estimated CO concentration of 8.93 ppm at the intersection with the highest modeled concentration (Third & Washington). Since the estimated CO concentration remained below the CO standard, the dispersion modeling continues to demonstrate attainment. We are proposing approval of the revision in this **Federal Register**.

V. Kaiser Aluminum and Chemical Corporation, Administrative Orders

In order to analyze Kaiser Aluminum and Chemical Corporation, Mead Works' contribution to the elevated CO level described in Section III D, Ecology used screening and refined modeling techniques for point source analysis (40 CFR 51 Appendix W, 6.2.d.). Results of this analysis indicated a maximum total 8-hour modeled concentration of 8.6 ppm on the hilltop to the southeast of the Kaiser smelter (CO standard is 9 ppm). Therefore, Kaiser, through enforceable Administrative Order No. DE 01AQIS–3285 dated October 24, 2001, was only required to verify that CO exceedances were not occurring on the hilltop. In December 2000, Kaiser fully curtailed its primary aluminum production operations at Mead Works. Due to the full curtailment of the facility, Ecology approved a nearby existing ambient air monitoring location as being satisfactory for gathering background ambient CO concentration levels. On April 9, 2003, Ecology approved Administrative Order No. DE 01AQIS–3285, Amendment #1 allowing Kaiser the option to terminate the collection of data during curtailment once 2 years of background data was collected. The Order requires Kaiser Mead Works to resume monitoring and reporting of ambient CO concentrations at a site approved by Ecology if and when primary aluminum production is resumed at the site. In this action, EPA is proposing approval of Kaiser Mead Works Administrative Order No. DE 01AQIS–3285 and Administrative Order No. DE 01AQIS–3285, Amendment #1.

VI. Summary of EPA's Proposal

We are proposing to approve the following elements of the Spokane CO Attainment Plan, submitted on September 20, 2001 and November 22, 2004:

A. Procedural requirements, under section 110(a)(2) of the Act;

B. Base year emission inventory, under sections 172(c)(3) and 187(a)(1) and periodic inventories under 187(a)(5) of the Act;

C. Attainment demonstration, under section 187(a)(7) of the Act;

D. The TCM program under 187(b)(2), 182(d)(1) and 108(f)(1)(A) of the Act;

E. VMT forecasts under section 187(a)(2)(A) of the Act;

F. Contingency measures under section 187(a)(3) of the Act;

G. The conformity budget under section 176(c)(2)(A) of the Act and § 93.118 of the transportation conformity rule (40 CFR part 93, subpart A).

H. Administrative Order No. DE 01AQIS–3285 and Order No. DE 01AQIS–3285, Amendment #1 relating to Kaiser Aluminum and Chemical Corporation, Mead Works.

We are also proposing to approve a SIP revision submitted on September 26, 2001, to two sections of 173–422 WAC Motor Vehicle Emission Inspection, to provide an inspection schedule for motor vehicles between 5 and 25 years old.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental regulations, Reporting and recordkeeping requirements.

Dated: March 1, 2005.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 05–4470 Filed 3–7–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking.

SUMMARY: Based on the agency's evaluation, NHTSA denies the petition for rulemaking from Mr. Kazyaka of TVK Industries, Inc. to amend our safety standards to require the shift patterns on vehicles equipped with manual transmissions to be illuminated and to indicate the gear selected.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Mr. William D. Evans, Office of Crash Avoidance Standards, phone (202) 366–2272. For legal issues, contact Dorothy Nakama, Office of Chief Counsel, phone (202) 366–2992. You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 2003, NHTSA responded to a request for interpretation from Mr. Thomas V. Kazyaka of TVK Industries, Inc. regarding Federal Motor Vehicle Safety Standard (FMVSS) No. 102. Mr. Kazyaka expressed the view that manual transmission shift patterns are required to be backlit and must display the shift lever position in order to comply with S3.2 of FMVSS No. 102. TVK Industries, Inc. markets the SureShifter, which is an aftermarket device that illuminates the shift pattern and indicates the shift lever position on manual transmission-equipped vehicles. NHTSA interpreted S3.2 of FMVSS No. 102 as not requiring manual transmission shift patterns to have backlighting or to identify the shift lever position. The interpretation also stated that no other FMVSSs require vehicles with only manual transmissions to have shift pattern backlighting or to identify the shift lever position.

On December 9, 2003, NHTSA responded to another letter from Mr. Kazyaka, which requested reconsideration of the October 2003 interpretation. In response, NHTSA restated the position expressed in its original interpretation of FMVSS No. 102 to Mr. Kazyaka. Paragraph S3.2 of FMVSS No. 102 requires the identification of the shift lever pattern of manual transmissions, however, it does not require identification of the shift lever position nor backlighting.

