residents who meet the following conditions:

(i) Need assistance with eating and drinking.

(ii) Based on the comprehensive assessment, do not have a clinical condition that requires the assistance with eating and drinking of a registered nurse, licensed practical nurse, or nurse aide.

(2) *Requirements on facilities.* If a facility uses a paid feeding assistant, the facility must ensure that the feeding assistant meets the following requirements:

(i) *Training.* Completes a State-approved training course that meets the requirements of § 483.160.

(ii) Supervision. Works under the direct supervision of a registered nurse or licensed practical nurse. This means that a nurse is in the unit or on the floor where the feeding assistance is furnished and is immediately available to give help, if necessary.

(i) *Sanitary conditions.* The facility must—

(1) Procure food from sources approved or considered satisfactory by Federal, State, or local authorities;

(2) Store, prepare, distribute, and serve food under sanitary conditions; and

(3) Dispose of garbage and refuse properly.

* * * * *

§ 483.75 [Amended]

3. In § 483.75(e), the definition of ''nurse aide'' is amended by adding the following sentence to the end of the definition: ''Nurse aides do not include those individuals who furnish services to residents only as paid feeding assistants as defined in § 488.301 of this chapter.''

* * * * *

Subpart D—Requirements That Must Be Met by States and State Agencies: Nurse Aide Training and Competency Evaluation; and Paid Feeding Assistants

4. The heading of subpart D is revised to read as set forth above.

5. A new § 483.160 is added to read as follows:

§ 483.160 Requirements for training of paid feeding assistants.

(a) A State-approved training course for paid feeding assistants must include, at a minimum, the following:

(1) Feeding techniques.

(2) Assistance with feeding and hydration.

(3) Communication and interpersonal skills.

(4) Appropriate responses to resident behavior.

(5) Safety and emergency procedures, including the Heimlich maneuver.

(6) Infection control.

(7) Resident rights.

(8) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.

(b) A facility must maintain a record of all individuals, used by the facility as feeding assistants, who have successfully completed the training course for paid feeding assistants.

(c) A State must require a facility to report to the State all incidents of a paid feeding assistant who has been found to neglect or abuse a resident, or misappropriate a resident's property. The State must maintain a record of all reported incidents.

B. Part 488, subpart E is amended as follows:

PART 488—SURVEY, CERTIFICATION, AND ENFORCEMENT PROCEDURES

Subpart E—Survey and Certification of Long Term Care Facilities

1. The authority citation for part 488 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1895hh).

2. Section 488.301 is amended by adding a new definition of ''Paid feeding assistant'' in alphabetical order to read as follows:

§ 488.301 Definitions.

As used in this subpart—

* * * * *

Paid feeding assistant means an individual who meets the requirements specified in § 483.35(h)(2) of this chapter and who is paid to feed residents by a facility, or who is used under an arrangement with another agency or organization.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 5, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: December 14, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–7344 Filed 3–28–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 02–11875]

RIN 2127–AI04

Federal Motor Vehicle Safety Standards; Rear Impact Guard Labels; Notice of Proposed Rulemaking; Grant in Part, Denial in Part of Petition for Rulemaking

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

ACTION: Notice of proposed rulemaking; grant in part, denial in part of petition for rulemaking.

SUMMARY: This document responds to petitions for rulemaking from the Truck Trailer Manufacturers Association, American Trucking Associations, and Compass Transportation, Inc. Petitioners asked the agency to amend the Federal motor vehicle safety standard on rear impact guards by eliminating the labeling requirement. Under that requirement, rear impact guards must be permanently labeled with the guard manufacturer's name and address, the month and year in which the guard was manufactured, and the letters ''DOT.'' The petitioners asked that if NHTSA declined to eliminate the labeling requirement, the agency instead amend the labeling requirement by eliminating the requirement that the label be permanent, and allowing manufacturers to place the label where it may be the least exposed to damage.

This document denies petitioners' requests to eliminate the labeling requirement and the requirement that rear impact guards be permanently labeled, but grants petitioners' request to allow manufacturers to place the label on the rear impact guard where it may be least exposed to damage.

DATES: Comments must be received on or before May 28, 2002.

