

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of KSLs, Inc., licensee of Station KSCI(TV), Channel 18, San Bernardino, California, requesting the reallocation of Channel 18 from San Bernardino to Long Beach, California, as that community's first local television transmission service and modification of its authorization accordingly, pursuant to the provisions of § 1.420(i) of the Commission's Rules. Coordinates used for Channel 18 at Long Beach are 34-11-15 and 117-41-54. Although Long Beach is located within 320 kilometers (199 miles) of the United States-Mexico border, concurrence of the Mexican government to this proposal is not required based upon the proposed retention of the existing channel and transmitter site of Station KSCI(TV). Rather, if the reallocation proposal is granted, the Mexican government will be advised of the change to the TV Table of Allotments at the conclusion of the proceeding.

Although the Commission has imposed a freeze on the TV Table of Allotments in certain metropolitan areas, including Los Angeles, the freeze is not applicable to changes requested by existing stations. See *Advanced Television Systems and Their Impact on the Existing Television Broadcast Service*, Order, 52 FR 28346, July 29, 1987. While this proposal does not impact on the present draft digital television ("DTV") allotment table, any resultant changes to the TV Table of Allotments presented by the petitioner's proposal may be conditioned on the outcome of the DTV rule making proceeding. See *Sixth Further Notice of Proposed Rule Making*, MM Docket No. 87-268, 11 FCC Rcd 10968 (1996), at paragraph 61; 61 FR 43209, August 21, 1996.

DATES: Comments must be filed on or before September 22, 1997, and reply comments on or before October 7, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Kenneth E. Satten and Christine V. Simpson, Esqs., Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97-170, adopted July 23, 1997, and

released August 1, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

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* contacts.

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 90-01; Notice 6]

RIN 2127-AG81

Federal Motor Vehicle Safety Standards; School Bus Pedestrian Safety Devices

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In response to a petition for rulemaking from Transpec Inc., this document proposes to amend Standard No. 131, *School Bus Pedestrian Safety Devices*, with respect to the conspicuity requirements for stop signal arms. Specifically, the agency would amend the standard to permit the use of additional light sources on the surface of retroreflective stop signal arms.

DATES: *Comments.* Comments must be received on or before October 6, 1997.

Effective Date: The amendments made by this rulemaking would be effective [Insert date of publication of the final rule in the **Federal Register**].

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: *For technical issues:* Mr. Charles Hott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366-0247.

For legal issues: Mr. Paul Atelsek, Office of Chief Counsel, NCC-20, telephone (202) 366-2992, FAX (202) 366-3820.

SUPPLEMENTARY INFORMATION:

I. Background

On May 3, 1991, NHTSA published a final rule establishing Federal Motor Vehicle Safety Standard No. 131, *School bus pedestrian safety devices* (56 FR 20363). The standard requires each new school bus to be equipped with a stop signal arm. A stop signal arm is a device patterned after a conventional "STOP" sign and attached to the driver's side of a school bus. When the school bus's red signal lights are activated, the stop signal arm automatically extends outward from the bus. Its purpose is to alert motorists that a school bus is stopping or has stopped. The standard specifies requirements about the stop signal arm's appearance, size, conspicuity, operation and location.

To ensure the conspicuity of a stop signal arm, Standard No. 131 specifies that the device must either be reflectorized or be illuminated with flashing lamps. If reflectorization is used to comply with the standard, "the entire surface of both sides of the stop signal arm" must be reflectorized. (S5.3.1, emphasis added) If flashing lamps are used to comply with the standard, S5.3.2 requires the lamps to comply with the location and performance requirements set forth in S6.2 of the Standard.

In a November 21, 1995, letter from NHTSA's Chief Counsel to Specialty Manufacturing Company, a manufacturer of stop signal arms, NHTSA addressed the use of Light Emitting Diodes (LEDs) to outline the word "Stop" on the stop arm blade. In that letter, the agency stated that

because the LEDs would obscure a portion of the surface that is required to be reflectorized, LEDs would not be permitted under the reflectorization option (S5.3.1) but could be used in conjunction with flashing lamps under the flashing lamp option (S5.3.2).

II. Petition for Rulemaking

On April 24, 1997, the law firm of Winston and Strawn, on behalf of its client, Transpec, Inc. (Transpec), submitted a petition for rulemaking requesting that S5.3.1 of the standard be amended to allow the use of LEDs on stop signal arms.¹ The petition seeks to amend the section to permit red LEDs on the surface of the stop arm that are "contained within a light channel not greater than 10mm (.394 inch) wide centered within the stroke width of each letter." Under the requested amendment, the minimum stroke width of letters containing LEDs would be increased from 20 mm (0.79 inch) to 25 mm (0.8984 inch). The LEDs would be required to flash at the rate specified for stop arm lamps conforming to S5.3.2. The petitioner believes that such an amendment would increase the conspicuity and the readability of school bus stop arms.

