including whether the current 70-degree horizontal FOV standard should remain. Readers were advised medical experts believe 120 degrees in each eye is the appropriate standard and asked to comment on the FOV standard, specifically on the effect devices such as mirrors might have on assisting persons with restricted FOV.

There were approximately 100 comments to the ANPRM. The majority of the commenters discussed concerns about the proposed FHWA Federal vision exemption program, as well as key issues and research related to monocular vision and visual acuity testing.

A small group of commenters focused specifically on field of vision. Three commenters were physicians who directly addressed discrepancies in the FOV standards. Other commenters included two State agencies, several safety advocate organizations, the American Trucking Associations and the American Optometric Association. This group of commenters focused on the inadequacy of the FOV measurement, but no commenter offered data or relevant information to support changing this standard.

FHWA Vision Research Plan. FHWA initiated a program to develop a vision research plan resulting in a complete list of visual performance parameters serving as the basis for a new CMV driver vision standard. In 1995, Star Mountain, Inc., under contract to the agency, conducted a literature review on this issue. FHWA also consulted with a panel of medical and technical experts to obtain their views on the design of the research plan.

On June 5, 1996,[9] FHWA requested public comment on its proposed vision research plan. On August 9, 1996, the agency held a public hearing on the subject in Chicago. FHWA evaluated the oral testimony and written comments and concluded the best course of action was to postpone vision research. First, it was generally agreed development of predictive vision tests would require substantial agency resources. Furthermore, validation of the tests could require using driving simulators, whose scientific validity was highly uncertain. FHWA also concluded it would need a large number of drivers to validate the new vision tests.

Berson Panel. In September 1997, FHWA contracted with the Beth Israel Deaconess Medical Center in Boston to establish a panel of medical experts to develop medically-based recommendations for amending the current vision standard. The agency directed the panel to assess the FHWA vision standard and to make recommendations for changes, with specific limits to the scope of the panel's work:

- Recommendations must ensure drivers operating CMVs are physically qualified.
- Recommendations must be consistent with national policy objectives expressed in the ADA and the Rehabilitation Act of 1973,[10] as amended.
- Recommendations must be based on the most current technology in visual assessment.
- Recommendations should include any screening protocols found reliable for the examination of drivers.
- The panel must rely upon sound medical judgment concerning the demands placed on the eyes of drivers as they operate CMVs on a daily basis.

The Berson Panel endorsed the Ketron Panel recommendation to change the horizontal FOV standard from 70 degrees in each eye to at least 120 degrees in each eye. The Berson experts agreed the 70-degree FOV standard is insufficient. They cited the unique visual demands placed upon CMV drivers while stopping, accelerating, changing lanes, and responding to signage. The Berson experts believed the poor maneuverability of the typical CMV and the potential for severe injury and extensive property damage in a CMV crash justify a more stringent vision standard. Nevertheless, like the Ketron Panel Report, the Berson Report included no data indicating a driver with a horizontal FOV less than 120 degrees in each eye is at greater risk for CMV crash involvement or a link between diminished FOV and higher probability of crash involvement.

Withdrawal of Proposal

Although considerable resources have been expended on assessing the vision standard in general and the FOV provision in particular, FMCSA believes there are insufficient crash data to support initiating an FOV rulemaking at this time. It is clear 70 degrees horizontal FOV represents only a portion of the ''normal'' FOV for most individuals. However, there are no data concerning the relationship between a specific horizontal FOV value(s) and crash causation. There also are no data available to help identify the minimum horizontal FOV necessary to safely operate a CMV. Therefore, FMCSA is withdrawing its ANPRM dated February 28, 1992, on the vision standard for CMV drivers.

FMCSA has a long-term plan of reevaluating CMV driver health and wellness issues, including physical qualifications, medical advisory criteria, and safety research and policy. The agency plans to review the horizontal FOV standard under that initiative.

Issued on: August 22, 2005.

Warren E. Hoemann,

Deputy Administrator.