ADDRESSES: Comments should refer to the docket number above and be

submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System (DMS) Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202–366–9324. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues: Dr. William J.J. Liu, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; (Telephone: 202–366–2264) (Fax: 202–493–2739).

For legal issues: Mr. Dion Casey, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; (Telephone: 202–366–2992) (Fax: 202–366–3820).

SUPPLEMENTARY INFORMATION:

I. Background

On January 24, 1996, NHTSA published a final rule (61 FR 2003) establishing two Federal Motor Vehicle Safety Standards (FMVSSs) to address the problem of rear underride crashes. These are crashes in which a passenger car, truck, or multipurpose vehicle with a Gross Vehicle Weight Rating (GVWR) of 4,563 kilograms (10,000 lbs) or less (referred to collectively as ''passenger vehicles'') collides with the rear end of a trailer or semitrailer (referred to collectively as ''trailers''), and the front end of the passenger vehicle slides under (i.e., underrides) the rear end of the trailer.

The final rule established two standards that operate together to reduce the number of injuries and fatalities resulting from underride crashes. The first standard (Standard No. 223, Rear Impact Guards) specifies performance requirements that rear impact guards (guards) must meet before they can be installed on new trailers. It specifies strength requirements, as well as test procedures, that NHTSA uses to determine compliance with the standard. Standard No. 223 requires the guard manufacturer to provide instructions on the proper installation of the guard. It also requires guards to be permanently labeled with the guard manufacturer's name and address, the month and year in which the guard was manufactured, and the letters ''DOT.'' The letters constitute a certification by the guard manufacturer that the guard meets all the performance requirements of Standard No. 223. The standard requires manufacturers to place the label on the forward-facing surface of the horizontal member of the guard, 305 millimeters (mm) (12 inches) inboard of the right end of the guard, so that the label is readily visible by Federal Motor Carrier Safety Administration (FMCSA) inspectors.

The second standard (Standard No. 224, Rear Impact Protection) requires most new trailers with a GVWR of 4,536 kilograms (10,000 pounds) or more to be equipped with a rear impact guard meeting the requirements of Standard No. 223. Standard No. 224 specifies requirements regarding the location of the guard relative to the rear of the trailer. It also requires that the guard be mounted on the trailer in accordance with the instructions of the guard manufacturer.

In response to petitions for reconsideration, NHTSA published minor amendments to the standards in the **Federal Register** on January 26, 1998 (63 FR 3654). The standards became effective on that date.

II. Petitions

On December 10, 1998, NHTSA received a petition from the Truck Trailer Manufacturers Association (TTMA) requesting that the agency amend Standard No. 223 by eliminating the guard labeling requirement. TTMA argued that requiring a label on the guard is redundant because vehicle manufacturers are already required to certify compliance with all safety standards. 49 CFR 567.4(g)(5) requires manufacturers to affix to trailers a label containing the statement: ''This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above.''

On December 30, 1998, NHTSA received a similar petition from the American Trucking Associations (ATA), and on January 18, 1999, another petition from Compass Transportation, Inc. Both petitioners argued that the guard labeling requirement is redundant and requested that the agency eliminate the labeling requirement from Standard No. 223.

TTMA requested that if NHTSA declined to eliminate the guard labeling requirement, the agency instead eliminate the requirement that the guard be labeled permanently. TTMA argued that it is unlikely that any label will remain on the guard for the life of the trailer. TTMA also requested that NHTSA allow manufacturers the flexibility to place the label where it may be the least exposed to damage from operational and environmental factors.

III. Discussion and Analysis

A. Guard Labeling Requirement

NHTSA published a Notice of Proposed Rulemaking (NPRM) on January 8, 1981, proposing a single vehicle standard specifying requirements for testing guards on completed trailers. (46 FR 2136). Commenters on the NPRM expressed concern that the proposed requirements would be a substantial financial burden on some trailer manufacturers. These commenters stated that the trailer manufacturing industry consisted primarily of small firms that lacked the engineering capabilities to meet the requirements proposed in the NPRM.

In response to these comments, NHTSA issued a Supplemental Notice of Proposed Rulemaking (SNPRM) on January 3, 1992, that proposed separate equipment and vehicle standards. (57 FR 252). Standard No. 223 provided for the testing of guards on a test fixture, and Standard No. 224 required guards complying with Standard No. 223 to be installed on trailers. The agency concluded that these separate standards would allow trailer manufacturers to purchase guards complying with Standard No. 223 from guard manufacturers, thus relieving trailer manufacturers, especially small manufacturers, of the burden associated with compliance testing.

