of 140 Hz.'' Therefore, DTNA says, the automatic activation of the hazard warning signal lamps would not occur in stop and go traffic. DTNA notes that after the subject truck comes to a complete stop, the hazard warning lamps revert to a standard flash rate and ''the hazard warning signal operating unit can be manually engaged by the driver'' throughout the ABA event.

DTNA then contends that the automatic activation of the hazard warning signal lamps is consistent with two prior NHTSA interpretations in which DTNA argues that ''the agency has found automatic activation of the hazard warning signal operating unit to be appropriate in certain circumstances.'' Specifically, DTNA claims that NHTSA's November 18, 2016, interpretation letter to General Motors (GM)[10] supports DTNA's position. In that interpretation letter, DTNA says that NHTSA ''concluded that in the context of an adaptive cruise control system, automatic activation of the hazard warning lamps was consistent with FMVSS 108 if the human driver failed to respond to the system's requests to regain control of the vehicle.''

DTNA argues the automatic activation of hazard warning signal lamps is also consistent with the condition found in the interpretation letter to GM.[11] DTNA believes that SAE J910, January 1966 further supports this argument and quotes the section which states: ''A vehicular hazard warning signal operating unit is a driver controlled device which causes all turn signal lamps to flash simultaneously to indicate to the approaching drivers the presence of a vehicular hazard.'' In addition, DTNA states that an appropriate use of hazard warning lamps is ''to indicate that a vehicle is moving at a slower rate of speed than surrounding traffic'' and refers to NHTSA's interpretation letter to Senator Richard Lugar in support of this claim. Therefore, DTNA contends that the noncompliant automatic activation in the subject trucks ''is consistent with the type of message the hazard lamps are intended to convey.''[12]

DTNA concludes its petition by expressing its belief that the subject noncompliances are inconsequential as they relate to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliances, as required by 49 U.S.C. 30118, and a remedy for the noncompliances, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA's Analysis

The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in an FMVSS is substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[13]

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.[14] In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.[15]

A. Noncompliance With FMVSS No. 108's Flash Rate Requirement

The Agency disagrees with DTNA that the increased flash rate during the AEB event is negligible. Rather, the Agency believes that the noncompliant flash rate is noticeable and concerning. Notably, the increase in flash rate would not occur if automatic activation of the hazard warning signal lamps were not present.

NHTSA disagrees with DTNA's assertion about the Agency's October 2007 study entitled ''Analyses of Rear-End Crashes and Near-Crashes . . . '' (DOT HS 810 846), which DTNA cites to argue that NHTSA has previously found that flashing warning lights under certain extreme braking events may be regarded as a safer indicator for rear signaling. NHTSA finds that the conclusions in the Agency's 2007 study do not support a finding that DTNA's noncompliance is inconsequential to vehicle safety for several reasons. First, DTNA's hazard warning signal lamps are not equivalent to the enhanced rear-lighting system referenced in the study. The study expressly pointed out that these enhanced concepts are intended to supplement rather than replace conventional rear signaling. Second, as explained in the study, the research was performed by an external party and it explicitly states that, ''the opinions, findings, and conclusions expressed in

[9] Daimler Trucks North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance (87 FR 22019) published on April 13, 2022, incorrectly stated that NHTSA contacted DTNA on September 13, 2022, when it should have stated that NHTSA contacted DTNA on September 13, 2021.

[10] *See* NHTSA's letter to Brian Latouf, Executive Director, GM (November 18, 2016) at *https://www.nhtsa.gov/interpretations/16-1289-gm-hazard-innovative-28-apr-16-rsy.*

[11] *Id.*

[12] *See* Letter to Sen. Richard Lugar (May 9, 2000) at *https://www.nhtsa.gov/interpretations/21478ztv.*

[13] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[14] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[15] *See Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016); *see also United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

this publication are those of the authors—and not necessarily those and do not represent opinions, findings, or conclusions of the U.S. Department of Transportation or the National Highway Traffic Safety Administration.'' [16] Therefore, even if the Agency agreed with DTNA about what this study says, the study would not serve as a justification for companies not to comply with a motor vehicle safety standard. Second, NHTSA considered this study in the context of DTNA's petition for inconsequential noncompliance, and the Agency determined that the study does not comprehensively address potential safety problems resulting from this noncompliance. For example, the research study did not evaluate whether rear signaling systems adversely affect vehicle safety. Additionally, the research study was not designed to examine all potential vehicle safety consequences caused by enhanced rear signaling systems.[17] Rather, the research study was limited to evaluating whether enhanced rear signaling systems effectively caught the attention of study participants and led to participants subsequently applying their vehicle's brakes. Moreover, the research study did not explore other factors which may include, but are not limited to, an enhanced rear signaling system's potential to draw attention away from all other vehicles, masking of lamps used by emergency vehicles, impact on drivers of adjacent vehicles, and potential to cause confusion. Third, while the 100-car naturalistic research study did provide justification for various deceleration criteria for enhanced rear-lighting systems, NHTSA believes additional research is required before the overall effectiveness of enhanced rear-lighting systems can be determined. Fourth, if, assuming arguendo, NHTSA were to conclude that rear-lighting systems are indeed effective, NHTSA would still need to promulgate a new regulation that adopts a standardized protocol for attention-getting lamps that indicate deceleration in lieu of or as a supplement to steady burning lamps, which NHTSA's vehicle safety standard currently requires. Finally, NHTSA has a longstanding position that standardized lighting during braking events is important to vehicle safety—and promoting non-standardized signaling would undermine that safety objective.

