duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve state actions, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 13, 2005.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 05–10193 Filed 5–20–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2005–20738; Notice 1]

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking.

SUMMARY: Based on the agency's evaluation, the National Highway Traffic Safety Administration (NHTSA) denies a petition for rulemaking from Mercedes-Benz to amend the Federal lighting standard to permit the use of optional use of stoplamps that would flash under higher levels of deceleration. Mercedes-Benz has not demonstrated that this manufacturer-installed option would result in reduced crashes. NHTSA is denying the petition because it would take away from NHTSA the ability to use a potentially valuable rear signal for a higher safety purpose sometime in the future. NHTSA concludes that it would require more in-depth information than provided on the safety benefit of any such change before it would initiate a rulemaking on what rear signal lamp performance changes are appropriate or necessary to reduce the incidence or rear-end crashes.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590:

For Non-legal Issues: Mr. David Hines, Office of Crash Avoidance Standards, NVS–121, telephone (202) 366–5275, facsimile (202) 366–7002, electronic mail: *dhines@nhtsa.dot.gov.*

For Legal Issues: Mr. George Feygin, Office of the Chief Counsel, NCC–112, telephone (202) 366–2992, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Background

Section S5.5.10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps reflective devices and associated equipment,* establishes the wiring requirements for lighting equipment in use, and requires that all lamps be wired to be steady burning, unless otherwise stated. All stoplamps must be steady burning when in use. Steady means free from change or variation. This means that they must not modulate, flash, or vary in size, area, intensity or appearance.

Mercedes-Benz Petition

On April 4, 2003, Mercedes-Benz (MB) submitted a petition for rulemaking to revise Federal Motor Vehicle Safety Standard No. 108, *Lamps, reflective devices and associated equipment* to permit ''flashing red brake lights [1]'' to be installed on an optional basis as an emergency braking signal on motor vehicles. In support, MB provided information indicating that flashing stoplamps provide a non-ambiguous, intuitively interpreted signal of an emergency situation and it reduces braking reaction times (BRT) by up to 0.2 seconds compared with conventional stoplamps. MB believes that this is significant in terms of crash avoidance or crash severity reduction. Moreover, MB believes an even higher reduction (in BRT) can be expected in real world driving conditions, because it stated that its test subjects tended to react faster than real world drivers, since subjects who participate in experiments in a driving simulator or on a test track are generally more focused on the driving task than drivers on the road who are subject to many sources of distraction. Thus, MB claims that this reduction in BRT is likely to result in a meaningful reduction in the number and/or severity of rear end collisions.

Analysis

Based on the NHTSA policy statement published in the **Federal Register**, November 4, 1998, Volume 63, Number 213, pages 59482–59492, the MB submission, in order to be treated as a petition must have substantive data purporting to show positive safety benefits from the new idea. MB did provide data showing that BRT would be improved. Thus, NHTSA granted the petition and set out to evaluate the data

[1] MB uses the term, flashing red brake lights for its desired device. Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices and Associated Equipment used the term stoplamps. Thus, Mercedes-Benz is asking that the Standard be amended to permit existing stoplamps to flash on an optional basis for the purpose of a high deceleration rate signal.

to determine if it provides persuasive evidence of a positive safety benefit and value to the public.

In performing that evaluation, we reviewed all known research on flashing stoplamps. The only known real-world data in this area (NHTSA's large scale field study in 1981) indicates no statistically significant differences in rear-crash involvement between flashing stoplamps compared to steady-burning stoplamps. The study evaluated flashing at a steady rate, flashing at a rate proportional to deceleration, and steady-burning stoplamps.[2]

We note that shortening BRT would allow additional braking time for following drivers, but only if the following driver immediately applies the brakes fully upon seeing the stoplamps activated without waiting for any other cues from the lead stopping vehicle, such as the car pitching or the tires and/or brakes squealing. We noted that research by Daimler Chrysler AG using a vehicle simulator in Germany found that more than 90 percent of drivers do not fully apply the brakes even when they have these cues and the lead vehicle's stoplamps are activated. The article by Car and Driver Magazine, ''Brake Assist Systems: When ABS Isn't Enough'' December 1999, cited research results by Toyota, Nissan as well as the above Mercedes-Benz research. These other companies found similar results of slow reaction time and weak pedal application.

