intends to deliver under any contract resulting from this solicitation using the alternative compliance for commercial derivative military articles, as specified in paragraph (d) of the clause of this solicitation entitled ''Restriction on Acquisition of Certain Articles Containing Specialty Metals'' (DFARS 252.225–70X2). The offeror's designation of an item as a ''commercial derivative military article'' will be subject to Government review and approval.

(c) If the offeror has listed any commercial derivative military articles in paragraph (b) of this provision, the offeror certifies that, if awarded a contract as a result of this solicitation, and if the Government approves the designation of the listed item(s) as commercial derivative military articles, the offeror and its subcontractor(s) will enter into a contractual agreement or agreements to purchase an amount of domestically melted or produced specialty metal in the required form, for use during the period of contract performance in the production of each commercial derivative military article and the related commercial article, that is not less than the Contractor's good faith estimate of the greater of-

(1) An amount equivalent to 120 percent of the amount of specialty metal that is required to carry out the production of the commercial derivative military article (including the work performed under each subcontract); or

(2) An amount equivalent to 50 percent of the amount of specialty metal that will be purchased by the Contractor and its subcontractors for use during such period in the production of the commercial derivative military article and the related commercial article.

(d) For the purposes of this provision, the amount of specialty metal that is required to carry out the production of the commercial derivative military article includes specialty metal contained in any item, including commercially available off-the-shelf items, incorporated into such commercial derivative military articles.

(End of provision)

252.225–70X4 Reporting of commercially available off-the-shelf items that contain specialty metals and are incorporated into noncommercial end items.

As prescribed in 225.7003–5(c), use the following clause:

REPORTING OF COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS THAT CONTAIN SPECIALTY METALS AND ARE INCORPORATED INTO NONCOMMERCIAL END ITEMS (XXX 2008)

(a) *Definitions. Commercially available off-the-shelf item* and *specialty metal,* as used in this clause, have the meanings given in the clause of this solicitation entitled ''Restriction on Acquisition of Certain Articles Containing Specialty Metals'' (DFARS 252.225–70X2).

(b) If the exception in paragraph (c)(2) of the clause at DFARS 252.225–70X2, Restriction on Acquisition of Certain Articles Containing Specialty Metals, is used for a commercially available off-the-shelf (COTS) item to be incorporated into a noncommercial end item to be delivered under this contract, the Contractor shall—

(1) Follow the instructions on the Defense Procurement, Acquisition Policy, and Strategic Sourcing Specialty Metals Restriction Web site at *http://www.acq.osd.mil/dpap/cpic/ic/restrictions_on_specialty_metals_10_usc_2533b.html* to report information by contract as follows:

Contract awarded	Report by
Oct. 1, 2008—Dec. 30, 2008	Jan. 31, 2009.
Jan. 1, 2009—Mar. 31, 2009	Feb. 28, 2009.
Apr. 1, 2009—Jun. 30, 2009	Jul. 31, 2009.
Jul. 1, 2009—Sep. 30, 2009	Oct. 31, 2009.

(2) In accordance with the procedures specified at the website, provide the following information:

(i) Company Name.

(ii) Contract number and, if applicable, order number.

(iii) Product category of acquisition (i.e., Aircraft, Missiles and Space Systems, Ships, Tank-Automotive, Weapon Systems, or Ammunition).

(iv) The 6-digit North American Industry Classification System (NAICS) code of the COTS item contained in the non-commercial deliverable item to which the exception applies.

(v) The total dollars of the non-commercial items.

(vi) The total dollars of the COTS items to which the exception applies.

(End of clause)

[FR Doc. E8–16675 Filed 7–18–08; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2006–25017]

RIN 2127–AG41

Federal Motor Vehicle Safety Standards; Rearview Mirrors

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

ACTION: Withdrawal of rulemaking.

