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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Docket No. NHTSA-2016-0058

RIN 2127-AL24

Federal Motor Vehicle Safety Standards; Tire Selection and Rims

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

ACTION: Final rule.

SUMMARY: This document amends Federal Motor Vehicle Safety Standard (FMVSS) No. 110 to make it clear that special trailer (ST) tires are permitted to be installed on new trailers with a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 lbs.) or less. It also excludes these trailers from a requirement that a tire must be retained on its rim when subjected to a sudden loss of tire pressure and brought to a controlled stop from 97 km/h (60 mph). The agency proposed these changes and, after a review of the comments received, has determined that these two revisions are appropriate and will not result in any degradation of motor vehicle safety.

DATES: This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received by **[INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Ave. S.E., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical issues, you may contact Patrick Hallan, Office of Crash Avoidance Standards, by telephone at (202) 366-9146, and by fax at (202) 493-2990. For legal issues, you may contact David Jasinski, Office of the Chief Counsel, by telephone at (202) 366-2992, and by fax at (202) 366-3820. You may send mail to both of these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Summary of the March 2013 Notice of Proposed Rulemaking

On June 26, 2003, the agency published a final rule amending several Federal Motor Vehicle Safety Standards (FMVSSs) related to tires and rims.¹ That rulemaking was completed as part of a comprehensive upgrade of existing safety standards and the establishment of new safety standards to improve tire safety, as required by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000 (TREAD Act). That final rule included extensive revisions to the tire standards and to the rim and labeling requirements for motor vehicles.

That final rule expanded the applicability of FMVSS No. 110 to include all motor vehicles with a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 pounds) or less, except for motorcycles. Prior to the enactment of the TREAD Act, FMVSS No. 110 only applied to passenger cars and to non-pneumatic spare tire assemblies for use on passenger cars. In an effort

¹ 68 FR 38116.

to coordinate the upgraded vehicle standard, intended to apply to all vehicles with a GVWR of 4,536 kg (10,000 pounds) or less, with the standards used on tires for vehicles with a GVWR of 4,536 kg (10,000 pounds) or less, the language in FMVSS No. 110 was amended to require the use of tires meeting the new FMVSS No. 139, New pneumatic radial tires for light vehicles. The only exceptions provided in FMVSS No. 110 were for the use of spare tire assemblies with pneumatic spare tires meeting the requirements of FMVSS No. 109 or non-pneumatic spare tire assemblies meeting the requirements of FMVSS No. 129.

With the expansion of FMVSS No. 110 to include all motor vehicles with a GVWR of 4,536 kg (10,000 pounds) or less, the performance tests and criteria within the standard became applicable to all light vehicles, including light trucks, multipurpose passenger vehicles, buses, and trailers that had previously been subject to the requirements of FMVSS No. 120. However, FMVSS No. 110 specified a minimum performance requirement for rim retention among its many requirements. This requirement was not previously included in FMVSS No. 120 and, therefore, was not applicable to light trucks, multipurpose passenger vehicles, buses, and trailers. The effective date for these requirements was September 1, 2007, which provided approximately four years of lead time from publication of the final rule.²

After the 2003 rule took effect, the Recreational Vehicle Industry Association (RVIA) shared two concerns with NHTSA that the trailer manufacturing industry had with FMVSS No. 110. First, RVIA and its members stated, from a literal reading of S4.1 of FMVSS No. 110, that special trailer (ST) tires and tires with rim diameter codes of 12 or below cannot be equipped on new trailers that are under 4,536 kg (10,000 pounds) or less because that section only permits FMVSS No. 139-compliant tires to be equipped on trailers. Second, RVIA and its members

² See 71 FR 877 (Jan. 6, 2006).

questioned the need for the rim retention requirement for trailers in S4.4.1(b) and whether the dynamic rapid tire deflation test specified in that section could be conducted on trailers.

