

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

ISSUED: April 22, 1980

Forwarded to:

Honorable Neil Goldschmidt
Secretary
Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

SAFETY RECOMMENDATION(S)

H-80-28

The National Transportation Safety Board has conducted a safety effectiveness evaluation of the rulemaking process of the National Highway Traffic Safety Administration (NHTSA). That evaluation has reviewed the rulemaking processes used for Federal Motor Vehicle Safety Standard (FMVSS) 121: Air Brake Systems; FMVSS 208: Occupant Crash Protection; and the current rulemaking of the NHTSA. These factual reviews have been published in three case histories which have been forwarded to you previously. The analysis and conclusions of the evaluation are contained in a separate report 1/ which is being forwarded to you concurrently with this communication.

The conclusions of the evaluation indicate that the NHTSA rulemaking process, while overall quite good and improving, can be improved further. Specific recommendations toward that end have been forwarded to the Administrator of the NHTSA. One point of concern relates to the "Department of Transportation Regulatory Policies and Procedures." That document does not contain specific policy guidance on the consideration of alternatives in developing regulations. The Safety Board has not evaluated the rulemaking processes of the other DOT agencies, but believes that careful and complete consideration of alternative approaches is critical to rulemaking in all modes of transportation.

Therefore, the National Transportation Safety Board recommends that the Secretary of Transportation:

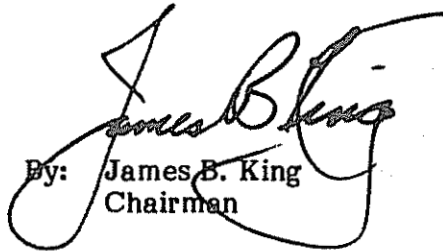
Review the "Department of Transportation Regulatory Policies and Procedures" in light of the findings of this report concerning the consideration of regulatory alternatives, to determine whether modifications are needed and applicable on a DOT-wide basis, particularly in respect to --

1/ "Safety Effectiveness Evaluation of the National Highway Traffic Safety Administration's Rulemaking Process, Vol. 4--Analysis, Conclusions and Recommendations," April 15, 1980 (NTSB-SEE-80-3).

- (a) Whether the "Regulatory Policies" should specify that more than one alternative should be considered and evaluated;
- (b) Whether the "Regulatory Policies" should specify that all significant and practicable alternatives be fully supported by sufficient data to allow a comprehensive analysis and comparison during the Regulatory Analysis; and
- (c) Whether the "Regulatory Policies" should require that all significant and practicable alternatives be fully discussed in public notices with specific reference to the supporting data and documents.

(Class II, Priority Action) (H-80-28)

KING, Chairman, McADAMS, GOLDMAN, and BURSLEY, Members, concurred in this recommendation. DRIVER, Vice Chairman, did not participate.


By: James B. King
Chairman