SUMMARY: In response to a petition for rulemaking, in 2005 the National Highway Traffic Safety Administration (NHTSA) proposed to amend Federal Motor Vehicle Safety Standard No. 111, ''Rearview Mirrors'' to require straight trucks with a gross vehicle weight rating (GVWR) of between 4,536 kilograms (10,000 pounds) and 11,793 kilograms (26,000 pounds) to be equipped with a system capable of providing drivers with a view of objects directly behind the vehicle. More refined data generated since the 2005 NPRM shows that the sub-population of mid-sized trucks accounts for only four of the estimated 183 fatalities per year due to back-over accidents. In addition, the recently signed Cameron Gulbranson Kids Transportation Safety Act of 2007 [1] (K.T. Safety Act of 2007) requires NHTSA to revise the Federal standard for rearward visibility, specifically to reduce backing crashes involving children and disabled people. Considering these developments, the agency believes it more appropriate to address backing safety of straight trucks as part of the comprehensive effort to address backing safety generally, and that solutions should be formulated after the completion and review of ongoing research and data gathering on backing safety. We are therefore withdrawing this rulemaking at this time.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Mr. Clarke Harper, Office of Crash Avoidance Standards (NVS–120), NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (Telephone: 202–366–1740) (Fax: 202–366–5930).

For legal issues, you may contact Mr. Ari Scott, (NCC–112), Office of the Chief Counsel, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (Telephone: 202–366–2992) (FAX: 202–366–3820).

SUPPLEMENTARY INFORMATION:

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I. Background

In March 1995, Mr. Dee Norton, an individual, submitted a petition for rulemaking seeking to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 111, ''Rearview Mirrors,'' to require convex, cross-view mirrors on the rear of the cargo box of stepvans and walk-in style delivery and service trucks. The requested rule was intended to prevent future tragedies similar to one that befell Mr. Norton's grandson, who was killed when he was struck and backed over by a delivery truck in an apartment complex parking lot.

The agency granted Mr. Norton's petition. However, because Mr. Norton's solution was only one of many at that time, and the agency had no performance specification for cross-view mirrors, NHTSA published a request for comments in the **Federal Register** on June 17, 1996. The agency sought specific information on cross-view

[1] Public Law 110–189, February 28, 2008.

mirrors such as costs and performance specifications, and any other alternatives with costs similar to the mirrors described by Mr. Norton (61 FR 30586).[2] The agency received six comments in response to that notice. In general, commenters urged the agency to consider both visual systems such as cameras and mirrors and non-visual systems such as sonar or radar, to address the safety issue. Additionally, truck manufacturers suggested that mirrors would not address the safety problem and that there were several types of straight trucks for which cameras would not be an effective solution. In addition to the analysis of comments, NHTSA performed additional studies related to this rulemaking. A program was initiated to determine the size of the safety problem, that is, determine the number of people being backed over by a motor vehicle of any size. Using a combination of our own Fatality Analysis Reporting System (FARS) and National Center for Health Statistics data, the agency was able to estimate the number of non-traffic crashes, including backover accidents. Next, the agency performed research on state-of-the-art and prototype rear cross-view mirror designs.

On November 27, 2000, NHTSA published an advance notice of proposed rulemaking (ANPRM) (65 FR 70681).[3] In addition to a request for general comments, the ANPRM posed twenty specific questions regarding rear cross-view mirrors, rear video systems, and rear object detection systems.

NHTSA received fourteen comments in response to the ANPRM, including submissions from trade associations, automobile and rear object detection system manufacturers, fleet operators, organized labor, a State agency, and individuals. Although the commenters were generally supportive of efforts to improve backing safety, many expressed concerns about a regulatory requirement in this area. In addition to responding to the questions posed in the ANPRM, commenters also raised a variety of issues, including scope of the regulatory requirement, potential exclusions, alternatives to regulation, maintenance and training requirements, and preemption.

Using the information obtained from these two previous notices, the agency then published a Notice of Proposed Rulemaking (NPRM) on September 12, 2005 (70 FR 53753).[4] To address the identified problem of backing-related deaths and injuries associated with straight trucks, NHTSA proposed to amend FMVSS No. 111, to require medium straight trucks with a GVWR of between 4,536 kg (10,000 pounds) and 11,793 kg (26,000 pounds) to be equipped with either a cross-view mirror or rear video system in order to provide the driver with a visual image of a 3 meters by 3 meters area immediately behind the vehicle. The NPRM set out proposed requirements for each of these two compliance options, as well as test procedures suitable for each option. However, in light of concerns regarding the feasibility of attaching rear object detection systems on certain types of trucks, we also requested comments on categories of vehicles that the agency should consider excluding from the requirements of a final rule.

