

EPA APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter 335-3-3		Control of Open Burning and Incineration		
* Section 335-3-3-.01	* Open Burning	* 10/2/2003	* 3/9/2006 [Insert citation of publication].	* We are not acting on the portion of section 2(d) stating "During 2003 only burning may be conducted in Morgan County if any air curtain incinerator is used to burn the materials."
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 [FR Doc. 06-2184 Filed 3-8-06; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R05-RCRA-2006-0043; FRL-8040-3]

Michigan: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting Michigan final authorization of the changes to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on November 23, 2005, at 70 FR 70761 and provided for public comment. The public comment period ended on December 23, 2005. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this final action.

EFFECTIVE DATE: This final authorization will be effective on March 9, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-RCRA-2006-0043. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy from 9 a.m. to 4 p.m. at the following addresses: Michigan Department of Environmental Quality, Waste Management Division, Constitution Hall—Atrium North, Lansing, Michigan (mailing address P.O. Box 30241, Lansing, Michigan 48909), contact Ronda Blayer (517) 353-9548; and EPA Region 5, contact Judy Feigler at the following address.

FOR FURTHER INFORMATION CONTACT: Judy Feigler, Waste, Pesticides and Toxics Division, Program Management Branch, State Programs and Authorization Section, Mail Code DM-7J, U.S. Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-4179; fax number (312) 353-3159; e-mail address: Feigler.Judith@epa.gov.

SUPPLEMENTARY INFORMATION: On November 23, 2005, EPA published a proposed rule proposing to grant Michigan authorization for changes to its RCRA hazardous waste management program, listed in Section F of that notice, which was subject to public comment. No comments were received. We hereby determine that Michigan's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization.

A. Why Are Revisions to State Programs Necessary?

States which 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 changes, states must change their programs and ask EPA to authorize the changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is

modified or when certain other changes occur. Most commonly, states must change their programs because of EPA's changes to its own regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Michigan's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we hereby grant Michigan final authorization to operate its hazardous waste management program with the changes described in the authorization application. Michigan has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders (except in Indian country) and for carrying out the aspects of the RCRA described in its revised program 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 requirements and prohibitions in Michigan, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

This decision means that a facility in Michigan subject to RCRA will now have to comply with the authorized state requirements (listed in section F of this document) instead of the equivalent federal requirements in order to comply with RCRA. Michigan has enforcement responsibilities under its state hazardous waste management program for violations of such program, but EPA

retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

- 1. Do inspections, and require monitoring, tests, analyses or reports;
- 2. Enforce RCRA requirements and suspend or revoke permits; and
- 3. Take enforcement actions regardless of whether the state has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Michigan is being authorized by today's action are already effective, and are not changed by today's action.

D. Proposed Rule

On November 23, 2005 (70 FR 70761), EPA published the proposed rule. In that proposed rule, we proposed

granting authorization of changes to Michigan's hazardous waste management program and opened our decision to public comment. The Agency received no comments on this proposal. EPA found Michigan's revised program to be satisfactory.

E. What Has Michigan Previously Been Authorized for?

Michigan initially received final authorization on October 16, 1986, effective October 30, 1986 (51 FR 36804–36805) to implement the RCRA hazardous waste management program. We granted authorization for changes to Michigan's program on November 24, 1989, effective January 23, 1990 (54 FR 48608); on January 24, 1991, effective June 24, 1991 (56 FR 18517); on October 1, 1993, effective November 30, 1993 (58 FR 51244); on January 13, 1995, effective January 13, 1995 (60 FR 3095);

on February 8, 1996, effective April 8, 1996 (61 FR 4742); on November 14, 1997, effective November 14, 1997 (62 FR 61775); on March 2, 1999, effective June 1, 1999 (64 FR 10111); and on July 31, 2002, effective July 31, 2002 (67 FR 49617).

F. What Changes Are We Authorizing With Today's Action?

On September 7, 2005, Michigan submitted a complete program revision application seeking authorization of its changes in accordance with 40 CFR 271.21. We now make a final decision that Michigan's hazardous waste management program revision satisfies all requirements necessary to qualify for final authorization. Therefore, we hereby grant Michigan final authorization for the following program changes:

