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FROM: DICK CHENEY
TO: DON RUMSFELD

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To Don

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SPECIAL INSTRUCTIONS:

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THE WHITE HOUSE
WASHINGTON

12/31/74

TO: DON RUMSFELD

FROM: DICK CHENEY

The attached requires the
President's immediate action
and we need the decision back
today if possible.



THE WHITE HOUSE

ACTION

WASHINGTON

December 31, 1974

MEMORANDUM FOR THE PRESIDENT
THROUGH: KEN COLE
FROM: MIKE DUVAL
SUBJECT: DOT TRUCK BRAKE REGULATIONS

In the attached memorandum, Secretary Brinegar advises you that their new truck brake and anti-skid regulations will become effective on January 1 unless he takes action today to announce a delay in the Federal Register. After your inquiry triggered by a full page Washington Post ad critical of the DOT proposal, the Secretary personally conducted a careful review of the rule's economic impact and technical efficacy.

He concludes that:

- (1) The proposal will improve truck safety and save lives. It is cost effective.
- (2) If implemented, trucks and trailers will cost 5-7% more. There will be no impact for about a year because of back orders for vehicles without the new safety features.
- (3) Postponement or rescission will have severe economic impacts on those manufacturers who have geared up to produce the needed safety equipment. Two hundred and fifty million dollars have been invested by very responsible companies such as Rockwell, Eaton and Kelsey-Hayes. They have hired 3-4,000 people. (See sample letters attached to Brinegar's memo.)

The Council on Wage and Price Stability agrees that the rule should be issued but with a clear understanding that if a cheaper way can be developed to meet the safety goals, the rule will be so modified. They do not accept the DOT cost-benefit analysis but agree that a delay will cause economic disruption and is unlikely to result in better economic data. Dick Herman states that the rule is not cost effective. See attached telegram.



Because of the near-term adverse impact of a delay, Brinegar is really faced with the choice of an indefinite, long-term delay or going forward on schedule. He will order the delay if that is your desire.

Four years of rulemaking and a bureaucracy insensitive to industry and consumer costs have severely limited our options. I believe that any temporary delay (up to 2 or 3 years) will cause unacceptable economic and safety problems with no offsetting benefits. I do not think a long-term delay or flat rescission of the rule is warranted because, while there will be technical problems as the rule is implemented, this is proven technology which will save lives and -- in the long run -- is cost effective. Given this assessment, I recommend that you accept Brinegar's decision to go ahead with the rule on January 1. DOT will state that if any manufacturer can develop a cheaper way to meet the safety standard, the regulation will be modified to accommodate the new technology. (Note: The trade press is aware that Brinegar's recommendation is on hold pending your review.)

DECISION:

- Approve Brinegar's decision and promulgate final rule
- Delay for thirty days of additional study
- Long-term delay or rescind

NR 7





THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

December 30, 1974

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Truck and Trailer Brake Standards

On January 1, 1975, the final rule requiring improved brakes and anti-skid controls on new trailers will be effective; on March 1, 1975, a like final rule for new trucks will be effective. After a review of comments received in response to a Federal Register Notice (12-16-74) on this rule's economic impact, it is our judgment that it should go into effect as scheduled.

The reasons are as follows:

1. Ever since the passage of the Motor Vehicle Safety Act of 1966, the Department has been working on ways to improve truck and trailer brakes. Truck and trailer brake standards are needed because of the serious disparity in stopping abilities between heavy trucks and automobiles (trucks require about 50% more distance at 60 mph) and because of the tendency of truck and trailer units to skid out of control during a panic stop. This need has intensified as the trucks grow heavier and the automobiles lighter.
2. This braking standard was first proposed in 1970 and has been the subject of extensive hearings, revisions, and delays. Last Spring, after our Department set the final effective dates in 1975, the component manufacturers (axles, brakes, and anti-skid controls) made firm commitments to go ahead. These manufacturers, which include Rockwell, Eaton, Wagner Electric, Goodrich, Kelsey-Hayes, Echelin, Bendix, G&E Sylvania, Standard Forge, Abex, and Motor Wheel, have now invested about \$250 million and hired 3,000-4,000 people to produce the parts. In addition, most truck and trailer manufacturers (including GM, Ford, Chrysler, International Harvester, White, Oshkosh Truck)



are geared up and are ready to go. We believe the technology is sound and reliable. A brief delay would be disruptive to their production schedules. Most have advised that the only useful delay would be for an indefinite period (GM suggests 3½ years). We do not believe the facts merit a long delay.

