

Latitude 43-28-42 and West Longitude 110-45-42.

DATES: Comments must be filed on or before January 16, 1996 and reply comments on or before January 31, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Ave., NW., Suite 900, Washington, DC 20036 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-171, adopted November 3, 1995, and released November 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-29369 Filed 12-1-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 95-169, RM-8722]

Radio Broadcasting Services; Machias, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Dr. James Whalen proposing the allotment of Channel 266B to Machias, Maine, as that community's second FM broadcast service. Canadian concurrence will be requested for the allotment of Channel 266B at coordinates 44-45-22 and 67-36-50. There is a site restriction 12.8 kilometers (7.9 miles) west of the community.

DATES: Comments must be filed on or before January 8, 1996, and reply comments on or before January 23, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John C. Dodge, Cole, Raywid & Braverman, 1919 Pennsylvania Ave., NW., Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-169, adopted October 31, 1995, and released November 15, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-29370 Filed 12-1-95; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95-93; Notice 01]

RIN 2127-AF76

Federal Motor Vehicle Safety Standards; Accelerator Control Systems

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

ACTION: Request for comments.

SUMMARY: NHTSA is considering issuing a proposal to amend the Federal motor vehicle safety standard on accelerator control systems. The standard was last revised in 1973, when only mechanical systems were common on motor vehicles. In order to determine whether to propose amending the standard to include requirements specifically tailored for electronic accelerator control systems and to clarify possibly ambiguous language, NHTSA poses a series of questions in this document. NHTSA undertakes this action as part of its effort to implement the President's Regulatory Reinvention Initiative to make regulations easier to understand and to apply.

DATES: Comments must be received on or before February 2, 1996.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590. It is requested, but not required, that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Mr. Patrick Boyd, Office of Vehicle Safety Standards, Office of Safety Performance Standards, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590. Mr. Boyd's telephone number is (202) 366-6346, and his FAX number is (202) 366-4329.

For legal issues: Ms. Dorothy Nakama, Rulemaking Division, Office of Chief

Counsel, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590. Ms. Nakama's telephone number is (202) 366-2992, and her FAX number is (202) 366-3820. Please note that written comments should be sent to the Docket Section rather than faxed to the above contact persons.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995 directive "Regulatory Reinvention Initiative" from the President to the heads of departments and agencies, NHTSA undertook a review of its regulations and directives. During the course of this review, the agency identified rules that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, application or appropriateness. As described below, NHTSA has identified Federal Motor Vehicle Safety Standard (FMVSS) No. 124, *Accelerator control systems*, as one rule that may benefit from amendments.

Background of Standard No. 124

Standard No. 124's purpose is to reduce deaths and injuries resulting from loss of control of a moving vehicle's engine, due to malfunctions in the vehicle's accelerator control system. Since 1972, Standard No. 124 has specified requirements for ensuring the return of a vehicle's throttle to the idle position under each of the following two circumstances, (1) when the driver removes the actuating force (typically, the driver's foot or cruise control) from the accelerator control, and (2) when there is a severance or disconnection in the accelerator control system. Standard No. 124 applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

Paragraph S5.1 of Standard No. 124 requires that, under any load condition, and within the time specified in S5.3, the throttle must return to the idle position from any accelerator position or any speed of which the engine is capable, whenever the driver removes the actuating force. The standard defines the throttle as "the component of the fuel metering device that connects to the driver-operated accelerator control system and that by input from the driver-operated accelerator control system controls the engine speed."

Standard No. 124 has two further requirements to provide safety in the event of accelerator control failure. The first, specified at S5.1, requires "at least two sources of energy," each capable of returning the throttle to idle position

within the time limit for normal operation, from any accelerator position or speed whenever the driver removes the opposing actuating force. The second, specified at S5.2, requires that the throttle return to idle "whenever any one component of the accelerator control system is disconnected or severed at a single point" and the driver releases the pedal.

Paragraph S5.3 requires that the throttle return to idle within 1 second for vehicles of 10,000 pounds or less gross vehicle weight rating (GVWR) and within 2 seconds for vehicles with a GVWR greater than 10,000. The maximum allowable time is increased to 3 seconds for any vehicle that is exposed to ambient air at O degrees to -40 degrees F. during the test or for any portion of a 12 hour conditioning period.

