

final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D, of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

#### C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Authority: 42 U.S.C. 7401-7671q.

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

##### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: February 26, 1997.

Charles Findley,

Acting Regional Administrator, EPA Region 10.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. 95-93, Notice 3]

RIN 2127-AF76

#### Federal Motor Vehicle Safety Standards; Withdrawal of Proposed Rule, Announcement of Technical Workshop on Accelerator Control Systems

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Withdrawal of notice of proposed rulemaking, and announcement of a technical workshop.

**SUMMARY:** In this document, NHTSA withdraws a proposal to amend the safety standard on accelerator control systems that would have deleted a provision that specifies return-to-idle times for a normally operating accelerator control system. The proposal was part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative.

NHTSA has decided to withdraw its proposal in order to focus on the broader issue of making the accelerator control system standard more relevant for electronic accelerator systems. NHTSA announces a technical workshop, tentatively scheduled for March 24, 1997, to discuss electronic accelerator control technology and potential methods of assuring fail-safe performance.

**DATES:** Technical workshop: The technical workshop is tentatively scheduled for March 24, 1997. Those

persons wishing to participate in the workshop should contact Mr. Patrick Boyd (at the address given below) not later than March 24, 1997.

Written comments. Written comments on the subject matter of the workshop are due April 24, 1997.

**ADDRESSES:** The technical workshop will be held at the U.S. Department of Transportation building, 400 Seventh Street, SW., Washington, DC. A notice announcing the room number, and confirming the workshop date, will be published shortly after the deadline for the public to advise the agency of their intent to participate.

Written comments. Written comments concerning the subject matter of the technical workshop should refer to the docket number and notice number cited at the beginning of this notice, and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours are from 9:30 a.m. to 4 p.m.) It is requested, but not required, that 10 copies of the comment be provided.

**FOR FURTHER INFORMATION CONTACT:** For technical issues: Mr. Patrick Boyd, Office of Crash Avoidance Standards, NPS-21, telephone (202) 366-6346.

For legal issues: Ms. Dorothy Nakama, Office of Chief Counsel, NCC-20, (202) 366-2992.

Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590. Comments should not be sent to these persons, but should be mailed to the Docket Section.

#### SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the President's March 4, 1995 directive, "Regulatory Reinvention Initiative," to the heads of departments and agencies, NHTSA undertook a review of all 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 identified Federal Motor Vehicle Safety Standard No. 124 *Accelerator control systems* (49 CFR 571.124) as one rule that might benefit from being amended.

#### Background of Standard No. 124

Standard No. 124's purpose is to reduce deaths and injuries resulting from loss of control of the engine speed of a moving vehicle 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 4536 kilograms or less gross vehicle weight rating (GVWR) and within 2 seconds for vehicles with a GVWR greater than 4536. The maximum allowable time is increased to 3 seconds for any vehicle that is exposed to ambient air at -18 degrees to -40 degrees Celsius during the test or for any portion of a 12 hour conditioning period.

#### Prior Request for Comments and Public Response

The agency published a request for comments (60 FR 62061) on December 4, 1995 to initiate a discussion of the accelerator control issues frequently raised by manufacturers in requests for interpretation.

The questions involved two aspects of the standard: The return-to-idle requirement and the single-point failure requirement. In their requests for interpretation, manufacturers had sought assurance that the presence of

controls that lock the engine speed above the idle level to facilitate the use of auxiliary equipment for dumping, mixing, compacting, etc. would not be considered violations of the return-to-idle timing requirements. Manufacturers had similar concerns about the degree of repeatability of idle speed necessary for compliance with the return-to-idle provisions. Some manufacturers were concerned that since the speed to which a vehicle returns may vary from one occasion to the next, the agency might regard speeds at the high end of the range of normal variations of idle speeds as a violation of the return-to-idle requirement. The agency requested comment on these issues to determine whether it should amend the standard to eliminate concern that the normal operation of accelerator controls could be confused with instances of failure.

The second aspect of concern arises from the emerging technology of electronic accelerator control systems. The agency had received requests for interpretation expressing the belief that electronic accelerator control systems were not subject to the requirement that the engine return to idle in the event of a single point disconnection or severance of the system. Although NHTSA had written a letter to Isuzu in 1988 confirming that the single-point failure requirement applies to both electronic and mechanical accelerator controls, the agency requested comments on the need for language in the standard to clarify how the requirement applies to electronic accelerator controls.

