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The Audio Division requests comments on a petition filed by Linda A. Davidson proposing the allotment of Channel 231C3 at Fernley, Nevada, as the community's first local aural transmission service. Channel 231C3 can be allotted to Fernley in compliance with the Commission's minimum distance separation requirements with a site restriction of 9 kilometers (5.6 miles) east to avoid a short-spacing to the license site of FM Station KHXR, Channel 233C2, Sun Valley, Nevada. The reference coordinates for Channel 231C3 at Fernley are 39-37-00 North Latitude and 119-08-51 West Longitude.

The Audio Division requests comments on a petition filed by Linda A. Davidson proposing the allotment of Channel 272A at Oroville, California, as the community's second local aural transmission service. Channel 272A can be allotted to Oroville in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.4 kilometers (5.8 miles) north to avoid short-spacing to the license sites of FM Stations KCEZ, Channel 271B1, Los Molin, California and KSFM, Channel 273B, Woodland, California. The reference coordinates for Channel 272A at Oroville are 39-35-51 North Latitude and 121-34-11 West Longitude.

The Audio Division requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 232A at Pittsburg, Oklahoma, as the community's first local aural transmission service. Channel 232A can be allotted to Pittsburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.5 kilometers (8.4 miles) east to avoid a short-spacing to the license site of FM Station KTSO, Channel 231C1, Glenpool, Oklahoma. The reference coordinates for Channel 232A at Pittsburg are 34-41-15 North Latitude and 95-42-19 West Longitude. To accommodate the Pittsburg allotment, Petitioner proposes the relocation of the reference coordinates for vacant Channel 232A at Cove, Arkansas. The proposed reference

coordinates are 34-21-00 NL and 94-30-00 WL. This proposed site is 12.5 kilometers (7.8 miles) southwest of Cove.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 272A at Oroville.

3. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Fernley, Channel 231C3.

4. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Pittsburg, Channel 232A.

5. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Cross Plains, Channel 294A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04-20787 Filed 9-14-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 98-3967; Notice 2]

RIN 2127-AG88

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Withdrawal of rulemaking.

SUMMARY: This document withdraws a rulemaking to amend the Federal motor vehicle safety standard on lighting as it applies to light emitting diode (LED) signal lamps. In 1998, the agency proposed to amend the standard by adding new paragraphs reflecting Society of Automotive Engineers (SAE) specifications for measurement of photometrics in LED lamps with more than one lighted section, and for LED signal lamp heat testing. For reasons discussed in this document, the agency is withdrawing this rulemaking.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Richard Van Iderstine, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590. Telephone: (202) 366-2720. Fax: (202) 366-7002.

For legal issues: Mr. George Feygin, Attorney Advisor, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590. Telephone: (202) 366-5834. Fax: (202) 366-3820. E-Mail:

George.Feygin@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 8, 1994, NHTSA published a notice of proposed rulemaking (NPRM) to amend FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to relieve design restrictions that may have inadvertently prevented the implementation of certain "new-technology" light sources such as LEDs.¹ In response, we received comments indicating that it was premature for the agency to specify unique requirements for lamps equipped with these light sources until further research could be completed to assess conspicuity and other issues. We

¹ See 59 FR 16788.

withdrew the rulemaking on June 19, 1995.²

On February 6, 1997, Reitter & Schefenacker GmbH & Co. KG (Schefenacker) petitioned the agency to reexamine this issue once again and amend the standard as it applies to photometrics of signal lamps with LEDs. Specifically, the petitioner argued that the standard imposes unnecessary design restrictions on LED signal lamps because, as explained in greater detail below, lamps that use LEDs are usually subject to the requirements applicable to a three-section lamp. These requirements were said to make it necessary for LED signal lamps to be unnecessarily large. Schefenacker stated that the standard should be amended to account for the different characteristics of LEDs, so that the size of LED signal lamps would be comparable to that of conventional lamps.

On June 24, 1998, we issued an NPRM proposing to amend FMVSS No. 108 so that the standard better addressed LED light sources.³ Specifically, we proposed to adopt provisions reflecting Society of Automotive Engineers (SAE) Recommended Practices for measurement of photometrics in lamps using LED (and miniature halogen light sources) with more than one lighted section, and for LED lamp heat testing to ensure that an LED lamp could maintain photometric compliance under increased temperature conditions. Neither proposal addressed traditional incandescent light sources.

