

401 M Street, SW, Washington, DC 20460, (202) 260-7458.

SUPPLEMENTARY INFORMATION: This proposed rule was issued under Section 3001(b) of RCRA. EPA proposed to list certain wastes generated during the production of dyes and pigments because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 59 FR 66072-114 (December 22, 1994) for a more detailed explanation of the proposed rule.

These proposed hazardous waste listings were based in part upon data claimed as confidential by certain dye and pigment manufacturers. Although EPA intends to publish these data or information derived from these data claimed as confidential (to the extent relevant to the proposed listing), the Agency is unable to do so at the present time, pending a decision on current CBI litigation. EPA is pursuing avenues to allow publication of the information, and intends to supplement the public record prior to issuance of a final listing. In addition, the Ecological and Toxicological Association of Dyes and Organic Pigments Manufacturers (ETAD) requested an additional extension of the comment period for the same reason, *i.e.*, that the CBI issues have not been resolved yet.

Therefore, for these reasons, EPA is extending the comment period to provide sufficient time for the public to comment if and when additional data are published.

Dated: July 11, 1995.

Loretta Marzetti,

Acting Director, Office of Solid Waste.

[FR Doc. 95-17475 Filed 7-14-95; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95-104, RM-8656]

Radio Broadcasting Services; Johannesburg, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Jacqueline Lago requesting the allotment of Channel 265A to Johannesburg, California, as that community's second local FM service. Coordinates used for Channel 265A at Johannesburg are 35-22-24 and

117-38-06. Johannesburg is located within 320 kilometers (199 miles) of the United States-Mexico border, and therefore, the Commission must obtain concurrence of the Mexican government to this proposal.

DATES: Comments must be filed on or before September 1, 1995, and reply comments on or before September 18, 1995.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Denise B. Moline, Esq., 6800 Fleetwood Road, Suite 100, P.O. Box 539, McLean, VA 22101.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-104, adopted June 29, 1995, and released July 11, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-17377 Filed 7-14-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition from Koito Manufacturing Co., Ltd. for rulemaking to permit an alternative performance requirement (allowing permissible moisture presence) for certain types of headlamps after completion of the humidity test. The humidity test of Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment, was shortened in duration in 1991 to accommodate another petition from Koito; thus, this petition is somewhat repetitive. The requirement of no visible moisture inside the headlamp has existed for replaceable bulb headlamps since their inception in 1983. The claim by Koito that the requirement is not a performance standard but a design standard is without merit. Koito's proposed supplementary corrosion test for headlamps with visible moisture present after a humidity test does not seem to support its claim of no long-term photometric degradation in these headlamps passing the test.

FOR FURTHER INFORMATION CONTACT: Mr. Jere Medlin, Office of Rulemaking, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Medlin's telephone number is: (202) 366-5276; FAX (202) 366-4329.

SUPPLEMENTARY INFORMATION: On April 19, 1995, Koito Manufacturing Co., Ltd. (Koito) petitioned for a change to the humidity test performance requirements for replaceable bulb, integral beam, and some types of combination headlighting systems. The present humidity performance requirement originated in 1983 and requires that no evidence of delamination or moisture, fogging or condensation be present to the eye (without magnification) upon completion of the humidity test sequence. Koito proposed an alternative requirement for those headlamps that cannot pass this requirement. Koito did not provide any test data to substantiate its claim that there is no long-term performance degradation in photometric

output from allowing moisture in headlamps over long periods. Koito claims that such headlamps perform adequately in Europe and Japan.

In 1991, the humidity test was changed as a result of a petition by Koito and Robert Bosch GmbH. The duration of the test was shortened from 20 consecutive 6-hour cycles to 24 consecutive 3-hour cycles; the photometric test immediately after the humidity test was deleted and other test details were changed. The sole remaining requirement was that "the headlamp show no evidence of delamination or moisture, fogging or condensation visible without magnification."

Now, Koito states that the requirement that no visible moisture be present inside the headlamp following the humidity test is a design restriction and that the criteria are excessively stringent "design standards" as opposed to "performance standards."

Koito also states that the present humidity test requirement causes it to design its headlamps with long vent tubes, which it states has increased the cost to the consumer. Koito furnished no data to support its claim of increased costs or burden.