3. The full economic impact of the rule is hard to quantify. It is also hard to separate the economic impact from the safety impact. We do know that a postponement clearly would adversely affect jobs (3,000-4,000) and investments of suppliers. It would also disrupt production because of the new parts now in the distribution pipeline. On the other hand, since the rule will cause truck and trailer prices to rise by 5-7%, it might depress truck and trailer demand somewhat. However, since price increases of this magnitude in 1973 and 1974 did not noticeably dampen demand, this impact does not seem too important (truck and trailer capital costs are recovered over the equipment's full life, with variable operating costs being of far greater importance).*

In time the safety impact will be quite important. Each year large trucks are involved in 500,000 to 600,000 highway accidents. In these accidents there are 6,000 or so fatalities and 150,000 or so injuries--mostly to occupants of passenger cars. The annual societal costs of these accidents are estimated at \$2½-\$3 billion. We believe the new brake standards will eventually cut these costs by 20-30%--certainly by enough to give a favorable benefit/cost ratio.


4. The Teamsters, the AAA, the Insurance Institute, the various safety groups, and all component manufacturers are urging that we go ahead with the rule. International Harvester and Oshkosh Truck likewise want us to proceed. Chrysler can produce only new-standard trucks because all old parts have been cleared out. (However, as noted above, most other manufacturers would prefer either a cancellation or an indefinite delay.)

* Truck and trailer orders are now off because of (1) advance buying last summer to beat the new brake rule, (2) uncertainty about the economy, and (3) uncertainty about the future of the brake rule.



In November 1972 (and again in January 1973) the National Transportation Safety Board urged that the new truck brake standard be adopted as soon as possible.

The Council on Wage and Price Stability initially asked that the rule be delayed, but after a staff review of the situation it is now agreed that it is proper to proceed, with careful monitoring of the costs and benefits.



Claude S. Brinegar

74-10-N08-064

ORIGINAL
KELSEY-HAYES COMPANY
ROMULUS, MICHIGAN

December 20, 1974

National Highway Traffic Safety Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590



Attention: Docket Section, Room 5108

RE: FMVSS 121, Air Brake Systems
Docket 74-10; Notice 8

Gentlemen:

Kelsey-Hayes Company is a supplier of two major items of new equipment required by the vehicle performance requirements of Standard 121: anti-lock systems and more effective brakes. The economic impact on our company of any delay in the effective dates of this standard will be severe.

We have distinguished the effect of alternative delays in the Standard as to anti-lock systems and disc brakes, the two primary product lines of our company affected by Standard 121.

As to anti-lock systems, an indefinite delay would probably require the closing of our Brighton Plant. The cancellation cost would include costs associated with our product development, capital investment (plant and equipment), tooling, plant start-up and inventories. Costs associated with delays of a year or six months or less would include operating losses, inventory and restart-up costs. These costs are shown below as are the number of jobs lost for each alternative delay.

ANTI-LOCK SYSTEM
PROJECTED LOSSES ATTRIBUTABLE
TO DELAYS IN FMVSS 121

	<u>SIX MONTHS OR LESS</u>	<u>ONE YEAR</u>	<u>INDEFINITE</u>
NET LOSS	\$1.1 million	\$1.9 million	\$20.0 million
JOBS LOST	135	150	165

The costs associated with these alternative delays at the plant we purchased in Mt. Vernon, Ohio for production of truck disc brakes include similar elements of lesser amounts, as shown below:

December 20, 1974

**DISC BRAKES
PROJECTED LOSSES ATTRIBUTABLE
TO DELAYS IN FMVSS 121**

	<u>SIX MONTHS OR LESS</u>	<u>ONE YEAR</u>	<u>INDEFINITE</u>
NET LOSS	\$0.3 million	\$0.5 million	\$7.7 million
JOBS LOST	75	80	88

Obviously, an indefinite delay represents a staggering financial loss to Kelsey-Hayes Company. Many of our suppliers have also invested substantial amounts, including some small companies who cannot bear the loss. Moreover, the loss of over 250 jobs at Kelsey-Hayes, plus unknown others at our suppliers, represents another serious economic consequence.