After reviewing these concerns, NHTSA issued, on its own initiative, a notice of proposed rulemaking (NPRM) of March 13, 2013, proposing amendments to FMVSS No. 110 to address RVIA's concerns.³ Specifically, NHTSA proposed to amend FMVSS No. 110 to make clear that ST tires and tires with rim diameter codes of 12 or below can be installed on new trailers with a GVWR of 4,536 kg (10,000 lbs.) or less. Second, NHTSA proposed to amend FMVSS No. 110 to exclude these trailers from the requirement that a tire must be retained on its rim when subjected to a sudden loss of tire pressure and brought to a controlled stop from 97 km/h (60 mph). NHTSA tentatively determined that these two revisions would be appropriate and would not result in any degradation of motor vehicle safety.

II. Summary of Comments

NHTSA received six comments on the proposal.⁴ RVIA, the National Marine Manufacturers Association, and the National Association of Trailer Manufacturers were fully supportive of the proposal. The Tire and Rim Association (TRA) suggested two revisions to the proposal, both of which were also supported by the Rubber Manufacturers Association (RMA). First, TRA suggested the addition of farm implement (FI) tires to the list of tire types that are allowed to be equipped on trailers. Second, TRA suggested that, with respect to ST tires, FI tires, and tires with rim diameter codes of 12 or below, NHTSA require such tires to be compliant with FMVSS No. 119 rather than FMVSS No. 109. NHTSA also received a comment

³ 78 FR 15920.

⁴ All of the comments may be viewed at <http://www.regulations.gov> in Docket No. NHTSA-2013-0030.

from an individual, Mr. Steve Brady. Mr. Brady expressed concern about the safety impact from excluding trailers from the rim retention requirement.

III. Response to Comments

A. Use of ST Tires on Trailers with a GVWR of 4,536 kg (10,000 Pounds) or Less

As stated in the March 2013 NPRM, NHTSA believes that S4.1 unnecessarily and unintentionally restricts the types of tires that can be used on light trailers. None of the commenters who addressed the issue opposed allowing ST tires and tires with a rim diameter code of 12 or less to be used on light trailers. NHTSA has not identified any increased safety risk associated with the use of ST tires and tires with rim diameter code of 12 or less on light trailers. Accordingly, NHTSA is finalizing its proposal to allow ST tires and tires with a rim diameter code of 12 or less to be equipped on light trailers.

TRA's comments, supported by RMA, suggest two additions to the proposal that require brief explanation. First, TRA suggested that FI tires be added to the list of tires that can be equipped on light trailers. We agree that, as with ST and tires with a rim diameter code of 12 or less, NHTSA did not intend to exclude the use of FI tires on light trailers. Nor have we identified any risks associated with the use of FI tires on light trailers. Accordingly, this final rule adds FI tires to the list of tires that may be equipped on light trailers contained in FMVSS No. 110.

Second, TRA suggested that the language of the proposal requiring that ST tires and tires with a rim diameter code of 12 or less be compliant with FMVSS No. 109 be changed to refer to FMVSS No. 119 instead. TRA's rationale behind this comment was that these tires could not be

tested using FMVSS No. 109 because FMVSS No. 109 does not contain inflation pressures to use during testing.

After submitting its comments on this issue, in June 2013, TRA submitted a petition for rulemaking requesting that NHTSA clarify that ST tires, FI tires, and tires with a rim diameter code of 12 or less are subject to the requirements of FMVSS No. 119 and not those in FMVSS No. 109.⁵ The broader issue of whether and how ST tires, FI tires, and tires with a rim diameter code of 12 or less can meet FMVSS No. 109 are beyond the scope of this rulemaking. That issue may be addressed in NHTSA's response to TRA's petition. For now, NHTSA believes it is sufficient to refer to both FMVSS No. 109 and FMVSS No. 119 as the standards under which ST tires, FI tires, and tires with a rim diameter code of 12 or less may comply.

Therefore, we have revised our proposal to allow ST tires and tires with a rim diameter code of 12 or less that comply with FMVSS No. 109 to be used on light trailers by adding FI tires to the list of allowable tires and by also noting that such tires may also be compliant with FMVSS No. 119.

