

authority, the agency issued the following FMVSS and regulations, specifying labeling requirements to aid the agency in achieving many of its safety goals:

FMVSS No. 105, "Hydraulic and electric brake systems,"

FMVSS No. 135, "Passenger car brake systems,"

FMVSS No. 205, "Glazing materials,"

FMVSS No. 209, "Seat belt assemblies,"

Part 567, "Certification."

This notice requests comments on the labeling requirements of these FMVSS and regulations.

Description of the need for the information and proposed use of the information: In order to ensure that manufacturers are complying with the FMVSS and regulations, NHTSA requires a number of specific labeling requirements in FMVSS Nos. 105, 135, 205, and 209 and Part 567.

FMVSS No. 105, "Hydraulic and electric brake systems" and FMVSS No. 135, "Passenger car brake systems," require that each vehicle shall have a brake fluid warning statement in letters at least one-eighth of an inch high on the master cylinder reservoirs and located so as to be visible by direct view.

FMVSS No. 205, "Glazing materials," requires that manufacturers mark their automotive glazing with certain label information including:

Manufacturer's distinctive trademark;
Manufacturer's "DOT" code number;
Model of glazing (there are currently 21 items of glazing ranging from plastic windows to bullet resistant windshields).

In addition to these requirements, which apply to all glazing, certain specialty items such as standee windows in buses, roof openings, and interior partitions made of plastic require that the manufacturer affix a removable label to each item. The label specifies cleaning instructions, which will minimize the loss of transparency. Other information may be provided by the manufacturer but is not required.

FMVSS No. 209, "Seat belt assemblies," requires safety belts to be labeled with the year of manufacture, the model, and the name or trademark of the manufacturer (S4.1(j)).

Additionally, replacement safety belts that are for use only in specifically stated motor vehicles must have labels or accompanying instruction sheets to specify the applicable vehicle models and seating positions (S4.1(k)). All other replacement belts are required to be accompanied by an installation instruction sheet (S4.1(k)).

Seat belt assemblies installed as original equipment in new motor

vehicles need not be required to be labeled with position/model information. This information is only useful if the assembly is removed with the intention of using the assembly as a replacement in another vehicle; this is not a common practice.

Part 567, "Certification," responds to 49 U.S.C. 30111 that requires each manufacturer or distributor of motor vehicles to furnish to the dealer or distributor of the vehicle a certification that the vehicle meets all applicable FMVSS. This certification is required by that provision to be in the form of a label permanently affixed to the vehicle. Under 49 U.S.C. 32504, vehicle manufacturers are directed to make a similar certification with regard to bumper standards. To implement this requirement, NHTSA issued 49 CFR part 567. The agency's regulations establish form and content requirements for the certification labels.

Description of the Likely Respondents (Including Estimated Number and Proposed Frequency of Response to the Collection of Information)

These labels are placed on each master cylinder reservoir, each piece of motor vehicle glazing, each safety belt and every motor vehicle intended for retail sale in the United States.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting From the Collection of Information

NHTSA estimates that all manufacturers will need a total of 73,071 hours to comply with these requirements, at a total annual cost of 1,096,065.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Issued on: June 23, 2004.

Roger A. Saul,

Director, Office of Crashworthiness Standards for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-18185]

Initial Decision That ASTEX HID Conversion Kits Fail To Comply With Federal Motor Vehicle Safety Standard 108; Public Proceeding Scheduled

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

ACTION: Notice of public meeting.

SUMMARY: NHTSA will hold a public meeting regarding its Initial Decision that ASTEX USA high intensity discharge (HID) motor vehicle light sources sold in kits as replacements for non-HID light sources do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, Lamps, reflective devices, and associated equipment.

DATES: The public meeting will be held beginning at 10 a.m. on Monday, August 2, 2004, in Room 6200.