We can hardly afford the projected losses noted above. Equally important to us, however, is the breach of good faith represented by having the rug pulled from beneath us at this late date. We seriously doubt if anyone in the industry will ever again invest anything close to what we and our competitors have in order to enable our customers to comply with a federal safety standard if the precipitous action proposed in this notice is taken by the NHTSA.

Substantial amounts of money, engineering talent and other resources have been spent in developing these products. This task is now essentially completed and we are in production. The remaining technical task is in product improvements, especially those that will lower costs as we gain production experience. This has occurred with our passenger car skid control system which is now considerably less expensive than it was seven years ago when we began production. It is almost unthinkable that the time, effort, and resources will have been wasted, particularly when the results are so clearly beneficial.

Standard 121 has also resulted in the development of bigger and better brakes, which will mean that many large commercial vehicles will no longer require substantially longer stopping distances than the passenger cars they move with on the highway. We consider better braking capability desirable and it is available today. As to the reliability of anti-lock systems, we are satisfied that our system is reliable or we would never allow it on the market. In short, we think a delay in the effective date of Standard 121 would be a tragic waste.

Respectfully submitted,


John F. McCuen
Counsel

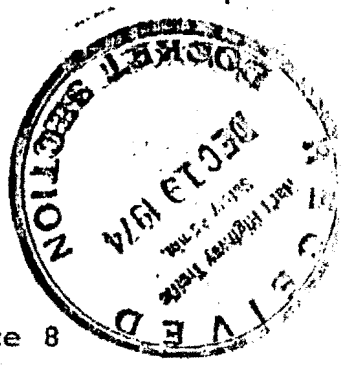
74-10-NO8-00

WAGNER ELECTRIC CORPORATION
WAGNER DIVISION

8400 PLYMOUTH AVENUE, SAINT LOUIS, MISSOURI, 63133 • 314 721-5000

December 18, 1974

Docket Section
National Highway Traffic Safety Administration
400 Seventh Street, S.W. - Room 5108
Washington, D.C. 20590



Gentlemen:

Re: Docket 74-10, Notice 8
49 CFR 571.121

The Wagner Division of the Wagner Electric Corporation is a manufacturer of air brake system components and other motor vehicle equipment. Some of our products will be part of many improvements in air brake systems that will be required on vehicles (including trailers) after the effective date for Federal Motor Vehicle Safety Standard 121. Wagner Electric Corporation has carried out the development of brake systems to meet the requirements of FMVSS-121. The timetable for this development program and Wagner's commitments for production tooling, equipment and facilities were dictated by the published effective dates as they were revised and we thought finally settled to be January 1, 1975 for trailers and March 1, 1975 for trucks. Wagner has made an enormous investment in the development and tooling for this program and has already accumulated substantial finished inventory and is committed to raw material suppliers for additional inventory. Production shipments to customers began in early November.

Our comments regarding this notice are as follows:

I. The Market Effect of FMVSS-121

FMVSS-121 has had a dramatic effect on the heavy truck and trailer markets in 1974. Many fleets rushed to purchase new equipment before the effective date of the regulation at the time the effective date was September 1, 1974. The demand was higher than the capacity of the industry and all orders could not be filled. When the regulation effective dates were postponed UNTIL January 1, 1975 for trailers and March 1, 1975 for trucks, additional time to fill these "buy ahead" orders became available.

Vehicle production remained at capacity in the industry through October. In November, the demand for these vehicles started to decline and by December 1, 1974, the truck and trailer industries began to find themselves with excess

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capacity. This reduction in demand during the last four to eight weeks of 1974 is apparently the result of the dramatic down turn in the National economy that has reduced freight revenue. The freight carriers have canceled many orders for trucks and trailers simply because they do not need the equipment. Even the lower price of pre-121 vehicles cannot attract users who do not need the vehicles.

A delay in the effective dates of the regulation will not create additional demand for vehicles that are not needed to haul freight that does not exist because of the depressed economic conditions. An improvement in the general economy will bring improved demand for trucks and trailers regardless of the effective date of FMVSS-121.

It is important to note that the heavy truck and trailer users are businessmen and will only buy equipment when it is needed to maintain or expand their business. When they buy this equipment, they will buy on a competitive bid basis. They will not buy equipment not needed in their business, regardless of the price. Considering the state of the general economy, we do not believe a postponement in the effective date of the regulation will improve the demand for heavy trucks and trailers.

