process as outlined above and described more fully in the CONOPS. Pursuant to this deviation the agency may meet publicizing requirements by publishing the Project Agreement or a notice of its availability in the CBD, and meet the requirement for full and open competition by inviting all responsible sources to submit information regarding their qualifications and approach to meeting the agencies objectives as described in the Project Agreement.

Features specifically permitted include, but are not limited to, the ability of the Department of Commerce Project Teams:

(1) during the initial phase to down-select among sources on the basis of capabilities, approach, past performance and other criteria as specified in the published Project Agreement and Ground Rules, without the necessity of receiving or reviewing detailed technical proposals;

(2) to continue market research and initiate solicitation by issuance of the Project Agreement during the initial phase of the acquisition process;

(3) to invite only those sources to participate during the second phase who were found to have a reasonable likelihood of receiving a contract award as a result of their participation during phase one;

(4) to conclude negotiations at any time after receipt of vendor information during phase two, in accordance with published ground rules and criteria, and to conduct and conclude discussions without the need to notify the sources in advance of the date and time for conclusion of discussions, or to request best and final offers; and

(5) to deviate from the Uniform Contract Format and to deviate from or omit solicitation and contract terms and conditions prescribed by the FAR as necessary and appropriate to reflect the streamlined processes upon which this deviation is based, except where and to the extent required by statute.

(6) to down-select among proposals and sources and eliminate sources where there is significant doubt as to whether a proposal has a reasonable chance of being selected for award.

3. FAR Subparts 15, 16 and 42. Contract Type and Required Audit Sources.

Discussion: Current regulations have a preference for use of fixed price and cost-based contracts over labor-hour and time and materials contracts and require use of Government audit agencies to conduct contractor cost audits. It is our intent to reduce the need for pre- and post-award cost audits by utilizing cost-based contracting only as a last resort and utilizing fixed-price and labor hour or time and materials types for task order and incremental development process (IDP) contracts, as described in the CONOPS, instead. When audits are needed these would be obtained utilizing commercial auditing capabilities, e.g., reputable private sector Certified Public Accountants (CPAs), instead of Government audit agencies. This will be less expensive and administratively less burdensome for both the agency and the contractor.

Proposed FAR Deviation: A deviation from FAR provisions is requested to permit use of appropriate contract type without necessity of preparing a determination and findings that no other type is more suitable. Also a deviation is requested which will permit the use of private sector CPAs to perform audits instead of Government audit agencies.

Authority: The Federal Property and Administrative Services Act of 1949, as amended, and other applicable laws and regulations.

Dated: August 30, 1996.

Kenneth J. Buck,

Acting Director, Office of Acquisition Management, U.S. Department of Commerce.

[FR Doc. 96–30060 Filed 11–25–96; 8:45 am]

BILLING CODE 3510–03–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies petitions for rulemaking submitted by the Automobile Safety Foundation (ASF). ASF believes that steering locks installed on some vehicles to comply with Federal Motor Vehicle Safety Standard No. 114, *Theft Protection,* are ineffective in preventing theft and also dangerous because they lock up while the vehicle is in motion. Among other things, the petitions requested that NHTSA either revise the standard to prohibit any form of steering locks and allow for alternative designs, or require another design. They also asked that NHTSA require manufacturers to affix warning stickers about the steering locks on new vehicles or send warning stickers to all registered owners of previously sold vehicles. NHTSA denies these petitions because: Available crash data do not demonstrate a safety problem with the steering lock; steering locks continue to serve an anti-theft purpose; and vehicles with automatic transmissions, which account for about 80 percent of vehicles sold, are required to have a transmission lock and to be designed so that the ignition key cannot be removed unless the transmission is in the ''park'' position.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Atelsek, Office of the Chief Counsel, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Atelsek's telephone number is (202) 366–2992. His facsimile number is (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Background on Existing Requirements

Federal Motor Vehicle Safety Standard No. 114, *Theft Protection,* requires that new trucks, multipurpose passenger vehicles, and passenger cars have a key locking system. S4.2 of the standard states that ''[e]ach vehicle shall have a key-locking system which, whenever the key is removed, prevents: (a) The normal activation of the vehicle's engine or motor; and (b) Either steering or forward self-mobility of the vehicle or both.'' Vehicle manufacturers could comply by installing either a steering lock or transmission lock. Most vehicle manufacturers have chosen to install a ''steering lock,'' a device that locks the steering column when the key has been removed.

