

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****49 CFR Part 393**

[FHWA Docket No. MC-95-1; FHWA-97-2341]

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****Office of the Assistant Secretary for Housing—Federal Housing Commissioner****24 CFR Part 3280**

[Docket No. FR-3943-F-02]

FHWA RIN 2125-AD41; HUD RIN 2502-AG54

**Manufactured Home Tires, Parts and Accessories Necessary for Safe Operation; and Manufactured Home Construction and Safety Standards**

**AGENCIES:** Federal Highway Administration (FHWA), DOT; Office of the Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

**ACTION:** Final rule and HUD interpretative bulletin.

**SUMMARY:** The FHWA and HUD are amending the Federal Motor Carrier Safety Regulations and an interpretation of the Manufactured Home Construction and Safety Standards concerning the transportation of manufactured homes. The FHWA and HUD are reducing the amount of tire overloading allowed (currently up to 50 percent above the tire manufacturer's load rating) on tires used to transport manufactured homes. As a result of this rulemaking the amount of the load on a manufactured home tire will be reduced so that it cannot exceed the tire manufacturer's load rating by more than 18 percent. Manufactured homes transported on tires overloaded by 9 percent or more may not be operated at speeds exceeding 80 km/hr (50 mph). Eighteen-percent tire overloading will be allowed for a two-year period. The two-year period will begin on November 16, 1998, effective date of this final rule. Because the agencies have sufficient data indicating that overloading is potentially unsafe, unless both agencies are persuaded that 18 percent overloading does not pose a risk to the traveling public, or have an adverse impact on safety or the ability of motor carriers to transport manufactured homes, any overloading of tires beyond their design capacity will be prohibited at the end of this two-year period.

**EFFECTIVE DATE:** The effective date for this rule is November 16, 1998.

**FOR FURTHER INFORMATION CONTACT:** For FHWA: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HCS-10, (202) 366-4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., (eastern time), Monday through Friday, except Federal holidays.

For HUD: Mr. David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9158, Washington, DC 20410-8000. Telephones: (voice) (202) 708-6401; (TTY) (202) 708-4594. Alternately, Mr. Richard A. Mendlen, Office of Consumer and Regulatory Affairs, Manufactured Housing and Standards Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9152, Washington, DC 20410-8000. Telephones: (voice) (202) 708-6423; (TTY) (202) 708-4594.

The phone numbers provided for further information are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:****I. Background**

On March 4, 1995, the President directed all agencies to remove obsolete and unnecessary regulations, and to revise and improve the remaining regulations. As part of HUD's and FHWA's review of their respective regulations, each agency identified its regulations applicable to the transportation of manufactured homes as inconsistent with one another. In accordance with the President's directive to improve regulations and the principles of Executive Order 12866 (which directs agencies to avoid regulations that are inconsistent with regulations of other agencies), HUD and the FHWA published a notice of proposed rulemaking (NPRM) to eliminate inconsistencies between their regulations concerning the transportation of manufactured homes (61 FR 18014; April 23, 1996).

**A. HUD Manufactured Home Construction and Safety Standards**

The National Manufactured Housing Construction and Safety Standards Act of 1974 (Act), 42 U.S.C. 5401 *et seq.*, authorizes the Secretary of Housing and Urban Development (HUD) to establish and amend the Federal Manufactured Home Construction and Safety Standards (the FMHCSS or the

Standards), 24 CFR Part 3280. Subpart J of the Standards covers the general requirements for designing the manufactured home to fully withstand the adverse effects of transportation shock and vibration without damaging the integrated structure or its components.

One of its components is the running gear assembly which is defined in 24 CFR 3280.902 to include the subsystem consisting of suspension springs, axles, bearings, wheels, hubs, tires, and brakes, with their related hardware. On December 7, 1976 (41 FR 53626), the Department of Housing and Urban Development issued Interpretative Bulletin J-1-76 which permits the overloading of manufactured home tires by up to 50 percent.