II. The Effect of FMVSS-121 on Wagner Electric Corporation

FMVSS-121 required enormous investments in facilities, equipment, tools and development expense by Wagner Electric Corporation. It required extensive increases in employment in all areas of our Corporation to support the program. In order to prove product durability and reliability, an extensive field test program was undertaken, new catalogs, maintenance manuals and service literature describing the new products in FMVSS-121 brake systems were developed, printed and distributed. We established a maintenance training school in St. Louis to acquaint field service personnel with these new brake systems. These efforts coupled with an extensive product development program enabled us to increase projected 1975 automotive product sales by 20%. As we approached the effective dates of FMVSS-121, it was necessary that we phase existing brake system products not used in 121 systems out of production.

III. The Effect of Delays on Wagner Electric Corporation

Any delays in the effective date of FMVSS-121 would require that we take immediate steps to reduce employment by 20% in order to offset reductions in Corporate sales and profitability. Similar reductions would be necessary in our

WAGNER ELECTRIC CORPORATION

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supplier organizations. Total unemployment created by a delay at Wagner and our suppliers would be well in excess of one thousand people. Obviously, the delays would make it impossible for us to obtain a return on our enormous investment in this program. In addition, it would be necessary for us to take immediate action to reinstate current brake system products into our manufacturing facilities which have already been converted to produce 121 brake systems.

We estimate that it would take at least one hundred twenty days to reinstate these current products in our production facilities. These products were supplied to truck and trailer vehicle manufacturers and we expect many of these would be forced to close plants until this production could be reinstated. Obviously, substantial new unemployment would result due to our inability to reinstate these current products at this late date.

IV. Wagner Action if the Regulation is Postponed

Wagner Electric Corporation in good faith has made investments in manpower and resources for this program. The investments were made on the basis of the Federal Government's announced intention to take steps to improve highway safety.

We now find ourselves in an extremely vulnerable position, at a period when our investments have reached maximum levels, because of indecision on the part of the United States Government.

These new brake systems are now a production reality and shipment to customers have been underway since early November. Your action to even suggest a delay at this "eleventh" hour can only be classified as completely irresponsible.

The material supply problems and logistic problems created by a delayed effective date will substantially increase unemployment in the truck and trailer industries in the January through April period. At the same time, a delayed effective date will add substantial unemployment in the supplier industry.

Any delay in the effective date at this time would lead us to believe that the standard will not be implemented and we would be forced to take legal action to recover our

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investment. Even if we are able to recover our investment, we can never compensate those individuals in our company and our industry who have dedicated several years of their lives to the development of safer brake systems only to find that their government leaders do not have the courage to carry a program so vital to improved safety on the nation's highways through to implementation. Anyone who has seen these systems demonstrated recognizes they provide enormous improvements in highway safety. Your callous disregard for human life and highway safety in proposing a delay is inexcusable.

Wagner will take immediate steps to request Congressional support to aid us in avoiding the economic impact and unemployment that would result if the regulation were delayed. We will also ask our affected supplier organizations to take similar steps.

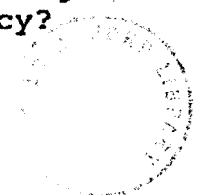
V. Credibility of the Department of Transportation

The truck and trailer industry differs significantly in the degree of integration compared to the passenger car industry. The heavy vehicle industry is dependent on numerous outside suppliers for major components. Many suppliers are of moderate or small size with limited economic resources.

A major portion of the investments in money, plant and technology to meet FMVSS-121 has been furnished by this supplier industry. These suppliers have already been adversely affected by the three previous changes in the effective date of this regulation - such as noted in our May 23, 1974 response to Docket 7410, Notice 3.

Another delay of any duration poses an intolerable burden on Wagner and its suppliers. Some of our suppliers face possible bankruptcy. Wagner's management would face a difficult task in convincing our Board of Directors and our stockholders that any newly conceived effective date would justify renewed commitments for material and manpower when the Department could readily reverse itself again at the last minute.

The very fact that the Administration would even consider a delay at this late date must seriously affect the industry's willingness to take action on any future heavy vehicle rule-making activities. Why should any supplier company who has accepted the NHTSA arguments of societal benefits-to-cost for FMVSS-121 and who clearly appreciates the human safety factors involved believe that subsequent proposals of similar merit would warrant commitments that would affect its possible survival - when it is subject to the wild swings of a vacillating government policy?