On March 9, 2004, NHTSA received a ''Petition for Rulemaking, Defect, and Non-compliance Orders'' from Mr. Kazyaka per 49 CFR Part 552. In this document, Mr. Kazyaka cites several sections in FMVSS Nos. 101 and 102 and petitions the Administrator to initiate a proceeding to determine whether to issue an order concerning the notification and remedy of a failure of motor vehicles equipped with manually shifted transmissions and replacement manual shift knob equipment as specified by FMVSS No. 101 and FMVSS No. 102. This notice responds to Mr. Kazyaka's recent petition.

Petition Response

In his petition, Mr. Kazyaka cites several sections in FMVSS No. 101 and claims that these sections require the shift patterns on manual transmission-equipped vehicles to have backlighting and to indicate the shift lever position. The purpose of FMVSS No. 101 is to ensure the accessibility and visibility of motor vehicle controls and displays. In FMVSS No.101, the only place where manual shift levers are mentioned is under S5.1 (Location of Hand Operated Controls). This section requires that the manual transmission shift lever be in a location where it is operable by and visible to the driver when restrained by crash protection equipment. This requirement refers strictly to the location of the manual transmission shift lever and does not require the lever or shift pattern to be visible under low light conditions. There is no other mention of the manual gearshift lever in FMVSS No. 101. In S5.3.1, under illumination requirements, hand-operated controls mounted upon the floor, floor console or steering column are specifically excluded from illumination requirements. Since they are mounted on the floor, manual transmission gearshift levers are excluded from FMVSS No. 101 illumination requirements. Therefore, FMVSS No. 101 does not require the shift patterns of vehicles equipped with manual transmissions to have backlighting or to indicate the shift lever position.

In the petition, there were also sections in FMVSS No. 102 cited as justification for illuminating shift patterns and indicating shift lever positions on manual transmission-equipped vehicles. One of the purposes of FMVSS No. 102 is to reduce the likelihood of shifting errors. For *automatic transmission*-equipped vehicles, there are requirements for the shift sequence, the identification of shift lever positions, the identification of shift positions in relation to one another and the identification of the gear selected. The only requirement for *manual transmission*-equipped vehicles is that the shift lever pattern must be identified and in view of the driver when the driver is present in the driver's seating position. This requirement refers strictly to the *location* of the shift lever pattern and in no way refers to illumination of the shift pattern under low light conditions. Also, it does not require identification of the shift lever position.

Mr. Kazyaka interprets FMVSS Nos. 101 and 102 as requiring the illumination of manual transmission shift patterns and the identification of the shift lever position by equating them incorrectly with automatic transmission controls. The requirements for manual and automatic transmission controls are different because the controls are used differently. The shift patterns for automatic transmissions are usually in a relatively straight line and the shift positions are close together, which make it difficult for the driver to distinguish the position of the lever without looking at it. Also, automatic transmission shift levers are usually shifted when the vehicle is stationary.

The simple shift pattern identification for manual transmissions enables the driver to learn the shift positions and operate the lever. A manual transmission shift lever sequence usually has a distinct pattern. Once drivers learn the pattern, they can determine what gear their vehicles are in by feel, without looking at the pattern and the lever position each time they shift. A manual transmission shift lever is shifted very often. If drivers had to look at the shift lever and pattern each time they changed gears, this would be a tremendous distraction. The fact that the driver does not refer to the shift pattern after it is learned is evidenced by the location of the shift pattern on the majority of vehicles. The shift pattern is located on the shift lever knob, which is covered up by the driver's hand during shifting.

Mr. Kazyaka also asserts that vehicles ''equipped with automatic/manual transmissions have taken to display the gear selection in dash-mounted indicators,'' further noting that these devices are not available for retrofit and the ''shifting pattern is not displayed.'' In an interpretation letter of April 3, 1989, to Porsche addressing FMVSS No. 102 issues, NHTSA concluded that vehicles with dual function (automatic and manual) transmissions are in fact automatic transmissions for the purposes of the FMVSS. Thus, vehicles with dual function transmissions (even when the driver selects the ''manual'' mode) must meet the illumination and identification of shift lever position requirements, as well as other requirements in FMVSS No. 102. NHTSA further notes that in these dual function vehicles, the ''manual'' system typically does not have gear selections

in an ''H'' configuration, but displays the gear positions in a row.

The petition states that the consequences of motorist in manual transmission-equipped vehicles committing shifting errors while stopped at pedestrian crosswalks and railroad crossings may be fatal. It also states that multiple vehicle operators encounter various shifting patterns, and the petition claims they are at risk of causing property damage and injuries without shift pattern illumination and shift lever position identification. The petition also claims that shift pattern illumination and the identification of shift lever position are more important on vehicles equipped with idle-stop technology where the engine stops and starts automatically while the vehicle is stationary. The agency has searched both its crash and complaint databases and has found no indication of a shifting error problem relative to manual transmission-equipped vehicles both with and without the idle-stop feature. Drivers of manual transmission-equipped vehicles shift and know what gear they are in by feel. Once drivers learn their shift patterns, (a process that is completed very quickly), there is no need for them to look at the shift pattern each time they shift or want to know their gear position.

