



Public Works for a Better Government

December 14, 2016

Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE.
Washington, DC 20590

Re: Docket No. NHTSA-2016-0125

Dear Administrator:

I am writing in reference to the final rule issued today on “Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles” ([81 FR 90416](#)).

I am writing to request that you reconsider this final rule because the public has not had adequate opportunity to comment. In particular, the Notice of Proposed Comment, which was published on January 14, 2013 ([78 FR 2797](#)), proposed to incorporate by reference the following standards:

- ISO 10844:2011 “Acoustics—Test Surface for Road Vehicle Noise Measurements”
- SAE Standard J2889-1 SEP2011, “Measurement of Minimum Noise Emitted by Road Vehicles,” the following sections only into § 571.141: S4, Table 1, S5.1, S5.3, S6.1.1, S6.4, S6.5, S7.1.

The final rule added several additional incorporations by reference, including:

- ANSI S1.11-2004, “Specification for Octave-Band and Fractional-Octave-Band Analog and Digital Filters”
- ISO 10844:1994(E) “Acoustics—Test Surface for Road Vehicle Noise Measurements,” First edition, 1994-09-01
- ISO 10844: 2014(E) “Acoustics—Specification of test tracks for measuring noise emitted by road vehicles and their tyres,” Third edition, 2014-05-15
- SAE Standard J2889-1, “Measurement of Minimum Noise Emitted by Road Vehicles,” December 2014 (entire edition instead of specific sections, 2014 edition instead of 2011)

I do not believe this rulemaking is valid for several reasons. First, the public has not had an opportunity to comment on the additional standards being incorporated by reference.

Secondly, none of the standards are available for public inspection during the comment period with the sole exception of ANSI/ASA S1.11-2004 (R2009). However, that standard is only available on a so-called "reading-room" which requires acceptance of onerous terms of use and presents a very poor version of the document which cannot be printed, copied (such as copying a paragraph into this comment), or searched. In addition, the so-called "reading room" discriminates against people with visual impairments, a violation of the accessibility requirements that bind all federal agencies, including NTSA.

Third, if the rule is promulgated, the standards being incorporated into the Code of Federal Registration will not be adequately available. In particular, small manufacturers, hobbyists interested in automobile and automotive safety, and safety and consumer protection groups will not have adequate access to the standards. Likewise, students of transportation and their professors will not have adequate address to these standards which, if incorporated, are part and parcel of federal law.

For these reasons, a final rule would not conform to the notice and comment provisions of federal rulemaking statutes, nor would the rule itself be valid because the text of this binding regulation would not be available to affected parties and to the public at large.

Thank you for your time and attention to this matter.

Sincerely yours,



Digitally signed by Carl
Malamud
DN: cn=Carl Malamud,
o=Public.Resource.Org,
ou,
email=carl@media.org,
c=US
Date: 2016.12.14
12:02:08 -08'00'

Carl Malamud, President and Founder
Public.Resource.Org