

US EPA ARCHIVE DOCUMENT

consistent with applicable requirements for maintenance: The 2009, 2017 and 2025 budgets are less than the on-road mobile source inventory for 2007 that was shown to be consistent with attainment of the standards. The applicable state implementation plan demonstrates that the 2017 and 2025 budgets are consistent with maintenance when considered with all other sources for each respective year. The 2009 budgets were developed with all the information for the year 2009, including on-road activity in 2009. Because New York demonstrated attainment in this year to the applicable air quality standards, the 2009 budgets are therefore consistent with maintenance of the respective standards.

(v) *The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan*

revision or maintenance plan: The budgets were developed from the on-road mobile source inventories, including all applicable state and Federal control measures. Inputs related to inspection and maintenance and fuels are consistent with New York State's Federally-approved control programs.

(vi) *Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see § 93.101 for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled):* The submitted maintenance plan establishes new 2009, 2017 and 2025 budgets to ensure continued maintenance of the standards; therefore, this is not applicable.

Adequacy Finding

Today's action is simply an announcement of a finding that we have already made. EPA Region 2 sent a letter to New York on August 19, 2013, stating that the 2009, 2017 and 2025 motor vehicle emissions budgets in New York's SIP for the New York PM_{2.5} nonattainment areas are adequate because they are consistent with the required maintenance demonstration. In our letter we noted that there are existing approved and adequate budgets for 2009, but that the 2009 budgets contained in the submitted maintenance plans will be the most recent budgets in place to satisfy the latest Clean Air Act requirement and therefore will be the applicable 2009 budgets to be used in future transportation conformity determinations for analysis years prior to 2017.

TABLE 1—PM_{2.5} MOTOR VEHICLE EMISSIONS BUDGETS FOR NEW YORK
[Tons per year]

New York Metropolitan Transportation Council & Orange County Transportation Council	Direct PM _{2.5}	NO _x
2009 Motor Vehicle Emissions Budget	5,516.75	106,020.09
2017 Motor Vehicle Emissions Budget	3,897.71	68,362.66
2025 Motor Vehicle Emissions Budget	3,291.09	51,260.81

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671 q.

Dated: August 19, 2013.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2013–21266 Filed 8–30–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2012–0294; FRL– 9900–47–Region 3]

Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Virginia has applied to EPA for final authorization of revisions to its

hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for final authorization and is authorizing Virginia's revisions through this immediate final action. EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments that oppose this authorization during the comment period, the decision to authorize Virginia's revisions to its hazardous waste program will take effect. If we receive comments that oppose this action we will publish a document in the **Federal Register** withdrawing the relevant portions of this rule, before they take effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize revisions to Virginia's program that were the subject of adverse comments.

DATES: This final authorization will become effective on November 4, 2013, unless EPA receives adverse written comments by October 3, 2013. If EPA receives any such comment, it will

publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect as scheduled.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–RCRA–2012–0294, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. *Email:* barbieri.andrea@epa.gov.
3. *Mail:* Andrea Barbieri, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.
4. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

You may inspect and copy Virginia's application from 8:00 a.m. to 4:30 p.m., Monday through Friday at the following locations: Virginia Department of Environmental Quality, (VADEQ), Office of Regulatory Affairs, 629 East Main Street, Richmond, VA 23219, Phone number: (804) 698–4426, and EPA Region III Library, 2nd Floor, 1650

Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

Instructions: Direct your comments to Docket ID No. EPA–R03–RCRA–2012–0294. EPA’s policy is that all comments received will be included in the public file without change and may be made available on line at <http://www.regulations.gov>, 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 <http://www.regulations.gov> or email. The Federal <http://www.regulations.gov> Web site is an “anonymous access” system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public file 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 and any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Andrea Barbieri, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3374; email address: barbieri.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States that have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program is revised to become more stringent or broader in scope, States must revise their programs and apply to EPA to authorize the revisions. Authorization of revisions to State programs may be necessary when Federal or State statutory or regulatory authority is

modified or when certain other revisions occur. Most commonly, States must revise their programs because of revisions to EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

B. What decisions have we made in this rule?

EPA concludes that Virginia’s application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Virginia final authorization to operate its hazardous waste program with the revisions described in its application for program revisions, subject to the procedures described in section E, below. Virginia has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions for which Virginia has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

This decision serves to authorize revisions to Virginia’s authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which Virginia is being authorized by this action are already effective and are not changed by this action. Virginia has enforcement responsibilities under its state hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether Virginia has taken its own actions.

D. Why wasn’t there a proposed rule before this rule?

EPA did not publish a proposal before this rule because we view this as a

routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today’s **Federal Register** we are publishing a separate document that proposes to authorize Virginia’s program revisions. If EPA receives comments that oppose this authorization, that document will serve as a proposal to authorize the revisions to Virginia’s program that were the subject of adverse comment.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule would become effective. EPA will base any further decision on the authorization of Virginia’s program revisions on the proposal mentioned in the previous section. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose the authorization of a particular revision to Virginia’s hazardous waste program, we will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Virginia previously been authorized for?