In accordance with 49 CFR part 552, this completes the agency's technical review of the petition for rulemaking from TVK Industries, Inc. NHTSA believes that Mr. Kazyaka's interpretations relative to FMVSS Nos. 101 and 102 are incorrect and the standards do not require manual transmission shift patterns to be illuminated or to indicate the shift lever position. Also, NHTSA believes that any suggested amendments to the FMVSSs that would require manual transmission shift lever patterns to be illuminated or indicate the shift lever position would not change the performance requirements in a manner that would result in improved safety. Thus, after considering the allocation of agency resources and agency priorities, NHTSA has decided that the rulemaking requested by the petitioner is not warranted. Accordingly, the rulemaking requested by the petition is denied.

Authority: 49 U.S.C. 322, 30111, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

Issued on: March 2, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–4433 Filed 3–7–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2005–20028]

Federal Motor Vehicle Safety Standards

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

ACTION: Denial of Petition for Rulemaking.

SUMMARY: This document denies a petition for rulemaking submitted by Mr. Richard T. Ince of C & J Technology Inc., to amend provisions of the Federal motor vehicle safety standard (FMVSS) for rearview mirrors pertaining to the test procedure for school bus driving mirrors.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Charles R. Hott, Office of Crashworthiness Standards, NVS–113, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–0247. Fax: (202) 366–7002.

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

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2004, the agency received a petition from Mr. Richard T. Ince, C & J Technology Inc., requesting that the agency review and amend paragraph S13.3(g) of FMVSS No. 111, ''Rearview Mirrors,'' which provides procedures for the placement of ''cones'' ''P'' and ''L'' in the school bus mirror test procedure for the driving mirrors. The petitioner stated that the change is needed ''because the rule as stated provides unnecessary and dangerous blind spots in the operator's field of indirect vision along the sides of the school bus.''

The petitioner stated that S9.1 of the standard requires that exterior driving mirrors be tested using cones placed in accordance with the requirements specified in S13. S13 requires the placement of 18 cylinders [1] of a specified height and size at various locations around the school bus. He said cylinder P on the passenger side of the vehicle is placed at 3.6 meters (12 feet) to the right of the longitudinal vertical plane tangent at the center of the rear axle. He said that cylinder L on the driver side, is placed at 1.8 meters (6 feet) to the left of the longitudinal vertical plane tangent at the center of the rear axle. The petitioner asserted that meeting such requirements ''builds into the vehicle blind spots along the sides of the vehicle that are unnecessary and dangerous,'' and he illustrated this with an Exhibit B (Figure 1). C & J Technology claims that these blind spots put the operator and any children along the sides of the vehicle in a dangerous position as the bus leaves a stop, because the driver cannot see the blind spot areas in the rearview mirror system. The petitioner claims that in such situations the driver would be forced to physically look at these areas before moving the bus forward; however, if the driver does not, it could be especially dangerous to children in these blind spots.

C & J Technology's recommended solution is to amend the standard so that cylinders L and P are moved out from the center of the rear axle to a point that would reduce or eliminate the alleged blind spot problem. The petitioner stated that with the use of the ''BDS Dead Angle Spot Mirror,'' the field of vision could increase to a level up to 65 percent greater than that provided by the standard's current requirements. The petitioner further stated that the ''BDS Dead Angle Spot Mirror'' is a wide angle glass, and it is cut in such a manner as to make it possible to move the cylinders out to approximately 21.4 meters (70 feet) from the center of the rear axle, thereby making ''the entire side of the bus visible with just a glance in the mirror by the operator.''

Analysis of the Petitioner's Argument

The statement provided by C & J Technology, which asserts that the test procedure requirements in the standard builds into the vehicle dangerous blind spots, is inaccurate. Currently, all school buses are required to have two mirror systems, System A mirrors that are typically called ''driving mirrors,'' and System B mirrors which are pedestrian detection mirrors. The System A mirrors are used by the operator to maneuver the school bus safely in traffic. The System B mirrors are pedestrian detection mirrors that are

[1] It is noted that the petitioner incorrectly implies that the regulation uses ''cones'' to measure compliance with the standard. The standard uses cylinders that are 0.3048 meters (1 foot) high and 0.0348 meters (1 foot) in diameter. The standard uses cylinders (not cones) because, as stated in the December 2, 1992 final rule, the agency believes 0.3048 meter (1 foot) cylinders more accurately represent a child that is bending over or has fallen down. (57 FR 57000)