Although not required by the Standard, the key-locking systems of many vehicles are designed to prevent or reduce the likelihood of unintentional activation of the steering lock while the vehicle is in motion (for the sake of convenience, NHTSA refers below to this situation as ''inadvertent lockup''). This is accomplished by the incorporation of a button, lever, or other mechanism that must be activated before the key can be removed. Some of these mechanisms require two hands (one to operate the mechanism and one to turn the key), while others are operable with one hand (i.e., the hand turning the key). Some vehicles may not be equipped with such mechanisms. Unless those vehicles are equipped with some other device to prevent inadvertent lockup, it would be possible to remove the key from the lock and activate the steering lock while the vehicles are in motion.

NHTSA briefly adopted a requirement that key-locking systems provide protection against inadvertent lockup

(45 FR 85450, December 29, 1980). However, in response to petitions for reconsideration, NHTSA reexamined the data and determined that, while there was a safety problem with vehicles that allowed the key to be removed by the action of one hand, the magnitude of the safety problem was insufficient to justify requiring this protection (See 46 FR 32252–53, June 22, 1981).

In 1990, NHTSA amended Standard No 114 to mandate transmission locks on all vehicles with automatic transmissions (55 FR 21868, May 30, 1990). Transmission locks prevent the removal of the key unless the vehicle is in the ''Park'' position. Since the vehicle must be stopped in order to put the transmission in ''Park,'' transmission locks also prevent activation of the steering lock while the vehicle is in motion. Therefore, inadvertent lockup remains a concern only for manual transmission vehicles which are not equipped with a transmission lock. As discussed later in this document, the majority of new manual transmission vehicles appear to include some type of device to prevent inadvertent lockup.

The Petitions for Rulemaking

In its first petition, ASF requested that NHTSA either revise the standard to prohibit any form of steering locks and allow for alternative designs, or require another design. It gave two main reasons for this request. The first reason was that the steering lock is innately unsafe. As evidence of this, ASF cited NHTSA's statement in an earlier Federal Register notice that it continued to receive reports of ''property damage, serious injuries, and fatalities'' from inadvertent lockup. It also cited the warning notice about inadvertent lockup in the Driver Handbook issued by California's Department of Motor Vehicles, ''voluminous'' consumer reports of accidents, and locksmith reports of the jammed locks.

The second reason advanced by ASF in its first petition was that steering locks are a failure as theft protection. As evidence of this, ASF stated that the number of vehicle thefts increased from one half million to two million vehicles in the nearly 20 years since steering locks were added in 1969. As additional reasons not to allow steering locks, it also asserted that there are safe and more effective anti-theft devices available (citing the Rolls Royce and Saab transmission locks), that a few organizations have stated that new theft standards are needed, and that the National Traffic Motor Vehicle Safety Act requires NHTSA to prohibit steering locks in future auto production.

The second petition from ASF requested that NHTSA require manufacturers to affix warning stickers about the steering locks on new vehicles or send warning stickers to all registered owners of previously sold vehicles. As evidence of the need for the stickers, the petition stated that unspecified ''ASF research'' showed that most drivers do not understand steering lock operation.

The third petition requested that NHTSA both abolish Standard No. 114 as being unconstitutional (''since they are spring loaded, and do not allow freedom of choice to lock, or not to lock) and require that all Americans lock their vehicles. The third petition provided no supporting data.

Agency Analysis

As the following discussion shows, NHTSA believes that it cannot justify adoption of the petitioner's requests.

A. Size of the Safety Problem

NHTSA investigated the petitioner's claims that the steering lock is unsafe and ''kills daily.'' There are two sources available for data on this issue. The first is NHTSA's Office of Defects Investigation consumer complaint files. These are searchable files that contain summaries of the complaints that people report to the consumer hotline. The second source of data is NHTSA's National Accident Sampling System (NASS) database, which contains more detailed investigations of a sample of towaway crashes.