[FR Doc. 05–17102 Filed 8–26–05; 8:45 am]

BILLING CODE 4910–EX–P

[9] ''Proposed Research Plan on Vision Standard,'' 61 FR 28547, June 5, 1996.

[10] Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 355, September 26, 1973) (29 U.S.C. 681 *et seq.*).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2005–21649]

RIN 2127–AI53

Federal Motor Vehicle Safety Standards; Rearview Mirrors

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

ACTION: Notice of termination of rulemaking.

SUMMARY: On September 5, 2000, AM General Corporation submitted a petition for rulemaking seeking to amend the Federal motor vehicle safety standard for rearview mirrors to permit certain vehicles with a gross vehicle weight rating (GVWR) of more than 4,536 kilograms (kg) (10,000 pounds) to be equipped with passenger-side convex mirrors. The standard currently requires vehicles in that weight class to be equipped with mirrors of unit magnification in that location. The agency granted the petition on May 23, 2001 and began to gather data to evaluate the request, including information obtained from a January 22, 2003 Request for Comments. Based on analysis of the available data, NHTSA is terminating this rulemaking proceeding, because we have determined that convex mirrors are not an adequate substitute for mirrors of unit magnification in terms of providing safety benefits associated with allowing the driver to better judge the distance and speed of oncoming vehicles, particularly during lane change maneuvers.

FOR FURTHER INFORMATION CONTACT: Mr. John Lee, Office of Crash Avoidance Standards, NVS–123, National Highway

Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone number is: (202) 366–2720. Fax: (202) 366–7002. For legal issues: Eric Stas, Office of the Chief Counsel, NCC–112, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone number is: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

On September 5, 2000, AM General Corporation (AM General) submitted a petition for rulemaking [1] requesting that NHTSA amend Federal Motor Vehicle Safety Standard (FMVSS) No. 111, *Rearview Mirrors*, to allow manufacturers the option of installing a convex, passenger-side rearview mirror on certain light trucks with a GVWR of more than 4,536 kg (10,000 pounds). Specifically, AM General's petition stated that: (1) The mirror should be at least 323 cm^2 in area; (2) it should comply with the convex mirror requirements in FMVSS No. 111 S5.4, and (3) the overall length of the vehicle should be less than 508 cm. FMVSS No. 111 currently requires each multipurpose passenger vehicle (MPV) and truck with a GVWR of more that 4,536 kg (10,000 pounds) and less than 11,340 kg (25,000 pounds) to be equipped with outside mirrors of unit magnification (commonly referred to as ''flat mirrors''), each with not less than 323 cm^2 of reflective surface (*See* S7.1). The following discussion outlines the reasoning presented in AM General's petition, our analysis of the available information, and the basis for our termination of this rulemaking proceeding.

By way of background, AM General manufactures the Hummer H1, which is a four-wheel-drive vehicle with a GVWR of 4,672 kg (10,300 pounds) to 5,488 kg (12,099 pounds) that was originally designed for the military but which is now being sold for commercial use. Because the Hummer H1 has a GVWR that is greater than 4,536 kg (10,000 pounds), FMVSS No. 111 S7.1 requires it to have a passenger-side mirror of unit magnification with a reflective area of not less than 323 cm^2. However, the petitioner stated that a significant number of Hummer H1 owners are affixing small, convex mirrors to their flat passenger-side mirrors in order to provide a better rearward field of view, and AM General has received numerous requests from these owners to install a full-sized convex mirror like those offered on similarly-sized light trucks. Since the Hummer H1 is roughly the same size as some other full-size light trucks (albeit of greater weight), AM General does not believe that a rational basis exists for the standard to preclude utilization of a convex rearview mirrors on SUVs like the Hummer H1 although its GVWR is greater than 4,536 kg (10,000 pounds).[2]

AM General further argued that in 1975, when FMVSS No. 111 was amended to require passenger-side mirrors of unit magnification on vehicles of over 4,536 kg (10,000 pounds) GVWR (40 FR 33825 (August 12, 1975)), there were not any vehicles in use that were comparable to the Hummer H1. The petitioner stated that because the Hummer's interior rearview mirror admittedly does not provide an adequate rearward view, it has found that drivers tend to rely heavily on the vehicle's outside mirrors. According to AM General, this increases the importance of having a wider field of view in the outside mirrors, even if greater distortion results.