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Our customers have already told us that they interpret a possible "indefinite delay" as actually a "cancellation" of FMVSS-121.

At a time when strong National leadership is necessary and a positive sense of direction is required, further delay in FMVSS-121 would add proof that the present Administration is incapable of providing them. The next logical assumption on our part must be that the NHSTA would cease to be a viable organization, and we would expect to see it disappear in the not too distant future. With it would go unhappily all efforts to provide improved safety on the nation's highways for every citizen.

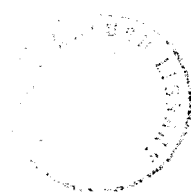
VI. Possibility of Unsafe Vehicles Reaching Market

The truck and trailer manufacturers have 121 level products either in inventory or committed for. Lead time to procure materials and parts and convert tools and equipment back to pre-121 levels could readily exceed ninety days-and could be as much as six months. Most vehicle manufacturers would be faced with the economic necessity of building hermaphrodite vehicles in order to survive. Since NHTSA has not issued a ruling that inclusion of only part of the 121 systems would be unsafe, it is highly likely that trucks and trailers with excessively aggressive brakes could and would be built that would actually be less safe than pre-121 systems. An immediate delay therefore would degrade highway safety in violation of the intent of Congress as defined in the 1966 Highway Safety Acts.

VII. Product Liability

While a few very large manufacturers have the resources to absorb the initial costs of a delay, the smaller truck or trailer builders face another significant problem. NHTSA has frequently recorded that the requirements of FMVSS 121 will result in enhanced highway safety and that these systems (including anti-locks) are both reliable and available. Therefore, vehicles built in the near future without 121 systems - and which become involved in accidents - face product liability claims that could be catastrophic to the smaller manufacturer.

They would not, of course, be able to sell the vehicles with complete 121 systems in competition with others who could assume such risks and have the resources to support the product liability expense that a "cheap-and-dirty" system would expose them to.



WAGNER ELECTRIC CORPORATION

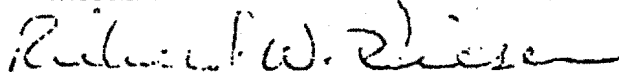
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In conclusion, we feel that FMVSS-121 must be implemented on January 1, 1975 on trailers and March 1, 1975 on trucks and buses. We believe that any delay would:

- 1) Be a callous disregard of safety on our highways.
- 2) Create substantial unemployment.
- 3) Result in the possible production of unsafe vehicles.
- 4) Create a potential serious public liability problem.
- 5) Compromise the integrity of NHTSA.
- 6) Further depress the national economy.

Yours very truly,

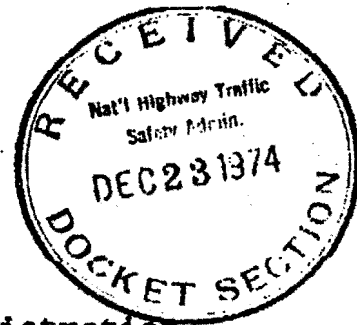
WAGNER ELECTRIC CORPORATION



Richard W. Vieser
President

kwv:rqd

Eaton Corporation
World Headquarters
100 Erieville Plaza
Cleveland, Ohio 44114
Telephone 216-523-5111



December 20, 1974

National Highway Traffic Safety Administration
400 Seventh Street, S. W.
Washington, D. C. 20590

Re: Comments regarding Docket Number 74-10, Notice 8
Air Brake Systems - Postponement of Effective Date

Gentlemen:

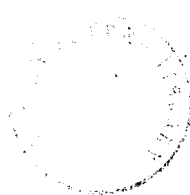
EATON

This letter is the response of Eaton Corporation ("Eaton") to your request for comments as to the advisability of postponing the effective dates contained in Federal Motor Vehicle Safety Standard Number 121 ("Standard 121").

Any such delay at this late date (now only ten days prior to first effective date contained in Standard 121) will have a devastating economic effect on Eaton as shown in the financial information hereafter set forth. The position of Eaton in regard to any postponement of the effective dates contained in Standard 121 is that there should be absolutely no delay whatsoever.