Initially, Virginia received final authorization to implement its hazardous waste management program effective December 18, 1984 (49 FR 47391). EPA granted authorization for revisions to Virginia’s regulatory program effective August 13, 1993 (58 FR 32855); September 29, 2000 (65 FR 46607); June 20, 2003 (68 FR 36925); July 10, 2006 (71 FR 27204); and July 30, 2008 (73 FR 44168).

G. What revisions are we authorizing with this action?

On December 18, 2012, Virginia submitted a final complete program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. Virginia’s revision application includes various regulations that are equivalent to, and no less stringent than, revisions to the Federal hazardous waste program, as published in the Code of

Federal Regulations as of December 31, 2010.

We now make an immediate final decision subject to receipt of written comments that oppose this action that Virginia's hazardous waste program revisions satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Virginia's final authorization for the following program revisions:

1. Program Revision Changes for Federal Rules

Virginia seeks authority to administer the Federal requirements that are listed in Table 1. Virginia incorporates by reference these Federal provisions, in accordance with the dates specified in Title 9, Virginia Administrative Code (9VAC 20-60-18). This Table lists the Virginia analogs that are being

recognized as no less stringent than the analogous Federal requirements. The Virginia Waste Management Act (VWMA), enacted by the 1986 session of Virginia's General Assembly and recodified in 1988 as Chapter 14, Title 10.1, Code of Virginia, forms the basis of the Virginia program. These regulatory references are to Title 9, Virginia Administrative Code (9 VAC) effective March 2, 2011.

TABLE 1—VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of Federal requirement (revision checklists ¹)	Federal Register	Analogous Virginia authority
RCRA Cluster XVII		
Hazardous Waste and Used Oil; Correction to the Errors in the Code of Federal Regulations, Revision Checklist 214.	71 FR 40254, July 14, 2006	9 VAC §§ 20-60-18, 20-60-260 A, 20-60-261 A, 20-60-262 A, 20-60-264 A, 20-60-264 A, 20-60-265 A, 20-60-266 A, 20-60-268 A, 20-60-270 A, 20-60-273 A, 20-60-279 A.
Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes, Revision Checklist 215.	71 FR 42928, July 28, 2006	9 VAC §§ 20-60-18, 20-60-260 A, 20-60-261 A.
RCRA Cluster XVIII		
Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System to Produce Synthetic Gas, Revision Checklist 216.	73 FR 57, January 2, 2008	9 VAC §§ 20-60-18, 20-60-260 A, 20-60-261 A.
National Emission Standards for Hazardous Waste Air Pollutants; Standards for Hazardous Waste Combustors; Amendments, Revision Checklist 217.	73 FR 18970, April 8, 2008	9 VAC §§ 20-60-18, 20-60-264 A, 20-60-266 A.
Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019, Revision Checklist 218.	73 FR 31756, June 4, 2008	9 VAC §§ 20-60-18, 20-60-261 A.
RCRA Cluster XIX		
Academic Laboratories Generator Standards, Revision Checklist 220.	73 FR 72912, December 1, 2008.	9 VAC §§ 20-60-18, 20-60-261 A, 20-60-262 A.
Expansion of RCRA Comparable Fuel Exclusion, Revision Checklist 221 ² .	73 FR 77954, December 19, 2008.	9 VAC §§ 20-60-18, 20-60-261.
RCRA Cluster XX		
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries, Revision Checklist 222.	75 FR 1236, January 8, 2010.	9 VAC §§ 20-60-18, 20-60-262 A, 20-60-263 A, 20-60-264 A, 20-60-265 A, 20-60-266 A.
Hazardous Waste Technical Corrections and Clarification, Revision Checklist 223.	75 FR 12989, March 18, 2010; as amended 75 FR 31716, June 4, 2010.	9 VAC §§ 20-60-260 A, 20-60-261 A, 20-60-262 A, 20-60-263 A, 20-60-264 A, 20-60-265 A, 20-60-266 A, 20-60-268 A, 20-60-270 A.
RCRA Cluster XXI		
Removal of Saccharin and Its Salts from the List of Hazardous Constituents, Revision Checklist 225.	75 FR 78918, December 17, 2010.	9 VAC §§ 20-60-18, 20-60-261 A, 20-60-268 A.
Academic Laboratories Generator Standards Technical Corrections, Revision Checklist 226.	75 FR 79304, December 20, 2010.	9 VAC §§ 20-60-18, 20-60-262 A.
Other		
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Final Rule.	71 FR 35395, June 20, 2006.	9 VAC §§ 20-60-18, 20-60-261 A.
Extension of Site-Specific Regulations for University Laboratories XL Projects.	71 FR 35547, June 21, 2006.	9 VAC §§ 20-60-18, 20-60-262 A.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion.	71 FR 43067, July 31, 2006	9 VAC §§ 20-60-18, 20-60-261 A.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion.	72 FR 43, January 3, 2007	9 VAC §§ 20-60-18, 20-60-261 A.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion.	72 FR 4645, February 1, 2007.	9 VAC §§ 20-60-18, 20-60-261 A.