II. Summary of Comments to the NPRM

The agency received 55 comments pursuant to our September 12, 2005, NPRM. Comments were received from a variety of interested parties, including consumers, a consumer advocacy group, fleet operators, equipment manufacturers, vehicle manufacturers, trade associations, the National Institute of Occupational Safety and Health (NIOSH), and two members of Congress, Representative Marsha Blackburn and Representative Nathan Deal. These comments are available in Docket No. NHTSA–2004–19239, and are generally summarized as follows.

Comments from consumers were generally in favor of rear object detection systems, with several commenters urging the agency to expand the scope of the rulemaking to include all vehicles (including passenger vehicles). The consumer advocacy group recommended expansion of the proposal's applicability to passenger vehicles and larger trucks, recommended that the rule require a combination of cameras and non-visual systems, and recommended requiring retrofitting the systems onto existing vehicles. Conversely, one consumer suggested that we not regulate in this area and leave the decision to install a rear object detection system up to the purchaser of the vehicle.

Fleet operators expressed divergent opinions regarding the agency's proposal. Some delivery companies were generally supportive of the proposal and enthusiastic about rear object detection systems. However, fleets involved in construction suggested that we exclude construction service trucks from the proposed requirements because of the potential for ongoing maintenance problems associated with repairing systems subject to continuous damage in rugged environments such as construction sites. Fleets in the category of leasing companies (*e.g.*, self-move companies) were also opposed to mandatory regulation, again due to the potential maintenance burden and questionable system effectiveness, caused in part by the equipment being used by non-professional drivers who might substitute reliance on such systems for the recommended ''spotter'' system,[5] which they say has proven highly effective in practice for such users.

Equipment manufacturers were supportive of the intent of the proposal, and manufacturers of mirrors and camera systems had minor technical suggestions.

However, non-visual system equipment (*e.g.*, sonar or radar-based) manufacturers and Representatives Blackburn and Deal urged us to alter the rulemaking proposal to adopt broader criteria which would allow non-visual systems to be used to comply with the standard's requirement.

Vehicle manufacturers asked for changes to the proposal or exclusions for certain vehicles specific to their market. Several manufacturers of traditional straight delivery trucks had specific technical suggestions. Manufacturers of specialty trucks suggested their vehicles should be excluded from the proposed requirements because of the lack of any apparent safety need, difficulty in installing systems based on certain vehicle configurations, and durability problems associated with systems subject to excessive environmental abuse. The cited specialty vehicles included ambulances, buses, concrete trucks, refuse trucks, fire trucks, small volume equipment trucks, and sport utility vehicles (SUVs) with a GVWR of over 10,000 pounds.

Various associations also offered positions. The National Association of State Directors of Pupil Transportation Services requested that NHTSA not include a rear object detection requirement for school buses. The Truck Manufacturers Association questioned the appropriateness of a mandatory regulation, although it suggested that an

[2] This Request for Comments and the comments subsequently received are available in hard copy in Docket No. NHTSA–96–53. However, for ease of reference, the Request for Comments also has been included in the electronic docket located at *http://www.regulations.gov*, Docket No. NHTSA–2000–7967–25.

[3] Docket No. NHTSA–2000–7967–1.

[4] Docket No. NHTSA–2004–19239–1.

[5] A spotter is a person who stands outside a vehicle to aid the driver in backing and alert the driver of an object or person behind the vehicle, to ensure nothing or no one is in the way.

equipment standard might be useful if this equipment is voluntarily installed. The National Truck Equipment Association, which represents multistage manufacturers, argued that the proposed requirements may not be practical for certain types of vehicles, and that there could be problems with continual maintenance for construction-type vehicles. The Alliance of Automobile Manufacturers suggested the rulemaking was premature and should await completion of an assessment of rear object detection systems required under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).[6] The Truck Renting and Leasing Association urged us to adopt less restrictive requirements and to delay the rule until a more accurate cost-benefit analysis could be conducted. The Truck Trailer Manufacturers Association urged the agency not to extend the proposed requirements to combination truck trailers, arguing that such systems would be impractical and of little benefit.

NIOSH provided insight into the scope of the backing problem in occupational settings and studies into potential solutions. Specifically, NIOSH provided data concerning backing accidents at highway construction sites and field experience studies concerning durability problems with rear video systems. Furthermore, NIOSH noted that a system whereby workers wear a device that can alert both the wearer and the driver of a vehicle when the wearer is in a danger zone offers some promise in addressing backing accidents involving heavy trucks.