The petitioner also argued that the rulemaking history of FMVSS No. 111 supports, or at least would permit, its requested change. According to the petitioner, in its 1975 rulemaking, the agency's rationale for requiring passenger-side mirrors of unit magnification in this context was that a driver of a large vehicle needs an undistorted view when moving in reverse and that these larger vehicles did not typically have an interior mirror of unit magnification to aid in judging distance. AM General stated that although the agency's reasoning primarily pertained to vehicle size, in the final rule, the agency decided to link vehicle size to weight, stating that vehicles over 4,536 kg (10,000 pounds) GVWR needed special mirror systems ''suited to their large size.'' (39 FR 15143, 15144 (May 1, 1974))

AM General also argued that in the notice of proposed rulemaking (NPRM) that preceded the 1975 final rule (39 FR 15143, 15144 (May 1, 1974)), the agency stated, ''[i]f the vehicle resembles a passenger car with regard to its rearward visibility potential, the manufacturer will be free to equip it with a passenger car-type mirror system.'' AM General further cited the rationale that the agency used in the preamble to the 1982 final rule allowing convex mirrors on light vehicles, which indicated that the main safety benefit of these mirrors is that they provide ''an expanded field of view of the right, rear quadrant area adjacent to the vehicle, thus reducing the need of the driver to turn around to view that area directly.'' (47 FR 38698, 38699 (Sept. 2, 1982).) According to AM General, the primary consideration for mirror selection should be size, not weight; therefore, because the Hummer H1 has a size similar to many MPVs, installation of passenger-side convex mirrors should be permissible.

Although AM General did not provide a safety benefit study, it stated that it is not aware of any studies or data suggesting that its recommended amendment would adversely impact motor vehicle safety. Moreover, AM General stated that several countries already have similar requirements.[3]

The agency granted the petition on May 23, 2001 and began to gather data to evaluate the merits of its requested change. To this end, on January 22, 2003, the agency published a Request for Comments on this petition and other related issues related to mirrors (68 FR 2993). (The Request for Comments and comments submitted pursuant to that request may be found in Docket No. NHTSA–2002–12347.) The notice also discussed past and on going mirror research for possible future regulatory requirements. All individuals who commented on the AM General petition supported the option of installing convex mirrors for vehicles with a GVWR of greater than 4,536 kg (10,000 pounds). However, the Alliance of Automobile Manufacturers (Alliance) and Ford Motor Company (Ford) stated that for very long vehicles, a planar mirror may be needed for certain loading dock and other off-road backing maneuvers.

II. Reason for Termination

The agency is terminating this rulemaking proceeding for the following reasons. Despite public commenters' expressions of support for a convex mirror option for the vehicles in question, the agency remains concerned about the difficulties that drivers may encounter in correctly judging distance and speed of approaching traffic if the vehicle is only equipped with a convex

[1] Docket No. NHTSA–2000–7073–13.

[2] AM General submitted specifications on a number of light trucks for comparative purposes. The intention was to demonstrate that although the GVWR of the Hummer H1 is substantially greater than many full-size SUVs and pick-up trucks, it is comparable in size to those vehicles.

[3] As examples, the petitioner cited the following regulations. ECE Regulation No. 46, June 1997, permits a wide-angle, exterior rearview mirror on vehicles with a GVWR that is less than 7,500 kg (16,535 pounds). Canadian Standard No. 111 allows vehicles with a GVWR of greater than 4,536 kg (10,000 pounds) to have a passenger-side convex mirror, as long as it is at least 323 cm^2 in area. Australian Design Rule 14/02 allows vehicles to have a passenger-side convex mirror if the reflective surface area is equal to or greater than that of a mirror of unit magnification that meets its field-of-view requirements.

