

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental Relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds

Dated: April 8, 1999.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, part 52 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

Subpart Y—Minnesota

2. Subpart Y is amended by adding a new § 52.1246 to read as follows:

§ 52.1246 Prevention of significant deterioration of air quality for Andersen Corporation's facility in Bayport, Minnesota.

(a) *Applicability.* (1) This section applies only to the window and patio door manufacturing facility, commonly referred to as Andersen Windows, located at 4001 Stagecoach Trail and 100 Fourth Avenue, North, Bayport, Minnesota.

(2) This section sets forth the prevention of significant deterioration of air quality preconstruction review requirements for volatile organic compound ("VOC") and non-milling PM/PM₁₀ emissions.

(3) For all other units and pollutants not specifically identified in this section which are subject to regulation under the Act, the preconstruction review requirements of § 52.1234 still apply.

(b) *Regulations for Preventing Significant Deterioration of Air Quality.*

(1) The provisions of 40 CFR 52.21(b) through (w) are applicable and made a part of the state plan for the State of Minnesota, with the exceptions and additions set forth in paragraphs (b)(2), (b)(3), and (b)(4) of this section.

(2) For the purposes of this Section, and in addition to paragraph (b)(1) of this section:

(i) "Existing waterborne inline treatment units" shall mean the following specific units at the Andersen facility:

(A) Five waterborne inline wood treatment systems in the main facility, permit number 549-90-I/O-2.

(B) Five waterborne inline wood treatment systems in the door subplant, permit number 549-90-I/O-2.

(C) Two waterborne inline wood treatment systems, permit number 16300001-017.

(ii) "Existing door subplant paint lines" shall mean the three solventborne paint and pretreatment systems located in the Andersen facility door subplant, permit number 549-90-I/O-2.

(iii) "Milling operations" shall be all those activities which involve the cutting and shaping of wood or Fibrex except that shaping by extrusion shall not be considered milling.

(iv) "Non-milling operations" shall be all those activities that generate PM/PM₁₀ emissions and which are not milling operations.

(3) With respect to existing inline waterborne treatment units and existing door subplant paint lines only:

(i) "An increase in the hours of operation or in the production rate." applies instead of 40 CFR 52.21(b)(2)(iii)(f).

(ii) The requirements of 40 CFR 52.21(r)(4) shall not apply.

(4) With respect to VOC and non-milling PM/PM₁₀ emissions, "The date 10 years before construction on the particular change commences; and" applies instead of 40 CFR 52.21(b)(3)(ii)(a).

(c) This rule expires [date 10 years from effective date of the final rule].

[FR Doc. 99-9723 Filed 4-16-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. NHTSA 99-5403]

RIN 2127-AH22 and RIN 2127-AH20

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

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

ACTION: Denial of petitions for rulemaking.

SUMMARY: This document denies petitions, submitted jointly by the American Automobile Manufacturers Association (AAMA) and the Association of International Automobile Manufacturers (AIAM) to amend two Federal motor vehicle safety standards (FMVSSs), one on windshield defrosting and defogging and one on windshield wiping and washing, by accepting a European Union (EU) Directive as an

optional "functionally equivalent" alternative to each safety standard. NHTSA has determined that both EU Directives require windshield minimum cleared areas which are smaller by up to 20 percent than those required by the counterpart Federal motor vehicle safety standards. The agency has concluded that the requirements of the European regulations provide less driving visibility and cannot assure equivalent safety performance. However, the agency believes that harmonization of windshield wiping, washing, defrosting and defogging regulations is possible using worldwide best practices in the context of a Global Technical Regulation developed under the UN/ECE Working Party 29, and it is pursuing such an approach.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Boyd, Office of Safety Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Boyd's telephone number is: (202) 366-6346. His facsimile number is (202) 366-4329.

SUPPLEMENTARY INFORMATION: The harmonization of product standards has become a matter of increasing importance in the last several decades. The manufacturing and marketing of products have become increasingly globalized. In response to that trend, countries and regions have moved to adjust and coordinate their regulatory practices to the extent consistent with consumer protection policies. Efforts to coordinate regulatory practices on a global scale have resulted in several international agreements that seek to promote and guide the process of harmonization, while taking care to preserve the right of countries and regions to adopt and maintain standards they believe necessary to address safety, environmental and other needs within their respective jurisdictions.

The United States is a party to several international agreements, including the General Agreement on Tariffs and Trade. That agreement was most recently amended by the Uruguay Round Agreements. One of those agreements is the Agreement on Technical Barriers to Trade (TBT). The TBT Agreement seeks to avoid creating unnecessary obstacles to trade, while recognizing the right of signatory countries to establish and maintain technical regulations for the protection of human, animal and plant life and health and the environment. Among other things, the TBT Agreement also provides that a party to the Agreement will consider accepting as equivalent the technical regulations of other party nations, provided they adequately fulfill

the objectives of the party's existing domestic standards.

