Specifications for Screening Devices that measure alcohol in bodily fluids (59 FR 39382).

EFFECTIVE DATE: August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. James F. Frank, Office of Alcohol and State Programs, NTS–21, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590; Telephone: (202) 366–9581.

SUPPLEMENTARY INFORMATION: On August 2, 1994, Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids were published in the **Federal Register** (59 FR 39382). In these model specifications, NHTSA recognized industry efforts to develop new technologies. These specifications establish performance criteria and methods for testing alcohol screening devices using either breath or other bodily fluids to measure alcohol content. NHTSA established these specifications to support State laws that target youthful offenders (i.e., ''zero tolerance'' laws) and the Department of Transportation's initiative to prevent alcohol misuse. NHTSA published its first CPL for screening devices on December 2, 1994 (59 FR 61923; with a correction in 59 FR 65128). Five devices were on that first list.

Since the publication of that list, two additional disposable, single-use saliva-alcohol screening devices have been evaluated at the Volpe National Transportation System Center in Cambridge, MA and found to conform to the model specifications for screening devices: Chematics' ''Alco-Screen 02™'' and Roche Diagnostic Systems' ''On-Site Alcohol''.

It should be noted, however, that while the ALCO-SCREEN 02™ saliva-alcohol screening device manufactured by Chematics, Inc. passed the requirements of the model specifications when tested at 40°C (104°F), the manufacturer has indicated that the device cannot exceed storage temperatures of 27°C (80°F). (Instructions to this effect are stated on all packaging accompanying the device.) Accordingly, the device should not be stored at temperatures above 27°C (80°F) and, if the device is stored at or below 27°C (80°F) and used at higher temperatures, the test should be completed immediately. When these devices were stored at or below 27°C (80°F) and tested at 40°C (104°F) immediately (i.e., within a minute), the devices met the model specifications and the results persisted for 10–15 minutes. When these devices were stored at or below 27°C (80°F) and were equilibrated at 40°C (104°F) for an hour prior to sample application, the devices failed to meet the model specifications. Storage at temperatures above 27°C (80°F), for even brief periods of time, may result in false negative readings.

It should be noted also that while the ON-SITE ALCOHOL saliva-alcohol screening device manufactured by Roche Diagnostics Systems passed all of the requirements of the model specifications, readings should be taken only after the time specified by the manufacturer. For valid readings, the user should follow the manufacturer's instructions. Readings should be taken one (1) minute after a sample is introduced at or above 30°C (86°F); readings should be taken after two (2) minutes at 18–29°C (64°F–84°F); and readings should be taken after five (5) minutes when the sample is introduced at temperatures at or below 17°C (63°F). If the reading is taken before five minutes have elapsed under the cold conditions, the user is likely to obtain a reading that underestimates the actual saliva-alcohol level.

The Conforming Products List is therefore amended as follows:

CONFORMING PRODUCTS LIST OF ALCOHOL SCREENING DEVICES

Manufacturer	Devices(s)
(1) Alco Check International* Hudsonville, MI	•Alco Check 3000 D.O.T. •Alco Screen 3000.
(2) Chematics, Inc., North Webster, IN	•ALCO–SCREEN 02™.[1]
(3) Guth Laboratories, Inc.*, Harrisburg, PA	•Alco Tector Mark X. •Mark X Alcohol Checker.
(4) Repco Marketing, Inc., Raleigh, NC	•Alco Tec III.
(5) Roche Diagnostic Systems, Branchburg, NJ	•On-Site Alcohol.[2]
(6) Sound Off, Inc.,* Hudsonville, MI	•Digitox D.O.T. •Alco Screen 1000.
(7) STC Diagnostics, Inc., Bethlehem, PA	•Q.E.D. A150 Saliva Alcohol Test.

*The devices listed by this manufacturer are the same device sold under tow different names.

[1] It should be noted, however, that while the ALCO–SCREEN 02™ saliva-alcohol screening device manufactured by Chematics, Inc. passed the requirements of the model specifications when tested at 40° C (104° F), the manufacturer has indicated that the device cannot exceed storage temperatures of 27° C (80° F). (Instructions to this effect are stated on all packaging accompanying the device.) Accordingly, the device should not be stored at temperatures above 27° C (80° F) and, if the device is stored at or below 27° C (80° F) and used at higher temperatures, the test should be completed immediately. When these devices were stored at or below 27° C (80° F) and tested at 40° C (104° F) immediately (i.e., within a minute), the devices met the model specifications and the results persisted for 10–15 minutes. When these devices were stored at or below 27° C (80° F) and were equilibrated at 40° C (104° F) for an hour prior to sample application, the devices failed to meet the model specifications. Storage at temperatures above 27° C (80° F), for even brief periods of time, may result in false negative readings.