PROGRAM REVISIONS BASED ON FEDERAL RCRA CHANGES

Description of Federal requirement	Checklist No., if relevant	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
HSWA Codification Rule; Household Waste (Resource Recovery Facilities).	17C	July 15, 1985, 50 FR 28702	R 299.9204(2)(a) and (2)(a)(i)–(ii).
Corrective Action Management Units and Temporary Units.	121	February 16, 1993, 58 FR 8658 ..	R 299.9102(s) and (cc), R 299.9103(r), R 299.9105(c)(vii), R 299.9105(t), R 299.9107(j), R 299.9311, R 299.9413, R 299.9519(9), R 299.9601(1), (2)(k) and (l) and (3)(a), R 299.9627, R 299.9629(3)(a) and (b), R 299.9635(3), R 299.9636, and R 299.11003(1)(u).
Waste Water Treatment Sludges from Metal Finishing Industry; 180-day Accumulation Time.	184	March 8, 2000, 65 FR 12378	R 299.9306(1)(d) and (7)–(10).
Organobromine Production Waste and Petroleum Refining Process Waste: Technical Correction.	187	June 8, 2000, 65 FR 36365	R 299.9220 and R 299.11003(1)(u).
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combusters.	188, 188.1, 188.2	July 10, 2000, 65 FR 42292; May 14, 2001, 66 FR 24270; July 3, 2001, 66 FR 35087.	R 299.9230(2) and (3); R 299.9519(5)(j)(v); R 299.9623(2), (3)(b) and (11); and R 299.11003(1)(n).
Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities.	189	November 8, 2000, 65 FR 67068	R 299.9222, R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(j) and (u).
Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil.	190	December 26, 2000, 65 FR 81373.	R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(u).
Storage, Treatment, Transportation and Disposal of Mixed Wastes.	191	May 16, 2001, 66 FR 27218	R 299.9101(q), R 299.9102(d) and (z), R 299.9103(d) and (k), R 299.9104, R 299.9105(b), (j), (k), (v), (w), (z) and (aa), R 299.9203, R 299.9822(2)–(14), R 299.9823(2)–(4) and (6)–(12).
Mixture and Derived-From Rules Revisions.	192A	May 16, 2001, 66 FR 27266	R 299.9203(1)(c), (3), (7) and (8).
Land Disposal Restrictions Correction.	192B	May 16, 2001, 66 FR 27266	R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(u).
Change of EPA Mailing Address; Additional Technical Amendments and Corrections.	193	June 28, 2001, 66 FR 34374	R 299.11005(2).

PROGRAM REVISIONS BASED ON FEDERAL RCRA CHANGES—Continued

Description of Federal requirement	Checklist No., if relevant	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules.	194	October 3, 2001, 66 FR 50332	R 299.9203(1)(c) and (7)(c).
Inorganic Chemical Manufacturing Wastes Information and Listing.	195, 195.1	November 20, 2001, 66 FR 58258; April 9, 2002, 67 FR 17119.	R 299.9204(2)(o), R 299.9222, R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(j) and (u).
CAMU Amendments	196	January 22, 2002, 67 FR 2962	R 299.9102(s) and (t), R 299.9107(j), R 299.9635, R 299.9638, and R 299.9639.
Hazardous Air Pollutant Standards for Combusters: Interim Standards.	197	February 13, 2002, 67 FR 6792 ..	R 299.9504(4), (15) and (20), R 299.9508(1)(b), R 299.9601(2)(i) and (7), R 299.9623, R 299.9640, R 299.9808(4), (7) and (9), R 299.11003(1)(v).
Hazardous Air Pollutant Standards for Combusters; Corrections.	198	February 14, 2002, 67 FR 6968 ..	R 299.9519(5)(j)(v), R 299.9808(2), (3), (4), (7) and (9); and R 299.11003(1)(r).
Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste.	199	March 13, 2002, 67 FR 11251	R 299.9202(1)(b)(iii), R 299.9204(1)(v), and R 299.9212(4).
Zinc Fertilizers Made From Recycled Hazardous Secondary Materials.	200	July 24, 2002, 67 FR 48393	R 299.9204(1)(x) and (y), R 299.9311, R 299.9413, R 299.9627, R 299.9801(3) and (5), and R 299.11003(1)(u).
Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver-Containing Batteries.	201	October 7, 2002, 67 FR 62618	R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(u).
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combusters: Corrections.	202	December 19, 2002, 67 FR 77687.	R 299.9504(4) and (15) and R 299.9508(1)(b), R 299.9623(8), and R 299.9808(7) and (9).
Recycled Used Oil Management Standards.	203	July 30, 2003, 68 FR 44659	R 299.9205(8), R 299.9809 (1)(e) and (2)(p), and R 299.9815(1)(b) and (3)(f).