On May 13, 1998, the National Highway Traffic Safety Administration (NHTSA) amended 49 CFR Part 553, *Rulemaking Procedures*, by adding a new Appendix B setting forth a statement of policy about the process that it intends to follow in considering whether to commence a rulemaking proceeding based on a claim that a foreign motor vehicle safety standard is better than or at least functionally equivalent to its counterpart among the FMVSSs and in making determinations about relative benefits and functional equivalence (63 FR 26508). The amendment reaffirmed the agency's policy of focusing its international harmonization activities on identifying and adopting those foreign vehicle safety standards that clearly reflect best practices, i.e., that require significantly higher levels of safety performance than the counterpart U.S. standards. It also announced the agency's policy regarding those instances in which the agency's comparison of standards indicates that the safety performance required by a foreign standard is not significantly higher, but is still better than or at least as good as that required by the counterpart U.S. standard.

The amendment also emphasized that the agency's policy is to deny any rulemaking petition seeking to have a foreign standard added to its counterpart U.S. standard as a compliance alternative or to harmonize the U.S. standard with the foreign standard if the petition does not contain an analysis of the relative benefits of the two standards. This policy is necessary to minimize the impact that NHTSA's consideration of such rulemaking petitions might otherwise have on the agency's use of its resources to upgrade its safety standards.

In a submission dated August 13, 1997, the American Automobile Manufacturers Association (AAMA) and the Association of International Automobile Manufacturers, Inc. (AIAM), petitioned the agency to amend several FMVSSs to permit vehicle manufacturers to choose to comply with either the existing requirements of those FMVSSs or the counterpart requirements of vehicle safety standards recognized in most European countries. These European standards are in the form of European Union Directives and often are taken from a body of standards developed by the United Nations Economic Commission for Europe (UN/ECE). In this case, the petitions asked that the requirements of EU Directives EEC 78/317 and EEC 78/318 be accepted as optional alternatives to the

requirements of FMVSS No. 103, *Windshield Defrosting and Defogging Systems*, and FMVSS No. 104, *Windshield Wiping and Washing Systems*, respectively. At present, there are no Economic Commission for Europe (ECE) model regulations for windshield defrosting/defogging and wiping/washing. The common safety objective of both the EU Directives and the FMVSSs is to maintain driving visibility under conditions which would otherwise obscure vision through the windshield.

During the development of NHTSA's policies on "functional equivalence" rulemakings, the European windshield defrosting/defogging and wiping/washing regulations were considered model candidates. In a public meeting on functional equivalence, the agency mentioned them as examples of foreign standards which differed in the coordinate system and points of reference for geometric measurements of vehicles but which appeared to require essentially identical performance. Both the U.S. and European windshield wiping regulations define a large area of the windshield which must be swept at least 80% and a much smaller area directly in front of the driver which must be swept at least 99% (98% in the European regulation). The U.S. wiping regulation also measures performance in another intermediate sized area of the windshield, but the third swept area requirement is not carried over to the defrosting requirements. Both the U.S. and European defrosting regulations have identical requirements for the clearing time and cleared percentages of the small area in front of the driver defined in the wiping regulation, of a symmetric area on the passenger side, and of the large area defined in the wiping regulation. The principal requirements of the corresponding U.S. and European regulations would be the same if the windshield test areas were identical.

The U.S. and European regulations both define the various areas on the windshield by means of fields of view originating from driver vision reference points. The U.S. regulation defines ellipsoids containing the probable eye locations of drivers in a range of statures referenced to the seating position. The fields of view are defined by lines drawn tangent to the eye position ellipsoids at specified angles. The European regulation defines two distinct points, which represent average eye positions for tall and short drivers referenced to a vehicle coordinate system and a seat back angle. The fields of view are defined by lines drawn at specified angles directly intersecting the

two vision reference points. The European method of defining critical windshield areas is a simplification of the method of the U.S. regulations.

The petitioners described the test zone differences as follows:

The test zones used by each standard are generated using different methods. The European test zones use the ISO (International Organization for Standardization) "V" points while the US zones are based on the SAE (Society of Automotive Engineers) eye-ellipse. However, the ISO "V" points are a derivative of the SAE eye-ellipse, and generate substantially similar zones. While the zones are not identical, the differences are insignificant and do not affect real world safety.

NHTSA asked the petitioners to develop detailed comparisons overlaying the U.S. and European test zones on actual example vehicles to quantify the differences. The petitioners supplied comparisons using the 1997 Cadillac Seville, 1997 Ford Contour and 1998 Chrysler Sebring as examples. In every case, the European test zone was smaller than the corresponding U.S. test zone. On average, the test zone representing the critical area in front of the driver generated by the European method was only 81.3 percent as large as the corresponding area generated by the U.S. method. The larger European test zone representing the bulk of the windshield averaged 88.3 percent of the area of the corresponding U.S. test zone. The petitioners did not supply information addressing the effects on vision or safety of the reductions in minimum area represented by the European regulations.

NHTSA does not agree with the petitioners that the differences in minimum cleared areas for windshield wiping and defrosting between the U.S. and European regulations are insignificant. The petitioners have provided no evidence to rebut the obvious presumption that sizable reductions in cleared area will reduce visibility and provide less safety. The agency does not find European directives EEC 78/317 and EEC 78/318 functionally equivalent to Federal Motor Vehicle Safety Standards Nos. 103 and 104, respectively.