**B. FHWA Federal Motor Carrier Safety Regulations**

The FHWA's Federal Motor Carrier Safety Regulations (FMCSRs) are based on a series of statutes starting with the Motor Carrier Act of 1935 and are codified at Subchapter B of Chapter III, Title 49 of the Code of Federal Regulations. The FMCSRs provide requirements for the operation of commercial motor vehicles in interstate commerce. The FMCSRs define a commercial motor vehicle, in part, as any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating of 4,536 or more kilograms (10,001 or more pounds) (49 CFR 390.5). Under this definition, a manufactured home transported in interstate commerce is considered a commercial motor vehicle and is subject to the FMCSRs.

Section 393.75(f) of the FMCSRs prohibits the operation of commercial motor vehicles on tires that carry a weight greater than that specified in publications of certain standard-setting organizations listed by the National Highway Traffic Safety Administration in 49 CFR 571.119 (S5.1(b)) unless:

- (1) The vehicle is being operated under the terms of a special permit issued by the State, and
- (2) The vehicle is being operated at a reduced speed that is appropriate to compensate for tire loading in excess of the manufacturer's normal rated capacity.

Under the Motor Carrier Safety Assistance Program (MCSAP), the FHWA provides financial assistance to States to enforce the FMCSRs or compatible State regulations pertaining to commercial motor vehicle safety (see 49 CFR part 350). State enforcement

officials have expressed concerns about the safety of certain practices of carriers transporting manufactured homes. Their principal concern is the movement of manufactured homes on overloaded tires. In certain cases, vehicles with tires loaded 50 percent above their load ratings are operated at highway speeds. These practices are inconsistent with the FMCSRs.

## II. Publication of the Proposed Rule

On April 23, 1996, the FHWA and HUD jointly published a notice of proposed rulemaking to amend § 393.75(f) and HUD's interpretative bulletin concerning tire overloading (61 FR 18014). Because the agencies have sufficient data indicating that overloading is potentially unsafe, the agencies proposed limiting the overloading of manufactured home tires to 18 percent now and phasing out the overloading of manufactured home tires up to 18 percent within two years. It was proposed that during the two-year period, both agencies would review test and other technical data concerning the relative performance of tires which are overloaded by 18 percent versus no tire overloading. Any overloading of tires beyond their design capacity would be prohibited after two years from the effective date of the final rule unless both agencies are persuaded that 18 percent overloading at a reduced speed of 80 kilometers per hour (km/hour) (50 miles per hour (mph)) does not pose a risk to the traveling public or have an adverse impact on the safety or the ability of motor carriers to transport manufactured homes.

## III. Analysis of Comments Received

The FHWA and HUD received 14 comments from a variety of organizations and individuals. The commenters were: Advocates for Highway and Auto Safety (Advocates); the Alabama Public Service Commission (Alabama PSC); Association for Regulatory Reform (ARR); Dilo, Inc.; Mr. Kevin Edens, a port-of-entry officer with the Colorado Department of Revenue; Mr. Robert S. Evans, a truck driver; The Goodyear Tire & Rubber Company (Goodyear); Home Builders Company, Titan Homes Division (Titan Homes); Jim Tim, Inc.; the Manufactured Housing Institute (MHI); the New York Department of Transportation (New York DOT); the North Carolina Manufactured Housing Institute (the North Carolina MHI); Utah Department of Transportation (Utah DOT); and, the Wisconsin Department of Transportation (Wisconsin DOT).

Eight commenters either supported the proposal as published, supported

the proposal with certain suggested changes, or offered general comments about common industry practices for transporting manufactured housing units. The remaining commenters opposed the rulemaking. The issues raised by the commenters have been organized into two general categories: comments in support of the proposed changes; and, comments in opposition to the proposed changes.

### A. Comments in Support of the Proposed Changes

The Alabama PSC, Dilo, Inc., Goodyear, Jim Tim, Inc., the MHI, New York DOT, North Carolina MHI, and Utah DOT supported the proposal to reduce the amount of tire overloading. Some of these commenters also suggested certain changes to the proposal. The suggested changes to the language to be used in the interpretative bulletin and 49 CFR 393.75 are discussed in a separate section in this notice.