More specifically, Eaton is and traditionally has been a major manufacturer of a wide range of equipment for the heavy-duty tractor and trailer manufacturing industry (the "Industry"), with total annual sales to the Industry of well over \$500,000,000. Because of Eaton's involvement with the Industry and in direct response to the creation of Standard 121, Eaton undertook the extensive developmental engineering project of designing a Skid Control System ("Skid System") for mass production and sale to the Industry. Based primarily on orders received from four major tractor manufacturers and six trailer manufacturers, Eaton's Skid System has met with widespread acceptance, and accounts for approximately 22.5% of the total estimated market for such systems (nearly \$100,000,000 annually). Eaton currently has

Teletype (810) 421-8663
Telex 98-0595
Cable "EATONCORP"



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National Highway Traffic Safety Administration
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approximately \$10,000,000 in planned production, and also blanket orders against which we project an additional \$12,000,000 of sales in 1975.

In addition to the development of its Skid System, Eaton has re-engineered three other tractor or trailer product lines because of Standard 121: (i) foundation brakes for drive, steer and trailer axles ("Brakes"), (ii) drive axle housings ("Housings"), and (iii) trailer axles ("Axles"). Therefore, any postponement of Standard 121 would affect a total of four Eaton product lines, and the basic minimum impact of such a delay can be summarized as follows:

EATON

- (1) Projected loss of anticipated sales per month for all product lines would be approximately \$2,200,000, with a total loss of over \$26,000,000 annually.
- (2) Beginning immediately upon any delay and continuing thereafter unless Eaton totally abandons its Skid System program, unrecoverable monthly expenses caused solely by such delay will be \$431,000.00 per month (assuming that our Industry customers will accept Brakes, Housings and Axles conforming to Standard 121 during the delay), plus an additional \$73,000 per month expense for idle facilities for each of the first eight months of delay.
- (3) A minimum in unrecoverable losses of \$22,282,000 to Eaton if Eaton is forced to totally abandon its Skid System program because of Standard 121 delays.
- (4) A total loss to outside vendors of orders from Eaton amounting to \$15,900,000 per year, and this figure does not affect the dollar amounts set forth in categories (2) and (3) above.
- (5) Any delay will cause the immediate termination of 197 existing jobs within the Eaton work force assigned to the four product lines involved. As



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long as such delay continues, an additional 212 jobs which would have been immediately created will not be filled until 1975, and then only 160 of such jobs will be created. At the present time, we also do not have accurate figures on personnel layoffs which our vendors will have to make if any delay occurs.

More precise information elaborating on the figures set forth above is attached hereto as Exhibit A.

EATON

The distinct possibility also exists that a delay in effecting Standard 121 might press Eaton to abandon totally its Skid Control program, and similarly, a delay might also eliminate Eaton as a competitor in producing steer axle foundation brakes, since all of our sales of such brakes will be related to Standard 121. However, a definitive analysis of those possible results cannot accurately be made in the extremely short period of time available for submission of comments. The total investment of Eaton in the Skid System and the investment in the other three product lines directly related to Standard 121 total \$22,282,000. However, our analysis is complicated by the fact that the largest single capital investment in the history of Eaton has been made in a new Housing manufacturing facility now primarily tooled to make Housings compatible with other equipment conforming to Standard 121. If production of Housings for use with Standard 121 equipment is no longer feasible, this manufacturing facility will be out of production for a minimum of eight months, causing certain of the layoffs and additional expenses referred to previously. Suffice to say, our opinion, based on all the information available to us as set forth in this letter, is that any delay will have extremely adverse consequences for Eaton

ICS SOTOIPR M.L.T.N

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01127 OMAHA NE 163 12-26 503P CST

PMS GERALD T FORD PRESIDENT OF THE UNITED STATES
WHITE HOUSE DC

BT

MR PRESIDENT

I SUBMITTED TODAY THE FOLLOWING WIRE TO D.O. T. REGARDING
BRAKE STANDARD 121

"COST OF INSTALLATION, LOSS OF PAYLOAD, INTEREST AND MAINTENANCE
INDICATES COST OF BRAKE SYSTEMS TO CARRIER AFFECTED BY BRAKE SYSTEM
ON AN ANNUAL BASIS WILL EXCEED COSTS OF PROPERTY DAMAGE PUBLIC
LIABILITY AND COLLISION INSURANCE ON ALL VEHICLES AFFECTED BY BRAKE
SYSTEMS APPROXIMATELY 2 TO 1 IN OTHER WORDS WE WILL BE SPENDING