TABLE 1—VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (revision checklists ¹)	Federal Register	Analogous Virginia authority
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion.	72 FR 31185 June 6, 2007	9 VAC §§ 20–60–18, 20–60–261 A.
Standards for Universal Waste Management; CFR Correction.	72 FR 35666, June 29, 2007.	9 VAC §§ 20–60–18, 20–60–273 A.

¹ A Revision Checklist is a document that addresses the specific revisions made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal Regulations. For more information see EPA's RCRA State Authorization Web page at <http://www.epa.gov/osw/laws-regs/state/index.htm>.

² Adopted changes to comparable fuel provisions amended on this date, not the emissions comparable fuel provisions that were subsequently withdrawn.

H. Where are the revised Virginia rules different from the Federal rules?

1. Virginia's Adoption of EPA's Site-Specific Delisting and Variance Decisions

In its regulations, Virginia has adopted EPA's decisions relative to the site-specific delistings published between June 20, 2006 and June 6, 2007 (71 FR 35395, 71 FR 35547, 71 FR 43067, 72 FR 43, 72 FR 4645, 72 FR 31185). EPA today is not authorizing Virginia to delist wastes. With regard to waste delisted as a hazardous waste by EPA, the authority of the Department of Environmental Quality is limited to recognition of the waste as a delisted waste in Virginia, and the supervision of waste management activities for the delisted waste when the activities occur within the Commonwealth of Virginia. Virginia is not authorized to delist wastes on behalf of the EPA, or to otherwise administer any case decision to issue, revoke, or continue a delisting of a waste by EPA.

2. Rules for Which Virginia Is Not Seeking Authorization

Virginia is not seeking authorization for the following RCRA revisions that are found in 40 CFR as of December 31, 2010:

(a) Virginia is not seeking authorization for the Revision to the Definition of Solid Waste rule (October 30, 2008, 73 FR 64668)

(b) Virginia is not seeking authorization for the Withdrawal of the Emission Comparable Fuel Exclusion (June 15, 2010, 75 FR 33712) because Virginia adopted the Expansion of the RCRA Comparable Fuel Exclusion (December 19, 2008, 73 FR 77954) without the emission comparable fuel exclusion provisions that were subsequently withdrawn in this rule.

I. Who handles permits after this authorization takes effect?

After this authorization, Virginia will issue permits for all the provisions for

which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that we issued prior to the effective date of this authorization. Until such time as formal transfer of EPA permit responsibility to Virginia occurs and EPA terminates its permit, EPA and Virginia agree to coordinate the administration of permits in order to maintain consistency. We will not issue any more new permits or new portions of permits for the provisions listed in Section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Virginia is not yet authorized.

J. How does this action affect Indian country (18 U.S.C. 115) in Virginia?

Virginia is not seeking authorization to operate the program on Indian lands, since there are no Federally-recognized Indian lands in Virginia.

K. What is codification and is EPA codifying Virginia's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart VV, for this authorization of Virginia's program revisions until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant

economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action would not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). In any case, Executive Order 13175 does not apply to this rule since there are no Federally recognized tribes in the State of Virginia.

This action will not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks that may disproportionately affect children. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be

inconsistent with applicable law for EPA, when it reviews a State authorization application to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 3701, et seq.) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2); this action will be effective November 4, 2013.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 12, 2013.

Shawn M. Garvin,

Regional Administrator, EPA Region III.

[FR Doc. 2013-21378 Filed 8-30-13; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 593

[Docket No. NHTSA-2013-0092]

List of Nonconforming Vehicles Decided To Be Eligible for Importation

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

ACTION: Final rule.

SUMMARY: This document revises the list of vehicles not originally manufactured to conform to the Federal Motor Vehicle Safety Standards (FMVSS) that NHTSA has decided to be eligible for importation. This list is published in an appendix to the agency's regulations that prescribe procedures for import eligibility decisions. The list has been revised to add all vehicles that NHTSA has decided to be eligible for importation since October 1, 2012, and to remove all previously listed vehicles that are now more than 25 years old and need no longer comply with all applicable FMVSS to be lawfully imported. NHTSA is required by statute to publish this list annually in the **Federal Register**.

DATES: The revised list of import eligible vehicles is effective on September 3, 2013.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA, (202) 366-5308.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with,

all applicable FMVSS based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made "on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under [49 U.S.C. 30141(c)]." The Secretary's authority to make these decisions has been delegated to NHTSA. The agency publishes notices of eligibility decisions as they are made.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. On October 1, 1996, NHTSA added the list as an appendix to 49 CFR Part 593, the regulations that establish procedures for import eligibility decisions (61 FR 51242). As described in the notice, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242-43. In the notice, NHTSA expressed its intention to annually revise the list as published in the appendix to include any additional vehicles decided by the agency to be eligible for importation since the list was last published. See 61 FR 51243. The agency stated that issuance of the document announcing these revisions will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2). *Ibid.*

Regulatory Analyses and Notices

A. Executive Order 12866, Regulatory Planning and Review

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations about 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 affects 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,