The Alabama PSC stated that "the safety of mobile home transportation is poor and is getting worse." The Alabama PSC believes regulations on mobile home transportation are necessary, and are in need of revisions and improvements. The Alabama PSC supports the reduction in the amount of overloading and "the expansion of this proceeding to include improvements in brake performance and enforcement of standards on used tire conditions." The Alabama PSC stated:

Mobile home transportation is now a common experience, but the safety of these movements is worsening. Improvements in the regulations to stop excessive overloading of tires, to improve braking performance, and to improve enforcement are even more critical with the recent increase of the speed of the vehicles sharing the road with mobile homes.

The Utah DOT stated:

We have long felt that the allowance for overloading of mobile/manufactured home tires by 50% and up to 3,000 pounds was unsafe and unwise. Our agents, at eight fixed facilities throughout the state have diligently enforced the requirement, but have for years expressed safety and operability concerns about the too liberal tire, axle and braking system requirements for these behemoth loads. We do see a large number of roadside tire changing which impede traffic flow and create safety hazards and we wonder why more accidents and incidents have not resulted.

The Utah DOT believes that allowing 18 percent overloading for a two-year

period is a good compromise and that the plan to study the issue is reasonable.

The MHI, North Carolina MHI, and Jim Tim, Inc. were among industry supporters of the proposed standards. The MHI stated that "[i]t is the consensus of MHI members that the proposed regulatory revisions should be implemented, with key revisions recommended \* \* \*." The MHI also discussed its willingness to work with the FHWA and HUD during the two-year period during which 18 percent overloading would be allowed. The MHI stated:

Regarding the number of reported tire failures, discussed on page 18018 [61 FR 18018], industry believes that less than 25 percent of reported tire failures can be attributed to tire overloading. Therefore, during the two-year trial period for the 18-percent overload rule, industry intends to gather data on the causes of tire failures, to be shared with HUD and FHWA. Industry intends to provide test and other technical data, in response to the request for information on page 18021 [61 FR 18021], regarding the absence of information on this subject. In this regard, MHI will explore with HUD officials the possibility of conducting joint transportation studies under the current partnership agreement for Action Item No. 25 of the National Homeownership Strategy. Part of such studies should be the establishment of a protocol to measure the level of safety on the highways.

The MHI expressed concerns about the automatic expiration of the two-year period for 18 percent tire overloading. The MHI stated:

It is generally conceded that current data pertinent to the performance of manufactured home tires under varying conditions is limited, outdated, and subject to a broad range of variables insufficiently documented in a controlled environment. For this reason, the industry supports the proposed two-year trial period, but the industry further asserts that upon the submission of any tests and other technical data by the industry and tire manufacturers during this term, the term should be automatically extended beyond the two-year expiration date now proposed while the agencies are reviewing them. In other words, the industry submits that the proposed rule allowing for the overloading of tires should not automatically expire at the end of two years, provided tests and other technical data has been submitted during such term for review by both agencies.

The North Carolina MHI stated:

We believe that these new regulations will mean that homes will be moving slower, with reduced stress on larger,

stronger tires. Consequently, we believe that these new regulations will mean safer highway driving conditions for other motorists, and ensure more reliable delivery of our products to customers. That's a win, win for everyone involved.

Jim Tim, Inc., a transporter of manufactured housing units, believes that the proposed standards will "create a safer situation, due to the fact that this will make it mandatory for the factories to increase the number of axles they install on a manufactured home."

#### *B. FHWA and HUD Response to Commenters Supporting the Rulemaking*

In response to comments requesting that the FHWA and HUD expand the scope of the rulemaking to address issues such as axle and braking requirements, the agencies will work together to determine whether there is a need for a rulemaking(s) on these issues.

Currently Subpart J of the Manufactured Home Construction and Safety Standards requires that the braking systems on the manufactured home and the towing vehicle must be capable of stopping the home traveling at 32.2 km/hour (20 mph) in a distance of 12.2 meters (40 feet). The number of braking axles necessary to meet this performance standard must be documented by engineering analysis, transportation tests, or by acceptable documented transportation experience.

The HUD-approved Design Approval Primary Inspection Agencies (DAPIAs) make the final determination of the adequacy of the manufacturer's compliance with these sections of the HUD standards. After discussion with the DAPIAs and other interested parties, HUD will assess if further changes are needed to address the percentage of axles that must be equipped with brakes.

