46. *Objectives:* To provide an opportunity for public comment and to provide a record for a Commission decision on the issues discussed in the NPRM.

47. *Legal Basis:* The NPRM is adopted pursuant to Section 301 of the 1996 Act; and sections 4(i), 602, 614, 617, 623, 624, 628, 632, of the Communications Act of 1934, as amended, 47 U.S.C. 154, 522, 534, 537, 543, 544, 548, 552, and 548.

48. *Description, potential impact, and number of small entities affected:* Amending our rules will directly affect entities which are small business entities, as defined in Section 601(3) of the Regulatory Flexibility Act. The 1996 Act reduces or eliminates rate regulation for many such entities.

49. *Reporting, recordkeeping, and other compliance requirements:* None.

50. *Federal rules which overlap, duplicate, or conflict with the Commission's proposal:* None.

51. *Any significant alternatives minimizing the impact on small entities and consistent with state objectives:* The NPRM seeks to minimize burdens on small entities in conformance with the 1996 Act.

52. *Comments are solicited:* Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this NPRM, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of the NPRM to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

Procedural Provisions

53. Pursuant to applicable procedures set forth in Sections 1.415 and §§ 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before May 28, 1996 and reply comments on or before June 28, 1996. To file formally in this proceeding, you must file an original and six copies of all comments, reply comments, and supporting comments. Parties are also asked to submit, if possible, draft rules that reflect their positions. If you want each Commissioner to receive a personal copy of your comments, you must file an original and eleven copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Nancy Stevenson of the Cable Services Bureau, 2033 M Street, N.W., Room 408A, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

54. Parties are also asked to submit comments and reply comments on diskette, where possible. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Nancy Stevenson of the Cable Services Bureau, 2033 M Street, N.W., Room 408A, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

55. Written comments by the public must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after publication of the Order and NPRM in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20054, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain____t@al.eop.gov.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–10172 Filed 4–26–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–093, Notice 02]

RIN 2127–AF76

Federal Motor Vehicle Safety Standards; Accelerator Control Systems

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

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, NHTSA proposes to change the scope of the Federal motor vehicle safety standard on accelerator control systems. The current standard prohibits uncontrolled engine speed in the event of a disconnection or severance of the accelerator control system at a single point, and it also specifies return-to-idle times for the normal operation of accelerator control systems. The agency has tentatively decided that it not necessary to regulate the normal operation of accelerator control systems. Vehicles with return-to-idle times too great for safe driving would be unacceptable to prospective vehicle buyers regardless of a regulation. The standard will continue to require fail-safe performance of accelerator control systems in the case of a single point disconnection or severance. This proposed action is part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative.

DATES: Comments are due June 14, 1996.

ADDRESSES: Comments 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 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, FAX (202) 366–4329.

For legal issues: Ms. Dorothy Nakama, Office of Chief Counsel, NCC–20, (202) 366–2992, FAX (202) 366–3820.

Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590. Comments should not be sent or FAXed to these persons, but should be sent 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 has identified Federal Motor Vehicle Safety Standard No. 124 *Accelerator control systems* (49 CFR 571.124) as one rule that may benefit from amendments.

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 and other technical questions. The questions involved two general areas. In one area of concern, manufacturers sought assurance that the presence of locking engine controls to facilitate the use on parked trucks of auxiliary equipment for dumping, mixing, compacting, etc. would not be considered violations of the return-to-idle timing requirements. Manufacturers had similar concerns over the degree of repeatability of idle speed necessary for compliance with the return-to-idle provisions. The document raised this area of discussion because the agency wanted to clarify the language of the standard to eliminate concern that the normal operation of accelerator controls could be confused with instances of failure.

The second area of discussion involved the emerging technology of electronic accelerator control systems. The agency had received requests for interpretation expressing the belief that electronic accelerator control systems were exempt from the fail-safe requirement applied to mechanical accelerator controls, namely that the engine return to idle in the event of a single point disconnection or severance of the system. The document cited a 1988 interpretation letter to Isuzu confirming that FMVSS No. 124 applies to both electronic and mechanical accelerator controls, and it discussed the possible need for language in the standard clarifying the fail-safe requirement as it applies to electronic accelerator controls.

Most auto industry commenters voiced a preference for rescinding the standard, and the American Trucking Associations (ATA) expressed the belief that loss of engine control is not a safety problem for medium and heavy trucks because they accelerate more slowly than cars. The auto industry commenters suggested that market forces and litigation pressure are sufficient to assure fail-safe accelerator controls without Federal motor vehicle safety standards. But, they also commented that, should the agency disagree about recision, a standard specifying fail-safe performance in the least design-specific terms would be preferable to the solution suggested in the notice. The document had discussed clarifying the existing standard's language with specific performance requirements for enumerated types of disconnections and severances of mechanical and electronic accelerator controls.