FOR FURTHER INFORMATION CONTACT: Jennifer T. Timian, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; (202) 366-5263. NHTSA's Initial Decision, and the information on which it is based, is available at NHTSA's Technical Information Services, Room PL-403, 400 Seventh Street, SW., Washington, DC 20590; Telephone: 202-366-2588. When visiting Technical Information Services or contacting it via the telephone, refer to Investigation File CI-108-010831.

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 30118(a) and 49 CFR 554.10, NHTSA's Associate Administrator for Enforcement has made an Initial Decision that ASTEX USA (ASTEX) high intensity discharge (HID) light sources including ballasts, which have been manufactured and sold by Mark Lee d/b/a ASTEX as replacements for non-HID light sources, fail to comply with FMVSS No. 108, Lamps, reflective devices, and associated equipment, 49 CFR 571.108.

A. Requirements of FMVSS No. 108

FMVSS No. 108 regulates new motor vehicles and replacement lighting equipment. To accomplish this purpose, the standard sets forth requirements that, among other things, ensure adequate illumination of the roadway, enhance the conspicuity of motor vehicles on the public roads, and limit glare.

The requirements for headlighting systems are set forth in S7 of FMVSS No. 108. For replaceable bulb headlamps, a new motor vehicle must have a two or four-headlamp system that provides two upper beams and two lower beams. Among other things, the headlamps must provide light, within a specified range of intensity in certain areas, and not provide light above specified levels in other areas. The intensity requirements are specified in one of a number of photometry tables within FMVSS No. 108, depending on the light source type and number of headlamps in the system. Each

headlamp must be designed to conform to the applicable photometry requirements, using any light source of the type intended for use in such system.

In general, vehicle manufacturers use one of a number of standard replaceable light sources to achieve the regulatory requirements. For each of these types of light sources, the dimensions and electrical characteristics must be submitted to NHTSA under 49 CFR Part 564. The vehicle manufacturer must assure and certify that the vehicle complies with all applicable FMVSSs, including FMVSS No. 108.

Each lamp and item of associated equipment such as a light source manufactured to replace any lamp or item of associated equipment must be designed to conform to FMVSS No. 108. See 49 CFR 571.108 S5.8.1. Under S7.7, Replaceable light sources, each replaceable light source must be designed to conform to the dimensions and electrical specifications furnished with respect to it pursuant to 49 CFR Part 564. In addition, FMVSS No. 108 requires that the base of the replaceable light source be marked with the bulb marking designation, wattage, and manufacturer's name, and that the replaceable light source meet certain lighting performance requirements. If a ballast is required, additional requirements must be met.

Headlamp replaceable light sources have standard designations. NHTSA's regulations use terms for the various types of headlamp bulbs such as HB1 and HB2. Each type of replaceable light source is unique in dimensional and electrical design so as not to be interchangeable with another type of replaceable light source. Every replaceable light source must be designed to conform to the identical marking and dimensional and electrical requirements applicable to the type of replaceable light source that it replaces. The specific dimensional and electrical specifications for each type of replaceable light source are publicly available in NHTSA Docket No. 98-3397.

The reason for the standardization of replaceable light sources lies in the need for uniform, compliant performance of headlamp lighting. See 58 FR 3856 (January 12, 1993). In order to ensure equivalent performance of a headlamp, should the light source burn out or otherwise fail, standardization of the replaceable light source is necessary. Any replacement light source of the same type (e.g., HB1) would provide equivalent and conforming performance. In other words, each "HB1" type of replaceable light source

must be designed to conform to the identical dimensional and electrical requirements as other "HB1" replaceable light sources.

B. The Agency's Investigation and the Products At Issue

In August of 2001, the Agency's Office of Vehicle Safety Compliance (OVSC) discovered a Web site (www.hidkits.com) that was offering for sale HID conversion kits. A HID conversion kit contains at least one (and usually two, one for each headlamp) HID replaceable light source that has been altered, or specifically manufactured, to be physically interchangeable with non-HID (e.g., incandescent) replaceable light sources of different designs. Upon investigation, OVSC discovered that Mark Lee d/b/a ASTEX operated the Web site and was the manufacturer of the products offered for sale on it.