In the consumer complaint files, NHTSA searched a combined total of 220,000 complaints lodged from 1987 to 1996. It looked for complaints containing the words ''steering wheel'' or ''steering column'' and some indication of steering wheel/column lockup. The agency excluded complaints alleging more ambiguous steering problems such as an inability to steer or the failure of steering. The results of this search are shown in the table below:

Transmission type	Number of crashes	Number of injuries	Number of fatalities
Automatic	36	38	1
Manual	11	15	1
Unknown	32	21	2
Total	79	74	4

As shown, NHTSA identified a total of 79 crashes, accounting for 4 fatalities and 74 injuries. The complaints are widely distributed over vehicle makes and models. No crash was found in which the steering column of a manual-transmission vehicle was reported to have locked up as the result of a vehicle occupant removing the ignition key from the ignition.

Similarly, the NASS data for the period 1988–1995 did not show a significant number of incidents. NHTSA identified 455 cases with the variable ''critical precrash event'' coded as ''other cause of control loss'' (which might include steering lockups). NHTSA conducted a laborious hand-search of all 384 cases that were available for inspection at the NASS hard-copy storage facility. This search revealed only one case of inadvertent lockup caused by someone removing the key from the ignition.

The number of vehicles conceivably susceptible to inadvertent lockup has declined in recent years to a small fraction of the fleet of new passenger cars and light trucks (those under 10,000 pounds gross vehicle weight rating). The biggest reason for this is the adoption of transmission locks on vehicles with automatic transmissions, required by NHTSA since 1990. Because the transmission lock prevents removal of the key except when the vehicle is in ''park'' (i.e., stopped), inadvertent steering lockup is no longer a danger for vehicles with automatic transmissions. Those vehicles accounted for 81.6 percent of all new 1995 cars and light trucks. This means that if inadvertent lockup is still a problem, it is limited to the approximately 18.4 percent of vehicles that have manual transmissions.

It appears the inadvertent lockup is also not possible on most manual transmission vehicles. The Petitioner stated that all domestic manufacturers employ either transmission locks or other safety devices that prevent inadvertent lockup on their vehicles. NHTSA has confirmed that the

Petitioners's statement about domestic vehicles is correct, with the exception of some Jeep vehicles. This includes vehicles with manual transmissions as well as those with automatic transmissions. Of the 18.4 percent of new vehicles that have manual transmissions, 47 percent of them are foreign. Thus, only 8.7 percent of all new vehicles (1.3 million vehicles annually) fall into the group of foreign vehicles with manual transmissions.

There is also reason to believe that some, perhaps many imported foreign vehicles with manual transmissions are designed to prevent inadvertent lockup. Vehicles sold in most of Europe must comply with ECE Regulation No. 18, *Uniform provisions concerning the approval of power-driven vehicles with regard to their protection against unauthorized use,* Rev.1/Add.17/Rev.1, GE.80–25060, 8 December, 1980, promulgated by the United Nations Economic Commission for Europe. Section 5.9 of that regulation deals with the possibility of inadvertent activation of the steering lock by stating ''[p]rotective devices [including steering locks] shall be such as to exclude any risk, while the vehicle is in motion, of accidental [locking] likely to compromise safety in particular.'' Therefore, vehicles produced for the European market, even those with manual transmissions, must have some kind of safety device that precludes inadvertent lockup. Nearly all European countries have adopted ECE 18.

NHTSA has observed three types of protective devices for manual transmission vehicles: (1) Ignition locks that require the key to be pushed in to enable rotation from the ''off'' position to the steering lock position, (2) ignition locks with a release lever or button which must be actuated to enable key rotation to the steering lock position, and (3) devices which prevent steering locking unless the transmission is in reverse.

NHTSA believes that ECE 18 has influenced the design of many foreign vehicles with manual transmissions. Based on the examination of owners manuals and some vehicles, NHTSA has determined that high-volume vehicles such as Toyotas, Hondas, Nissans, Mitsubishis, and Mazdas currently have protective devices, usually of the first type listed above. At least some Audis, Volkswagens, BMWs, Volvos, and Isuzus with manual transmissions appear to lack the protective devices. Assuming that all manual transmission vehicles from these manufacturers lack protective devices, they comprise only about 120,000 vehicles, representing less than one percent of the annual vehicle sales in the U.S.