STATE-INITIATED MODIFICATIONS

State requirement	Effective date	Federal analog
MAC R 299.9205(4)	October 15, 1996	40 CFR 261.5 and 262.34.
MAC R 299.9206(3)	September 11, 2000	40 CFR 261.6(a)(3).
MAC R 299.9206(3)(g)	September 11, 2000	40 CFR 261.6(1)(2).
MAC R 299.9207(3)	June 21, 1994	40 CFR 261.7(b)(1)(i).
MAC R 299.9212(1), (2), and (3)	October 15, 1996	40 CFR 261.21, 261.22, and 261.23.
MAC R 299.9215(3)	April 20, 1988	40 CFR 261.21(c).
MAC R 299.9303(4)	September 22, 1998	40 CFR 262.12(b) and 270.11.
MAC R 299.9304(2)(h) and (4)(c)	October 15, 1996	40 CFR 262.20.
MAC R 299.9304(6)	October 15, 1996	None.
MAC R 299.9306(1)(e) and (f)	October 15, 1996	40 CFR 262.34(a)(1).
MAC R 299.9307(5)–(7)	September 22, 1998	40 CFR 262.40(c).
MAC R 299.9401	October 15, 1996	40 CFR 263.10.
MAC R 299.9404	October 15, 1996	40 CFR 263.12.
MAC R 299.9410(1) and (3)	October 15, 1996	40 CFR 263.30 and 263.31.
MAC R 299.9503(1)(i) and (k) and (5)	October 15, 1996	40 CFR 262.34.
MAC R 299.9508(1)(f)	October 15, 1996	40 CFR 270.14(b)(17).
MAC R 299.9514(1) and (2)(c)	September 22, 1998	40 CFR 124.12.
MAC R 299.9516(3)	October 15, 1996	40 CFR 270.50.
MAC R 299.9611(4)	October 15, 1996	None.
MAC R 299.9629(3)(a)(ii) and (iii) and (3)(b)(ii) and (iii)	September 11, 2000	40 CFR 264.90(a) and 264.101(b).
MAC R 299.9633	October 15, 1996	40 CFR 260.10, definition of “treatment”.
MAC R 299.9701(2) (removal) and (3) renumbered as (2)	September 11, 2000	40 CFR 264.140(a) and (c).
MAC R 299.9713(6) and (7)	October 15, 1996	40 CFR 264.101(b).
MAC R 299.11004(4)	September 11, 2000	40 CFR part 263.
MAC R 299.11007(2)	September 11, 2000	None.
MAC R 299.11008(2)	September 11, 2000	None.

G. Where Are the Revised State Rules Different From the Federal Rules?

Michigan hazardous waste management regulations are more stringent than the corresponding federal regulations in a number of different areas. The more stringent provisions are being recognized as a part of the federally-authorized program and are federally enforceable. More stringent provisions in the state's authorization application include, but are not limited to, the following:

1. At MAC R 299.9203(7)(a) and (c), Michigan's exclusion differs from the corresponding federal counterpart at 40 CFR 261.3(g)(2)(i) in that the exclusion only applies to mixtures generated as a result of a cleanup conducted at the individual site of generation pursuant to parts 31, 111, 201, or 213 of Michigan's Act 451 (1994 PA 451, MCL 324.101, known as the natural resources and environmental protection act), or CERCLA.

2. At R 299.9306(7)(d)(i) and (ii) and (g), Michigan's rules contain containment, inspection, recordkeeping and emergency requirements that are not found in the federal counterpart at 40 CFR 262.34(g)(4)(i)(A) and (B) and (g)(4)(v), respectively.

3. At R 299.9306(7)(d)(i) and (ii), Michigan provides for management in containers and tanks, respectively, if certain conditions are met. However, Michigan does not allow use of containment buildings, as does 40 CFR 262.34(g)(4)(i)(C), (i.e., Michigan's rules do not have an analog to 40 CFR 262.34(g)(4)(i)(C)).

4. At R 299.9639(5)(e), Michigan does not allow permits as a shield as does the federal counterpart at 40 CFR 264.555(e)(5).

We consider the following state requirements to be beyond the scope of the federal program, though this list may not be exhaustive:

At R 299.9104 and R 299.9203, Michigan regulates more hazardous wastes than the federal counterpart at 40 CFR 266.210. The hazardous wastes that are regulated by Michigan but not by EPA are broader-in-scope requirements.

Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them. Although you must comply with these requirements in accordance with state law, they are not RCRA requirements.

H. Who Handles Permits After the Authorization Takes Effect?

Michigan 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 which we issued prior to the effective date of this authorization, until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Michigan is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Michigan?