B. Rim Retention Requirement for Trailers

The commenters, with the exception of Mr. Brady, expressed support for the proposed amendment to exclude trailers from the rim retention requirement. Mr. Brady opposed excluding trailers from the rim retention requirement. He stated that the test could be performed by towing trailers at 60 mph. He also expressed concern with the number of tire failures identified in the NPRM. He directed NHTSA to complaints about a single ST tire model with 85 complaints. Further, he noted that even if injury rates are low, there can be significant property damage

⁵ See Docket No. NHTSA-2013-0004.

resulting from blowouts. He stated that the proposal appears to have been made to lower costs to manufacturers while exposing the public to risk.

In the NPRM, NHTSA noted that 963 complaints had been received containing both the words “tire” and “trailer”, but 942 of those complaints were related to the towing vehicle. Only 10 complaints were related to the tire issues the towed vehicle and 11 were not sufficiently specific to determine whether the complaint was related to the towing vehicle or the trailer.⁶ Of the 10 complaints relating to trailer tires, the agency found that only nine complaints are related to tire failure (either blowout or tread separation) of one or more trailer tires. None of the nine VOQs appear to be related to the rim retention requirement, and there were no reported injuries or fatalities mentioned in any of these cases. The 85 complaints about the single model that Mr. Brady referred to in his comments were among the 963 complaints that were reviewed. Based on all of those complaints, NHTSA tentatively concluded that there was no continued safety need to justify the requirement that trailers comply with the rim retention requirement.

Prior to the TREAD Act rulemaking, only vehicles such as passenger cars were subject to the tire retention requirement in FMVSS No. 110, which requires that a tire must be retained on its rim when subjected to a sudden loss of tire pressure. Light trailers were not included because they were covered by FMVSS No. 120. However, after the TREAD Act rulemaking, light trailers and other vehicles such as light trucks and vans were added to FMVSS No. 110. Although the agency only expressly stated its intent to extend the applicability of the rim retention requirement to light trucks and vans, there was no limitation in the regulatory text that excluded trailers or any other vehicle type subject to FMVSS No. 110 from this requirement.

⁶ These complaints were discussed in more detail in the NPRM. *See* 78 FR 15922.

The extension of the applicability of this requirement to trailers resulted in the implementation of the first on-road compliance test that NHTSA would conduct on light trailers.

Although Mr. Brady stated that NHTSA could simply require that a trailer be towed at 60 mph in order to conduct the test, the agency notes that neither the text of S4.4.1(b), nor NHTSA's compliance test procedure contemplate the use of a towing vehicle. Without specificity, light trailer manufacturers cannot know how NHTSA would perform compliance testing of the rim retention requirement on trailers. Consequently, light trailer manufacturers would be responsible for certifying that their trailers comply with the rim retention requirement in any towing-towed vehicle configuration, which creates testing and certification issues.

Based upon NHTSA's review of the nine cases of trailer tire failures discussed in the NPRM, the agency found no injuries or fatalities nor was it apparent that any of these cases could be addressed by the rim retention requirement. Based on that information, NHTSA concludes that there are no data available to document a safety problem related to rim retention of trailer tires. NHTSA also concludes that there is no continued safety need for trailers to comply with the rim retention requirements in S4.4.1(b) of FMVSS No. 110. Accordingly, this final rule implements the proposal to exclude trailers from the rim retention requirement. NHTSA does not believe that this change will have any measurable effect on the safety of light trailers.

IV. Effective Date

This final rule clarifies which tires can be installed on new light trailers and removes the requirement that trailers meet the rim retention requirement in S4.4.1(b) of FMVSS No. 110. It does not impose any substantive requirements. Instead it removes a restriction on the

manufacture of light trailers. Consequently, these amendments may be given immediate effect pursuant to 5 U.S.C. 553(d).

Similarly, good cause exists for these amendments to be made effective immediately pursuant to 49 U.S.C. 30111(d). These amendments would allow light trailers to be equipped with tires designated for use on trailers, and it would relieve trailers from a performance requirement for which NHTSA has no associated test for compliance. We do not believe that these amendments will have any measurable effect on the safety of light trailers.