In its comments on the SNPRM, TTMA stated,

> We appreciate your concern for the small trailer manufacturer in providing for the manufacturer of the guard being a different company than the manufacturer of the trailer. However, due to the variety of trailer configurations, often custom designs, it is likely that a substantial number of trailer manufacturers will manufacture their own guards.

TTMA claimed that affixing a certification label to the guard is redundant in those instances in which the guard is manufactured by the trailer manufacturer because the trailer manufacturer already has to certify compliance with all applicable FMVSSs under 49 CFR 567.4(g)(5). Thus, TTMA requested that trailer manufacturers who also manufacture their own guards be excluded from the guard labeling requirement.

The agency responded that allowing some guard manufacturers to omit the label would be impractical from an enforcement standpoint because trailer

inspectors would not be able to tell whether the guard was certified by the guard/trailer manufacturer as part of the trailer, or whether the trailer manufacturer installed a guard purchased from a guard manufacturer who did not make the required certification. The agency also did not believe that affixing the label would be a significant burden. Thus, the final rule retained the guard certification label requirement for all guards.

In their discussion of the labeling requirement, the TTMA, ATA, and Compass Transportation, Inc., petitions are nearly identical to the comments that TTMA submitted in response to the SNPRM. However, the petitioners requested that NHTSA eliminate the guard labeling requirement for all guards, regardless of who manufactures the guard.

The petitioners correctly stated that 49 CFR 567.4(g)(5) already requires trailer manufacturers to label each trailer as complying with all Federal motor vehicle safety standards. However, the separate equipment and vehicle standards allow a trailer manufacturer to install a complying guard produced by a guard manufacturer rather than by the trailer manufacturer itself. NHTSA developed the separate equipment and vehicle standards in an effort to relieve trailer manufacturers of the financial burden of compliance testing. Indeed, the separate equipment and vehicle standards were implemented largely in response to industry concerns about the cost of compliance testing.

While NHTSA has found that the majority of trailer manufacturers do manufacture and install their own guards, the agency has not received information from the petitioners or other parties showing a need to revise the separate equipment and vehicle standards. Without such information, the agency is not persuaded to change its position. Accordingly, NHTSA is denying the petitioners' request to eliminate the guard labeling requirements in Standard No. 223.

B. Permanent Requirement

TTMA requested that, if NHTSA maintained the guard labeling requirements in Standard No. 223, the agency instead change the wording of the labeling requirement to (1) delete the requirement that the label be permanent, and (2) allow manufacturers some flexibility regarding the location of the label on the guard so that the label may be placed where it is least exposed to damage from operational and environmental factors.

S5.3 of Standard No. 223 currently reads:

> Each guard shall be permanently labeled with the information specified in S5.3 (a) through (c) of this section. The information shall be in English and in letters that are at least 2.5 mm high. The label shall be placed on the forward-facing surface of the horizontal member of the guard, 305 mm inboard of the right end of the guard.

TTMA first suggested eliminating the requirement that the label be permanent. In its petition, TTMA argued:

> It is unlikely that any label will remain on the guard for the life of the trailer. A label on the forward facing portion of the horizontal member will be abraded by road dust, gravel, ice, snow, and other grime and debris. If the label were allowed on the rearward facing portion of the horizontal member it would be abraded on some types of trailers by contact between the horizontal member and loading docks and other structures.

However, TTMA provided no information documenting any problems trailer or guard manufacturers have experienced in meeting the requirement for a permanent label.

NHTSA acknowledges that the permanency of the label is not significant for the purpose of testing new guards for compliance with Standard No. 223. When the guard is new, the environmental and operational conditions that may damage guard labels are not an issue.

However, on September 1, 1999, the Federal Highway Administration (FHWA) published a Final Rule amending the Federal Motor Carrier Safety Regulations regarding rear impact protection to make them consistent with Standard Nos. 223 and 224. (64 FR 47703). FHWA stated that its proposed labeling requirement (now codified at 49 CFR 393.86(f)) was included, in part, ''to help motor carriers quickly determine if the underride device on a newly manufactured trailer meets NHTSA's requirements, and to assist State agencies responsible for enforcing motor carrier safety regulations.'' (63 FR 26759, May 14, 1998).