NHTSA also disagrees with DTNA's interpretation of Groendyke Transportation's 30-month study, which found that a ''pulsating amber brake light reduced rear-end collisions by roughly 34%.'' First, the lamps that formed the basis of Groendyke's petition were part of an additional brake-activated amber flashing auxiliary lamp—which is a different type of system than DTNA's subject system—and importantly, the vehicles on which they were installed retained the compliant steady-burning brake lamps. Second, NHTSA finds that the data generated by Groendyke's study is not statistically significant and there could be any number of exogenous factors as to why the number of rear-end collisions differ, which might not have anything to do with the installation of the pulsating amber brake light. Third, the data presented by Groendyke did not include detailed data on the types of crashes experienced by its fleet, which NHTSA would need in order to properly evaluate the effectiveness of Groendyke's additional lamps. Therefore, the results of this study are questionable and not applicable to other systems that modify the behavior of the required lamps, as is the case in the subject petition.

DTNA states that NHTSA has previously granted petitions for noncompliances similar to the noncompliant flash rate—where those noncompliances only occur ''under specific and rare conditions,'' and ''were granted for short duration of occurrence.'' However, the Agency is unable to properly address this assertion because DTNA did not provide any data that would quantify the rarity of the subject noncompliance. Nevertheless, we address each petition below in the order it was cited.

DTNA claims in its petition that the Agency's June 18, 2001, grant of a GM petition, 66 FR 32871, is an Agency decision that supports DTNA's petition. The Agency disagrees with DTNA and finds that the Agency's 2001 grant is irrelevant to both of DTNA's subject noncompliances. In that decision, the Agency determined that the brief single flash of the center high mounted stop lamp during the activation of the hazard warning signal lamps as not rising to the level of impairment that would detract or confuse other road users on the meaning of the hazard warning signal lamp. In contrast, DTNA's system may confuse other road users because it intentionally uses the hazard warning signal lamps to indicate braking which is a non-standard signal.

Next, DTNA refers to the Agency's February 22, 2018, grant of a GM petition, 83 FR 7847, as an Agency decision that supports DTNA's petition. The Agency again disagrees with DTNA because the noncompliance at issue in the Agency's 2018 decision is not comparable with DTNA's subject noncompliance due to a difference in the likelihood of an occurrence. For example, GM's subject noncompliance occurred under very limited and unusual circumstances, it was difficult to recreate in laboratory settings, and it was highly unlikely to occur under normal driving conditions.

DTNA provides three additional Agency decisions on inconsequentiality petitions [18] that the Agency believes are irrelevant to DTNA's petition. These three petitions are all related to various vehicle telltales (*e.g.,* passenger airbag telltale, electronic stability control telltale, and tire pressure monitoring system telltale), which are only visible to the occupants within the vehicle (*i.e.,* drivers of other vehicles do not see the warnings). The impact on other roadway users was not a primary consideration in evaluating those petitions, and therefore, NHTSA finds that the Agency's decisions on those petitions are not relevant to DTNA's petition.

Finally, DTNA offers the Agency's November 4, 1996, grant of a GM petition, which is also irrelevant to DTNA's petition. GM's petition concerned intermittent operation of the turn signal self-canceling feature, which caused the turn signal to continue to flash after the affected vehicles completed a turn. Consequently, NHTSA considered the impact on vehicle safety when an operator of an affected vehicle did not notice that the turn signal continued to flash. The Agency's decision on GM's petition is irrelevant because it concerned a vehicle that had an alternate system—a chime—which served to remind the operator to turn off the turn signal if the turn signal remained activated for more than half a mile. Overall, the facts in GM's petition are completely different from the subject petition and do not concern either the hazard warning signal lamps or the intentional activation of a non-standard signal.

B. Noncompliance Due to Automatic Activation of Hazard Warning Signal Lamps

NHTSA does not agree with DTNA's assertion that its hazard warning signal

[16] *Analyses of Rear-End Crashes and Near-Crashes in the 100-Car Naturalistic Driving Study to Support Rear-Signaling Countermeasure Development.* DOT HS 810 846 (October 2007). See Page 3 of the PDF here: *https://www.nhtsa.gov/sites/nhtsa.gov/files/analyses20of20rear-end20crashes20and20near-crashes20dot20hs2081020846.pdf.*

[17] Enhanced rear signaling systems is a term used throughout the report, DOT HS 810 846, to refer to experimental rear signaling systems.