The petition also seeks to permit a percentage of the surface area of the stop arm to be obscured by mounting brackets and other necessary components, with the aggregate area obscured by the LEDs and other components not to exceed 7.5 percent of the surface area of the stop arm.

In support of its petition, Transpec cited a study by the University of South Florida showing that a significant percentage of motorists are passing stopped school buses, despite the use of the stop arms currently required by Standard No. 131.² In Transpec's view, the amendments it proposed would reduce the incidence of illegal passing by motorists and increase safety for children exiting school buses. Transpec also stated that LEDs on the stop signal arm would not alter the fundamental appearance of the stop arm and would thus not confuse interstate motorists, who might not have encountered LED-equipped stop arms in their home states.

¹ Transpec also submitted a petition under 49 CFR part 555 for a temporary exemption from compliance with motor vehicle standards. Since part 555 applies only to manufacturers of motor vehicles, this procedure for a temporary exemption is not applicable to Transpec, a manufacturer of motor vehicle equipment.

² *Illegal Passing of Stopped School Buses in Florida*, University of South Florida College of Engineering at vii (February 1996).

III. Agency's Decision

NHTSA has decided to grant Transpec's petition and to propose amending Standard No. 131 to permit the use of additional light sources on retroreflective stop signal arms. The agency regards such an amendment to be consistent with the agency's intent that the reflectorization and lighting requirements assure the conspicuity of stop signal arms. The agency has granted similar petitions in the past. In response to a petition seeking to facilitate the use of strobe lamps on stop arms, NHTSA amended Standard No. 131 on March 24, 1994 (59 FR 26759), to remove design-restrictive language specifying a flash rate that effectively prohibited strobe lamps. The agency noted that its primary concern was to "assure the conspicuity of stop signal arms." The agency continues to believe that this is the most important consideration in regulating the conspicuity of stop signal arms.

In proposing to adopt the substance of the amendments sought by Transpec, NHTSA requests comments and test data about the effectiveness of LED-equipped stop signal arms as a means of enhancing stop-arm conspicuity. Because LED light sources are not the only means for achieving an illuminated legend, NHTSA also requests comment on the use of other light sources, such as miniature incandescent and neon light sources, and their effectiveness.

In the final rule establishing Standard No. 131, NHTSA emphasized that uniformity was necessary to ensure that school bus stopping and signaling procedures give passing motorists a consistent message throughout the country. By standardizing the color scheme, shape, and word STOP, the agency sought to ensure that a driver traveling in a different State would encounter the "same familiar stop sign design throughout the country." (56 FR 20363, 20366). While the agency tentatively agrees with Transpec's assessment that the LED-equipped stop arms would not create confusion, it requests comments on this issue relative to LEDs and other sources that could be used for legend illumination.

With respect to the details of Transpec's request, the agency is concerned that specifying red as the color for light sources may restrict the use of other colors. It may be that white light sources would provide equivalent conspicuity, since the lettering being enhanced is white. The agency requests comment on whether to allow use of either red or white LEDs or other light sources, or to allow only one color of emitted light. Rather than limit the

permitted light sources to LEDs, as proposed by Transpec, the agency is proposing to permit any type of light source in the legend lamps. In addition to LEDs, miniature halogen and non-halogen light sources, and neon long-arc discharge sources are becoming common in automotive signal lighting. In view of the availability of these other light sources, the agency is proposing to amend S6.2.2.1 to eliminate the word "filament" to remove this as a restriction against non-filament light sources that could be used in the legend lamps.

There is the potential for confusion in existing S6.2.2.2 with the term "gaseous discharge lamp" because it covers a broad range of light sources. It can apply not only to the intended xenon short-arc discharge lamps already permitted, but to long-arc neon and other gaseous discharge light sources. Yet these other sources are not necessarily handicapped by having the short "on" time performance as the xenon short-arc sources. Thus, most other discharge-arc sources can comply with the duty cycle requirements of S6.2.2.1 as stated above. To eliminate the potential for confusion, S6.2.2.2, which has been intended to address only xenon short-arc discharge sources, is proposed to be amended to state specifically that it applies only to such sources.

Given that NHTSA considers the conspicuity of the stop arm to be paramount, the agency seeks comment on what, if any, intensities and test procedures should be required for lamps used on stop arms. In addition, NHTSA notes that the Society of Automotive Engineers standards referenced in FMVSS 131 are not current. Would it be useful to update some or all of these to the latest versions? Would there be any burden associated with making such changes?

In proposing the option of additional light sources on the surface of retroreflective stop arms, NHTSA is proposing regulatory language to accommodate reasonably-foreseeable designs other than Transpec's. For example, Transpec's design has LEDs centered within each letter of the word STOP. However, another approach would be to outline each letter of the word STOP with light sources. In addition, Transpec proposed that the minimum stroke width of letters containing LEDs be increased from 20 mm to 25 mm, perhaps to partially compensate for the loss of retroreflective material in the area occupied by the 9.52 mm-wide LEDs within each letter. Instead, NHTSA is proposing that the "net stroke width" (the stroke width minus the lamps' width) of each letter

containing lamps be at least 15 mm. This approach would accommodate the Transpec design, while also accommodating other possible designs such as outlining the inside perimeter of each letter with white lamps. (A design that, for example, outlined the outside perimeter of each letter with red lamps would remain subject to the existing 20 mm minimum stroke width.)