Michigan is not authorized to carry out its hazardous waste program in Indian country within the state, as defined in 18 U.S.C. 1151. This includes:

1. All lands within the exterior boundaries of Indian reservations within the State of Michigan;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian country.

EPA will continue to implement and administer the RCRA program in Indian country. It is EPA's long-standing position that the term "Indian lands" used in past Michigan hazardous waste approvals is synonymous with the term "Indian country." *Washington Dep't of Ecology v. U.S. EPA*, 752 F.2d 1465, 1467, n.1 (9th Cir. 1985). See 40 CFR 144.3 and 258.2.

J. What Is Codification and Is EPA Codifying Michigan'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. Michigan's rules, up to and including those revised October 19, 1991, have previously been codified through incorporation-by-reference effective April 24, 1989 (54 FR 7421, February 21, 1989); as amended effective March 31, 1992 (57 FR 3724, January 31, 1992). We reserve the amendment of 40 CFR part 272, subpart X, for the codification of Michigan's program changes until a later date.

K. Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and does not impose requirements other than those already imposed by state law (see **SUPPLEMENTARY INFORMATION**, Section A. Why Are

Revisions to State Programs Necessary?; and Section C. What is the Effect of Today's Authorization Decision?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866 (58 FR 51735, October 4, 1993).

2. Paperwork Reduction Act

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.*).

3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Because this rule approves 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).

5. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (i.e., 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).

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (i.e., substantial direct effects on one or more Indian tribes, or on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.)

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23,

1997) because it is not economically significant and it is not based on environmental health or safety risks.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action as defined in Executive Order 12866.

9. National Technology Transfer Advancement Act

EPA approves state programs as long as they met criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a state program, to require the use of any particular voluntary consensus standard in place of another standard that meets requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply to this rule.

10. Executive Order 12988

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.

11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 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.

12. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) 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).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation,

Hazardous waste, Indians-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: February 21, 2006.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 06-2012 Filed 3-8-06; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2006-23848]

RIN 2127-AJ84

Federal Motor Vehicle Safety Standards; Head Restraints

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

ACTION: Final rule; partial response to petitions for reconsideration.

SUMMARY: This document responds, in part, to petitions for reconsideration of the December 2004 final rule amending our head restraints standard. The amended standard contains new requirements applicable to head restraints voluntarily installed in rear outboard designated seating positions. Because of the time constraints faced by vehicle manufacturers in certifying voluntarily installed rear outboard head restraints to the new requirements, we are bifurcating our response. This document addresses those issues we feel are most time sensitive. In particular, we are responding to those petitions asking the agency to delay the application of the new requirements to voluntarily installed rear outboard head restraints. This final rule delays the date on which the manufacturers must comply with the requirements applicable to head restraints voluntarily installed in rear outboard designated seating positions from September 1, 2008 until September 1, 2010. The remaining petitions for reconsideration will be addressed in a separate notice.

DATES: *Effective Date:* The amendments made in this rule are effective May 8, 2006.

Petitions: Petitions for reconsideration of the amendments made by this rule must be received by April 24, 2006.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact David Sutula of the Office of Crashworthiness Standards, Light Duty Vehicle Division, NVS-112, (Phone: (202) 366-3273; Fax: (202) 366-4329; E-mail: David.Sutula@nhtsa.dot.gov).

For legal issues, you may contact George Feygin of the Office of Chief Counsel, NCC-112, (Phone: (202) 366-2992; Fax (202) 366-3820; E-mail: George.Feygin@nhtsa.dot.gov).

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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- IV. Regulatory Analyses and Notices

I. Background

On December 14, 2004, we published in the **Federal Register** a final rule (December 2004 final rule) upgrading Federal Motor Vehicle Safety Standard (FMVSS) No. 202, "Head restraints."¹ The standard, which seeks to reduce whiplash injuries in rear collisions, was upgraded to provide better whiplash protection for a wider range of occupants. For front seats, the final rule established a higher minimum height requirement, a requirement limiting the distance between the back of an occupant's head and the occupant's head restraint (backset), as well as a limit on the size of gaps and openings within head restraints. There were also new requirements for height, strength, position retention, and energy absorption. In addition, the final rule established new requirements for head restraints voluntarily installed in rear outboard designated seating positions, and added certain requirements specific to rear head restraints capable of folding or retracting into a "non-use position" to accommodate stowable rear seats, or to increase rearward visibility. The upgraded provisions were designated FMVSS No. 202a.

In response to the final rule, vehicle manufacturers expressed concern that adoption of the rear seat head restraint requirements would reduce vehicle

¹ See 69 FR 74848.