OVSC purchased an ASTEX HID conversion kit for a 9004 light source—the trade name for an HB1 light source—in August 2001. A visual inspection and comparison of the ASTEX light source with an ordinary incandescent "HB1" replaceable light source demonstrated that the ASTEX replacement light source had an HB1 base and an arc discharge element on top of it. The ASTEX replacement light source was dimensionally and electrically different from the HB1 in a number of ways. For example, the ASTEX light source had a discharge arc, in place of the dual transverse coil wire filaments required in a complying HB1. The ASTEX HID conversion also incorporated a different connector than the connector provided on the bottom of the HB1 replaceable light source.

In addition to these dimensional and electrical disparities, the ASTEX conversion required the use of an additional component for operation. This component—a ballast—is not part of the design specification for a compliant HB1, as filed in Docket No. 98-3397.

OVSC engaged a test laboratory to test the ASTEX 9004 HID conversion kit in a headlamp designed to accept an HB1 replaceable light source. The primary purpose of this testing was to assess the photometric performance of a headlamp with ASTEX's HID light source and ballast. Under the test, light is measured at various test points. The lamp was first tested with an incandescent HB1 light source, and demonstrated compliance on both lower and upper beams using that replaceable light source.

The same headlamp was then tested using ASTEX's 9004 HID conversion kit, i.e., the light source and ballast. With

the lower beam powered, the headlamp failed to satisfy the requirements of the standard at seven test points. At these points, the headlamp discharged excessive levels of light. It exceeded maximum allowable candlepower by up to 876 percent. In addition, with the upper beam powered, the headlamp produced zero luminous output. Testing of the ASTEX light source with the ballast in a stand-alone mode (i.e., not placed in a headlamp designed for a HB1 light source) further demonstrated the product's noncompliance. For example, the light source's lower beam luminous flux output was over 3,056 lumens—a level 279 percent over the maximum allowable lower beam luminous flux for an HB1 replaceable light source (805 lumens). Also, the ASTEX light source had no upper beam function whatsoever. An HB1 upper beam is required to emit $1,200 \pm 15$ percent lumens.

In addition to HID light sources designed to replace HB1 incandescent replaceable light sources, ASTEX offers for sale and sells conversion kits for other headlamp light sources. ASTEX offers for sale, among other kits, HID replaceable light sources for 9003 (HB2), 9005 (HB3), 9006 (HB4), 9007 (HB5), H1, and H7 designs. These ASTEX HID conversion kits are based on the fundamental design approach of replacing a wire coil filament in the original light source with a discharge arc filament and a ballast in the replacement light source. As discussed previously, the absence in a replacement light source of a feature that is specified dimensionally in NHTSA Docket No. 98-3397 would amount to a noncompliance with FMVSS No. 108. As such, ASTEX's kits containing replaceable light sources for the 9003 (HB2), 9005 (HB3), 9006 (HB4), 9007 (HB5), H1, and H7, exhibit and entail the same compliance issues as the 9004 conversion kit that OVSC purchased and tested.

During the course of its investigation, OVSC issued several information requests to ASTEX. Information requested included, among other things, the relationship between ASTEX and the Web site www.hidkits.com, the quantities and models of HID conversion kits sold, the names of suppliers of the conversion kits, information concerning ASTEX's alteration of the various components included in its kits, methods the company used to procure the kits, and copies of any compliance test data the company may have had for its kits.

In response to OVSC's inquiries, ASTEX consistently responded that FMVSS No. 108 did not apply to its

conversion kits for two reasons. First, it maintained that its products were marketed and sold strictly for "off road use only." Second, it maintained that its kits are not "replaceable light sources" covered by FMVSS No. 108 because those kits were never designed to conform to the design specifications for the original replaceable light sources, but rather were designed to exceed the performance of that original equipment.

OVSC's Equipment Division Chief and an attorney from the agency's Office of Chief Counsel, contacted ASTEX and advised its principal, Mark Lee, that there are no exemptions under FMVSS No. 108 for "off road" use. Copies of five Office of Chief Counsel interpretation letters to this effect were also sent to ASTEX.

