

system during vehicle operation no greater than the situation with a blown fuse." If the system becomes disabled due to being frozen but also has a blown fuse, then a vehicle operator would be left without the use of a functioning washer system even after the system is thawed by engine heat or by the addition of the correct fluid mixture. For example, an operator in a harsh winter environment who attempts to activate the washer system might find that it is frozen and wait for it to thaw out, which it would be likely to do once the vehicle was warmed up. In a noncomplying truck, the washer system would still be inoperable even after thawing out. Furthermore, an operator who had neglected to maintain the washer fluid mixture might be alerted to the frozen condition of the fluid by the failure of the system to spray when actuated. The operator might then be able to correct the fluid mixture and, in a complying vehicle, continue driving with an operational washer system.

International asserts that the freezing point of the washer system when the

recommended fluid mixture is used is so low that the system is very unlikely to freeze under foreseeable conditions. While this may be true, vehicles are unlikely to have exactly the recommended mixture and could, in fact, have a diluted mixture with a higher freezing point. We do not see any compelling reason to question whether the frozen-system requirement in FMVSS No. 104 has a realistic basis, and International did not provide any supporting information in that regard. Also, the fact that the standard specifies filling and testing the system using only water does not mean that systems filled with only water are anticipated in the actual operating environment. As a practical matter, it is easier to freeze the system for the purpose of a compliance test when it contains just water instead of a mixture with a lower freezing point.

If International believes that washer systems should be tested with an appropriate washer fluid mixture, or that the frozen washer system test is unreasonable because of the low likelihood of washer fluid freezing in

actual use, the company is entitled to present relevant safety data, research, and related information to NHTSA in the form of a petition for rulemaking to amend the current safety standard.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion, and that the noncompliance may have an adverse effect on the safety of the subject vehicles. Accordingly, International's application is denied and the company must provide notification of the noncompliance as required by 49 U.S.C. 30118. Also, International must provide a free remedy for the noncompliance to each first purchaser of an affected vehicle bought within ten calendar years of the time notice is given, as required by 49 U.S.C. 30120(g).

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

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Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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