This leaves only a small percentage of new vehicles without the likelihood of being equipped with safety devices preventing inadvertent lockup. Even for these vehicles, the safety concern is minimal, since it pertains only to the unusual act of an occupant withdrawing the ignition key while the vehicle is in motion. This may account for the low level of steering lockup crashes reflected in the data.

B. Theft Prevention

The petitioner has repeatedly alleged that the steering lock is a failure for anti-theft purposes. However, it did not provide any support for this view, other than to say that the numbers of vehicles stolen were rising. The petitioner stated that in 1969, when steering locks were introduced, approximately one half million vehicles were stolen annually. The petitioner alleged that about two million vehicles were stolen annually in the 1990's.

The increase or decrease of the total number of vehicles stolen annually since the implementation of the standard is not the benchmark against which the value of the standard should be measured. The total number of vehicles has increased dramatically in the last 25 years, as has the national crime rate. No anti-theft device is absolutely effective. Therefore, the number of vehicles stolen should be expected to rise.

A better benchmark would be the theft rate. When NHTSA investigated theft rates, it found no increase. The Bureau of Justice Statistics (BJS) of the U.S. Department of Justice data shows no rate increase over the past 20 years. The theft rate per 100,000 vehicles for 1973 is about the same as the rate for 1992. The rate is highly variable, with a spike in the mid-1980's (BJS). However, over the most recent three years of data, the rate has been declining (BJS, Highway Loss Data Institute).

Assessing the effectiveness of the steering lock as a theft countermeasure necessitates determining whether fewer vehicles are stolen because the steering lock is present than would be otherwise. Unfortunately, ''hard'' data relevant to making that determination are not available. Ideally, the agency should compare theft data for vehicle models that have steering locks, against similar vehicle models that do not. Even after a diligent search, NHTSA knows of no database or study that could be used to assess the effectiveness of the steering lock. The U.S. Department of Justice, insurance companies, and other sources that NHTSA contacted have no data on the issue. Therefore, there are no data indicating that steering locks are not effective.

The agency believes that it is a matter of common sense that steering locks help discourage theft. Police recommend a layered anti-theft system, because each layer or device takes some time to defeat. Therefore, even on a vehicle with an automatic transmission, the steering lock adds to the deterrent effect of the transmission lock or any other anti-theft device. Even if steering locks are generally easy for experienced thieves to defeat, steering locks must thwart some attempted thefts by others, e.g., inexperienced thieves and joyriders. They must also deter thefts before they even start in an unknown number of other cases.

NHTSA believes the petitioner is correct in stating that there are more effective, and safer (on manual transmission vehicles), alternatives to the steering lock, but this does not mean that NHTSA should require such devices. Steering locks are relatively cheap, and therefore widely used. The more effective anti-theft devices that the petitioner urges (''modern technology also has new devices that cut electrical systems and such'') are far more expensive and would not be cost-beneficial to require.

Conclusions

The consumer complaint data do not demonstrate a significant safety problem. The agency cannot determine the extent to which steering wheel/column lockup actually occurred in the cases identified. To the extent that it did occur, the cause may have been a part or system failure instead of any design defect. For example, the steering could have locked as the result of power steering failure, linkage failure, or as a result of damage during the reported collision or previous crashes. Similarly, the NASS data did not reveal a significant safety problem. These data refute the general assertion that steering lockup is a significant safety problem for manual or automatic transmission vehicles. They also refute the specific assertion that steering lockup resulting from removal of the ignition key from the ignition in moving vehicles with manual transmissions is a significant safety concern.

The provisions of the theft standard were not intended to eliminate all thefts. Indeed, no single measure or combination of measures can eliminate theft. However, thefts become less likely to occur as the time required to steal the vehicle increases. Steering column locks require time to circumvent; thus, they are a deterrent to thieves and help to

reduce motor vehicle thefts. Therefore, NHTSA believes that the steering lock has value as a theft deterrent and preventative measure.