2.00 PER YEAR IN BRAKE COSTS TO RECAPTURE 1.00 PER YEAR IN
ACCIDENT COSTS IF ALL ARE CAUSED BY BRAKES. BRAKE SYSTEMS NOT
PROVEN AND MAY INCREASE ACCIDENTS WITH GREATER SEVERITY SINCE
FAILURE OF SYSTEM WILL RESULT IN MORE HEAD-ONS. IN VIEW
OF THE RECESSION AND INFLATION THIS IS A POOR USE OF THE
CONSUMERS DOLLAR. URGENTLY RECOMMEND INDEFINITE
POSTPONEMENT OF BRAKING SYSTEMS."

A PORTION OF THIS INFORMATION - COSTS FACTORS REGARDING
INSURANCE WAS NOT IN MY MEMO LEFT WITH YOU AT OUR MEETING
DECEMBER 5 1974.

"HAPPY NEW YEAR MR PRESIDENT TO YOU AND YOUR FAMILY"

R L "DICK" HERMAN

NNNN

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December 20, 1974

and any extended delay would probably force Eaton to abandon its Skid System, and will destroy our steer axle brake market as well.

On the other hand, we will have no offsetting benefits whatsoever from a delay. Based on our marketing surveys with fleet owners, advanced vehicle buying during 1974 by such owners in order to beat the imposition of Standard 121 clearly indicates that delay of Standard 121 will not result in an increase in vehicle purchases by such fleets in 1975. In addition, though the use of equipment conforming to Standard 121 will have an upward effect on vehicle price, this effect may not substantially increase the overall cost of operations for fleet owners and other heavy-duty tractor and trailer users since Skid Systems will effect for such users damage and insurance premium cost reductions and also substantial savings in tire wear.

Since your agency is charged by law with considering effects on traffic safety as the primary basis for your determination, the passage by Congress on December 18, 1974, of a bill increasing permissible vehicle weight on federal highways should accentuate the traffic safety need for better vehicle stopping capabilities, thus increasing the need to implement Standard 121 as scheduled, rather than the reverse.

Another consideration which should be of great significance is the fact that the federal government, in the future, cannot expect private companies to be willing to undertake extensive research and enormous capital expenditures such as Eaton has done in this case, to assist the government in its desire to achieve new

EATON

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safety standards when the entire project can be placed instantly in jeopardy by a reconsideration of it at such a late date that enormous losses to the cooperating companies are the only conceivable results which can occur.

Eaton has also been a leading developer and proponent of the air bag. Millions of dollars have been spent by Eaton since 1964 in research, development, plant and equipment for that product. Yet even today the future of the air bag and its related safety standard remains in doubt. In light of Eaton's experience with the air bag and the current situation with Standard 121, Eaton will have to give very serious consideration to the advisability of making any future capital commitments toward the production of automotive products designed to meet federal safety standards.

EATON

A final point is especially appropriate. At this juncture, Eaton's Skid System is far past the design stage and well into the mass production stage, with full production based on present releases having already started. Eaton has progressed to this point, as have other system manufacturers, based upon the assumption of a consistent government position regarding implementation of Standard 121. As you well know, for at least the past three years during Eaton's development of its Skid System, the official federal government position has been in favor of implementation of Standard 121 absolutely as soon as possible, restrained only by the status of the engineering art to achieve the desired result. This official position was duly arrived at by your agency presumably after deliberate and thorough consideration of the effect of Standard 121 on public safety and on the other aspects related thereto, such as cost.

National Highway Traffic Safety Administration
December 20, 1974

By contrast, you now apparently propose to reconsider your entire position within a fifteen day period preceding the first effective date included in Standard 121. A reversal of position at this point will obviously inflict irreparable injury on every company having developed a skid system and on the related component suppliers of those companies as well. This would, in effect, amount to a taking of property without due process of law, and may well entitle a company to injunctive relief since the federal government is not likely to waive its sovereign immunity so as to allow private companies a judicial remedy for monetary losses suffered as a result of such governmental action.

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For all of the foregoing reasons, Eaton Corporation specifically requests that Standard 121 be implemented as scheduled.

EATON CORPORATION

By



P. A. Miller, President