

CLIENT ALERT

NHTSA Proposes Rule To Pump Up The Volume Of Electric And Hybrid Vehicles

January 9, 2013

On Monday, January 7, 2013, the National Highway Traffic Safety Administration (NHTSA) proposed a rule (FMVSS No. 141, "Minimum Sound Requirements for Hybrid and Electric Vehicles") to establish a federal motor vehicle safety standard (FMVSS) that sets minimum sound requirements for hybrid and electric vehicles, including passenger cars, light trucks and vans, medium and heavy duty trucks and buses, low speed vehicles, and motorcycles. If finalized, the rule will require electric and hybrid vehicles to produce an alert sound loud enough for a nearby pedestrian to reasonably detect the vehicle's presence, direction, location, and operation, even in urban areas with substantial ambient noise.

Under the proposed rule, an alert must sound automatically whenever a hybrid or electric vehicle operates in reverse, or below the speed of 18 mph (30 km/h), including when the vehicle is activated but stationary. NHTSA selected 18 mph as the maximum speed required to trigger the alert sound because its testing showed that hybrid and electric vehicles traveling at or above 18 mph create approximately the same sound levels produced by similar vehicles operating with internal combustion engines (ICE vehicles). The proposed standard also requires the frequency of the sound emitted by the hybrid or electric vehicle to increase or decrease in a manner that is similar to the frequency of the sound produced by ICE vehicles. This will allow pedestrians to determine, for instance, whether the hybrid or electric vehicle is accelerating or decelerating.

Although no particular sound is required to satisfy this standard, all vehicles of the same make, model, and model year must emit the same sound. Any method of compliance that meets the final acoustic specifications is permitted. NHTSA expects, however, that most manufacturers will comply with the standard initially by installing speaker systems that produce artificial sounds at an estimated cost of \$35 per vehicle for light vehicles.

The proposed rule prohibits vehicle manufacturers, distributors, dealers, and motor vehicle repair businesses from rendering the sound system inoperative, though they may alter, replace or modify the alert to remedy a defect or non-compliance with the proposed safety standard. Manufacturers may not provide anyone, other than a dealer, a device designed to disable, alter, replace or modify the alert.

NHTSA issued this proposed rule under the Pedestrian Safety Enhancement Act of 2010 (PSEA), which required the agency to establish performance requirements for an alert sound that is recognizable to pedestrians as an operating motor vehicle. Though this proposed rule does not apply immediately to ICE vehicles, the PSEA requires NHTSA to study whether there is a safety need to similarly require the alert sounds in those vehicles. As a result, the agency plans to monitor the use of idle stop technology in ICE vehicles, which shut down or slow a vehicle's engine when it comes to a stop. If NHTSA determines that there is a need for alert sounds in ICE vehicles, the agency must initiate rulemaking to require those alert sounds. NHTSA must report its findings on ICE vehicles to Congress by January 4, 2015.

As with all FMVSS, manufacturers who violate new FMVSS No. 141, if enacted, can be subject to civil penalties, and may be required to recall vehicles that fail to comply with the standard.

Comments on the proposed rule are due to NHTSA 60 days after the proposal is published in the Federal Register. If you have any questions regarding NHTSA's proposed rule or how to submit comments on the rule, please contact the professionals listed below, or your regular Crowell & Moring contact for more information.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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