In the request for comments, NHTSA discussed clarifying the existing standard's language with specific performance requirements for enumerated types of disconnections and severances of mechanical and electronic accelerator controls. Most auto industry commenters voiced a preference for rescinding the standard, suggesting that market forces would assure safety without the need for Standard No. 124. However, they commented that, should the agency disagree about rescision, a standard specifying fail-safe performance in the least design-specific terms would be preferable to the solution suggested in the notice. Industry commenters expressed a desire to participate in a public technical meeting with NHTSA concerning electronic accelerator controls and potential regulatory language regarding fail-safe performance.

#### Notice of Proposed Rulemaking

NHTSA tentatively agreed with the commenters that market forces are likely to prevent the introduction of

accelerator controls whose normal mode of operation is a threat to safety, but it disagreed that market forces would necessarily assure adequate fail-safe performance. Consequently, in a notice published on April 30, 1996 (61 FR 19020), NHTSA proposed to eliminate section S5.3, which contains the return-to-idle timing tests for the normal operation of accelerator controls. As a rationale for the proposed removal of S5.3, NHTSA pointed out that its standards compliance test program has revealed no noncompliances with S5.3 for at least the past eight years. NHTSA stated that with the elimination of S5.3, Standard No. 124 would be concerned solely with fail-safe requirements for engine controls. An effort to define idle speed tolerances and the normal operation of controls for operating special equipment would no longer be necessary.

NHTSA further stated its belief that the market force argument cannot be made for the fail-safe performance of accelerator controls. The normal operating characteristics of a vehicle's accelerator control system are immediately and constantly apparent to the buyer and user. An unsatisfactory design would be met with criticism and rejection. However, the vehicle owner has no easy way to experience directly the consequences of severances of the control circuits on loss of engine control and little motivation to do so.

#### Public Comments on the NPRM

In response to the NPRM, NHTSA received comments from the Advocates for Highway and Auto Safety (Advocates), Allied Signal Inc., Chrysler, General Motors, Mr. Honore J. Lartigue, and Volkswagen. Industry comments to the NPRM were positive but perfunctory. Chrysler and Allied Signal pointed out that the return-to-idle time required for partially disabled systems by the retained fail-safe performance requirements would be no different than the normal operation requirements for trucks proposed for elimination. Advocates for Highway and Auto Safety characterized the proposal as an abuse of agency discretion. It criticized NHTSA's tentative opinion of the lack of need for requirements for the normal operation of accelerator controls as unsupported with appeals to specific data, studies, or other evidence. 1

Generally, the industry commenters expressed more interest in the electronic accelerator control issues, which were not the specific subject of the NPRM, than in the proposed elimination of S5.3. Allied Signal, Volkswagen and General Motors cited the difficulty of applying the language of the current

standard to electronic accelerator controls, including even the basic terms "throttle" and "idle position." General Motors' comment dismissed the proposal as unimportant and instead presented useful ideas about fail-safe provisions it considered applicable to electronic accelerator controls. It stated that with electronic engine controls, throttle position is no longer the singular factor that controls engine speed. It is possible to exploit control of spark advance and/or fuel metering as alternative means of preventing uncontrolled engine speed. Therefore, General Motors suggested that the present requirement of two sources of energy to return the throttle to the idle position be replaced by a more general requirement of two means capable of returning the engine to idle in the event of the disconnection or severance of the other. It also suggested a second provision that if two means of returning the engine to idle cannot be provided, then a fail-safe feature would either shut-down the engine or automatically shift the transmission into neutral in the event of a disconnection or severance of the accelerator control.

General Motors' suggestions invite questions about their applicability to diesel engines and about the desirability of shifting the transmission into neutral, but they represent constructive thought about the preservation of fail-safe performance in the face of changing technology for accelerator control.

#### Agency Withdrawal of NPRM

After carefully reviewing the public comments, NHTSA has decided to withdraw its proposal to remove S5.3 from Standard No. 124. The public commenters addressing the issue have highlighted the fact that there are many unresolved areas involving electronic accelerator controls. NHTSA is withdrawing the proposal so that it can fully review the issue of making the standard more relevant to electronic systems prior to considering any other amendments to the Standard.