II. How FMVSS No. 108 Applies to Signal Lamps With Light Emitting Diodes

The current Federal requirements for automotive signal lighting were established in the late 1960s. At that time, only incandescent light sources were used in vehicle signal lighting. However, in the past 20 years, automobile manufacturers have begun to introduce new types of signal light technology. These new lamp technologies include LEDs, miniature halogen bulbs, and other light sources with a limited luminous flux ("limited flux light sources"). The main characteristic of LEDs and other limited flux light sources is that they are generally smaller than conventional incandescent light sources and typically produce a lower light intensity, compared to incandescent light sources. Because of the smaller size and lower light output, multiple LEDs are used within a single lamp subject to the requirements of FMVSS No. 108.

The unique characteristics of LEDs present certain regulatory challenges and potential safety problems. For example, some SAE standards incorporated by reference in Standard No. 108 specify photometric performance requirements whose applicability is based upon whether a lamp has one, two, or three or more lighted sections or bulbs. Usually, an incandescent lamp has one light source. By contrast, an LED lamp often has three or more light sources, and is therefore considered (under the current standard) to be a lamp with three or more lighted sections. Accordingly, a manufacturer of such an LED signal lamp must ensure that the lamp has the light intensity required of a three-section lamp.

With respect to safety, agency research indicates that luminous intensity of LED light sources decreases as ambient temperatures increase. This decrease usually occurs if the lamps are illuminated for a long period of time or if they are operated in a relatively high temperature climate. This is not the case with traditional incandescent light sources.

III. Summary of the NPRM

In the NPRM, we proposed to adopt provisions reflecting Society of Automotive Engineers (SAE) Recommended Practice J1889 OCT93 "L.E.D. Lighting Devices," which distinguished between single section and multi-section lamps based on the projected luminous lens area of the lamp, instead of number of light sources within that lamp. Under the proposed provisions, the LED signal lamps would no longer automatically be considered multi-section lamps. To better address our safety concerns associated with LED lamp behavior in high ambient temperatures, we proposed to adopt provisions from an SAE Recommended Practice J1889 OCT93 test procedure for temperature condition testing of LED light sources. For details on the proposal, please see the NPRM, 63 FR 34350 (June 24, 1998).

IV. Comments in Response to the NPRM

In response to the NPRM, we received comments from 22 entities. Koito Manufacturing Co., Ltd., (Koito), Stanley Electric Co., Ltd., (Stanley), Dialight Corporation (Dialight), Peterson Manufacturing Company, (Peterson), Grote Industries, Inc., (Grote), Hella KG (Hella), AAMA, Toyota Technical Center, USA, Inc., (Toyota), Mitsubishi Motors (Mitsubishi), TSEI, NAL, and Truck-Lite Co., Inc., (Truck-Lite) recommended that NHTSA adopt a different version of the SAE requirement

for LED signal lamps. Ichikoh Industries, Ltd., (Ichikoh) and Advocates for Highway and Auto Safety (Advocates) opposed adoption of SAE requirements for LED signal lamps. Advocates suggested that there is no safety justification for adopting the proposed requirements. Further, Advocates recommended regulating the luminance of the lamp itself, without reference to number of sections or lighting sources. Peterson commented that regulating the luminance of the lamps was, in theory, the best way to judge signal lamp performance, but that such a requirement would be difficult to quantify and administer.

Stanley, Dialight, Peterson, Grote, AAMA, Toyota, Mercedes-Benz of North America, Inc., (Mercedes), TSEI, and Truck-Lite favored adopting SAE requirements for heat resistance testing. However, Dialight, Peterson, Grote, TSEI, and Truck-Lite all stated that the SAE procedures called for an unrealistically stringent test that does not accurately test the LED signal lamp performance. Conversely, Relume Corporation (Relume) and Sierra Products (Sierra) commented that LED signal lamp heat testing should be more representative of the environments actually experienced by many vehicles and that the SAE procedures are not realistic or stringent enough.

Dialight, Peterson, Grote, TSEI, NAL, and Truck-Lite made additional comments on the issue of effective projected luminous area of LED signal lamps. Sierra asserted that LEDs used in arrays should be required to use a lens to more evenly distribute the light in order to reduce unwanted glare for other nearby vehicle operators.

Osram Sylvania (Osram), Mitsubishi, Sierra, and Truck-Lite stated that turn signal failure indication requirements for LED lamps should be such that failure should occur when the number of failed light sources is enough to take the lamp out of compliance with Standard No. 108. Dialight, Data Display Products (DDP), Relume, and Sierra commented that manufacturers of LED turn signal lamps should design them to minimize the loss in light output when some of the individual diodes fail. Peterson and TSEI recommended that a lamp be considered to have failed when its intensity has decreased 25 percent. DDP suggested that the lamps indicate failure when the light intensity has dropped 50 percent.

