

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD135-3099b; FRL-7671-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions From Portable Fuel Containers

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland for the purpose of establishing Volatile Organic Compound (VOC) emission standards for portable fuel containers. In the Final Rules section of this *Federal Register*, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by July 29, 2004.

**ADDRESSES:** Submit your comments, identified by MD 135-3099 by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov)

C. *Mail:* Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection

Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. MD 135-3099. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov) or e-mail. The Federal [regulations.gov](http://regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814-2308, or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the

information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this Federal Register publication.

Dated: May 27, 2004.

**James W. Newsom,**

*Acting Regional Administrator, Region III.*

[FR Doc. 04-14603 Filed 6-28-04; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 579

[Docket No. NHTSA 2001-8677; Notice 10]

RIN 2127-AJ41

#### Reporting of Information and Documents About Potential Defects

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the date by which quarterly early warning reports are to be submitted to the agency from 30 days following the end of a calendar quarter to 60 days following the end of a calendar quarter. This also proposes to amend the date by which copies of non-dealer field reports are to be submitted from 30 days after the quarterly reports are due to 15 days after those reports are due.

**DATES:** Comments Closing Date: Comments must be received on or before July 29, 2004.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number NHTSA 2004-8677 by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday

through Friday, except Federal Holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading of the **SUPPLEMENTARY INFORMATION** section of this document regarding documents submitted to the agency's dockets.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC., between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA (phone: 202-366-5226). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202-366-5263).

You may send mail to these officials at National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On July 10, 2002, NHTSA published a final rule implementing the early warning reporting (EWR) provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, 49 U.S.C. 30166(m) (67 FR 45822). The final rule established a schedule for the reporting of information and submission of copies of certain field reports required by the rule. The first calendar quarter for which reports were required was the second calendar quarter of 2003. See 49 CFR 579.28(a)(2002). For the quarterly reporting periods in 2003, the reports were due within 60 days after the end of the quarter. Thereafter, starting in 2004, reports were to be due within 30 days after the end of the quarter. See 49 CFR 579.28(b) (2002).

In response to a petition for reconsideration of the final rule, on June

11, 2003, NHTSA amended the reporting dates. Under the revised rule, the initial reporting period for all quarterly data<sup>1</sup> other than historical reports and copies of non-dealer field reports, was the third quarter of 2003. Reports covering the last two quarters of 2003 and the first quarter of 2004 were due to NHTSA within 60 days after the close of the reporting period. Thereafter, reports currently are due within 30 days after the close of the quarter. NHTSA also amended the requirements for submission of copies of non-dealer field reports. The initial reporting period for the submission of copies of non-dealer field reports was the first calendar quarter of 2004. The field reports currently are due within 30 days after the quarterly data are due. 49 CFR 579.28(b), (n) (2003); see 68 FR 35145 (June 11, 2003).

##### **II. Petition for Extension of Time to Submit EWR Data.**

On April 22, 2004, the Alliance of Automobile Manufacturers (Alliance) petitioned NHTSA to conduct a rulemaking to allow manufacturers to submit EWR quarterly reports within 60 days after the close of the quarterly reporting period, rather than the 30 days allowed in the current regulation, beginning with the report for the second calendar quarter of 2004. The Alliance stated that vehicle manufacturers have learned through the experience of the first three reporting periods that the processing and reporting of early warning information will take longer than 30 days. As a result, the Alliance stated, despite the manufacturers' best efforts, if the reports were due 30 days after the end of the quarter a significant amount of reportable data could inadvertently be excluded from the reports, and included in the following quarter's reports instead. In order to avoid such incomplete reporting, the Alliance requests an additional 30 days to provide the quarterly data.

##### **III. Discussion**

When we issued the final rule, and when we postponed the initial reporting period on reconsideration, we believed that after manufacturers had three opportunities to gain experience in making EWR submissions, 30 days after the end of each calendar quarter would be a sufficient amount of time for submitting EWR information. However, on the basis of the Alliance's petition

and our experience in receiving EWR data, we are proposing to revise section 579.28(b) to permit manufacturers to submit EWR quarterly data not later than 60 days after the end of each calendar quarter.