In accordance with 49 CFR part 552, this completes the agency's review of the petitions. The agency has concluded that there is no reasonable possibility that the amendments requested by the petitioners would be issued at the conclusion of a rulemaking proceeding. Accordingly, it denies the AAMA/AIAM petitions dealing with FMVSS Nos. 103 and 104.

However, the agency believes that harmonization of windshield wiping,

washing, defrosting and defogging regulations is possible using worldwide best practices. AAMA has informed the agency that a European organization is preparing a proposal for a Global Technical Regulation on the subject for consideration by the UN/ECE Working Party 29. The agency participates in Working Party 29 and will support a Global Technical Regulation that incorporates best practices to resolve the issue of minimum cleared areas.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 14, 1999.

Stephen R. Kratzke.

Acting, Associate Administrator for Safety Performance Standards.

[FR Doc. 99-9705 Filed 4-16-99; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF35

Endangered and Threatened Wildlife and Plants; Extension of Comment Period and Announcement of Public Hearings on Proposal To List the Mountain Plover as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; public hearings and extension of comment period.

SUMMARY: On February 16, 1999, the Fish and Wildlife Service proposed listing the mountain plover as a threatened species, without critical habitat, under authority of the Endangered Species Act (64 FR 7587). The Fish and Wildlife Service (Service) gives notice that five public hearings will be held on the proposal, and that the comment period will be extended 60 days. During the breeding season, the mountain plover is widely distributed in shortgrass prairie, shrub steppe, and cultivated landscapes from Montana south to Texas. Most breeding birds occur in Colorado, Montana, and Wyoming; fewer breeding birds occur in Arizona, Kansas, New Mexico, Oklahoma, Texas, and Utah. Wintering plovers are most numerous in California; some winter in Arizona, Texas, and Mexico.

DATES: The comment period on the proposal is extended to June 21, 1999. The public hearings will be held at the following cities, dates, and times.

Malta, Montana: Tuesday, May 25, 1999; 4:00 p.m.–8:00 p.m.

Billings, Montana: Wednesday, May 26, 1999; 2:00 p.m.–4:00 p.m. and 6:00 p.m.–8:00 p.m.

Casper, Wyoming: Wednesday, June 2, 1999; 2:00 p.m.–4:00 p.m. and 6:00 p.m.–8:00 p.m.

Greeley, Colorado: Tuesday, May 25, 1999; 6:00 p.m.–9:00 p.m.

Lamar, Colorado: Wednesday, May 26, 1999; 6:00 p.m.–9:00 p.m.

ADDRESSES: The following lists the locations of the meetings cited above:

Malta, Montana: Malta High School, #1 High School Lane.

Billings, Montana: MSU-Billings, 1500 N. 30th Street, Ballroom.

Casper, Wyoming: Holiday Inn, I-25 and Center Street.

Greeley, Colorado: Weld County Centennial Center, 915 10th Street.

Lamar, Colorado: Lamar Community College, 2401 South Main Street, Bowman 138 Lecture Hall.

Written comments and materials should be sent to the Assistant Field Supervisor, U.S. Fish and Wildlife Service, 764 Horizon Drive, South Annex A, Grand Junction, Colorado 81506-3946. We will make comments and materials we receive available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Robert Leachman at the above address, telephone 970-243-2778; facsimile 970-245-6933.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(5)(E) of the Endangered Species Act requires that public hearings regarding proposals for listing be held promptly when requested by the public within 45 days of the proposal's publication in the **Federal Register**. Public hearing requests were received during the allotted time period from Ken Blunt, Phillips County Prairie Ecosystem Action Council (Montana); Francis V. Jacobs, Board of County Commissioners, Phillips County, Montana; John Sidle, USDA Forest Service, Nebraska; and Park County Wyoming County Commissioners. While we received no formal requests for hearings in Colorado, we have had numerous discussions with interested parties in Colorado who have asked that meetings occur. Therefore we have scheduled the five hearings listed above in Montana, Wyoming, and Colorado.

Anyone expecting to make an oral presentation at these hearings is encouraged to provide a written copy of their statement to the hearing officer

prior to the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at these hearings or mailed to us.

Author: The primary author of this notice is Robert Leachman (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531-1544).

Dated: April 13, 1999.

Ralph O. Morgenwech,

Regional Director.

[FR Doc. 99-9664 Filed 4-16-99; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: 90-Day Finding for a Petition to List the *Ambrosia pumila* (San Diego Ambrosia) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We have made a 90-day finding on a petition to list the *Ambrosia pumila* (San Diego ambrosia) pursuant to the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing *Ambrosia pumila* as endangered may be warranted. We are initiating a status review to determine if listing is warranted.

DATES: The finding announced in this document was made on April 13, 1999. To be considered in the 12-month finding, comments and information must be submitted to us by May 19, 1999.

ADDRESSES: Submit data, information, comments, or questions concerning the petition and this 90-day finding to the Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, California 92008. You may inspect the petition, 90-day finding, supporting data, comments and related documents, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, biologist, U.S. Fish and