Standard No. 124 Applies to Electronic Accelerator Control Systems

When promulgated, the definitions and requirements of Standard No. 124 were easy to understand and apply because their language was strongly influenced by the design of mechanical accelerator control systems and because all control systems were mechanical then. The "throttle" of a gasoline engine was the carburetor shaft that opened and closed the air passages in the base plate. The "throttle" of a diesel engine was the control rod, or rack that controlled fuel flow to the high pressure injectors. The two energy sources were simply two return springs acting on the linkages and/or cables between the accelerator pedal and the throttle. If at least one of those springs was connected directly to the carburetor or to the diesel fuel injection rack, it would cause the throttle to return to idle in the event of a disconnection of the linkage. And, if the single contemplated failure occurred at one spring, the other would permit continued driver control.

Subsequent to the promulgation of Standard No. 124, electronic accelerator controls with on-board computer systems were introduced on motor vehicles. Their use is steadily increasing, especially in heavy trucks.

The introduction of electronic systems led to questions about their status and treatment under the Standard. Stating that some of the language in Standard No. 124 seemed more appropriate for mechanical accelerator control systems than for electronic ones, Isuzu Motors America, Inc., asked the agency a variety of questions concerning electronic systems. Its central question was whether the Standard applies to electronic systems. In an August 8, 1988

interpretation letter to Isuzu, NHTSA stated that the Standard does apply to electronic accelerator control systems. Among its other questions, Isuzu asked whether a severance in electric wires in its electronic accelerator control system is a severance within the meaning of S5.2 of Standard No. 124. Isuzu expressed its belief that because the electric wires were not a "moving part," the answer should be "no." NHTSA disagreed.

It interpreted Standard No. 124's requirement that the throttle return to idle "whenever any one component of the accelerator control system is disconnected or severed at a single point," to include all severances or disconnections of any component of the accelerator control system as within the standard, not just disconnections of moving parts.

Need To Amend Standard No. 124

Most accelerator linkages on the largest classes of trucks (i.e., those over 33,001 lbs. GVWR) are now electronic. A mechanical accelerator linkage controlling a fuel rack (i.e., a device that controls fuel flow to the high pressure injectors) is now rare on the largest classes of trucks. Most of today's heavy diesel trucks have no mechanical connection between the accelerator pedal and the throttle.

Although the agency has been issuing interpretations about the Standard's application to electronic accelerator control systems for the last seven years, the flow of interpretation requests remains unabated. Manufacturers continue to ask the basic question of whether the Standard applies to electronic accelerator control systems. One correspondent presumed that since those systems do not include springs and linkages, as described in Standard No. 124, electronic accelerator controls are not regulated. Another asked for a legal interpretation of "throttle," as applied to electronic accelerator control systems. Other correspondents have understood Standard No. 124 to mean simply that two return springs should be placed on the treadle assembly. In response, the agency has recited in its interpretation letters the requirement that the sources of energy must be capable of returning the throttle to idle in the event of a single severance or disconnection. The correspondents did not submit sufficient information to enable the agency to determine whether the proper mechanical operation of the treadle was sufficient to assure return to idle in the event of an electrical severance.

NHTSA notes that although the use of two springs on the treadle assembly may

represent good treadle design, it does not intrinsically overcome a disconnection anywhere within an electronic accelerator control system. Thus, good treadle design does not provide an electronic accelerator control system with the same degree of fail-safe operation provided a mechanical system by redundant return springs on a traditional fuel control rack. Those springs on a traditional rack could overcome an accelerator control disconnection and return the throttle to idle. Further, providing good treadle design does not solve the problem of single point disconnection in electronic systems which now would include connectors, wires, computer components and possibly even software elements. Even parties recognizing the analogy between wire severance and linkage severance have asked whether the standard applies to subsequent short circuits as well as open disconnections.

