

Government procurement, Property management, Records management, and Federal information processing resources activities.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR Part 201-9 as follows:

PART 201-9—CREATION, MAINTENANCE, AND USE OF RECORDS

1. The authority citation for Part 201-9 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

2. Section 201-9.202-1 is revised to read as follows:

§ 201-9.202-1 Standard and Optional Forms Management Program.

(a) *General.* (1) The Standard and Optional Forms Management Program was established to achieve Governmentwide economies and efficiencies through development, maintenance and use of common forms.

(2) FIRM Bulletin B-3 contains additional guidance on the Standard and Optional Forms Management Program.

(b) *Procedures.* Each Federal agency shall—

(1) Designate an agency-level Standard and Optional Forms Liaison Representative and Alternate, and notify GSA in writing of such designees' names, titles, mailing addresses, and telephone numbers within 30 days of the designation or redesignation at the address in paragraph (b)(4) of this section;

(2) Promulgate Governmentwide Standard Forms pursuant to the agency's statutory or regulatory authority and issue in the Federal Register Governmentwide procedures on the mandatory use, revision, or cancellation of these forms;

(3) Sponsor Governmentwide Optional Forms when needed in two or more agencies and announce the Governmentwide availability, revision or cancellation of these forms;

(4) Obtain GSA approval for each new, revised or canceled Standard and Optional Form, 60 days prior to planned implementation, and certify that the forms comply with all applicable laws and regulations. Send approval requests to: General Services Administration, Regulations Analysis Division (KAR), Washington, DC 20405;

(5) Provide GSA with a camera ready copy of the Standard and Optional Forms the agency promulgates or sponsors prior to implementation, at the address shown in paragraph (b)(4) of this section;

(6) Obtain promulgator's or sponsor's approval for all exceptions to Standard and Optional Forms prior to implementation;

(7) Annually review all Standard and Optional Forms which the agency promulgates or sponsors, including exceptions, for improvement, consolidation, or cancellation;

(8) When requested by GSA and OMB, submit a summary of the Standard and Optional Forms used for collection of information covered by 5 CFR part 1320;

(9) Request approval to overprint Standard and Optional Forms by contacting: General Services Administration, Supply Management Division (3FNI-CO), 1941 Jefferson Davis Highway, Crystal Mall Building 4, Washington, DC 20406 (See 41 CFR 101-26.302); and

(10) Coordinate all matters concerning health care related Standard Forms through the Interagency Committee on Medical Records (ICMR). For additional information on the ICMR contact: General Services Administration, Forms Management Branch (CARM), 18th and F Streets, NW., Washington, DC 20405.

Dated: May 17, 1995.

Fred L. Sims,

Assistant Commissioner for Information Technology Policy and Leadership.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95-43, Notice 01]

RIN No. 2127-AF05

Federal Motor Vehicle Safety Standards; Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars

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

ACTION: Request for comments.

SUMMARY: This notice solicits comments to assist NHTSA in determining whether to propose certain amendments to Federal Motor Vehicle Safety Standard (Standard) No. 120, Tire selection and rims for motor vehicles other than passenger cars.

This rulemaking action implements NHTSA's granting of a petition for rulemaking submitted by the Tire Retreading Institute (TRI). The petition suggested that paragraph S5.1.3 of

Standard No. 120 be amended to permit the installation of manufacturer-supplied retreaded tires on new trailers. As currently provided, used or retreaded tires may be installed on new trucks, buses, and trailers only if owned and provided by the vehicle purchaser. This notice solicits comments on that suggestion and, in addition, solicits comments on whether the standard should be further amended to permit manufacturers and/or distributors and dealers, in addition to the vehicle purchasers, to install used as well as retreaded tires on new trucks and buses as well as trailers.

DATES: Comment closing date:

Comments on this notice must be received on or before September 29, 1995.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5109, Washington, DC 20590. Docket Room hours are from 9:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Droneburg, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Room 5307, Washington, DC 20590. Telephone (202) 366-6617.