#### Technical Workshop

As stated in its December 4, 1995 request for comments (60 FR 62061), NHTSA plans to hold a technical workshop on the need to amend Standard No. 124. NHTSA tentatively plans to hold the workshop on March 24, 1997, at the U.S. Department of Transportation Building (400 Seventh Street, SW.) in Washington, DC. NHTSA believes its long range plans for Standard No. 124 will be facilitated if workshop participants and submitters of written comments discuss the questions

raised in the December 1995 request for comments.

The agency wishes workshop participants to discuss:

(1) The principles of operation of existing and potential electronic accelerator control systems for gasoline and diesel engines;

(2) The principles of operation of existing and potential means of providing fail-safe performance in the event of loss of accelerator control by the primary system; and

(3) Suggestions for regulatory requirements that will assure the fail-safe performance of electronic accelerator control systems.

The agency therefore asks those persons interested in participating to make their interest known by contacting Mr. Boyd, and describing the topic(s) the person wishes to address. Although NHTSA expects to hold the technical workshop in March 1997, it would appreciate being informed if any interested persons need more time to prepare remarks. If many people state that more time is necessary, NHTSA will pick a later date. The two persons mentioned at the beginning of this termination notice are available to answer questions.

NHTSA will issue another notice announcing the room number of the workshop and agenda items to be discussed. If necessary, the date for the workshop and submission of written comments will be adjusted.

Accordingly, as discussed in the preamble, the notice of proposed rulemaking published in the Federal Register on April 30, 1996 (61 FR 19020) is withdrawn.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 4, 1997.

L. Robert Shelton,

*Associate Administrator for Safety Performance Standards.*

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#### 49 CFR Part 572

[Docket No. 96-65; Notice 3]

RIN 2127-AG58

#### Federal Motor Vehicle Safety Standards

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

**ACTION:** Denial of request for extension of comment due date.

**FOR FURTHER INFORMATION CONTACT:** Z. Taylor Vinson, Office of Chief Counsel,

NHTSA, Room 5219, 400 7th Street SW, Washington, D.C. 20590 (telephone 202-418-8142).

**SUPPLEMENTARY INFORMATION:** This document denies a petition for extension of time to comment on proposed Federal Motor Vehicle Safety Standard No. 100 *Low-speed vehicles*.

On January 8, 1997, the National Highway Traffic Safety Administration published a notice of proposed rulemaking that would apply a new Federal motor vehicle safety standard to motor vehicles whose maximum speed does not exceed 25 mph (Docket No. 96-65; Notice 2, 62 FR 1077). February 24, 1997, was established as the due date for comments on the proposal.

Advocates for Highway and Auto Safety petitioned the agency to extend the comment period for an additional 30 days. The reason for the request is the temporary closure of the docket room, Room 5109 of the Nassif Building, from February 10 to March 10, 1997. Advocates argued that dockets will be unavailable for public inspection during this period and that comments filed in response to the proposal will likewise be unavailable for inspection for two weeks before the closing date of February 24, 1997.

Although Room 5109 is closed for the period indicated, comments filed in response to Notice 2 and other pending notices are available for inspection in Room 6130 of the Nassif Building during ordinary business hours of 9:30 a.m. to 4:00 p.m. as before. Thus, the temporary closure of Room 5109 will not affect the ability of the public to inspect comments being submitted to dockets during the period February 10 to March 10, 1997. Visitors to the Nassif Building have been advised of the temporary change of the NHTSA docket room from Room 5109 to Room 6130 by signs posted on or before February 10 in the Department's Central Docket Room and in each of the four street-level entrances to the Nassif Building.

Advocates also avers that the proposal to allow a new class of Low Speed Vehicles to operate on the public roads without full conformity to current Federal motor vehicle safety standards has serious implications and itself warrants an extension of the comment period for an additional 30 days.

NHTSA denies the petition by Advocates for additional time in which to comment on Notice 2. The public has had full access to comments filed in response to Notice 2 of Docket No. 96-65 during the comment period (in fact, only two comments had been filed by February 19, 1997). Before issuing the notice of proposed rulemaking, NHTSA