With regard to the MHI's request that the agencies allow 18 percent overloading of tires to continue beyond the proposed two-year period, the FHWA and HUD believe the proposed automatic expiration date is appropriate. The automatic expiration date will impose upon the regulated industry and both Federal agencies a deadline that will force all parties to move quickly toward the collection and analysis of relevant data. The FHWA and HUD will work closely with the MHI and, if warranted by technical data submitted well in advance of the expiration date, consider publishing in the **Federal Register** a notice proposing the extension of the current expiration date.

#### *C. Comments in Opposition to the Proposed Changes*

The Advocates for Highway and Auto Safety (Advocates), Association for Regulatory Reform (ARR), Kevin Edens, Robert Evans, Titan Homes, and Wisconsin DOT opposed the proposed changes to the FMCSRs and the interpretative bulletin. The opposition was divided among those who supported the continuation of 50 percent tire overloading and those who advocated no tire overloading.

Advocates expressed concern that the FHWA and HUD do not have sufficient data to support allowing 18 percent overloading of the tires. The AHAS stated:

Although Advocates recognizes that the goals of this rulemaking are well-intentioned, the amendments as proposed fail to meet minimum informal rulemaking burdens pursuant to the Administrative Procedure Act and prevailing case law. Neither the FHWA nor HUD has marshalled adequate evidence in the rulemaking record to justify the proposed amendments and, further, they have argued a two-year trial period for the use of overloaded manufactured home tires that unwarrantedly experiments with the safety of the travelling public.

The agencies have not carried their burdens of supplying an administrative record which properly ventilates the prime issue behind their joint action, *viz.*, whether overinflated tires on manufactured homes present an unacceptable accident risk, whether in the past they have resulted in untoward frequencies and numbers of crashes, and whether both the operators of commercial vehicles transporting manufactured homes as well as other members of the travelling public, have been injured or killed by unacceptable industry practices.

[T]he FHWA/HUD proposal of an 18 percent overload ceiling is also not supported by any data or information on what the expected rate of failures may be despite the fact that this level of overloading is lower than many of the excessive levels prevalent in the manufactured home industry. Given the advent of increasingly higher speed limits posted on both Interstate and other state arterial and collector highways, it is evident that the agencies really have no capability of accurately predicting the failure rates and the associated increased probability of accidents of an 18 percent overload ceiling. Indeed nothing in the preamble of this proposed rule nor in the docket file in the offices of the FHWA indicate why the FHWA and HUD have selected

18 percent as a tolerable overloading level or, in fact, why any overloading is acceptable. This need to justify why an 18 percent figure was arrived at is especially acute given the assertion of the preamble that because of concerns about the safety of the travelling public on increasingly crowded highways, HUD has concluded that the current overloading of manufactured home tires is no long[er] defensible. *Id.* 18020 [61 FR 18020]. Yet, the preoccupation of the agencies is not with the projected failure rates and consequent accident risks of an 18 percent tire overload threshold, but with the cost burdens to the industry that result from changing tire types and axles in order to avoid the acute problem of excessive overloading, sometimes 50 to 60 percent.

The ARR also expressed concerns that the FHWA and HUD do not have sufficient data to support the proposed revisions to the FMCSRs and the interpretative bulletin. However, the ARR opposed lowering the present 50-percent limit on tire overloading.

The ARR expressed concern about the economic impacts that the rulemaking would have on consumers and small businesses. The ARR stated:

ARR's members are primarily small to medium-sized manufacturers. Due to their smaller size and correspondingly lower levels of capitalization, such businesses are disproportionately affected by excessive and/or inappropriate regulation and related compliance costs. Indeed, in a federally-regulated industry such as manufactured housing, the financial health of producers and other industry participants is directly dependent upon sensible, practical and cost-effective administrative standards.

Cost-effective regulation is also important for consumers. Although manufactured housing now accounts for more than 30% of all new single-family home starts, and the industry generates some \$23 billion in economic activity annually, manufactured home-buyers tend to be either lower or middle-income families or persons living on a fixed income. For such purchasers, the difference of only a few dollars in the final sale price of a home (especially when compounded by higher taxes and higher fees) could spell the difference between obtaining a mortgage and not qualifying for financing. Accordingly, it is particularly important, in the case of manufactured homes, for proposed rules to be both objectively justifiable, in terms of their substance, and cost-justifiable, in the sense that the rule returns more in benefits than it costs, and does not unduly burden manufactured home purchasers.

[T]he rule change contemplated by the Joint Docket does not appear to be justified by the minimal available data regarding the failures. Moreover, the proposed change is substantive, rather than interpretative, and would, in effect, convert the relevant portion of the HUD Code from a performance standard to a prescriptive standard. In addition, there is no concrete evidence to support the change sought by the issuing agencies, and inadequate consideration has been given by HUD to the cost impact of the rule upon manufactured home purchasers—particularly when combined with the effects of other recent changes to the standards.

Titan Homes opposed the rulemaking because it believes "there is no objective, empirical reason to make a change." Titan Homes stated:

The 50% rule has been in effect since 1976 and has worked to reduce costs while not compromising the safety of the toter [towing unit] with the manufactured home, or the other vehicles they interface on the road. It has been my experience that the transporters of manufactured housing have an exemplary safety record when compared with other types of transporters and/or four wheeled vehicles. Your [FHWA and HUD's] own statistics should verify these facts quite easily.

The Wisconsin DOT also opposed the proposed changes to the FMCSRs and the interpretative bulletin. The Wisconsin DOT stated:

Although it is a two year study the major concern remains the safe operation of the manufactured homes. Every effort should be made to use tires whose manufactured weight rating is not exceeded. Although the proposed weight limit increase does not seem to be large (18%), when operated at reduced speeds, there is really no justification other than the cost factor per unit.

Wisconsin oversize permits do not require reduced speeds to transport manufactured homes; therefore, there is no real way to assure operation at a reduced speed as proposed. Recent changes to federal and state laws have increased speed limits; therefore creating the possibility of these units being operated at higher speeds rather than the lower speed, putting more stress on the tires.

The Wisconsin Department of Transportation has some real safety concerns about the operation of these units on tires that are rated at less than the weight of the unit.

#### *D. FHWA and HUD Response to Commenters Opposed to the Rulemaking*

In response to concerns expressed by AHAS and ARR regarding a lack of data to support this rulemaking, the FHWA and HUD emphasize that this more stringent standard, reducing the amount of permissible overloading from 50 percent to 18 percent and establishing a speed restriction of 80 km/hour (50 mph) when the tires are overloaded, was developed based on technical data reviewed by the FHWA and HUD and information provided by commenters which suggest that most tire failures attributable, in whole or in part, to tire overloading are associated with overloading in excess of 18 percent. Consequently, the FHWA and HUD have concluded that tire failures attributed to overloading will be substantially reduced when transporters of manufactured homes are required to comply with the new restrictions.

As part of the effort to gather data on the number of reported failures of new and used tires during the transportation of manufactured homes, HUD obtained information from three companies which transport large numbers of manufactured homes. The three companies collectively transport more than 30 percent of the manufactured homes produced in the United States and in the case of the largest transporter, nearly 50,000 manufactured homes per year.

The three companies differed in the reported overall rate of tire failure for shipment of manufactured homes. The failure rate for new tires ranged from 4 percent to 7 percent. The used tire failure rate was 9 percent. According to the MHI, roughly 55 percent of the tires sold to manufactured housing producers in 1994 were used tires.

Since the data from one company represented a large share of the market and transportation experience in a large number of States, HUD believes that the company's failure rate of 7 percent is the most representative of actual conditions. Therefore, the FHWA and HUD used a failure rate of 7 percent for new tires and 9 percent for used tires with an overall average failure rate of 8 percent in the notice of proposed rulemaking. Since each section of a manufactured home usually contains 6 tires, a tire will fail on about 40 percent of the sections shipped each year. Multiple failures of tires are less common but are known to occur.

There was also substantial variability among these three companies concerning the causes of tire failure. One company indicated that foreign

objects were the cause of 99 percent of tire failures, while the other companies indicated that substandard tires and tire overloading were the chief causes of tire failure. The other companies also noted that operating at excessive speed and other causes were less significant factors in tire failure.