As to ASTEX's second argument, a manufacturer may not avoid compliance with regulatory requirements by claiming its product is not designed to meet those regulations. Motor vehicle lighting equipment, including replacement lighting equipment, must meet all requirements of FMVSS No. 108. While in many cases, a product may exceed minimum requirements contained in a safety standard, it may not exceed maximum limits, which is what these HID conversion kits have done.

On December 4, 2002, OVSC requested in writing that ASTEX make a determination that its conversion kits are noncompliant and voluntarily recall those products. ASTEX rejected this request.

OVSC's Report of Investigation, which contains a full description of the compliance investigation, is available at Technical Information Services, Room PL-403, 400 Seventh St., SW., Washington, DC 20590; telephone: 202-366-2588.

C. Initial Decision

Based on all of the available information, NHTSA's Associate Administrator for Enforcement has made an Initial Decision, pursuant to 49 U.S.C. 30118(a) and 49 CFR 554.10, that ASTEX HID replaceable light sources and ballasts sold and marketed as replacements for non-HID light sources fail to comply with FMVSS No. 108. Pursuant to 49 U.S.C. 30118(b)(1) and 49 CFR 554.10(b), NHTSA will conduct a public meeting, beginning at 10 a.m., Monday, August 2, 2004 in Room 6200, Department of Transportation Building, 400 Seventh Street, S.W., Washington, DC, at which time the manufacturer and all other interested parties will be afforded an opportunity to present information, views, and arguments on the issues of whether ASTEX's HID

conversion kits covered by the Initial Decision fail to comply with FMVSS No. 108.

Interested persons are invited to participate in this proceeding through written and/or oral presentations. Persons wishing to make oral presentations must notify Tilda Proctor, National Highway Traffic Safety Administration, Room 5321, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9700, or by fax at (202) 366-8065, before the close of business on Wednesday, July 28, 2004. The notifications should specify the amount of time that the presentation is expected to last. The agency will prepare a schedule of presentations. Depending upon the number of persons who wish to make oral presentations, and the anticipated length of those presentations, the agency may add an additional day or days to the meeting/hearing and may limit the length of oral presentations.

Persons who wish to file written comments should submit them to the same address, no later than Wednesday, July 28, 2004.

Authority: 49 U.S.C. 30118(a), (b); delegations of authority at 49 CFR 1.50(a) and 49 CFR 501.8.

Issued on: June 24, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-17794]

Long Range Strategic Planning

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

ACTION: Notice and request for comment.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is currently conducting an environmental scan, in preparing the agency to meet the challenges it faces in the coming years in improving motor vehicle and traffic safety in the United States. This foundational work will assist the agency in shaping its 2005-2010 strategic plan.

This notice invites comments, suggestions and recommendations from all individuals and organizations that have an interest in motor vehicle and highway safety, non-safety programs administered by the agency, and/or other NHTSA activities. Respondents can choose to answer any number of

questions proposed in this notice. The agency values any comments received and would also like input on the strategic planning process in general. Please include any elements believed important for NHTSA to consider in shaping its vision and building its 2005-2010 strategic plan.

DATES: Comments must be received no later than August 16, 2004.

ADDRESSES: You may submit comments identified by Long Range Strategic Planning DOT DMS Docket Number (NHTSA-2004-17794) by any of the following methods:

- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number. It is suggested that commenters limit their responses to ten (10) pages with unlimited attachments. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane S. Dion, Director, Office of Strategic and Program Planning, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590, telephone: 202-366-1574.

SUPPLEMENTARY INFORMATION: NHTSA was established as the successor to the National Highway Safety Bureau in 1970, to carry out safety programs under the National Traffic and Motor Vehicle Safety Act of 1966 (chapter 301 of title 49, United States Code) and the Highway Safety Act of 1966 (chapter 4 of title 23, United States Code). The agency also administers consumer programs established by the Motor Vehicle Information and Cost Saving Act of 1972 (part C of subtitle VI