SUPPLEMENTARY INFORMATION:

I. Background

Standard No. 120 requires that vehicles equipped with pneumatic tires for highway service be equipped with new tires that meet the requirements of either Standard No. 109, New pneumatic tires (49 CFR 571.109) or Standard 119, New pneumatic tires for vehicles other than passenger cars (49 CFR 571.119).¹ Paragraph S5.1.3 of Standard No. 120, however, provides that in place of tires that meet Standard No. 119, a truck, bus, or trailer may, at the request of the vehicle purchaser, be equipped at the place of manufacture of the vehicle with used or retreaded tires owned or leased by the vehicle purchaser. The sum of the maximum load ratings of the tires must meet the requirements of paragraph S5.1.2 of the standard, which requires that the sum of the maximum load ratings of the tires fitted to an axle be not less than the gross axle weight rating of the axle system. Also, only used tires originally

¹ Standard No. 120 also requires vehicles to be equipped with rims that are listed by tire manufacturers as suitable for use with their tires in accordance with Standard Nos. 109 and 119.

manufactured to comply with Standard No. 119, as evidenced by a DOT symbol marked on the sidewall of the tire, can qualify for the S5.1.3 exception.

Standard No. 120 was promulgated by **Federal Register** notice dated January 23, 1976 (41 FR 3467), and became effective in phases between September 1, 1976 and September 1, 1979. Initially, the S5.1.3 exception applied only to used tires owned or leased by the vehicle purchaser, if the maximum load ratings were sufficient to carry the loads of the axles on which they were installed. This was intended to accommodate "mileage contract" purchasers, a common practice in the commercial truck, bus and trailer industry in which the purchaser's vehicles are equipped with tires purchased or leased from a supplier on a cost-per-mile basis.

In reviewing the standard after its issuance, NHTSA noted some minor errors and some portions of the standard that required clarification. The agency published a Notice of Proposed Rulemaking (NPRM) on October 30, 1980 (45 FR 71834) proposing to amend S5.1.3 to permit the installation of retreaded as well as used tires, but limiting that exception to mileage contract purchasers only. The agency reasoned that suppliers that provided tires on a mileage contract basis had a contractual obligation to ensure that the tires were serviceable and safe for use on the vehicles for which they were intended. The agency further believed that this safeguard would not exist in the case of any other purchaser who was merely trying to save the cost of purchasing new tires, since a purchaser could send the vehicle manufacturer palpably unsafe tires for mounting on a new vehicle.

Thirteen comments to the NPRM were received, 12 of which opposed the provision limiting the exception to mileage contract purchasers. The commenters stated that it is common practice for all vehicle fleets, not just mileage contract purchasers, to send tires from their tire banks to vehicle manufacturers for mounting on the new vehicles they order. Tire banks are composed of serviceable tires that have been removed from vehicles that are no longer in service. The commenters argued that the proposal in the NPRM to limit the used/retreaded tire exception to mileage contract purchasers would effectively eliminate the practice of maintaining tire banks, thereby increasing costs for the vehicle fleets affected with no safety justification for doing so. Some commenters also argued that it made no sense for a purchaser to spend \$65,000

to \$75,000 for a new vehicle, then install unsafe tires on it. Finally, one commenter correctly pointed out that Standard No. 120 did not require that new vehicles be equipped with tires. Therefore, a purchaser could, if it chose to do so, order a new vehicle for delivery without tires, then install unsafe tires on it after delivery.

NHTSA was persuaded by those comments and decided not to limit the use of used and retreaded tires only to mileage contract purchasers, but to widen the exception to permit all purchasers to provide their own tires. In addition, since all commenters who addressed the retread tire proposal supported it, NHTSA adopted that provision for inclusion in S5.1.3. NHTSA then published the final rule promulgating the current provisions of Standard No. 120 on May 17, 1984 (49 FR 20822).

II. Petition for Rulemaking

The Tire Retreading Institute (TRI), a division of the National Tire Dealers and Retreaders Association, suggested in a petition for rulemaking that the used/retreaded tire exception of S5.1.3 be amended to permit the installation of manufacturer-supplied retreaded tires on new trailers. TRI argued that retreaded tires from any source should be permitted as long as they meet appropriate quality standards and as long as the vehicle purchaser is informed that the vehicle has retreaded tires. TRI believed that permitting the installation of manufacturer-supplied retreaded tires would give the purchaser greater flexibility in the choice of tires for the new vehicle.

TRI asserted that the current restriction on the source of retreaded tires is not supported by safety considerations. TRI suggested that by permitting the use of purchaser-supplied retreaded tires on new trailers, NHTSA acknowledged that retreaded tires can safely be used on those vehicles. TRI believed that NHTSA decided to permit installation of only purchaser-supplied used or retreaded tires and not manufacturer-supplied used or retreaded tires because the agency believed purchasers have an interest, perhaps not shared by manufacturers, in ensuring that higher quality tires are placed on their own vehicles. TRI argued that, to the contrary, the vehicle manufacturer would be more knowledgeable than the purchaser of the safety characteristics of the vehicle and its tires and, because of vehicle warranty and liability considerations, would select retreaded tires with the same quality considerations as in selecting such

vehicle components as axles, bearings, or new tires. Since the retreaded tires would be installed at the manufacturer's initiative, TRI considered it essential that the purchaser be advised in writing that the new vehicle was equipped with retreaded tires, giving the purchaser the opportunity to make further inquiries or impose additional requirements, while still enjoying the cost advantage of retreaded tires.