Advocates, Toyota, and Sierra all expressed concern that glare from LEDs is causing problems for nearby vehicle operators. Sierra, as previously described, asked that the agency require a lens over each LED to distribute the

² See 60 FR 31939.

³ See 63 FR 34350.

light more evenly and thus reduce the glare. Toyota stated that the maximum allowable candlepower values were unnecessarily high. It argued that a lamp designed to meet this maximum could create a distraction for a following driver, and that these lamps would still function effectively if lower maximum values were adopted. Toyota has recommended that the current requirements for the aforementioned lamps be lowered to the levels set by the Economic Commission for Europe (ECE). All the ECE maximum requirements are approximately 50 percent less than those in Standard No. 108.

AAMA recommended that the optical axis of a lamp be defined as the centroid. AAMA also recommended that we permit the manufacturer to choose the optical axis of any given lamp based on the design.

V. Agency Decision To Withdraw Rulemaking

After careful consideration, NHTSA has decided to withdraw this rulemaking. With respect to the proposed method of determining the number of lighted sections within one LED signal lamp, NHTSA is concerned that adopting the proposed requirement might result in LED lamps having lower light intensity compared to incandescent lamps with a similar projected luminous lens area. The agency believes that lower light intensity could decrease visibility or confuse vehicle operators by making a normally bright stop lamp appear to be a taillamp. Because of this concern, the agency concludes that adopting the proposed requirements would be inappropriate.

With respect to the proposed LED lamp heat test methods, the agency has concluded that the proposed test is not a good surrogate for the real world performance of LEDs under increased or decreased ambient temperature conditions because the test does not accurately replicate high or low ambient temperatures occurring in various climates throughout U.S. The proposed test would energize the lamp for a period of 30 minutes in order to raise the LED lamp temperature (self-heating) before taking photometric measurements. However, some LED lamps do not necessarily heat up after being energized for an extended period of time. Nevertheless, some of the same lamps respond to low or high ambient temperatures by becoming much brighter or dimmer. Therefore, the agency believes that in order ensure adequate performance of the LED lamps in typical driving environments, it may

be necessary to conduct additional research on alternative tests, including testing in a temperature chamber. We note that two comments on the NPRM suggested that testing should be more representative of the real-world environmental conditions vehicles may experience. One commenter provided information on two photometry test procedures, one from the Institute of Transportation Engineers and the other from the California Department of Transportation, which replicate real world temperatures. Transport Canada has also developed test procedures that replicate real world temperatures in a laboratory environment.

We continue to believe that it might be appropriate at some point to adopt new requirements related to LED lamp performance. As to photometric requirements and number of lighted sections, we would want to explore a single requirement equally applicable to LED, incandescent, or any other light sources, that would better relate lamp size to its intensity. As to the LED lamp heat test methods, we would want to explore test procedures that better replicate real-world ambient temperatures.

Given the complexity of the issues involved, however, and considering agency priorities and allocation of limited resources available to best carry out the agency's safety mission, NHTSA has decided, for the reasons discussed above, to withdraw this rulemaking.

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

Issued: September 8, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA-2004-18864]

RIN 2127-AI89

Anthropomorphic Test Devices; ES-2re Side Impact Crash Test Dummy (ES-2 With Rib Extensions); 50th Percentile Adult Male

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In May 2004, NHTSA published a notice of proposed rulemaking that proposed to upgrade Federal Motor Vehicle Safety Standard No. 214, "Side Impact Protection," by requiring that all passenger vehicles with a gross vehicle weight rating of 4,536 kilograms (10,000 pounds) or less protect front seat occupants against head, thoracic, abdominal and pelvic injuries in a vehicle-to-pole test simulating a vehicle's crashing sideways into narrow fixed objects like telephone poles and trees. That NPRM proposed that compliance with the pole test would be determined in two test configurations, one using a new, second-generation test dummy representing mid-size adult males and the other using a new test dummy representing small adult females. The NPRM also proposed using the new dummies in the standard's existing vehicle-to-vehicle test that uses a moving deformable barrier to simulate a moving vehicle being struck in the side by another moving vehicle.

Today's NPRM proposes specifications and qualification requirements for the new mid-size adult male crash test dummy. The new 50th percentile adult male side impact test dummy has enhanced injury assessment capabilities compared to devices existing today, which allows for a fuller assessment of the types and magnitudes of the injuries occurring in side impacts and of the efficacy of countermeasures in improving occupant protection.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than November 15, 2004.

ADDRESSES: You may submit comments (identified by the DOT DMS Docket Number) by any of the following methods:

- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

• *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket