constant deceleration rate proposed by AAMA for the baseline tests (5.5 m/s^2) is lower than the current deceleration rate (6.43 m/s^2) the vehicle must achieve in order to meet the 70-meter cold effectiveness stopping distance performance requirement. The average minimum stopping distance for the cold effectiveness stopping tests shown above is about 50 meters. That results from an average deceleration rate of approximately 7.7 m/s^2, or about 30 percent higher than the average deceleration rate of AAMA's proposed baseline tests. Thus, AAMA's proposal to use a lower deceleration rate would result in the allowance of a longer stopping distance for the hot and recovery performance tests. Additionally, the agency has not used the allowable 500 N pedal force in the FMVSS No. 135 compliance tests conducted to date, so the allowable pedal forces for the hot and recovery performance tests conducted to date are not inflated.

d. *AAMA:* The adoption of baseline stops at the beginning of the thermal sequence would avoid the effects of intervening tire and brake conditioning inherent in the current procedure. As currently written, high speed effectiveness, stops with the engine off, failed antilock, failed proportioning valve, hydraulic circuit failure, and parking brake tests, some under both gross and lightly-loaded vehicle conditions, are performed between the cold effectiveness test and the thermal tests. This sequence can confound the comparison between the hot, cold, and recovery tests. Adding the requested baseline stops at the outset of the thermal sequence would facilitate a more direct comparison of cold versus thermally affected braking capability.

NHTSA: The agency agrees that baseline stopping runs at the beginning of the thermal sequence would avoid the effects of tire and brake conditioning that occur between the cold effectiveness testing and the thermal test sequence. NHTSA believes, however, that such effects are negligible when compared to the total brake and tire usage that occurs during conduct of the entire Standard No. 135 test series. In addition, the AAMA did not demonstrate any performance or safety benefits that would result from the requested change in test sequence. Accordingly, NHTSA sees no need to amend the testing procedures of Standard No. 135 to specify AAMA's proposed baseline testing for the purpose of eliminating the effects of tire wear or brake conditioning that might occur during testing.

C. Agency Determination

The agency's declination to amend Standard No. 135 as suggested by AAMA includes the fact that the test procedures in Standard No. 135 and ECE R13–H are now harmonized. The AAMA proposals would move Standard No. 135 away from harmonization with its European counterpart. Absent sufficient safety reasons to change the existing test procedures in Standard No. 135, NHTSA finds no justification for adopting the manufacturers' request to move NHTSA's standards away from harmony with the European standards.

The agency believes that the testing practicability problems asserted by AAMA in its petition for rulemaking will not result in vehicle noncompliance. As determined by NHTSA's compliance test results discussed above, the considerable range of pedal forces that result in similar stopping distances in the cold effectiveness testing has not resulted in any noncompliances with the hot and recovery requirements. Thus, NHTSA believes that it is more appropriate to compare hot and recovery brake performance to peak cold effectiveness performance than to compare non-peak cold brake performance against the hot and recovery performance. The agency also believes that the amendments to Standard No. 135 suggested by AAMA would reduce the stringency and severity of the hot and recovery performance tests specified in the standard, and thus would be inconsistent with motor vehicle safety.

Finally, the proposed amendments would add complexity to the compliance test procedures in Standard No. 135 without demonstrated safety or testing benefits.

For the reasons stated above, the agency terminates rulemaking initiated by the petition for rulemaking submitted by the AAMA.

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

Issued on: February 18, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99–4522 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–5094]

Federal Motor Vehicle Safety Standards

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

ACTION: Denial of petition for rulemaking.

SUMMARY: The agency denies a petition for rulemaking from Mr. Les Boyd requesting that NHTSA initiate rulemaking to consider requiring motor vehicle manufacturers to equip new vehicles with instrumentation sufficient to alert nearby police whenever the vehicles are being operated with an unbelted occupant. Mr. Boyd suggested that implementation of the requested amendment would lead to increases in the rate of safety belt use.

The agency is denying the petition for the following reasons. First, implementation of the requested amendment would be costly since it would necessitate the installation of seat belt use sensors and a transmitter in each vehicle. Second, the requested amendment would have limited effect on safety belt use rates in the majority of states that have mandatory safety belt use laws. These states permit officers to stop a vehicle or issue a citation for an occupant's failure to use a safety belt only if the officers also observe a separate concurrent violation. Third, even in those states whose mandatory safety belt use laws permit officers to enforce those laws without the necessity of observing a separate concurrent violation, the requested amendment might not lead to increased safety belt use. In order for officers to readily identify the vehicle emitting the signal, the instrumentation would have to identify such things as the make, model, model year and perhaps even color and vehicle identification number of that vehicle. The transmission of such information would raise privacy concerns.

FOR FURTHER INFORMATION CONTACT: Mr. Clarke Harper, Office of Crashworthiness Standards, NRM–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–4916.