Koito recommended that the new corrosion test set forth in Docket No. 93-57; Notice 2, (59 FR 59975 of November 21, 1994) be applied to lamps failing the humidity test. In that Notice of Proposed Rulemaking the agency proposed only for replaceable lens headlamps, to set forth additional requirements for headlamps that would have replaceable lenses. Such lamps would be designed not to corrode if the interiors were exposed briefly to the outside environment until such time that a lens replacement occurred (lens replacement is not now permitted). That lens replacement proposal had an additional chemical resistance test on the reflector, an additional 24-hour salt spray and 48-hour storage tests (all with the lens removed), and a cleaning test in accordance with the instructions supplied by the manufacturer with the headlamp. A final amendment to FMVSS No. 108 on this subject has not been issued yet.

In response to Koito's claims, NHTSA's technical review follows. Regarding the claim that headlamps that have visible moisture that are in use in Europe and Japan perform adequately, those regions have a greater preponderance of vehicle inspection performed than in the United States (U.S.) Timely headlamp replacement after failure is assisted by the routine inspection process. As a consequence, history has shown that the dominant

cause of headlamp inspection failure and lamp replacement in Europe has been corroded reflectors. While it is possible that this situation may have changed, NHTSA is not aware of any change. The U.S. permitted replaceable bulb headlamps that are conceptually similar to those in Europe and Japan on the premise that headlamps introduced into the U.S. market would not exhibit the traditionally poor resistance to environmental degradation that had been typical of non-U.S. code headlamps. Additionally, because of the fewer and less thorough inspections in the U.S., there is the likelihood that lamps of reduced or failed performance would continue to be used on U.S. highways in greater numbers than in Europe or Japan. Thus, Koito's claim that adequate performance can be achieved by using lamps of non-U.S. market design is not substantiated.

Koito did not provide any data to show that headlamps would not eventually degrade over the life of the vehicle when they are occasionally or perpetually wet from moisture that is purposefully allowed to be in the interior of the lamp. The existence of visible moisture as an acceptable operational condition for headlamps is contrary to all State and Federal efforts to date to maintain a safe level of headlamp illumination performance, against a history of environmental degradation. It is difficult to accept that water in headlamps is not deleterious to headlamp performance; although, if lamp cost is no object, then it is conceivable that headlamps could be made to perform under such duress. NHTSA is not convinced that the public is ready to accept or understand that it is acceptable for water to be in certain headlamps and not be in others.

This is the second time that Koito has requested that the humidity requirements be amended to accommodate its needs. The last time was four years ago. While the present request is of a subtly different nature, the fact is that it is repetitive in nature: the humidity test prevents Koito from selling a design that cannot comply with the humidity requirements. NHTSA is not persuaded by Koito's claims that it is prevented from selling headlamps that have acceptable performance. The standard's requirements determine acceptable performance for the U.S. Unsubstantiated claims of real-world performance in some other region of the world, cannot be used as a basis for changing U.S. safety standards.

Koito claims that the present requirement is design restrictive and establishes a design and not a performance standard. The requirement

is intended to address a headlamp's susceptibility to the ingress of moisture, which over the life of the lamp will cause deterioration of the lamp's photometric performance. The requirement is not solely for the purpose of testing in the instant the loss or failure of photometric performance as Koito believes. The test was never intended to simulate a lifetime of heating/cooling/dry/wet events that could occur with a lamp installed on a real vehicle. The test appears to discriminate well against lamps that are susceptible to the ingress of moisture, as evidenced by Koito's concern that traditional Japanese and European headlamp designs, susceptible to interior damage, cannot comply. While the test can be characterized as restrictive of certain headlamp designs, it is because those design cannot meet the performance demanded of them for passing the test. NHTSA does not view the requirement as a design standard, because the standard does not dictate to lamp manufacturers the design characteristics which they must choose. Manufacturers have complete freedom of design as long as the performance (not allowing moisture) is met.

Koito claims that the newly proposed corrosion test for headlamps that have removable lenses is an appropriate requirement for lamps to pass should they first fail the present humidity test. This is an incorrect application of that requirement. The newly proposed corrosion test is to address a headlamp's susceptibility to corrosion from the effects of having a broken lens. The exposure time due to a broken lens may vary widely case to case, but it is not continual for the life of the vehicle. This corrosion test is not an adequate requirement for headlamps that by their design could have very open interiors, as if they had broken lenses, over their entire existence. A very different and more stringent requirement would appear to be appropriate for such lamps. However, such a test would not determine lamps' susceptibility to condensing moisture that could disrupt photometry in the instant. Thus, it does not fulfill the safety need either.

In accordance with 49 CFR Part 552, this completes the agency's technical review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. The possible value of the requested amendment is particularly small in view of the petitioner's ability to build complying headlamps under the existing requirements and the lack of any inhibition in the standard against

innovative solutions for achieving compliance. After considering all relevant factors, including the need to allocate and prioritize scarce agency resources to best accomplish the agency's safety mission, the agency has decided to deny the petition.