III. Agency Activities Since the NPRM

As noted above, in 2005, Congress passed related mandates for the agency as part of its SAFETEA–LU legislation, specifically, requiring two actions by NHTSA related to backing incidents. In Section 10304, Congress mandated NHTSA to ''conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross weight rating of not more than 10,000 pounds attributable to movement of such vehicles.'' That provision of the Act further stipulated that the study shall, ''(1) Include an analysis of backover prevention technology; (2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and (3) provide an estimate of cost saving that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of (A) injuries and fatalities; and (B) damage to bumpers and other motor vehicle parts and damage to other objects.''

Under section 10305 of the Act, Congress directed the agency as follows: ''(a) In General.—In conjunction with the study required in section 10304, the National Highway Traffic Safety Administration shall establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic incidents'' and ''(b) data collection and publication.—The Secretary of Transportation shall publish the data collected under subsection (a) no less frequently than biennially.''

In response to section 10304 of SAFETEA–LU, a report of the agency's study of technologies with possible application to reducing deaths and injuries from backing passenger vehicles was submitted to Congress in November 2006. That report is titled, ''Vehicle Backover Avoidance Technology Study,'' and is available in the Department of Transportation docket at *http://www.regulations.gov*, Docket NHTSA–25579–0003.

In this Report to Congress, NHTSA reported on several systems currently available as original equipment on vehicles or as aftermarket products to evaluate their performance and potential effectiveness in mitigating backover crashes. The backover prevention technologies that are currently offered by vehicle manufacturers are marketed as ''parking aids,'' which are designed to assist attentive drivers in performing low speed parking maneuvers. Some aftermarket systems using similar technologies are being marketed as safety devices. NHTSA testing that predated SAFETEA–LU showed that the performance of sensor-based (ultrasonic and radar) parking aids in detecting child pedestrians behind the vehicle was typically poor, sporadic and limited in range. Based on calculation of the distance required to stop from a typical backing speed, detection ranges exhibited by the systems tested were not sufficient to prevent collisions with pedestrians or other objects. Of the technologies tested for their potential to reduce backover incidents, the camera-based system may have the greatest potential to provide drivers with reliable assistance in identifying people in the path of the vehicle when backing. However, the agency is concerned that the human factors issues surrounding camera systems are not well understood, issues such as: Will drivers use cameras if they are installed? Will they be relied on too much, to the exclusion of actually looking to the rear of a vehicle and checking rear view mirrors? Will new patterns of driver behavior that emerge if cameras are in place enhance the safe operation of vehicles?

In support of this rulemaking, NHTSA conducted research specifically aimed at evaluating the performance of various mirror, sensor and video systems for medium trucks. All the systems were purchased in the aftermarket. The systems evaluated include three sensor systems, one sensor/rear video combination system, one rear video system, and one rear cross-view mirror system. The results indicated that sensor-based systems were poor, sporadic, and limited in range with regards to their ability to consistently detect child pedestrians and objects. Additionally, the mirror system image was insufficient to allow drivers to see a small object behind a vehicle and would not be a very effective means of allowing drivers to see behind vehicles. Video systems provided excellent images but only under well-lit, good-weather conditions. The agency has conducted similar research involving light vehicles with similar results.

At this time, the agency does not know whether drivers would use the information from the video displays of rear object detection systems and if they did whether they would do so in enough time to prevent back-over incidents. Agency research involving driver use of rearward visual images in passenger vehicles is underway. This research will examine drivers' use of rearview video systems during backing maneuvers to assess their potential to reduce the incidence of collisions with rear obstacles and pedestrians. While performance testing of sensor-based backing systems and field of view measurement for rearview video systems give data to quantify their likelihood to ''perceive'' an obstacle behind a vehicle, only examining drivers' use of the systems can provide a sense of the potential effectiveness of the systems in preventing crashes. The main purpose of the study is to determine (1) whether drivers of vehicles equipped with camera systems look at the display prior to and/or during backing and (2) whether use of the system affects backing performance

[6] Pub. L. 109–59, 119 Stat. 1144 (2005).

(*i.e.*, obstacle avoidance success). We expect to complete the testing portion of this research in 2008 and believe that the findings of this study will apply to the performance of typical drivers of all straight trucks.