[2] While this device passed all of the requirements of the model specifications, readings should be taken only after the time specified by the manufacturer. For valid readings, the user should follow the manufacturer's instructions. Readings should be taken one (1) minute after a sample is introduced at or above 30° C (86° F); readings should be taken after two (2) minutes at 18° C–29° C (64.4° F–84.2° F); and readings should be taken after five (5) minutes when testing at temperatures at or below 17° C (62.6° F). If the reading is taken before five (5) minutes has elapsed under the cold conditions, the user is likely to obtain a reading that underestimates the actual saliva-alcohol level.

Note that devices 1, 3, 4 and 6 are breath alcohol testers that use semiconductor type sensors. Devices 2, 5, and 7 are saliva alcohol testers that use enzymatic techniques to measure the alcohol concentration in a saliva sample.

Issued on: August 10, 1995.

James Hudlund,

Acting Associate Administrator for Traffic Safety Programs.

[FR Doc. 95–20179 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–59–M

Denial of Motor Vehicle Defect Petition from Victor A. Fleming

This notice sets forth the reasons for the denial of a petition submitted to the NHTSA under 49 U.S.C. 30162(a)(2) (formerly section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended).

In March 1995, Mr. Victor A. Fleming, an attorney associated with the Gill Law Firm of Little Rock, Arkansas, petitioned the National Highway Traffic Safety Administration (NHTSA) to order a safety recall of certain motor vehicles produced by the Chrysler Corporation (Chrysler) for remedy of an alleged defect in the park lock system of the automatic transmissions installed in those vehicles. Specifically, Mr. Fleming requested that Chrysler be ordered to conduct a safety recall of its 1984 through 1991 model year vehicles equipped with console-mounted transmission shift lever assemblies, in order to adequately notify owner/operators that the shift lever can be moved out of the ''Park'' position after the ignition key has been removed. The petitioner proposed that, as a remedy for the alleged defect, a readily visible warning should be installed in the subject vehicles.

The safety defect alleged in this matter does not refer to the failure or malfunction of any component or operating system of the vehicle. Rather, the petition requests that the manufacturer be ordered to undertake a safety recall ''* * * for the purpose of adequately notifying * * *'' owners of the subject vehicles of certain design and operating features of the automatic transmission park lock system. The petitioner argues that such notification is necessary to provide a proper warning that the transmission park lock system permits removal of the engine ignition key when the transmission is not in the ''Park'' position. For the reasons set forth below, Mr. Fleming's petition is denied.

The petitioner presented as a documentary account of this design characteristic, the experience of a client severely injured when struck by her 1990 Dodge LeBaron convertible equipped with a console mounted gear shift lever. According to the petition, the vehicle had been parked on a slight incline with the engine ignition turned off and the ignition key removed, when it began an unpowered rollaway and struck the driver while she was walking away from the vehicle. The petitioner also stated that the driver believed that the transmission had been shifted into, or toward, the ''Park'' position, as was the driver's stated habit to do so. The petition is silent as to whether the parking brake was applied or failed to function properly. The petitioner's client filed suit against Chrysler in January 1994, and a jury subsequently ruled for Chrysler. Reportedly, a motion for a new trial is pending.

This petitioner's allegations are limited to 1984 through 1991 Chrysler vehicles equipped with automatic transmissions and a center floor console shifter. Petitioner argues that the design of the transmission park lock system is defective in that even though the system performs as it was intended, the design itself represents a safety defect. The petitioner presents a detailed discussion of the relevant technical issues, reflecting extensive research in support of the litigation against Chrysler on behalf of his client. Included as an attachment to the petition is a copy of the NHTSA closing report for Engineering Analysis, EA91–010, which concerned the park lock system installed in 1981–1990 Chrysler Corporation vehicles with steering column-mounted gear selector levers.