NHTSA generally does not specify a particular means (*i.e.,* labeling, etching, branding, stamping, or embossing) by which the manufacturer must achieve permanency. Thus, for NHTSA compliance purposes, the guard label is considered permanent if it satisfies the certification requirements specified in 49 CFR part 567. Section 567.4(b) specifies, ''The label shall, unless riveted, be permanently affixed in such a manner that it cannot be removed without destroying or defacing it.''

In consideration of the above, the agency continues to believe that the label must be permanently affixed. Thus, NHTSA is denying the petitioners' request to amend S5.3 of Standard No. 223 by eliminating the requirement that the guard label be permanent.

C. Location of Label

Finally, in its petition, TTMA requested:

> that the guard manufacturer have the flexibility to locate the label where it may experience the least exposure to damage. This location may vary according to the type of trailer and its use. Some trailers do not back up to loading docks while other trailers may have exposure to chemical products and environments.

As noted above, S5.3 of Standard No. 223 currently requires the label to be placed on the forward-facing surface of the horizontal member of the guard, 305 mm (12 inches) inboard of the right end of the guard.

The location of the guard label is of little significance to NHTSA personnel conducting compliance testing on new guards. The agency does not believe that allowing manufacturers flexibility in selecting the location of the label on the guard will be detrimental to its safety purposes.

The location of the guard label is of greater significance to FMCSA [1] and state inspectors charged with verifying that trailers on the road meet the applicable Federal Motor Carrier Safety Regulations and NHTSA standards. However, FMCSA representatives have indicated to NHTSA that during a typical Level 1 inspection, inspectors usually have ready access to the underside of the trailer. This enables the inspector to view the entire length of the horizontal member of the guard from both the front and rear. FMCSA representatives indicated that the specific location of the guard label is not critical, so long as it is located somewhere on the horizontal member of the guard.

S5.7.1.4.1(c) of Standard No. 108 requires retroreflective sheeting to be placed across the full width of the horizontal member of the guard. The minimum width of the retroreflective sheeting is one and one-half inches. Since S5.1 of Standard No. 223 requires that the projected cross-sectional height of the horizontal member of each guard must be at least four inches, there should be ample space to affix the guard label on the rearward-facing surface of

[1] The Federal Motor Carrier Safety Administration, which regulates commercial vehicles, was a part of the FHWA.

the horizontal member of the guard without interfering with the retroreflective sheeting, if the manufacturer determines that this location will be the least susceptible to operational or environmental damage.

Accordingly, NHTSA is proposing to amend S5.3 of Standard 223 to allow manufacturers flexibility in deciding where to place the label on the horizontal member of the guard so that they can minimize exposure to operational and environmental damage. The agency is proposing to revise the third sentence of S5.3 of Standard No. 223 to read as follows:

The label shall be placed on the forward or rearward facing surface of the horizontal member of the guard, provided that the label does not interfere with the retroreflective sheeting required by S5.7.1.4.1(c) of FMVSS No. 108 (49 CFR 571.108), and is readily accessible for visual inspection.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT 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 Executive Order defines a ''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 or 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 notice was not reviewed under Executive Order 12866. In this document, NHTSA is simply proposing to give guard manufacturers greater choice regarding the location in which they place the guard certification label. They would be able to place it in a specified region on the forward or rearward-facing horizontal member of the guard, provided that the label does not interfere with the retroreflective sheeting required by Standard No. 108 and is readily accessible for visual inspection. Since Standard No. 223 already requires guard manufacturers to place the certification label on compliant guards, the agency believes that this proposal would not have any economic effects.