TRI also argued that the current exclusion of manufacturer-supplied retreaded tires is unfair to small purchasers of trailers. TRI said that currently, only large fleet owners with tire banks can take advantage of the cost savings of retreaded tires, while small businesses with only a few vehicles and no available supply of tire casings cannot. TRI argued that the current regulation discriminates against small purchasers because these businesses must acquire retreaded tires from another source and ship them to the manufacturer for installation. TRI considered this an unnecessary, burdensome practice.

TRI also asserted that in the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 *et seq.*, Congress mandated the use of recycled products to the maximum extent practicable, including the use of retreaded tires. TRI further referred to an Environmental Protection Agency (EPA) regulation that, in implementing the RCRA, requires federal agencies to procure retreaded tires "to the maximum extent possible" (40 CFR 253.10). Accordingly, the petitioner believed that the current restriction on manufacturer-supplied retreaded tires contravenes these governmental policies of promoting the maximum use of retreaded tires.

III. Agency Analysis of Petition

As discussed above, paragraph S5.1.3 of Standard No. 120 permits manufacturers of new trucks, buses, and trailers to install used or retreaded tires on those new vehicles only if such tires are supplied by the vehicle purchaser. Apart from that narrow exception, paragraph S5.1.1 of the standard requires the installation of new tires that meet the requirements of Standard Nos. 109 or 119.

While there is a Federal motor vehicle safety standard, Standard No. 117, *Retreaded pneumatic tires*, for retreaded tires on passenger cars, there is no similar standard for retreaded tires for vehicles other than passenger cars. Further, there are no performance standards applicable to used tires since this agency does not have authority to regulate used vehicles or equipment. As noted above, in issuing the S5.1.3

exception NHTSA reasoned that motor vehicle purchasers would be likely to provide safe, serviceable tires for installation on their new vehicles. NHTSA believes that reasoning has been vindicated in that the agency has received no reports of any safety problems associated with the use of purchaser-provided used or retreaded tires. The agency still believes, however, that such reasoning would not extend to manufacturer-supplied used or retreaded tires and that, warranty and liability considerations notwithstanding, manufacturers, distributors and dealers would not have as great an interest as vehicle purchasers in providing safe, serviceable used or retreaded tires on their new vehicles. Further, manufacturers would not know the history of the used or retreaded tire casings as well as the vehicle purchaser would be expected to know.

Nevertheless, although NHTSA disagrees with some of the petitioner's arguments, the agency granted TRI's petition on August 12, 1993, in the belief that the petitioner raised some issues that merit further consideration. For example, the petitioner argues that installation of retreaded tires should be permitted, regardless of their source. Although this agency has received mixed reviews regarding the performance of retreaded tires, the petitioner correctly pointed out the policy of the Federal government in utilizing recycled products, including retreaded tires, to the extent practicable (see the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*, and implementing regulations at 40 CFR part 253). The petitioner also correctly asserted that manufacturer-installed retreaded tires would provide purchasers greater flexibility in the choice of tires for their vehicles, as long as the purchaser was notified in writing that the vehicle was equipped with retreaded tires.

On the other hand, the agency does not agree with the petitioner's assertion that the current limited exception in S5.1.3 is not supported by safety considerations. The agency believes that permitting vehicle purchasers to supply their own tires for their new vehicles is consistent with motor vehicle safety. Given the interest of vehicle purchasers in their personal safety and their economic interest in protecting their investment in their vehicles, vehicle purchasers have a strong motivation to install safe tires on their new vehicles. Further, although the agency is confident that most vehicle manufacturers are reliable and reputable and would select safe and serviceable tires for the vehicles they produce, it

cannot be assumed that all manufacturers would be consistently reliable or conscientious in their selection of used and/or retreaded tires.

Finally, NHTSA does not agree with the petitioner that the current exclusion of manufacturer-supplied used or retreaded tires discriminates against small businesses. Large businesses generally are in a better position than small businesses to take advantage of cost savings by large quantity transactions in return for discount prices. In this case, the standard gives both large and small businesses the advantage of utilizing tires already on hand on their new vehicles, thus saving the unnecessary costs of purchasing unneeded new tires.

