

VIII. Pollutant Reductions and Environmental Benefits of Options We Considered

Since we are not promulgating effluent guidelines for the construction and development industry, there are no pollutant reductions or environmental benefits associated with today's action. However, we did estimate reductions in discharge of pollutants and the associated water quality improvements and environmental benefits of the options we considered.

A. Pollutant Reduction Estimation

We estimated that Option 2 would result in approximately 1,000,000 tons per year of sediment load reduction. There are no reductions attributable to Option 1. Under Option 2, additional reductions would also likely occur in the discharge of other pollutants that may be associated with sediment, such as phosphorus and certain metals. Due to data limitations regarding the amounts of pollutants attached to sediment from construction sites, we did not estimate national reductions for any pollutants other than sediment. To the extent there are additional discharges, local programs are best to address them at this time.

Our estimate of 1,000,000 tons of annual sediment reduction differs significantly from the estimate at the time of proposal. For the proposal, we made a BPJ estimation of the incremental sediment reductions of the options. This estimation assumed a degree of non-compliance with the existing NPDES storm water regulations. For the analysis in support of today's action, we assumed full compliance with existing regulations. This is consistent with EPA's analysis for other ELGs. Furthermore, we conducted modeling that considered regional soil types and regional-specific pollutant removal estimates of various technologies used on model construction sites. As a result of these changes and the use of modeling, the estimates of pollutant reductions attributable to the options in support of today's action are much lower than EPA had estimated at proposal.

B. Environmental Benefits Estimation

For this action analysis, we calculated benefits using the National Water Pollution Control Assessment Model (NWPCAM). NWPCAM is a national-scale water quality model that simulates water quality and economic benefits resulting from water pollution control policies. NWPCAM characterizes water quality of the Nation's network of rivers and streams and, to a limited extent, its

lakes. The model can translate spatially varying water quality changes resulting from different pollution control policies to reflect the value individuals place on water quality improvements. In this way, NWPCAM can estimate economic benefits of the regulatory options that we considered.

We calculated economic benefits using a four-parameter continuous Water Quality Index (WQI4), representing a composite measure of water quality. We calculated benefits for each State at the local and non-local scales. Local benefits represent the value that a State population is willing to pay for improvements to waters within the State, while non-local benefits represent the value that a State population is willing to pay for improvements to waters in all other States in the conterminous 48 States. Using this approach, the sum of local and non-local benefits represented a total WTP of approximately \$19.5 million annually (2002 dollars) for Option 2. We could not attribute any benefits to Option 1.

Some categories of economic benefits, such as reduced need for navigational dredging, reduced loss of water storage capacity in reservoirs, and reduced drinking water and industrial water treatment costs, were not included in this estimate. For the proposal, these benefits were estimated to have annual value of \$22 million for Option 2. Since proposal, we have substantially reduced our estimate of the reduction in sediment loading that would result from the proposed ELG. We expect the monetized benefits of these categories estimated at proposal would be correspondingly reduced.

IX. Non-Water Quality Environmental Impacts

Sections 304(b) and 306 of the CWA require us to consider the "non water quality" environmental impacts when setting effluent limitations guidelines and standards. As described in the June 2002 proposal, we did consider the non-water quality environmental impacts of the options we developed. We estimated, however, that these impacts would be negligible. We are not promulgating effluent guidelines for the construction and development industry. Therefore, there are no non-water quality environmental impacts associated with today's action.

X. Statutory and Executive Order Reviews

Today's action does not constitute a rule under section 551 of the Administrative Procedure Act, 5 U.S.C. 551. Hence, requirements of other

regulatory statutes and Executive Orders that generally apply to rulemakings (e.g., the Unfunded Mandate Reform Act) do not apply to this action.

Dated: March 31, 2004.

Michael O. Leavitt,
Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2001-8876]

RIN 2127-AG92

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Withdrawal of rulemaking.