Taking the values mentioned above, and assuming that 8 percent of drivers are attentive enough to respond [3], and that 10 percent of those drivers respond with high braking effort, we achieve 0.8 percent of driver responses likely being appropriate for lowering crash risk. Taken together with MB's estimate of 5.5 such events per vehicle per year, we find that its idea might change the outcome of 0.044 such events per vehicle per year, or one event for every 22.7 years of a vehicle's life. Even if all vehicles were fitted with a braking force assistance device (as MB, Toyota, Nissan and others now do) to improve the likelihood of high brake-force application, the value to the public would still be small, especially because flashing stoplamps would be optional under the suggested amendment.

Our concern in such cases of optional signals is that we would be giving away a unique signal in return for a minor benefit, when it is possible that the same signal (flashing stoplamps) might be used in the future for a far greater benefit. As a matter of policy (*see* **Federal Register**, November 4, 1998, Volume 63, Number 213, pages 59482-59492), NHSTA will not permit optional signals to be used as additions or alternatives to existing signals, nor will we quickly permit the use of as yet unused signals until it is shown that the signal will afford a significant safety benefit.

With respect to signals for rapid deceleration, there are several alternatives to the MB solution that are also being considered. For example, upon sudden deceleration, some parties believe that stop lamps that get larger in area and more intense depending on the level of deceleration is a preferred signal, while others favor flashing the amber front and rear turn signal lamps to show sudden deceleration. The European Commission has proposed that the MB solution, plus these other approaches, all be permitted under the Economic Commission for Europe regulations. However, NHTSA is concerned that allowing alternative signal configurations violates the basic principle of standardization that is necessary to minimize driver confusion and to promote a quick and appropriate driver response to the condition that is being signaled, which in this case is a slowing lead vehicle. Thus, NHTSA believes that choosing the MB solution without evaluating the other approaches could either preclude the use of more effective signals or lead to a proliferation of competing signals.

Another reason to carefully consider whether a flashing stoplamp should be used as a signal for rapid deceleration is that the flashing stoplamp may have greater safety benefits if applied to more frequently occurring crash scenarios, such as stopped vehicle warnings. To help identify effective rear signal enhancements and when they should be activated, NHTSA has been conducting research at the Virginia Tech Transportation Institute. Findings to date indicate that some signal enhancements may have greater potential than simple flashing brake lamps to improve driver performance in the scenarios chosen for the study. We are continuing the research to determine whether the findings hold up under a broader range of driving scenarios. Additionally, we are analyzing crash and close call data from a 100-car naturalistic driving study to determine the potential of enhanced rear signaling as a means to reduce rear crashes. As such, it is premature at this time to permit the use of flashing stop lamps for rapid deceleration.

In accordance with 49 CFR part 552, and after considering the allocation of agency resources and agency priorities, NHTSA has decided to deny this petition for rulemaking.

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

Issued on: May 16, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–10136 Filed 5–20–05; 8:45 am]

BILLING CODE 4910–59–M

[2] Mortimer, Rudolf G., ''Field Test Evaluation of Rear Lighting Deceleration Signals, II—Field Test'', DOT HS–806–125, October 198.

[3] NHTSA report on Intelligent Vehicle Highway System (IVHS) countermeasures to rear end crashes (DOT HS 807 995).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List a Karst Meshweaver, *Cicurina cueva*, as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rule; reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the status review initiated by the 90-day finding on a petition to list *Cicurina cueva* as an endangered species (February 1, 2005; 70 FR 5123). This action will allow all interested parties an opportunity to provide information on the status of the species under the Endangered Species Act of 1973, as amended (Act).

DATES: Comments must be submitted directly to the Service (see **ADDRESSES** section) on or before June 22, 2005. Any comments received after the closing date may not be considered in the 12-month finding.

ADDRESSES: If you wish to comment, you may submit your comments and materials by any one of the following methods:

1. You may submit written comments and information by mail to Robert Pine, Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite # 200, Austin, Texas 78758.

2. You may hand-deliver written comments and information to our Austin Ecological Services Field Office, at the above address, or fax your comments to 512–490–0974.

All comments and materials received, as well as supporting documentation used in preparation of the 90-day finding, will be available for public inspection, by appointment, during