There are no separate data as to the rate of failure due to tire overloading in relation to other factors, such as substandard tires, improper inflation, excessive heat, etc. The risk of tire failure due to overloading can be increased by operating the tire at reduced inflation, the heat of the pavement, high speeds, mounting procedures and other practices which, if combined, may virtually assure tire failure. Hence, determining the percentage of failures attributable solely to tire overloading is difficult.

Data from one tire recycler, however, indicated that up to 70 percent of tires which are damaged can be recycled and reused after repair. This would suggest that foreign objects may have been the principal cause of tire failure rather than blow-outs due to overloading or other causes. The damage associated with blow-outs or causes other than foreign objects is generally too extensive to be repaired.

Based on the available information, the FHWA and HUD estimate that 25 percent of reported failures can be attributed partly to tire overloading. The FHWA and HUD reduced this estimate by half to account for failures due in part to aggravating factors, such as improper inflation or mounting. At the time the NPRM was published, the agencies assumed that 450,000 sections of manufactured homes would be shipped in 1996 and that the tire overloading would be responsible for at least 22,500 blowouts ( $450,000 \text{ shipments} \times 0.40 \text{ (factor for shipments with at least one tire failure)} \times 0.125 \text{ (percentage attributable to tire overloading)}$ ). The FHWA and HUD have increased the estimate of the number of manufactured home shipments to 500,000 per year. As a result, tire overloading is now believed to be responsible for at least 25,000 blow-outs.

The estimate of 500,000 shipments was derived by assuming an annual estimate of 340,000 manufactured homes produced, with a 53 percent distribution, or 180,200 shipments, of single sections and a 47 percent distribution, or 319,600 shipments, of multiple sections. The total number of shipments calculated in this manner is 499,800, or about 500,000. The actual 1997 projections are expected to be somewhat higher.

The conflicting claims from State governments and manufacturers concerning the incidence of tire failure varied from a conclusion that it is a relatively uncommon occurrence (1–2 percent of trips) to an estimate by one State official that many transporters are suffering tire failures on most trips. None of the State agencies contacted while the FHWA and HUD were developing the NPRM, and none of the commenters responding to the NPRM, provided information indicating that tire failures during the transportation of manufactured homes have resulted in collisions between the transported unit and other vehicles, or collisions between the manufactured housing unit and fixed objects. However, the FHWA and HUD believe that the current level of tire failures must be substantially reduced to prevent potential accidents.

With regard to Advocates' uncertainty about how the FHWA and HUD selected the 18-percent overloading limit, this decision making process was explained in the April 23, 1996, NPRM. Pages 18018 through 18020 discuss the regulatory options that the FHWA and HUD considered.

The FHWA and HUD examined the cost-effectiveness of four alternatives in the NPRM that would substantially alleviate or eliminate the problem of tire overloading. All of the alternatives used the 3,000-pound-per-tire load limit in HUD's Interpretative Bulletin J-1-76. The first two options involved limiting the amount of tire overloading and would have the net effect of requiring the use of specific upgraded tires corresponding to the amount of overloading. The other options involved prohibiting tire overloading. Compliance with the prohibition on overloading would have required the use of either upgraded tires, or upgraded tires and an additional axle(s).

The first option involved limiting the amount of overloading to 18 percent which corresponds to the amount of overloading that would occur if manufactured home transporters switched from 7–14.5, 8 ply tires (Series D) to 8–14.5, 10 ply tires (Series E). The 8–14.5, 10 ply tires have a load rating of 1,152 kg (2,540 pounds). The notice indicated that this option would have resulted in an average wholesale cost increase of approximately \$60 per manufactured home.

The second option the agencies considered was to reduce the amount of overloading to 8 percent which corresponds to the amount of overloading if 8–14.5, 12 ply tires (Series F) are used. The 8–14.5, 12 ply tires have a load rating of 1,266 kg (2,790 pounds). This option would have

resulted in an average wholesale cost increase of \$84 per manufactured home transported.

The third option was the elimination of tire overloading. Manufacturers could accomplish this by adding an axle and using 8–14.5, 10 ply tires (Series E). The average wholesale cost increase for this option would have been \$287 per manufactured home transported.