V. Rulemaking Analyses and Notices

A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking is not considered significant and was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." The rulemaking action has also been determined not to be significant under the Department's regulatory policies and procedures. The agency has further determined that the impact of this final rule is so minimal as to not warrant the preparation of a full regulatory evaluation.

This final rule will not impose costs upon manufacturers. It clarifies the types of tires that can be installed on new light trailers and removes the rim retention requirement for light trailers. This final rule might result in cost savings to manufacturers associated with the certification of compliance with the rim retention requirement. However, we are unable to quantify any such cost savings. This final rule is not expected to have any impact on safety.

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 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 the rule would not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule would directly impact manufacturers of trailers with a GVWR of 4,536 kg (10,000 lbs.) or less. Although we believe many manufacturers affected by this final rule are considered small businesses, we do not believe this final rule will have a significant economic impact on those manufacturers. This final rule will not impose any costs upon manufacturers and may result in cost savings. This final rule will relieve light trailer manufacturers of the burden and costs associated with the rim retention requirement.

C. *Executive Order 13132 (Federalism)*

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule would 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."

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. § 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which "[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law." 49 U.S.C. § 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules,

even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist - for example, when the standard at issue is both a minimum and a maximum standard - the State common law tort cause of action is impliedly preempted. See Geier v. American Honda Motor Co., 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (e.g., the language and structure of the regulatory text) and objectives of today's rule and finds that this rule, like many NHTSA rules, prescribes only a minimum safety standard. As such, NHTSA does not intend that this rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard announced here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

D. Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, “Civil Justice Reform” (61 FR 4729; Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) specifies whether administrative proceedings are to be required before parties file suit in court; (6) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

E. Protection of Children from Environmental Health and Safety Risks

Executive Order 13045, “Protection of Children from Environmental Health and Safety Risks” (62 FR 19855, April 23, 1997), applies to any rule that: (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental, health, or safety risk that the agency has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

This notice is part of a rulemaking that is not expected to have a disproportionate health or safety impact on children. Consequently, no further analysis is required under Executive Order 13045.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There is not any information collection requirement associated with this final rule.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as “performance-based or design-specific technical specification and related management systems practices.” They pertain to “products and processes, such as size, strength, or technical performance of a product, process or material.”

Examples of organizations generally regarded as voluntary consensus standards bodies include ASTM International, the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

There are no voluntary consensus standards developed by voluntary consensus standards bodies pertaining to this final rule.

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 annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires the agency 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 the agency 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 of why that alternative was not adopted.

This final rule would not result in any expenditure by State, local, or tribal governments or the private sector of more than \$100 million, adjusted for inflation.

I. 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.

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.

K. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

List of Subjects in 49 CFR Parts 571

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

In consideration of the foregoing, NHTSA amends 49 CFR Part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

2. Amend § 571.110 by revising S4.1 and S4.4.1(b) introductory text to read as follows:

§ 571.110 Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.

* * * * *

S4.1 *General* (a) Subject to the exceptions set forth in S4.1(b), vehicles shall be equipped with tires that meet the requirements of § 571.139.

(b) Notwithstanding the requirement in S4.1(a),

(1) Passenger cars may be equipped with pneumatic T-type temporary spare tire assemblies that meet the requirements of § 571.109 or non-pneumatic spare tire assemblies that meet the requirements of § 571.129 and S6 and S8 of this standard. Passenger cars equipped with a non-pneumatic spare tire assembly shall also meet the requirements of S4.3(e), S5, and S7 of this standard.

(2) Trailers may be equipped with ST tires, FI tires, or tires with a rim diameter code of 12 or below that meet the requirements of § 571.109 or § 571.119.

* * * * *

S4.4.1 * * *

(b) Except for trailers, in the event of rapid loss of inflation pressure with the vehicle traveling in a straight line at a speed of 97 km/h (60 mph), retain the deflated tire until the vehicle can be stopped with a controlled braking application.

* * * * *

Issued on November 3, 2016 in Washington, D.C., under authority delegated in 49 CFR 1.95 and 501.5.

Mark R. Rosekind,
Administrator

Billing Code: 4910-59-P

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