

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 crash²⁰ or once the vehicle is stopped in or near the roadway by a "Super Cruise" system after a human driver fails to respond²¹ 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.

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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.

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>.

and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA–2023–0007) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Requests for a copy of an information collection should be directed to Steven Andrews or Glenn Foster, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov> or DOT’s Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.dot.gov/privacy.

Confidential Business Info: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and

that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as “CBI.” Please mark each page of your submission containing CBI as “PROPIN.” PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Steven Andrews or Glenn Foster, Standards and Rulemaking Division and addressed to the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary that PHMSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Steven Andrews or Glenn Foster, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will be submitting to OMB for renewal and extension. These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The

following information is provided for each information collection: (1) title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for each information collection activity and will publish a notice in the **Federal Register** alerting the public upon OMB’s approval.

PHMSA requests comments on the following information collections:

Title: Hazardous Materials Incident Reports.

OMB Control Number: 2137–0039.

Summary: This information collection is applicable upon occurrence of an incident as prescribed in 49 CFR 171.15 and 171.16. A Hazardous Materials Incident Report, DOT Form F 5800.1, must be completed by a person in physical possession of a hazardous material at the time a hazardous material incident occurs in transportation, such as a release of materials, serious accident, evacuation, or closure of a main artery. Incidents meeting criteria in 49 CFR 171.15 also require a telephonic report. This information collection enhances the Agency’s ability to evaluate the effectiveness of its regulatory program, determine the need for regulatory changes, and address emerging hazardous materials transportation safety issues. The requirements apply to all interstate and intrastate carriers engaged in the transportation of hazardous materials by rail, air, water, and highway. The following information collections and their burdens are associated with this OMB Control Number:

| Information collection | Respondents | Total annual responses | Hours per response | Total annual burden hours |
|--------------------------------------|-------------|------------------------|--------------------|---------------------------|
| Telephone Notifications | 180 | 716 | 0.08 | 57 |
| Incident Reports Paper—Written | 172 | 2,888 | 1.6 | 4,621 |
| Incident Reports—Electronic | 166 | 19,720 | 0.8 | 15,776 |

Affected Public: Shippers and carriers of hazardous materials.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 518.

Total Annual Responses: 23,324.

Total Annual Burden Hours: 20,454.

Frequency of Collection: On occasion.

Title: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.

OMB Control Number: 2137–0595.

Summary: This information collection and recordkeeping burden pertains to the requirements applicable to the manufacture, certification, inspection, repair, maintenance, and operation of certain DOT specification and non-specification cargo tank motor vehicles used to transport liquefied compressed gases. These requirements are intended to ensure cargo tank motor vehicles

used to transport liquefied compressed gases are operated safely, and to minimize the potential for catastrophic releases during unloading and loading operations. They include: (1) requirements for operators of cargo tank motor vehicles in liquefied compressed gas service to develop operating procedures applicable to unloading operations and carry the operating

procedures on each vehicle; (2) inspection, maintenance, marking, and testing requirements for the cargo tank discharge system, including delivery hose assemblies; and (3) requirements

for emergency discharge control equipment on certain cargo tank motor vehicles transporting liquefied compressed gases that must be installed and certified by a Registered Inspector.

The following information collections and their burdens are associated with this OMB Control Number:

| Information collection | Respondents | Total annual responses | Hours per response | Total annual burden hours |
|---|-------------|------------------------|--------------------|---------------------------|
| Marking New/Repaired Hoses with Unique Identifier | 6800 | 12,172 | 0.083 | 1,010 |
| Monthly Hose Inspections Record | 6800 | 439,960 | 0.1 | 43,996 |
| Record of Monthly Piping Tests Record | 6800 | 400,112 | 0.2 | 80,022 |
| Hose Pressure Test Marking Record | 6800 | 12,172 | 0.083 | 1,010 |
| Annual Hose Test Record | 6800 | 36,652 | 0.42 | 15,394 |
| Cargo Tanks in Other Than Metered Delivery Service—Design Certification for Automatic Shutoff | 150 | 900 | 8 | 7,200 |
| Cargo Tanks in Other Than Metered Delivery Service—Instillation of Shutoff System by a Registered Inspector | 150 | 900 | 8 | 7,200 |
| Cargo Tank Motor Vehicles in Metered Delivery Service—Certification of Remote-Control Equipment by a Registered Inspector | 150 | 3300 | 8 | 26,400 |

Affected Public: Carriers in liquefied compressed gas service, manufacturers and repairers.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 34,450.
Total Annual Responses: 906,168.
Total Annual Burden Hours: 182,232.
Frequency of Collection: On occasion.

Title: Inspection and Testing of Meter Provers.

OMB Control Number: 2137-0620.

Summary: This information collection and recordkeeping burden results from the requirements pertaining to the use, inspection, and maintenance of mechanical displacement meter provers (meter provers) used to check the accurate flow of liquid hazardous materials into bulk packagings, such as portable tanks and cargo tank motor vehicles, under the HMR. These meter provers are used to ensure that the proper amount of liquid hazardous

materials is being loaded and unloaded. These meter provers consist of a gauge and several pipes that always contain small amounts of the liquid hazardous material and, therefore, must be inspected and maintained in accordance with the HMR to ensure they are in proper calibration and working order. These meter provers are not subject to the specification testing and inspection requirements in 49 CFR part 178. However, these meter provers must be visually annually inspected and hydrostatic pressure tested every five years in order to ensure they are properly working as specified in 49 CFR 173.5a of the HMR. Therefore, this information collection requires that:

- (1) Each meter prover must undergo and pass an annual external visual inspection to ensure that the meter provers used in the flow of liquid hazardous materials into bulk

packagings are accurate and in conformance with the performance standards in the HMR.

(2) Each meter prover must undergo and pass a hydrostatic pressure test at least every 5 years to ensure that the meter provers used in the flow of liquid hazardous materials into bulk packagings are accurate and in conformance with the performance standards in the HMR.

(3) Each meter prover must successfully complete the test and inspection and must be marked in accordance with 49 CFR 180.415(b) and 173.5a.

(4) Each owner must retain a record of the most recent visual inspection and pressure test until the meter prover is requalified.

The following information collections and their burdens are associated with this OMB Control Number:

| Information collection | Respondents | Total annual responses | Hours per response | Total annual burden hours |
|---|-------------|------------------------|--------------------|---------------------------|
| Annual Visual Inspection | 250 | 250 | 0.5 | 125 |
| Hydrostatic Pressure Test (Every 5 Years) | 250 | 250 | 0.2 | 50 |

Affected Public: Owners of meter provers used to measure liquid hazardous materials flow into bulk packagings such as cargo tanks and portable tanks.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 500.
Total Annual Responses: 500.
Total Annual Burden Hours: 175.
Frequency of Collection: On occasion.

Issued in Washington, DC, on March 17, 2023.

Shane C. Kelley,
 Director, Standards and Rulemaking, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

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