In response to a separate request in the Transpec petition, NHTSA is also proposing to amend S5.3.1 to specify the maximum amount of the reflectorized surface that may be obscured by nonreflectorized attachment and electrical components. The agency is proposing that nonreflectorized materials, such as mounting brackets, bolts, and other necessary components, may not obscure more than 7.5 percent of the total surface area of either side of a stop signal arm. The agency requests comments about this proposed requirement and whether 7.5 percent, the percentage requested by Transpec, is an appropriate amount. NHTSA is proposing a similar amendment to S5.2.1 to provide that the portion of the white border that may be obscured by attachment hardware or other components shall not exceed 10 percent.

Since the proposed amendments would permit an optional method of compliance with S5.3.1, and would thus not impose a new requirement on any manufacturer, NHTSA considers that good cause exists for proposing an immediate effective date for the amendments. The agency requests comments on whether an immediate effective date would be appropriate.

Regulatory Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice was not reviewed under Executive Order 12866, the Office of Management and Budget having determined that it is not significant within the definitions of the Executive Order. NHTSA has analyzed this rulemaking and determined that it is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The agency has determined that the economic effects of the amendment would be so minimal that a full regulatory evaluation is not required. Since the amendment would impose no new requirement but simply would allow for an alternative design, any cost impacts would be in the nature of slight, nonquantifiable cost savings.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this rulemaking on small entities. Based on this evaluation, I hereby certify that the amendment would not have significant economic impact on a substantial number of small entities. Few of the school bus manufacturers qualify as small entities. In addition, manufacturers of motor vehicles, small businesses, small organizations, and small governmental units that purchase motor vehicles would not be significantly affected by the amendments. Accordingly, a regulatory flexibility analysis has not been performed.

C. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rulemaking would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this rule. The agency has determined that this rule would not have a significant effect on the quality of the human environment.

F. Civil Justice Reform

This rule has no 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.

Public Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This

limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine 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 vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

§ 571.131 [Amended]

2. Section 571.131 would be amended by revising S5.2.1, S5.2.2, S5.3.1, S6.2.2.1 and S6.2.2.2, and by adding S5.3.1.1 through S5.3.1.3 to read as follows:

§ 571.131 Standard No. 131, School bus pedestrian safety devices.

* * * * *

S5.2.1 The stop signal arm shall have a white border at least 12 mm (0.47 inches) wide on both sides, except as provided in S5.2.3. Mounting brackets, clips, bolts, or other components necessary to the mechanical or electrical operation of the stop signal arm may not obscure more than 10 percent of the border.

S.5.2.2 The stop signal arm shall have the word "STOP" displayed in white upper-case letters on both sides, except as provided in S5.2.3. The letters shall be at least 150 mm (5.9 inches) in height. The letters shall have a stroke width of at least 20 mm (0.79 inches), except as provided in S.5.3.1.1.

* * * * *

S5.3.1 Except as provided in S5.3.1.1, S5.3.1.2, S5.3.1.3, or S5.3.1.4, the entire surface of both sides of each stop signal arm shall be reflectorized with Type III retroreflectorized material that meets the minimum specific

intensity requirements of S6.1 and Table I.

S.5.3.1.1 The legend of the retroreflective stop arm may be illuminated in a manner such that light is emitted from the surface of each letter or from the area immediately surrounding each letter. Only red or white lamps may be used, and all such lamps shall be of one color. They shall form the complete shape of each letter of the legend, and shall be affixed to all letters (or to the areas immediately surrounding all letters) in the legend. The width of each letter shall remain constant. The lamps shall either lie on the centerline of each letter of the legend or outline each letter of the legend. If the lamps are contained within each letter, the net stroke width (not including the width of the lamp(s)) of each letter of the legend specified in S5.2.2 shall not be less than 15 mm (0.59 inches). When the stop arm is extended, the lamps shall flash at the rate specified in S6.2.2, with a current "on" time that complies with S6.2.2.1.

S5.3.1.2 Nonreflectorized mounting brackets, bolts, or other components

necessary to the mechanical or electrical operation of the stop signal arm shall not obscure more than 7.5 percent of the total surface area of either side of the stop signal arm.

S5.3.1.3 When two stop signal arms are installed on a school bus, the forward side of the rearmost stop signal arm shall not be reflectorized.

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S6.2.2.1 Lamps, except those subject to S6.2.2.2, shall have a current "on" time of 30 to 75 percent of the total flash cycle. The total current "on" time for the two terminals shall be between 90 and 110 percent of the total flash cycle.

S6.2.2.2 Xenon short-arc gaseous discharge lamps shall have an "off" time before each flash of at least 50 percent of the total flash cycle.

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Issued on: July 31, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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