Notice of Proposed Rulemaking

NHTSA tentatively agrees 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. Consequently, NHTSA proposes to eliminate section S5.3 of Standard No. 124 which contains return-to-idle timing tests for the normal operation of accelerator controls. The NHTSA standards compliance test program has revealed no non- compliances with S5.3 for at least the past eight years. With the elimination of this section, Standard No. 124 will be concerned solely with fail-safe requirements for engine controls. The effort to define idle speed tolerances and the normal operation of controls for operating special equipment would no longer be necessary.

Two other amendments are necessary for consistency with the proposed elimination of S5.3. The fail-safe performance requirements of S5.1 and S5.2 cite S5.3 to establish response times for a return-to-idle position in the event of a severance. Those citations would be replaced by a fixed time limit of 3 seconds in order to establish that a fail-safe response must be rapid. A time limit of 3 seconds is consistent with the least restrictive limit under S5.3. The other amendment would be a modification of the scope statement of S1 to remove normal operation from the scope of the standard.

However, 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 is immediately and constantly apparent to the buyer and user. An unsatisfactory design will be met with criticism and rejection. However, the vehicle owner has no way to evaluate the consequences of severances of the control circuits on loss of engine control and little motivation to do so. In fact, a comment from the Flxible Corporation, a major bus manufacturer, indicates that engine manufacturers may be hesitant to adequately inform even vehicle manufacturers about the fail-safe performance of their electronic accelerator controls in the mistaken belief that the devices are exempt from Standard No. 124. Flxible's comment also cast some doubt on the adequacy of the fail-safe design of some electronic accelerator controls by observing that moisture from the steam cleaning of an engine with an electronic accelerator control system caused runaway engine speed.

The agency is not persuaded by ATA's contention that loss of engine control of a heavy commercial vehicle should be regarded less seriously than the same failure of a light vehicle. It also does not believe that the substitution of tort litigation for federal safety standards, as suggested by some commenters, serves the public interest. Therefore, the agency intends to hold a public technical meeting, as suggested by most of the commenters, to hear ideas for achieving a fail-safe performance standard for accelerator controls without design specific language. The time and place of the meeting will be announced in a future notice.

Proposed Effective Date

The proposed elimination of S5.3 from Standard No. 124 would not compromise safety and would not add burdens to manufacturers. NHTSA has tentatively determined that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Accordingly, the agency proposes that, if adopted in a final rule, the amendments would have an effective date of 45 days after the publication of the final rule in the Federal Register.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' NHTSA has analyzed the impact of this rulemaking action and determined that it is not ''significant'' under the Department of Transportation's regulatory policies and procedures. NHTSA believes that these

proposed amendments, if made final, would not impose any additional costs and would not yield any savings because this rule would not change the design or equipment of vehicles. Since there would not be any impacts, preparation of a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rule under the Regulatory Flexibility Act. I hereby certify that this rule would not have a significant economic impact on a substantial number of small entities. It does not affect any costs associated with the manufacture or sale of vehicles. Accordingly, an initial regulatory flexibility analysis has not been prepared.

National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that it would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Procedures for Filing Comments

Interested persons are invited to submit written comments on the amendments proposed in this rulemaking action. It is requested but not required that any comments be submitted in 10 copies.

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

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission including the purportedly confidential business information should be submitted to the Chief Counsel, NHTSA at the street address shown above, and 7 copies from which the purportedly confidential information has been expunged should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in 49 CFR 512, the agency's confidential business information regulation.

All comments received on or before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after the closing date. To the extent possible, comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for public inspection in the docket. NHTSA will continue file relevant information in the docket after the closing date, and it is recommended that interested persons continue to monitor 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicles, Motor vehicle safety, Rubber and rubber products, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

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

2. Section 571.124 would be amended by revising S1., S5.1 and S5.2 and removing S5.3 to read as follows:

§ 571.124 Standard No. 124, Accelerator control systems.

S1. *Scope.* This standard establishes requirements for the return of a vehicle's throttle to idle position in the event of a severance or disconnection in the accelerator control system.

* * * * *

S5.1 There shall be at least two sources of energy capable of returning the throttle to the idle position. In the event of failure of one source of energy by a single severance or disconnection, the throttle shall return to the idle position within 3 seconds from any accelerator position or speed whenever the driver removes the opposing actuating force.

S5.2 The throttle shall return to the idle position from any accelerator position or any speed of which the engine is capable whenever any one component of the accelerator control system is disconnected or severed at a single point. The return to idle shall occur within 3 seconds measured either from the time of severance or disconnection or from the first removal of the opposing actuating force by the driver.

Issued on: April 25, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–10667 Filed 4–29–96; 8:45 am]

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