SUMMARY: In 2001, the agency granted a petition for rulemaking submitted by the United States Motorcycle Manufacturers Association, Inc. (USMMA). Petitioners asked NHTSA to amend the Federal motor vehicle lighting standard to allow a lower minimum mounting height for side reflex reflectors on motorcycles. The granting of the petition commenced agency rulemaking on the petition. Before taking further action in this area, the agency would like to expand its knowledge base with further research and more supporting data. Accordingly, this document withdraws the open rulemaking.

FOR FURTHER INFORMATION CONTACT: The following persons at the NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

For non-legal issues, you may call Mr. Richard VanInderstine, Office of Crash Avoidance Standards (Telephone: (202) 366-2720) (Fax: (202) 366-7002).

For legal issues, you may call Mr. George Feygin, Office of Chief Counsel (Telephone: (202) 366-2992) (Fax: (202) 366-3820).

SUPPLEMENTARY INFORMATION:

I. Background

FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment*, establishes lighting requirements for motor vehicles. Table IV of FMVSS No. 108 specifies that all reflex reflectors on motorcycles (including side reflectors) be located not less than 15 inches (381 mm) nor more than 60 inches (1524

mm) above the road surface.¹ USMMA petitioned the agency to allow for a lower minimum mounting height of 300 mm, instead of 381 mm.

Petitioners gave several reasons for their request. First, petitioners stated that the lower minimum mounting height would harmonize the Federal standard with the reflector mounting requirements of Europe and Asia, thus affording "global" motorcycle manufacturers certain cost savings opportunities associated with selling a common product in multiple markets.

Second, petitioners believed that lowering the height of the side reflectors would increase safety with respect to illumination by approaching vehicles. In support of their statement, USMMA noted that a lower reflector height would increase the distance between the motorcycle and the approaching vehicle at the point where the reflex reflector illumination occurs. *I.e.*, if the reflector were lowered to 300 mm, an approaching vehicle would illuminate it sooner.²

¹ Reflex reflectors are devices that are used on vehicles to give an indication of presence to an approaching driver by reflecting light from the headlamp of the approaching vehicle.

² To examine the USMMA petition, please go to <http://dms.dot.gov/> (Docket No. NHTSA-2001-8876-12).

Finally, petitioners noted that the vehicle lighting beam patterns have undergone significant improvements in recent years. As a result, petitioners stated, better lighting beam patterns contribute to better reflex reflector performance, even at the lower minimum height of 300 mm.

We granted USMMA's petition by letter dated September 7, 2001. The agency did not issue a notice of proposed rulemaking or any other rulemaking document subsequent to the granting of the petition.

II. Reason for Withdrawal

After careful evaluation of the issues presented by the USMMA petition, the agency has decided to obtain additional data to provide a better assessment of the need for or desirability of proceeding with a rulemaking action to amend side reflex reflector mounting height. While USMMA asserted that the lower reflector mounting height would increase visibility of motorcycles, petitioners did not provide any data in support of their position. The agency would like to obtain additional data on the validity of USMMA's assertion.

In order to ensure that lower reflector mounting height would not reduce motorcycle conspicuity, the agency is

further studying this issue by incorporating investigation of this question into a comprehensive research program dealing with motorcycle conspicuity. The program will evaluate not only reflex reflector height, but also headlamp placement; new motorcycle conspicuity treatments; and the effect of passenger car daytime running lamps on conspicuity of motorcycles.³ We anticipate that this research program will conclude in early 2005. Rather than proceed with a rulemaking on reflex reflector height at this time, we prefer a comprehensive approach that will take into account the knowledge and data gained from the research program. Accordingly, for the reasons discussed above, NHTSA is withdrawing the open rulemaking on the USMMA petition.

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

Issued: April 19, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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³ For more information on this research program, please go to: <http://www.nhtsa.dot.gov/people/injury/pedbimot/motorcycle/motorcycle03/Mcycle%20Safety%20Program.pdf>.