The miscellaneous requests in the petitioner's second and third petitions are denied. Because there is no significant safety problem, NHTSA denies the petitioner's request that NHTSA initiate rulemaking to require manufacturers to affix warning stickers near the ignition switches of new vehicles and send warning stickers to owners of used vehicles. No education is needed because the data indicate that nearly all Americans are aware of the consequences of removing the key from the vehicle ignition while the vehicle is moving. The agency does not see any reason that Standard No. 114 would be considered unconstitutional. There is no judicially-recognized constitutional right of choice on whether to lock the steering. As to requiring all Americans to lock their vehicles, that action is clearly beyond NHTSA's statutory authority.

In addition to examining the merits, the agency takes into account other factors when deciding whether to grant or deny a petition, such as the relationship of the request to agency priorities and the allocation of resources. Even in the absence of such additional considerations, the agency would deny the petitions from ASF. However, the agency notes that it has experienced personnel reductions and is facing more budgetary and personnel reductions in the future. Therefore, NHTSA must conserve its rulemaking resources for accomplishing its mission and established priorities, as outlined in its Strategic Execution Plan. Petitions for rulemaking, such as this one, that do not align with these priorities face a significant challenge in having agency resources allotted to them. In NHTSA's judgement, a rulemaking pursuant to this petition would consume significant agency resources that could be better spent on other actions.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. The agency has concluded both that there is no reasonable possibility that the actions requested by the petitioner would be taken at the conclusion of a rulemaking proceeding and that the problem alleged by ASF does not warrant the expenditure of agency resources to conduct a rulemaking proceeding. Accordingly, it denies ASF's petitions.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: November 18, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–30056 Filed 11–25–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Initiation of 12-month Status Review for Petition to List the Santa Ana Sucker as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status review.

SUMMARY: On July 9, 1996, the U.S. Fish and Wildlife Service (Service) announced its 90-day finding on a petition to list three fish as endangered, pursuant to the Endangered Species Act of 1973, as amended. The Service found the petition did not present substantial scientific or commercial information indicating the petitioned action may be warranted for two of the three fish, but the Service determined that substantial information exists to support a decision that listing may be warranted for the Santa Ana sucker. Though the Service was compelled by the United States District Court for the Northern District of California to issue the 90-day finding, the Service indicated that a status review of the Santa Ana sucker would be commenced in accordance with the final listing priority guidance (61 FR 36021). Because the processing of petitions is a tier 3 listing action according to the existing listing priority guidance (61 FR 24722) and proposed extended guidance (61 FR 48962), the status review and 12-month finding typically should be delayed until other higher priority or tier 2 actions (i.e., final rules) are completed. However, the district court ordered the Service on October 10, 1996, to complete its review of the petition by March 28, 1997. With the commencement of the status review, the Service is taking the first step to comply with the court order.

DATES: Any comments and materials received by December 26, 1996 will be considered in the 12-month finding.

ADDRESSES: Data, information, comments, or questions concerning the status review should be submitted to the Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. The petition, 90-day finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul J. Barrett, at the address listed above (telephone 619/431–9440, facsimile 619/431–9618).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.) requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the Federal Register. If the Service determines that substantial scientific or commercial information indicating that the petitioned action may be warranted exists, the Service will commence a review of the status of the species. However, because of a shortfall in funds needed to eliminate the existing backlog of proposed listings and other listing actions required by the Act in FY 1997, the Service proposed to extend the existing listing priority guidance on September 17, 1996 (61 FR 48962). According to the existing guidance and proposed guidance, the processing of petitions (tier 3 listing action), including the initiation of status reviews, would be delayed until other higher priority (tier 2 actions or final rules) are completed.

On September 6, 1994, the Service received a petition dated September 2, 1994, to list the Santa Ana speckled dace (*Rhinichthys osculus* ssp.), Santa Ana sucker (*Catostomus santaanae*), and the Shay Creek threespine stickleback (*Gasterosteus aculeatus* ssp.) as endangered species. The petition was submitted by the Sierra Club Legal Defense Fund, Inc., on behalf of seven groups. The seven groups are the California-Nevada Chapter of the American Fisheries Society, The Nature School, The California Sportfishing Protection Alliance, Friends of the River, Izaak Walton League of America, California Trout, and Trout Unlimited. The Service found the petition did not present substantial scientific or commercial information indicating the petitioned action may be warranted for two of the speckled dace and threespine stickleback, but the Service determined that substantial information exists to support a decision that listing may be