The EWR rule requires manufacturers to submit large amounts of data that are stored in a variety of locations. As manufacturers have compiled and reported EWR information, they have gained a better understanding of the amount of time it takes them to collect, collate and report the information. Based upon the experience of the Alliance's members, it appears that at least for the foreseeable future, manufacturers need more than 30 days to provide complete and accurate EWR reports to NHTSA. Incomplete or inaccurate data would not serve NHTSA well. Complete quarterly reports are far more useful in comparing various data to determine whether there are trends that are indicative of a potential defect. In fact, incomplete reports could lead the agency to fail to notice potential defects or to examine issues unnecessarily.

As we have stated in earlier **Federal Register** notices on the early warning reporting program, we plan to review the EWR regulation after two years of experience. During the course of this review, we will assess whether the appropriate time for quarterly reporting should be 30, 60 or some other number of days after the end of the reporting period.

Under the current regulations, copies of non-dealer field reports are due to NHTSA within 30 days after the other quarterly reports are due. 49 CFR 579.28(n). In essence, beginning with the second quarter of 2004, these reports are now due 60 days after the end of the quarter. Given the structure of the regulation, which bases the due date for non-dealer field reports on the due date for quarterly reports, if we were to change the due date for the quarterly reports and make no other changes, the non-dealer field reports would be due 90 days after the end of the quarter. We do not see any need for such a delay, which could delay our ability to identify potential safety defects. However, to avoid any possibility that the submission of the field reports could interfere with the submission of the quarterly data, we want to continue to stagger the two dates. We believe that a difference of 15 days is sufficient for this purpose. Therefore, we propose to change the language of subsection 579.28(n) to require non-dealer field reports to be submitted not later than 15 days after the quarterly data is due,

<sup>1</sup> In general, quarterly reports include information on production, incidents involving death or injury, numbers of property damage claims, numbers of consumer complaints, numbers of warranty claims or warranty adjustments, and numbers of field reports. See e.g., 49 CFR 579.21.

which would be 75 days after the end of the calendar quarter.

#### IV. Request for Comments

##### *How Do I Prepare and Submit Comments?*

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES**. You may also submit your comments electronically to the docket following the steps outlined under **ADDRESSES**.

##### *How Can I Be Sure That My Comments Were Received?*

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

##### *How Do I Submit Confidential Business Information?*

If you wish to submit any information under a claim of confidentiality, you should submit the following to the Chief Counsel (NCC-110) at the address given at the beginning of this document under the heading **FOR FURTHER INFORMATION CONTACT**: (1) A complete copy of the submission; (2) a redacted copy of the submission with the confidential information removed; and (3) either a second complete copy or those portions of the submission containing the material for which confidential treatment is claimed and any additional information that you deem important to the Chief Counsel's consideration of your confidentiality claim. A request for confidential treatment that complies with 49 CFR part 512 must accompany the complete submission provided to the Chief Counsel. For further information, submitters who plan to request confidential treatment for any portion of their submissions are advised to review 49 CFR part 512, particularly those sections relating to document submission requirements. Failure to

adhere to the requirements of part 512 may result in the release of confidential information to the public docket. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**.

##### *Will the Agency Consider Late Comments?*

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. In accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the proposed rule, we will consider that comment as an informal suggestion for future rulemaking action.

##### *How Can I Read the Comments Submitted by Other People?*

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).

(2) On that page, click on "search."

(3) On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were "NHTSA-2001-1234," you would type "1234."

(4) After typing the docket number, click on "search."

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. The comments are imaged documents, in either TIFF or PDF format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

#### V. Privacy Act Statement

Anyone is able to search the electronic form of all comments received into any of our dockets by the

name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

#### VI. Rulemaking Analyses

*Regulatory Policies and Procedures.* Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines as "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This document was not reviewed under E.O. 12866 or the Department of Transportation's regulatory policies and procedures. This rulemaking action is not significant under Department of Transportation policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this proposal would only revise the time period for reporting certain EWR data from 30 days to 60 days after the calendar quarter ends and revise the date for submission of certain field reports by 15 days. This document does not otherwise change the substance of the reports.

*Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. This was addressed in the final rule and a response to petitions for reconsideration. See 67 FR 45870-71

and 69 FR 3292, 3297 respectively. Today's proposal simply extends dates for reporting information under the EWR rule and does not impose any new burdens on small businesses. Based on the analyses performed in the final rule (67 FR 45870–71) and the response to petitions for rulemaking (69 FR 3292, 3297), I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

**Executive Order 13132 (Federalism).** Executive Order 13132 on "Federalism" requires us to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of "regulatory policies that have federalism implications." The Executive Order defines this phrase to include regulations "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." The agency has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. This change proposed in this document only affect a rule that regulates the manufacturers of motor vehicles and motor vehicle equipment, which does not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

**Civil Justice Reform.** This proposed rule will not have a retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

**Paperwork Reduction Act.** Today's proposal simply extends the reporting period for the submission of EWR data. The proposal does not create new information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. To the extent that this proposed rule implicates the Paperwork Reduction Act, we will rely upon our previous clearance from OMB. To obtain a three-year clearance for information collection for the EWR rule, we published a Paperwork Reduction Act notice on June 25, 2002 (67 FR 42843)

pursuant to the requirements of that Act (44 U.S.C. 3501 *et seq.*). We received clearance from OMB on December 20, 2002, which will expire on December 31, 2005. The clearance number is 2127–0616. The amendments proposed by this document do not change the overall paperwork burden. They simply extend the dates for reporting certain information pursuant to the EWR rule.

**Data Quality Act** Section 515 of the FY 2001 Treasury and General Government Appropriations Act (Pub. L. 106–554, section 515, codified at 44 U.S.C. 3516 historical and statutory note), commonly referred to as the Data Quality Act, directed OMB to establish government-wide standards in the form of guidelines designed to maximize the "quality," "objectivity," "utility," and "integrity" of information that Federal agencies disseminate to the public. As noted in the EWR final rule (67 FR 45822), NHTSA has reviewed its data collection, generation, and dissemination processes in order to ensure that agency information meets the standards articulated in the OMB and DOT guidelines. The changes proposed by today's document simply extends the reporting period for submission of data pursuant to the EWR rule and do not have any effects on data quality.

**Unfunded Mandates Reform Act.** The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation with base year of 1995). The final rule did not have unfunded mandates implications. 67 FR 49263 (July 30, 2002). Today's proposal simply extends the reporting period for submission of data pursuant to the EWR rule and does not create any unfunded mandates within the meaning of this Act.

#### List of Subjects in 49 CFR Part 579

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter V is amended as follows:

#### PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

1. The authority citation for part 579 continues to read as follows: Sec. 3,

Pub. L. 106–414, 114 Stat. 1800 (49 U.S.C. 30102–103, 30112, 30117–121, 30166–167); delegation of authority at 49 CFR 1.50.

#### Subpart C—Reporting of Early Warning Information

2. In § 579.28, revise paragraphs (b) and (n) to read as follows:

#### § 579.28 Due date of reports and other miscellaneous provisions.

\* \* \* \* \*

(b) *Due date of reports.* Except as provided in paragraph (n) of this section, each manufacturer of motor vehicles and motor vehicle equipment shall submit each report that is required by this subpart not later than 60 days after the last day of the reporting period.

\* \* \* \* \*

(n) *Submission of copies of field reports.* Copies of field reports required under this subpart shall be submitted not later than 15 days after reports are due pursuant to paragraph (b) of this section.

Issued on: June 24, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 04–14699 Filed 6–24–04; 3:58 pm]

BILLING CODE 4910–59–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### RIN 1018–AT54

#### Endangered and Threatened Wildlife and Plants; Special Rule To Control the Trade of Threatened Beluga Sturgeon (*Huso huso*)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are proposing to establish a special rule under Section 4(d) of the Endangered Species Act of 1973, as amended (Act), to exempt the international, foreign, and interstate commerce in certain beluga sturgeon (*Huso huso*) products from threatened species permits normally required under 50 CFR 17.32. Beluga sturgeon occur in the Caspian and Black Seas, and are found in the territorial waters of 11 countries (*i.e.*, the range countries). Over-harvest, severe habitat degradation, and other factors have led to the listing of beluga sturgeon as threatened throughout its range under the Act and in Appendix II of the