In EA91–010, the issue of concern was defined broadly as failure of the transmission to properly engage or lock in the ''Park'' position when properly shifted to that position by the vehicle operator. It was established through engineering tests and design analyses that when properly shifted to the ''gated Park'' position, the transmission would effectively prevent self mobility or unpowered vehicle rollaway incidents, and that the design of the shift mechanism disclosed no mechanical or hydraulic defect that would cause the subject transmissions to shift from ''Park'' to ''Reverse'' without external input.

The vehicle operated by the petitioner's client was a Chrysler LeBaron convertible equipped with Chrysler's type A–413 or A–460 automatic transmission. These two transmission models were the subject of EA91–010. In the Le Baron convertible model, the shift lever was center console mounted, as opposed to being mounted on the steering column in the sedan. The petition argues that the characteristics of the design of the floor mounted shift linkage present a safety defect in that the key can be removed from the vehicle without the shift lever being placed in the ''Park'' position. This, according to petitioner, increases the likelihood of injury from an unintended rollaway in that the operator may leave the vehicle without placing the transmission in ''Park'' or applying the parking brake.

It should be noted that Federal Motor Vehicle Safety Standard (FMVSS) No. 114, ''Theft Protection,'' sets minimum performance requirements for the transmission park lock system of vehicles with a GVWR of 10,000 pounds or less. At the time the subject vehicles were manufactured, the purpose of FMVSS No. 114 was ''theft protection to reduce the incidence of accidents resulting from unauthorized use.'' In 1990 FMVSS No. 114 was amended (effective September 1, 1992) to specify ''requirements to reduce the incidence of crashes resulting from rollaway of parked vehicles.'' For vehicles manufactured prior to September 1, 1992, FMVSS No. 114 required that vehicles must have a key locking system that prevents vehicle steering or self-mobility, or both, when the key is removed. The public docket detailing promulgation of FMVSS No. 114 is complete in its presentation and analyses of relevant technical issues.

To meet the requirements of FMVSS No. 114 as they existed prior to September 1, 1992, manufacturers typically installed a steering column lock to prevent steering with the ignition key removed. Alternatively, the requirement to prevent vehicle self-mobility with the key removed was usually addressed by installation of a transmission shift lever lock. The designs of such shift lever locks required that an automatic transmission be shifted into the ''Park'' position in order to enable removal of the ignition key, and after the key was removed, shifting the transmission from the ''Park'' position to any other gear was prevented. Many vehicle manufacturers installed both types of locks even though not required to do so by FMVSS No. 114. Chrysler chose to use only the steering column lock to prevent steering of the subject vehicles.

On April 5, 1988, NHTSA issued a notice of proposed rulemaking (NPRM) to address the problems of inadvertent steering column lock-up and inadvertent shifting of the transmission. Following the normal procedures associated with the issuance of a rulemaking action, NHTSA issued on May 22, 1990, an amendment to FMVSS No. 114 which required that each vehicle be equipped with a key locking system that, whenever the key is removed:

a. Prevents normal activation of the vehicle's engine or motor, and

b. Prevents either steering or forward self-mobility of the vehicle or both. For a vehicle equipped with an automatic transmission with a Park position, the key locking system must prevent removal of the key unless the transmission or transmission shift lever is locked in ''Park,'' or becomes locked in Park as a result of removing the key.

The purpose of the amendment, applicable to certain vehicles manufactured after September 1, 1992, was to preclude operation of the shift lever by children, thus preventing child injuries associated with vehicle rollaway incidents.

The petitioner notes that many manufacturers had installed such key-locking systems in vehicles with automatic transmissions prior to the September 1, 1992, effective date of the amendment. The petitioner argued that for reasons of cost and possibly other considerations, Chrysler elected to limit the installation of such key locking systems to vehicles in which the transmission shift lever was mounted on the steering column. Chrysler-manufactured vehicles with the gear selector lever installed in a center-floor console were not equipped with such a key lock system prior to model year 1993.

The petitioner contends that Chrysler failed to adequately warn owners of the subject vehicles with floor-mounted transmission shift levers that removal of the ignition key from the ignition switch did not indicate that the transmission had been locked in the ''Park'' position. Because of this alleged failure to provide ''adequate warning'' of this design characteristic, the petitioner claims that operators of the subject vehicles were led to believe in error that self-mobility of the vehicle was impossible once the key had been removed from the ignition switch. The petitioner also alleges that incidents of unpowered vehicle rollaway had resulted in accidents and injuries.