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

Issued on: July 12, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95-17434 Filed 7-14-95; 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; 12-Month Finding for a Petition To List the Say's Spiketail Dragonfly as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the Say's spiketail dragonfly (*Cordulegaster sayi*) under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, the Service finds that listing this species is not warranted.

DATES: The finding announced in this document was made on June 20, 1995.

ADDRESSES: Comments or questions concerning this petition should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Michael M. Bentzien, Assistant Field Supervisor, at the above address (904/232-2580).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial

scientific or commercial information, the Service make a finding within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) of the Act requires that petitions for which the requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months. Such 12-month findings shall be published promptly in the **Federal Register**.

On February 15, 1994, the Service received a petition dated January 13, 1994, from Ms. Nancy Fraser Williams on behalf of the Rock Creek Owners' Association, Gainesville, Florida, to list the Say's spiketail dragonfly (*Cordulegaster sayi*) as endangered. A 90-day finding was made by the Service that the petition presented substantial information indicating that the requested action may be warranted. The 90-day finding was announced in the **Federal Register** on October 26, 1994 (59 FR 53776). The finding also announced the Service's formal review of the species' status and solicited information and public comment regarding population trends, biological vulnerability, and threats to this species. Comments and information received by December 27, 1994, were considered in the 12-month finding.

On the basis of the best available scientific and commercial information, the Service finds that listing the Say's spiketail dragonfly is not warranted at the present time.

The earliest description of this dragonfly was made by Selys (1854) from a British Museum specimen taken in Georgia. Westfall (1953) reported three males collected at Lake City in 1896 and 1897 as the first specimens from Florida. Westfall and Johnson (unpublished) attributed additional state records to misidentifications with congeneric species. Their review demonstrated that the only known specimens of *Cordulegaster sayi* in existence were collected from eight specific historic sites in either Georgia or Florida. The current range includes central Georgia to northern and western Florida. Rock Creek is the best described and most productive of the eight historic sites. Sites on public land include Gordonia-Altamaha State Park in Georgia; Gold Head Branch and Torreya State Parks, San Felasco Hammock State Preserve, and Blackwater River State Forest in Florida.

Besides Rock Creek, private land sites include Lake City, Columbia County, and Camp Crystal Lake, Clay County, Florida. Approximately a dozen specimens have been collected from these other sites. The most recent collections were made in 1994 from Blackwater River State Forest. Kroetzer and Kroetzer (unpublished) collected a specimen from Conecuh National Forest in Alabama in 1994 which has characteristics of both *Cordulegaster sayi* and its congener *C. bilineata*.

Say's spiketail dragonfly is associated with trickling hillside seepages in deciduous forests (Dunkle 1989). Adults have been collected from late February through late April in open areas within about a half mile of seepage breeding sites (Westfall and Mauffray 1994). Westfall (pers. comm. 1994) collected larvae of various instars from seepage pools and beneath wet leaves within and on the border of the seepage streamlets. Larval collections indicate that the species has a multi-year life cycle (Westfall and Mauffray 1994, Mauffray in litt. 1994).

Two seepages modified by development of the Rock Creek subdivision are the only known adverse habitat changes at this site (Mauffray in litt. 1994). Despite these modifications, Mauffray (Westfall and Mauffray 1994) discovered a sizable population in 1992. The collection of larvae from flooded seeps in 1993 (Westfall and Mauffray 1994) following two successive flood events did not support Mauffray's belief (in litt. 1994) that unflooded seeps are needed as dragonfly refugia for population survival. An observed increase in adult numbers from 1993 to 1994 would also not have been predicted following two consecutive annual floods. The observed fluctuations in adult numbers before and after surrounding land development may therefore be more a function of asynchronous emergence due to the species' presumed multi-year life cycle rather than an adverse response to flooding. Concerns for seepage damage by cattle (Daigle in litt. 1985) and pedestrians and vehicles (V. Compton, Blackwater Forestry Resource Administrator, pers. comm. 1994) in Blackwater River State Forest are the only other known instances rangewide of possible habitat impacts. Despite these observations, two adults were collected in 1994 in the vicinity of the historic collection site (J. Daigle, Florida Department of Environmental Protection, pers. comm., 1994).

Between 1970 and 1994, Mauffray (in litt. 1994) conservatively estimated that collecting had removed over 140 adult specimens from Rock Creek. This level