The DOT's regulatory policies and procedures require the preparation of a full regulatory evaluation, unless the agency finds that the impacts of a rulemaking are so minimal as not to warrant the preparation of a full regulatory evaluation. Since NHTSA is simply proposing to give guard manufacturers the flexibility to place the guard certification label on the guard where it will be the least exposed to damage, the agency believes that the impact of this rulemaking would be minimal. Thus, a full regulatory evaluation has not been prepared.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's (SBA) regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. Most trailer and guard manufacturers qualify as small businesses under the SBA's regulations. However, as explained above in the section on Executive Order 12866 and DOT Regulatory Policies and Procedures, the agency believes that the impacts of this rulemaking would be minimal. The agency is simply proposing to allow guard manufacturers the flexibility to place the guard certification label on the guard where it will be the least exposed to damage. Therefore, I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA 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 ''policies that have federalism implications'' 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.'' Under Executive Order 13132, NHTSA may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132. The agency has determined that this proposed rule would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposal would not have any substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Civil Justice Reform

This proposed amendment would not have any retroactive effect. Under 49

U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. This proposed rule would not require any collections of information as defined by the OMB in 5 CFR part 1320.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs the agency to provide Congress, through the OMB, explanations when it decides not to use available and applicable voluntary consensus standards.

There are no applicable voluntary consensus standards available at this time. However, NHTSA will consider any such standards if they become available.

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal 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 the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This proposed rule would not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of more than $100 million annually. Thus, the agency has not prepared an Unfunded Mandates assessment.

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Has the agency organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could the agency improve clarity by adding tables, lists, or diagrams?
—What else could the agency do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this NPRM.

J. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

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). NHTSA 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 address given above under **ADDRESSES.**

You may also submit your comments to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

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 three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

NHTSA will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, the agency will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for NHTSA to consider it in developing a final rule (assuming that one is issued), the agency 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 given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

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 beginning of this document. *Example:* If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. Although the comments are imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are word searchable.

Please note that even after the comment closing date, NHTSA will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, the agency recommends that you periodically check the Docket for new material.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571.223—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.223 would be amended by revising the third sentence of S5.3 as follows:

§ 571.223 Standard No. 223; Rear impact guards.

* * * * *

S5.3 *Labeling.* * * * The label shall be placed on the forward or rearward facing surface of the horizontal member of the guard, provided that the label does not interfere with the retroreflective sheeting required by S5.7.1.4.1(c) of FMVSS No. 108 (49 CFR 571.108), and is readily accessible for visual inspection.

* * * * *

Issued: March 22, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–7568 Filed 3–28–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH95

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Newcomb's Snail, Extension of Comment Period, Notice of Public Hearing, and Notice of Availability of the Draft Economic Analysis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period, notice of public hearing, and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), provide notice that a public hearing will be held on the proposed determination of critical habitat for the Newcomb's snail *(Errina newcombi)* and that the comment period on this proposal is extended; we also announce the availability of the draft economic analysis of this proposed designation of critical habitat. Newcomb's snail is found on the island of Kauai, Hawaii. We are extending the comment period for the proposal to designate critical habitat for this species to hold the public hearing and to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period and will be fully considered in the final rule.

DATES: The public hearing will be held from 6 p.m. to 8 p.m. on April 17, 2002, in Lihue, HI. Prior to the public hearing, the Service will be available from 3:30 p.m. to 4:30 p.m. to provide information and to answer questions. Registration for the hearing will begin at 5:30 p.m. The comment period, which originally closed on March 29, 2002, will now close on April 29, 2002.

ADDRESSES: The public hearing will be held at the Radisson Kauai Beach Resort, 4331 Kauai Beach Drive, Lihue, Kauai, HI. The draft economic analysis is available from, and written comments and information should be submitted to, Field Supervisor, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, HI 96850. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, Pacific Islands Fish and Wildlife Office, at the above address (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

Newcomb's snail is a type of freshwater snail belonging to the lymnaeid family of snails. Adult Newcomb's snails are approximately 6 millimeters (mm) (0.25 inches (in)) long and 3 mm (0.12 in) wide in size. Its shell is smooth and black, formed by a single, oval whorl, about 6 mm (0.25 in) long. The tentacles of Newcomb's snail, like other lymnaeids, are flat and triangular, rather than conical or filament-shaped as found on other freshwater snails. Newcomb's snails feed upon algae and other material growing on submerged rocks. Eggs are attached to underwater rocks or vegetation and the entire life cycle is tied to the stream system in which the adults live.

Populations of Newcomb's snail are currently found in small areas within the Kalalau, Lumahai, Hanalei, Waipahee, Makaleha, and North Wailua stream systems on the Hawaiian island of Kauai. Historically, Newcomb's snail