During the preparation of the Report to Congress, the agency also developed more refined non-traffic crash data than was reported in the 2005 NPRM.[7] The agency estimated in the Report to Congress, that there is an average of 183 fatalities annually for all backover crashes, which is below what was estimated in the NPRM. Our more recent data analysis focusing on trucks of the sort that were addressed in the original petition, is indicating that this a sub-population of straight trucks (those less than 20 feet in length), accounts for 2 of the estimated 183 fatalities per year due to back-over accidents. Similarly, when all straight trucks from 10,000 to 26,000 pounds GVWR (including those less-than-20-feet) are included, the number of fatalities from backovers accounts for only 4 fatalities per year.[8]

In response to sections 2012 and 10305 of SAFETEA–LU, the agency's National Center for Statistics and Analysis is currently exploring expanded approaches to gathering both injury and fatality data on non-traffic incidents, which include non-traffic backing crashes that occur on private property, in driveways, and in parking facilities. The primary issues facing NHTSA in the collection of data on non-traffic crashes are the collection of fatality and injury counts and the detailed data at the event level needed to fully understand the circumstances surrounding the crash. The agency conducted a review of existing systems within NHTSA, surveillance systems in other Federal agencies, and non-Federal sources to determine the feasibility for collecting non-traffic fatality and injury counts and detailed crash data. The review suggested possible expansion of NHTSA's existing crash databases and the use of other Federal agencies, especially the National Center for Health Statistics and the Consumer Product Safety Commission, which operate surveillance systems that may provide some useful information in arriving at a better estimate of the backover safety problem. However, the review of the non-Federal sources including hospital systems, emergency medical services systems, insurance company data, and news media databases found that they were generally incomplete or lacked the detail needed by NHTSA to understand the circumstances surrounding backing incidents.

Based upon this review, efforts to collect both the fatality and injury data and detailed collision data are underway. The agency is currently using the existing Fatality Analysis Reporting System (FARS) infrastructure to collect information about non-traffic crash fatalities and the National Automotive Sampling System (NASS) infrastructure for non-traffic injuries. Similarly, the agency's Special Crash Investigation team is conducting detailed investigations of backovers involving light passenger vehicles.

IV. Legislative Actions Since the NPRM

On February 28, 2008, the President signed the K.T. Safety Act of 2007. Section 2(b) of this law requires that within 12 months of the President's signing the bill, NHTSA must initiate rulemaking to expand the required driver's field of view behind vehicles to reduce deaths and injuries from backing crashes, especially crashes involving small children and disabled people. NHTSA must issue a final rule no later than three years after the President signs the bill. Section 2(c)(1) of this law requires that the expanded rear visibility requirements be phased-in. Section 2(c)(2) requires NHTSA to consider whether the phase-in should give priority to particular types of motor vehicles if NHTSA finds that there are any differences in the frequency with which individual types are involved in backing crashes.

The new law does not specifically influence the straight trucks at issue in this rulemaking. The K.T. Safety Act of 2007 is applicable only to motor vehicles with a GVWR of 10,000 pounds or less (see section 2(e)). However, as explained above, the agency believes that additional data on backovers collected by the agency, with regard to all vehicles, will allow us to address this problem in a more comprehensive manner.

V. Agency Decision To Withdraw the Rulemaking

The agency is charged by the new law to take a comprehensive look at backing safety for all types of motor vehicles. As described above, the agency has a great deal of research and data gathering currently underway that will allow us to develop appropriate and effective improvements to backing safety. The agency needs to better understand the effectiveness of the video-based systems. We believe the results of NHTSA's current study that will be completed in 2008 will substantially improve our understanding of how video systems are used by drivers and therefore their potential to reduce the backover risk. Given this, the agency believes that efforts to address medium truck backing safety by itself should held in abeyance pending the research and data gathering, and that this problem should be addressed as a part of the agency's comprehensive approach to backing safety.

Accordingly, we have decided to withdraw this rulemaking and incorporate medium trucks into consideration of a possible broad based approach, including passenger vehicles, to addressing the backing safety problem.

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

Issued: July 15, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–16530 Filed 7–18–08; 8:45 am]

BILLING CODE 4910–59–P

[7] See ''Regulatory Evaluation, FMVSS No. 111, Rear Detection System for Single Unit Trucks'' in Docket No. 25017.

[8] ''Estimation of Backover Fatalities'' at *http://www.regulation.gov,* Docket NHTA–25579.