NHTSA believes that the volume of requests for interpretation might be reduced if, instead of answering these questions by drawing analogies between traditional mechanical components and new electronic systems, it amended the Standard to include provisions and language specifically tailored to electronic systems. There are limitations to the agency's ability to make regulatory language, which reflects the design of mechanical systems, serve the purpose of regulating both mechanical and electronic systems. NHTSA also believes that amending the Standard not only to update it, but also possibly to redefine what constitutes fail safe operation might give manufacturers more flexibility in designing electronic systems and enable the agency to better ensure that electronic systems function safely. In order to do this, the agency must identify the most common predictable failures for electronic systems and ascertain the most appropriate response to those failures.

NHTSA is also concerned that regulating electronic systems by drawing analogies to mechanical systems may have the effect of limiting the permissible responses to failures in electronic systems to the fail-safe modes of mechanical systems. At present, the failure modes (i.e., disconnection and severance) specified in Standard No. 124 are the predictable failure modes of a mechanical system. The agency believes that the regulation of electronic systems in a manner tailored to them can be beneficial to manufacturers, vehicle users, and the public. For example, with electronic systems, there may be failure modes in which it is wiser to either shut down the engine or to provide for a fail-safe mode in which

the engine has just enough power to permit the vehicle to be driven to the side of the road, than to require that the engine be returned to idle. Since such choices were not feasible with mechanical controls, they were not included in Standard No. 124.

Through this request for comments, NHTSA wishes to determine whether it can propose amendments which identify the predictable failure modes of electronic systems and specify an acceptable safe response for each mode.

Normal v. Failure Modes

On many trucks, locking hand controls are necessary for the operation of engine-driven vocational equipment, i.e., work-performing equipment such as garbage compactors or cement mixers, when the vehicle is parked. Similar locking hand controls are also provided to facilitate engine warm-up. Obviously, locking hand controls can be thought of as preventing the return to normal idle speed when the accelerator pedal is released (defined in the Standard as a failure). Several requests for interpretation have resulted. However, locking hand controls do not affect highway safety because the locking controls are not meant to be used to drive vehicles. Explicit specification in the standard of what is or is not permissible with respect to the operation of locking hand controls could eliminate a source of ambiguity.

Likewise, the lack of absolute repeatability in the normal operation of some electronic accelerator controls results in the return to a range of idle speeds instead of a single idle speed. While this range is narrow enough to permit safe operation of a vehicle, the return to a range of speeds instead of a single speed nevertheless introduces questions about whether a range is narrow enough to be regarded as complying with the requirements of the standard for return to idle speed. A revision of the standard offers an opportunity to adopt language that distinguishes between normal safe characteristics of accelerator controls and instances of failure.

Questions for Comment

In order to determine whether the agency should propose to amend Standard No. 124 and to obtain a better idea of technology that is presently available, NHTSA asks the following questions to clarify engineering issues. Sections A and B apply to electronic systems only. Sections C, D, E and F are of general applicability.

A. Industry Consensus

The Society of Automotive Engineers (SAE) has developed recommended practices for electronic signal interfaces for heavy diesel vehicle engine control processors and for some aspects of accelerator pedal position sensor performance. The SAE's recommended practice specifies that the accelerator position sensor (APS) assembly shall comply with all appropriate Federal motor vehicle safety standards.

A1. Has the SAE or other industry consensus standards organizations considered fail-safe provisions for electronic accelerator controls? Is there industry agreement (informal or formal) concerning what fail-safe provisions should be adopted for electronic accelerator control systems?

A2. What fail-safe strategies are now being employed by vehicle and component manufacturers?

B. Technical Considerations of a Fail-Safe Electronic Accelerator Control System

NHTSA believes that the potential points of failure of an electronic accelerator control system are:

- the mechanical linkage and return springs between the pedal and the accelerator position sensor (APS);
- the electrical connections between the APS and the engine control processor;
- the electrical connections between the engine control processor and other critical sensors;
- the electrical connections between the engine control processor and fuel or air metering devices which determine engine speed;
- power to the engine control processor, the APS and critical sensors; and
- the integrity of the engine control processor, APS, and other critical sensors.

