

August 9, 2023

**VIA ELECTRONIC SUBMISSION:** [www.regulations.gov](http://www.regulations.gov)

Docket Management Facility, M-30  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
West Building, Ground Floor  
Room W12-140  
Washington, DC 20590-0001

**RE: Petition for Extension of Time to Comment on Proposed Rule on Heavy Vehicle Automatic Emergency Braking; AEB Test Devices, 88 Fed. Reg. 43174 (Docket Nos. NHTSA-2023-0023, FMCSA-2022-0171)**

Consistent with 49 C.F.R. §§ 389.19 and 553.19, the Truck and Engine Manufacturers Association (“EMA”) submits this petition to request that the National Highway Traffic Safety Administration (“NHTSA”) and the Federal Motor Carrier Safety Administration (“FMCSA”) (together, the “agencies”) extend the time period for comments on their joint notice of proposed rulemaking (“NPRM”) to require electronic stability control (“ESC”) and automatic emergency braking (“AEB”) systems on heavy vehicles. Presently, comments are due by September 5, 2023. Given the breadth of relevant issues, the complexity of this rulemaking, and the technical intricacies involved, more time to comment is needed. Additionally, extending the comment period will partially ameliorate the NPRM’s misalignment with recent direction from Congress on heavy vehicle AEB systems. EMA requests that the agencies extend the comment period for at least 30 days beyond September 5, 2023.

EMA represents the world’s leading manufacturers of heavy vehicles, entities that would be directly regulated by this rulemaking. EMA member companies design and manufacture highly customized vehicles to perform a wide variety of commercial functions including, but not limited to, interstate trucking, regional freight shipping, intracity delivery, local parcel pickup and delivery, refuse hauling, construction, snow removal, forestry, and pupil transportation.

Last month, NHTSA and FMCSA published a joint NPRM to require ESC and AEB systems on vehicles with a gross vehicle weight rating (“GVWR”) greater than 10,000 pounds. See 88 Fed. Reg. 43174 (July 7, 2023) (Docket Nos. NHTSA-2023-0023 and FMCSA-2022-0171). ESC systems are currently required on truck tractors and certain buses by FMVSS No. 136. See 49 C.F.R. § 571.136. The NPRM would revise FMVSS No. 136 to expand the ESC requirement to include the diverse range of vocational vehicles with a GVWR greater than 10,000 pounds. The NPRM also would require AEB systems on all truck tractors, buses, and vocational vehicles. The NPRM additionally would expand the Federal Motor Carrier Safety Regulations to require the maintenance and operation of ESC and AEB systems in use.

The NPRM presents numerous complex issues and technical challenges. ESC and AEB are proven safety technologies for truck tractors, and yet they can present unintended negative safety consequences if they react too aggressively or activate when not needed. Careful balancing of the proposed standards is critical to ensuring the intended benefits of the technologies are achieved in use. These and other challenges are particularly stark for vocational vehicles not currently required to have ESC and for which AEB is a novel technology. Not only must manufacturers develop ESC and AEB systems for these vehicles, but their diverse configurations, manufacturing processes, and operational characteristics present unique challenges to the proper application of the technologies. Positively, the agencies have proposed different compliance dates for the two categories of vehicles, with longer lead time for vehicles not yet covered by FMVSS No. 136. The agencies have not, however, provided for additional time to comment on the proposal itself. A longer comment period would be consistent with the agencies' recognition of the considerable complexities associated with deploying ESC and AEB systems on vocational vehicles.

Additionally, extending the comment period would be more consistent with Congress' intent in issuing the Bipartisan Infrastructure Law ("BIL"). See Pub. L. No. 117-58. The agencies cite BIL Section 23010 as their authority for this action. Congress clearly intended to treat the two categories of vehicles differently, however, as the two portions of BIL Section 23010 show. While BIL Section 23010(b) and (c) directed the Secretary of Transportation to require AEB for vehicles subject to FMVSS No. 136, Section 23010(d) left open whether AEB should be required for vocational vehicles not subject to the ESC standard. Instead of directing the answer, Congress ordered the Secretary to first complete a study on the feasibility, benefits, and costs of requiring AEB on vocational vehicles. The study is required to go through public notice and comment. Only then is the Secretary to determine whether to require AEB on those vehicles. Thus, the BIL itself clearly expects there would be two separate actions for non-136 vocational vehicles, providing two distinct opportunities to comment. Extending the comment period now will not ameliorate all the procedural deficiencies of the NPRM, but it is a step in the right direction toward what Congress clearly envisioned.

To promote productive rulemaking comments and responses, EMA requests that the agencies extend the comment period for at least 30 days beyond September 5, 2023. If you have any questions, or if any additional information would be helpful, please do not hesitate to contact me at (312) 929-1972 or [tblubaugh@emamail.org](mailto:tblubaugh@emamail.org).

Respectfully submitted,



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