While the petitioner presented examples of incidents where unintended rollaways had occurred in 1984–1991 Chrysler vehicles equipped with automatic transmissions and floor mounted shifters, the petition does not set forth any facts establishing that Chrysler vehicles differed either in design or performance from other vehicles that allowed removal of the ignition key without placing the transmission in the ''Park'' position. Also, as noted above, the petition does not allege that the involved vehicles presented a safety hazard stemming from a component or system failure.

The petitioner asks that Chrysler be ordered, under the notification and remedy provisions of the Act, to provide notification together with a readily visible warning that the subject vehicles can, in fact, roll away when unattended if the transmission is not properly shifted into the ''Park'' position, even though the ignition key has been removed.

The petitioner recognized that such an advisory appears in the LeBaron owner's manual:

Note: A console mounted shift lever can be moved out of PARK after the ignition key has been removed. Therefore, it is very important that children left in the vehicle be cautioned against touching the shift lever. Also, the parking brake should be fully applied before leaving the vehicle, especially when parked on an incline.

A principal point of the petitioner's request is that the ''Note'' as stated above, does not provide ''adequate warning.'' The petitioner cited testimony during the trial in which a human factors expert stated that the ''Note'' does not constitute a warning, and that it makes no mention of the fact that the key can be removed from the ignition even if the transmission is not in the ''Park'' position. The petition also cites the presence of a larger number of warnings contained in the owner's manual for 1990 Ford Mustang vehicle equipped with a floor mounted shifter allowing removal of the key without the transmission placed in ''Park.'' Petitioner alleges that these warnings are more effective in that they provide more specific advice about the characteristics of the shift lock and the potential for unintended rollaway. Petitioner does not, however, present any data suggesting that these warnings are more effective than those contained in the Chrysler owner's manual.

The petitioner has submitted a detailed presentation of his request, as well as the reasons therefor. Notwithstanding this presentation, however, NHTSA does not believe that it would be appropriate to grant the petition. The park lock system found on the Chrysler vehicles that are the subject of this petition was not unique. Manufacturers other than Chrysler also produced vehicles during this time period in which the key could be removed without locking the transmission in ''Park.'' Petitioner has not produced any evidence or information suggesting that the Chrysler vehicles created a higher risk to safety than these similar vehicles. While it is the agency's position that existing Federal motor vehicle safety standards are minimum performance benchmarks and that compliance with these standards does not preclude the agency from deciding that a safety-related defect exists, the vehicles in question complied with the requirements of FMVSS No. 114 as they existed at the time they were manufactured. The later promulgation of an amendment to this Standard to address the hazard of unintended rollaways caused by failure to place the transmission in ''Park'' or movement of the shift lever in an unattended parked vehicle does not establish that earlier designs were defective, but reflects the conclusion that existing designs can be improved. The evidence presented by the petitioner does not indicate that the design presents a safety-related defect under the Act. Thus, after considering all of the issues raised by this petition; and recognizing the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the agency has decided to deny the petition.

Authority: 49 U.S.C. *30162(a)*; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 3, 1995.

Michael B. Brownlee,

Associate Administrator for Safety Assurance.

[FR Doc. 95–20174 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that the annual meeting of the Department of Veterans Affairs Voluntary Service National Advisory Committee will be held at the Holiday Inn—Mart Plaza, 350 North Orleans Street, Chicago, Illinois, October 25 through 28, 1995. The meeting begins with participant registration at 8 a.m. on October 25 and concludes at 12 Noon on October 28. The meeting is open to the public.

The committee, comprised of fifty-five national voluntary organizations, advises the Under Secretary for Health and other members of the Department of Veterans Affairs Central Office staff on how to coordinate and promote volunteer activities within VA facilities. The primary purposes of this meeting are: to provide for committee review of volunteer policies and procedures; to accommodate full and open communications between the organizations, representatives and the Voluntary Service Central Office and field staff; to provide educational opportunities geared towards improving volunteer programs with special emphasis on methods to recruit, retain, motivate and recognize volunteers; and to approve committee recommendations.

For further information, contact the Director, Voluntary Service Office (167), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, 20420, (202) 565–7405.

Dated: August 13, 1995.