Although the petition suggested relaxing the limitation on the current S5.1.3 exception only to the extent of allowing installation of manufacturer-supplied retreaded tires on new trailers, NHTSA believes that it is appropriate to consider permitting the installation of manufacturer, distributor, and dealer-supplied used tires as well as retreaded tires on trucks and buses as well as trailers. This agency is committed to the use of recycled products to the extent practicable within the constraints of motor vehicle safety. Accordingly, if the use of used and retreaded tires, whether supplied by the purchaser, manufacturer, or distributor/dealer, is not inimical to motor vehicle safety, then NHTSA is receptive to considering further relaxation of the exception.

IV. Issues for NHTSA Consideration

As pointed out above, NHTSA has no data on any correlation between motor vehicle safety and the use of used and retreaded tires on new trucks, buses, and trailers. The agency is hopeful, therefore, that this notice will elicit meaningful comments and suggestions on which to base a decision on whether or not to amend the exception in Standard No. 120 and, if so, to what extent. Accordingly, NHTSA requests comments on the following specific issues:

1. How many or what percentage of new trucks, buses, and trailers are sold per year with purchaser-supplied used or retreaded tires installed?
2. Who are the heaviest users of the S5.1.3 exception, mileage contract/tire bank purchasers or private citizens?
3. Should any amendment to Standard No. 120 be limited to permitting the installation of only manufacturer-supplied retreaded tires only on new trailers? Should distributor/dealer-supplied retreaded tires also be permitted to be installed on new trailers?

4. Should Standard No. 120 be amended to permit the installation of manufacturer-supplied retreaded tires on new trucks and buses as well as trailers? Should installation of distributor/dealer-supplied retreaded tires be permitted on new trucks and buses as well as trailers?

5. Should Standard No. 120 be amended to permit the installation of manufacturer-supplied used tires on new trailers only? Should distributor/dealer-supplied used tires also be permitted on new trailers?

6. Should Standard No. 120 be amended to permit the installation of manufacturer-supplied used tires on new trucks and buses as well as new trailers? Should distributor/dealer-supplied used tires also be permitted on new trucks and buses?

7. Should used and/or retreaded tires be permitted on new school buses? On steering and/or drive axles of other new vehicles?

Note: 49 CFR 393.75(d) prohibits the use of retreaded tires on the steering axles of buses operated in interstate commerce.

8. Should NHTSA propose a Federal motor vehicle safety standard applicable to retreaded tires for motor vehicles other than passenger cars? If so, should it parallel Standard No. 117? Standard No. 119?

9. What requirements or criteria should be established for the installation of manufacturer or distributor/dealer-supplied used and/or retreaded tires on new motor vehicles other than passenger cars?

10. Should new vehicle purchasers, if not supplying or requesting the tires, be notified of the installation of used or retreaded tires? In writing? Orally?

11. What would be the economic impact of permitting the installation of manufacturer or distributor/dealer-supplied retreaded tires on new trailers? On new trucks and buses as well as trailers?

12. What would be the economic impact of permitting the installation of manufacturer or distributor/dealer-supplied used tires on new trailers? On new trucks and buses as well as trailers?

13. What would be the environmental impact of permitting the installation of manufacturer or distributor/dealer-supplied retreaded tires on new trailers? On new trucks and buses as well as trailers?

14. What would be the environmental impact of permitting the installation of manufacturer or distributor/dealer-supplied used as well as retreaded tires on new trailers? On new trucks and buses as well as trailers?

V. Rulemaking Analyses and Notices**A. Executive Order 12866 and DOT Regulatory Policies and Procedures**

This notice was not reviewed under Executive Order 12866. NHTSA has considered the impacts associated with this request for comments and has concluded that it is not significant under DOT's Regulatory Policies and Procedures. As explained above, this document requests comments to aid the agency in determining whether to propose amending Standard No. 120 and if so, the extent of such amendment.

B. Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

VI. Comments

Interested persons are invited to submit comments on this proposal. It is requested but not required that any comments be submitted in 10 copies each.

Comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in concise fashion. Necessary attachments may be appended to these submissions without regard to the 15-page limit.

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address shown above, and 7 copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in 49 CFR part 512, the agency's confidential business information regulation.

All comments received on or before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after the closing date. To the

extent possible, comments received after the closing date will be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for public inspection in the docket. NHTSA will continue to file relevant information in the docket after the closing date, and it is recommended that interested persons continue to monitor the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

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

Issued on May 23, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

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