A single point disconnection would mean the severance of a single wire or the disconnection of all the terminals housed in a single connector. The consequences both of an open circuit or a short circuit would ordinarily be relevant, but NHTSA does not exclude the possibility that some designs could prevent either a short circuit or an open circuit in the event of a disconnection. Critical sensors are those whose malfunction or disconnection could cause a significant uncontrolled engine overspeed. The agency is not aware that sensors other than the APS are critical in a safety sense.

With this background, NHTSA asks the following questions:

B1. Are there other predictable points of failure of an electronic control system?

B2. Are sensors other than the APS critical to safety on either gasoline or diesel engines?

B3. Are engine development trends pushing other sensors toward safety critical operation (i.e., to become a sensor whose malfunction or disconnection could cause a significant uncontrolled engine overspeed)?

B4. Is it practical (from an engineering standpoint) to expect a fail-safe design of a unitary electronic accelerator control system, even in the limited sense of ensuring fail-safe performance in the case of single point failures at predictable locations? Would it be more practical (and still meet the need for safety) to use a redundant, simplified APS and engine controller, active only at the idle position of the pedal? Is the use of redundant systems more practical than a single system to achieve fail-safe performance?

B5. Do any currently produced vehicles with electronic accelerator control systems use redundancy to achieve fail-safe operation?

C. Vehicle Drive Functions v. Vocational Functions

NHTSA legal interpretations regarding hand throttle controls view their operation as setting a new idle speed to which the throttle should return in the prescribed time limits "upon release of the driver-operated accelerator control system." This view is accurate for traditional "fast idle" setting devices for cold engine operation. But, it may also have resulted in interpretations that do not distinguish between accelerator control systems that drive the vehicle, and auxiliary accelerator controls meant to allow the operation of vocational equipment (such as the compactor on a garbage truck) on a parked vehicle.

C1. How is the cold engine fast idle function accomplished with electronic accelerator controls?

C2. How is the engine of a parked vehicle held at the appropriate speed to operate vocational equipment when the vehicle is equipped with an electronic accelerator control system?

C3. Is there a general way to distinguish between accelerator controls affecting the driving of the vehicle and those affecting only the vehicle's operation as a power source for vocational equipment, presumably without effect on highway safety?

D. Initial Idle Speed

Manufacturers have been concerned with the question of how consistently a vehicle's engine must return to exactly the same idle speed to meet Standard No. 124. Apparently, the resolution and

hysteresis of the various sensors and the discrete nature of digital systems create idle speed variations that do not in any way indicate failure.

D1. Would it be practical to designate a range about a vehicle's initial idle speed to clarify the difference between normal and abnormal performance of an accelerator control system? Please describe the desirable extent of such a range and provide a rationale for that range.

E. Public Technical Meeting

NHTSA believes that the development of any proposal to amend Standard No. 124 may benefit from a direct, oral exchange of ideas among NHTSA, vehicle manufacturers, and other affected parties. Reliance solely on written public comments may not be the most effective means of assessing the appropriate steps for ensuring the safe operation of electronic accelerator control systems.

E1. Once the agency has analyzed the written comments submitted in response to this document, should it hold a public technical meeting to discuss possible proposals for amending the Standard No. 124? If so, on which issues should such a public technical meeting focus?

F. Other Issues

F1. Should the agency propose to amend Standard No. 124 in any other respect that has not been discussed above? If so, please describe how the agency should propose to amend the Standard, and provide a rationale for the recommended change.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This request for comment was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this request for comment and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency anticipates if a proposal and ultimately a final rule should result from this request for comment, new requirements would not be imposed on manufacturers with respect to the currently regulated systems. The request for comment seeks to find cost effective means to make Standard No. 124 more understandable when applied to electronic accelerator control systems. If NHTSA decides to initiate rulemaking, it is NHTSA's intent that the rulemaking not impose any additional costs.

Procedures for Filing Comments

Interested persons are invited to submit comments on this request for comment. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received after the comment due date will be considered as suggestions for any future rulemaking action. Comments on the request for comment will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: November 28, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95-29453 Filed 12-1-95; 8:45 am]

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