[18] 78 FR 35355 (June 12, 2013), 84 FR 8151 (March 6, 2019), and 81 FR 1676 (January 13, 2016).

lamps are similar to GM's hazard warning signal lamps, which NHTSA discussed in an interpretation letter to GM.[19] The NHTSA interpretation letter that DTNA references pertains to GM's adaptive cruise control system (herein referred to as ''Super Cruise''). However, the differences between Super Cruise and DTNA's system are notable. For example, the Super Cruise hazard warning signal lamps only activate after the GM vehicles have come to a complete stop. In contrast, DTNA's system operates while vehicles are in motion on a roadway and traveling at various speeds. Another significant difference is that with respect to Super Cruise, the actions that a vehicle automatically takes only occur after the Super Cruise system determines that a driver is unable or unwilling to take control of the vehicle (*e.g.,* the driver is incapacitated or unresponsive). In contrast, video provided by DTNA appears to show that an affected truck may not have come to a complete stop during the ABA event, or taken evasive maneuvers—then the truck continued to move with traffic after the event concluded. Furthermore, it appeared that DTNA's system kept the hazard warning signal lamps activated—even after the Automatic Emergency Braking (AEB) event concluded and the operator of the truck maintained or increased the speed to match the flow of traffic.

While DTNA believes that this noncompliance is also inconsequential because the ''limited context in which the hazard lamps automatically activate ensures the message which the hazard warning lamps is communicating is clear and does not confuse other drivers about the meaning of the lamps,'' NHTSA disagrees. As NHTSA noted in the 2016 letter to GM, the purpose of the hazard warning is to indicate to approaching drivers that the vehicle is stopped or is proceeding at a slower rate than surrounding traffic. So, for example, we have opined that the hazard lights may be automatically activated following a crash [20] or once the vehicle is stopped in or near the roadway by a ''Super Cruise'' system after a human driver fails to respond [21] because in those situations there would be no ambiguity about the signal's meaning (that the vehicle is stopped).

On the other hand, we have expressly found that automatic activation of the hazard lights is not permitted to indicate a braking event, such as ''hard'' braking. For example, in a letter to Steele Enterprises, we opined that the hazards could not be automatically activated upon application of a vehicle's anti-lock brake system.[22] We affirmed this letter in our subsequent letter to Senator Lugar, which DTNA cited in its petition. There, we noted that the system at issue would automatically activate the vehicle's hazard warning system ''when a vehicle is rapidly braking.'' We opined that automatic activation of the hazard lamps was not permitted in this situation because it had the potential for confusing other motorists.[23]

DTNA's reliance on the letter to Senator Lugar is therefore misplaced. We disagree that the automatic activation in the subject trucks—when the truck is in motion to indicate an emergency braking event—is consistent with the type of message the hazard lamps are intended to convey. We also disagree that the hazard warning lamps remaining activated after the AEB event has concluded and the truck resumes in motion is permitted. Neither case represents the circumstances in which the hazard lights are customarily used. Moreover, because the truck's stop lamps (which are steady-burning) are activated in the second phase, activating the hazard lamps in the third phase, should the attached trailer be configured to have a combined stop lamp and turn signal lamp, would cause the stop lamps to flash. We believe both of these aspects of the warning activation, either separately or in combination, have the potential to confuse other motorists that follow an affected truck. Finally, while DTNA states that ''throughout the ABA event, the hazard warning signal operating unit can be manually engaged by the driver,'' NHTSA believes this is an irrelevant argument as DTNA's system automatically operates the hazard warning signal lamps even when it is not manually activated.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA has decided that DTNA has not met its burden of persuasion that the subject FMVSS No. 108 noncompliances are inconsequential to motor vehicle safety. Accordingly, DTNA's petition is hereby denied and DTNA is obligated to provide notification of and free remedy for the noncompliances under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.)

Anne L. Collins,

Associate Administrator for Enforcement.

[FR Doc. 2023–05901 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–59–P

[19] *See* NHTSA's letter to Brian Latouf, Executive Director, GM (November 18, 2016) at *https://www.nhtsa.gov/interpretations/16-1289-gm-hazard-innovative-28-apr-16-rsy.*

[20] *See* Letter to Timothy Bartlett (January 28, 2002) at *https://www.nhtsa.gov/interpretations/23695ztv.*

[21] *See* Letter to Brian Latouf, Executive Director, GM (November 18, 2016) at *https://www.nhtsa.gov/interpretations/16-1289-gm-hazard-innovative-28-apr-16-rsy.*

[22] *See* Letter to Mark Steele, Steel Enterprises (October 7, 1999) at *https://www.nhtsa.gov/interpretations/20662ztv.*

[23] *See* Letter to Senator Lugar (May 9, 2000) at *https://www.nhtsa.gov/interpretations/21478ztv. See also* Letter to Paul Michelotti (January 5, 2001) (opining that FMVSS No. 108 does not permit automatic activation of hazard warning lights ''under circumstances of heavy braking or sudden stoppage'') at *https://www.nhtsa.gov/interpretations/22403ztv.*

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2023–0007 (Notice No. 2023–02)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on three Office of Management and Budget (OMB) control numbers pertaining to hazardous materials transportation. PHMSA intends to request renewal for these three control numbers from OMB.

DATES: Interested persons are invited to submit comments on or before May 22, 2023.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA–2023–0007 (Notice No. 2023–02) by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m.