SUPPLEMENTARY INFORMATION: On February 5, 1998, Mr. Les Boyd submitted a petition for rulemaking requesting that NHTSA consider

requiring motor vehicle manufacturers to equip new vehicles with instrumentation sufficient to alert nearby police whenever the vehicles are being operated while one or more occupants are unbelted. Mr. Boyd argued that automobile crashes are increasing and that more effort must be made to insure that ''all occupants are wearing seat belts and/or wiring harness.'' The petitioner did not provide any data or other information relating to the cost of such devices, their effectiveness or the feasibility of such a system.

NHTSA agrees that the failure of many vehicle occupants to use safety belts is a significant concern. The agency has expended considerable effort and resources to improve the rate of safety belt use in the United States. NHTSA has prepared and distributed numerous legislative fact sheets, position papers, success stories, model laws for both seat belts and child passenger safety, and other materials on the benefits of mandatory seat belt and child passenger safety laws. Agency employees have testified, when invited by the state, at state legislative hearings for states when they were in the process of enacting the belt use laws. More recently, NHTSA employees have testified in support of attempts within various states to change secondary enforcement laws, under which police officers must observe a separate and distinct violation before stopping a vehicle where occupants are not using belts, to primary enforcement laws. Primary enforcement laws allow police officers to make stops and issue citations on the basis of observing only a seat belt violation. NHTSA has also established Cooperative Agreements with numerous states to demonstrate that publicized enforcement of a mandatory seat belt law can increase seat belt use in the state and formed formal partnerships with many national organizations for the purpose of mobilizing their membership to promote traffic safety in general, and seat belt and child safety seat use in particular. The agency has produced brochures, posters, videos, print ads, bill boards, public service announcements, and a host of other media resource materials to educate the public on the safety benefits of seat belts. Other activities pursued by the agency to improve belt use include programs to improve the training of law enforcement officers, the use of child safety seat checkpoints and other measures designed to improve belt use and enforcement of mandatory belt use laws.

Even though the benefits of increased safety belt use would be considerable, the agency believes that requiring all vehicles to be equipped with a transmitter would, under present conditions, be unlikely to improve enforcement of mandatory safety belt laws in the majority of jurisdictions. Mandatory safety belt use laws are now in effect in 49 states, the District of Columbia, Puerto Rico and the Virgin Islands. Of these, 35 states and the District of Columbia have secondary laws. Equipping vehicles with a device which alerted police officers to a safety belt violation would be of little use in these jurisdictions. The officers would be prohibited from taking any action unless they observed a separate and distinct violation at the same time. Under those conditions, the agency believes that it is extremely unlikely that state and local governments would invest in the police car equipment necessary to implement the scheme suggested by the petitioner.

Even in those jurisdictions with primary enforcement laws, the requested amendment might not lead to increased safety belt use. In order for the transmitting device to work successfully in areas where there are large concentrations of vehicles, the device would have to do more than simply alert police officers that a safety belt violation was occurring in the vicinity. In order to allow identification of the vehicle in which an operator or occupant was not wearing a belt, the transmitting device would have to transmit sufficient specific information about the vehicle to enable police to distinguish it from other vehicles. These identifying data would, at the very least, have to include information regarding the color, manufacturer and configuration of the transmitting vehicle. The agency believes that the presence of such a device, particularly if it were to transmit such information constantly as a result of a malfunction or other circumstance, would raise potentially troublesome privacy concerns.

The agency notes that it issued a final rule in February 1972 (37 FR 3911) modifying Standard No. 208, Occupant Crash Protection, to provide manufacturers choosing not to install passive (i.e., automatic) restraints with the option to equip vehicles with a seat belt interlock device. The interlock prevented drivers from starting their car unless all front seat occupants of the vehicle had fastened their safety belts. Although the interlock device had a more direct impact on the operation of the vehicle than the device suggested by the petitioner, public reaction against this measure was strong. The interlock device option was subsequently rescinded after Congress directed the agency to eliminate it. While the device suggested by the petitioner would not directly affect the operation of the vehicle as the interlock device did, NHTSA believes that a device having the capability to transmit the location of a vehicle to governmental entities any time a seat belt was not fastened would arouse similar public concerns.

The agency observes that installation and successful use of such a device would require installation of additional equipment beyond that which the petitioner may have envisioned. The transmitting device would have to be coupled with belt use sensors at all seating positions. The belt use sensors, in order to be effective, would have to have features that would make it difficult to circumvent the system as in the instance in which an occupant would sit on a fastened belt instead of wearing it. The transmitting device would similarly have to be designed so that it could not be readily disabled and would have to work reliably and without emitting false signals. Police vehicles would need to have a reliable receiving device equipped with a display or other means to provide specific identifying information about the vehicle emitting the signal. The cost of this additional equipment, when added to that of the transmitter, would be considerable.

For the reasons stated above, NHTSA concludes that it is unlikely that a rulemaking proceeding to require the transmitter suggested by the petitioner would result in the issuance of a rule requiring such a device. Accordingly, the petition is denied.

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

Issued on February 5, 1999.

Stephen P. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–4582 Filed 2–23–99; 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

AGENCY: Fish and Wildlife Services, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the public