mirror. As stated in the Request for Comments, although convex mirrors are permitted on the passenger side of light vehicles, the agency still receives complaints from consumers about these mirrors. ''There have been other problems associated with the use of convex mirrors that include double vision, eyestrain, and nausea.'' (68 FR 2993, 2994 (January 22, 2003))

In response to the Request for Comments, most commenters stated that length should be the only relevant factor in determining the use of a mirror of unit magnification or a convex mirror in a vehicle and that NHTSA should undertake further study to determine the maximum allowable length for a given mirror type. However, the Alliance and Ford stated that an outside passenger-side mirror of unit magnification may be needed for certain loading dock and other off-road backing maneuvers. Thus, if a vehicle such as the Hummer H1 were to tow a long object such as a trailer, the view provided by the interior mirror of unit magnification may be obstructed. In such situations, an outside passenger-side mirror of unit magnification would be beneficial during lane change and backing maneuvers.

As to the argument that certain foreign jurisdictions permit use of passenger-side convex mirrors on vehicles with similar weights, we do not find that argument compelling, because the existence of such regulations does not resolve our previously-discussed concerns regarding the efficacy of such mirrors in judging speed and distance of approaching vehicles. As noted above, we have concerns that the Hummer H1's interior mirror of unit magnification may be obstructed during certain applications. The agency has long held the position that in general MPVs, trucks, and buses with a GVWR of 4,536 kg (10,000 pounds) or more must be equipped with exterior mirrors of unit magnification with a reflective surface of not less than 323 cm^2. Our analysis of the available information does not support a change to that requirement for the exterior mirror on the side of the vehicle opposite of the driver. Some vehicles of similar size to the Hummer H1 have no rear windows, are not equipped with an interior mirror, but are equipped to tow a trailer. Therefore, it would be beneficial for these vehicles to have a flat exterior mirror on the side of the vehicle opposite the driver for use during lane change and backing maneuvers.

In accordance with 49 CFR part 552, this completes the agency's technical review of the petition for rulemaking. For the reasons discussed above, NHTSA has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of the rulemaking proceeding. Therefore, the agency has decided to terminate the present rulemaking action.

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

Issued on: August 23, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–17066 Filed 8–26–05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050819225–5225–01; I.D. 080505A]

RIN 0648–AS59

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a regulation to implement the annual harvest guideline for Pacific mackerel in the U.S. exclusive economic zone (EEZ) off the Pacific coast. The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest guideline for Pacific mackerel based on the formula in the FMP. The intended effect of this action is to propose allowable harvest levels for Pacific mackerel off the Pacific coast.

DATES: Comments must be received by September 13, 2005.

ADDRESSES: You may submit comments on this proposed rule identified by I.D. 080505A by any of the following methods:

- E-mail: *0648–AS59.SWR@noaa.gov*. Include I.D. 080505A in the subject line of the message.
- Federal e-Rulemaking portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: (562) 980–4047.
- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

The report *Assessment of the Pacific Mackerel (Scomber japonicus) Stock for U.S. Management in the 2005–2006 Season*, and an economic analysis may be obtained at the address above.

FOR FURTHER INFORMATION CONTACT: Tonya L. Wick, Southwest Region, NMFS, (562) 980–4036.

SUPPLEMENTARY INFORMATION: The FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into the categories of actively managed and monitored. Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) CPS Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews reports from the Team, Subpanel, and SSC, then, after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure are published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific mackerel season begins on July 1 of each year and ends on June 30 of the following year.

The Team meeting took place at the office of the NMFS, Southwest Fisheries Science Center, in La Jolla, California, on May 18, 2005. The Subpanel and SSC meetings took place in conjunction with the June 13–18, 2005, Council meeting in Foster City, California.

The size of the Pacific mackerel population was estimated using a newly modified version of the integrated stock assessment model called Age-structured Assessment Program (ASAP). Using this new ASAP model was recommended by the Coastal Pelagic Species Stock Assessment Review panel meeting held on June 16, 2004, in La Jolla, California. This new ASAP model replaces the old modified virtual population analysis stock assessment model used in previous years. ASAP is a flexible