The fourth option was to eliminate overloading through the use of 9–14.5, 12 ply tires (Series E or F). These tires have a load rating of 1,334 kg and 1,465 kg (2,940 pounds and 3,230 pounds), respectively. The average wholesale cost increase for this option was estimated to be \$265 per manufactured home transported.

The FHWA and HUD proposed using the first option because, based upon the available information, it appeared to be the most cost effective way to substantially reduce the number of tire failures. After reviewing the public comments received in response to the NPRM, the FHWA and HUD have concluded that the first option continues to represent the most cost effective approach.

The FHWA and HUD disagree with Advocates' assertion that the agencies have not fulfilled the requirements of the Administrative Procedure Act. The agencies have reviewed information and data currently available and comments from all interested parties. Because FHWA and HUD have sufficient data indicating that overloading is potentially unsafe, they are reducing the amount of tire overloading allowed to 18 percent and phasing out overloading up to 18 percent within two years unless both agencies are persuaded that the 18 percent overloading is safe. The information contained in the rulemaking docket supports the actions taken by the agencies. The interim 18-percent tire overloading established through this process represents a reasonable compromise among the possible alternatives. Furthermore, the period during which 18 percent overloading will be permitted is limited to 2 years. Unless both agencies are persuaded that 18 percent overloading does not pose a risk to the traveling public or adversely impact the safe transportation of manufactured homes, overloading of tires would be prohibited.

In response to the ARR's comments about the economic impact of this rulemaking, HUD obtained its cost information directly from tire suppliers and from the MHI Transportation Task Force which includes transporters, manufacturers, and tire suppliers. The cost information obtained from all

sources was very similar and the FHWA and HUD believe the cost information is reasonably accurate.

The number of additional tires and/or axles required to satisfy this rule is a function of the size and weight of the home. Because of this, manufacturers will have differing cost impacts. Also, some manufacturers may already be using additional axles or upgraded tires, so the cost impact may be negligible.

In order to obtain current information and to fully evaluate the economic impact of this rule, HUD has examined a number of current manufactured housing designs. The financial impact of the final rule has been determined to be approximately \$17 million per year. This amounts to \$50 for each of the approximately 340,000 manufactured homes shipped each year. The FHWA and HUD do not consider this cost to be unreasonable or to adversely affect low and moderate-income consumers' ability to purchase manufactured homes.

The MHI provided HUD and the FHWA with a copy of a report on the life-cycle costs and benefits of various manufactured home transportation systems. The report included an analysis of the benefits and costs of upgrading the tires used in the transportation of manufactured homes. A copy of the report, "Manufactured Home Transportation Systems Research," prepared by the Trucking Research Institute under contract to the MHI, is included in the docket. The report indicates that \$3,207,634 in "accident costs" per year could be saved by upgrading tires. The authors believe that tire failure costs (e.g., repairing the flat tire and repairing other components damaged as a result of the flat tire) would be reduced by \$21,447,115 per year. Complications experienced by site installers would be reduced and result in an additional savings of \$2,866,500 per year. The total benefits of upgrading tires were estimated to be \$27,521,249.

The FHWA and HUD consider the estimates in the MHI's report to be reasonable. The information was gathered from producers of manufactured homes, transporters, axle manufacturers, axle and tire recyclers, manufactured home retailers and site installers. The MHI estimates that the rulemaking will save the industry and consumers more than \$2.5 million per year while improving highway safety. A more detailed discussion of the economic impact of this rulemaking is provided in section VI of this document.

In response to the ARR's argument that the changes to Interpretative Bulletin J-1-76 would convert the relevant portion of HUD's regulations

from a performance-based standard to a prescriptive requirement, both agencies disagree. The new requirements are performance-based in that transporters of manufactured homes may use any type of manufactured home tire as long as the amount of overloading does not exceed 18 percent. If the tires are loaded in excess of the manufacturers' load ratings by 9 percent or more, the speed at which the manufactured home may be transported is limited to 80 km/hour (50 mph). The FHWA and HUD have established safety performance criteria and left to the discretion of the manufacturers and transporters of manufactured homes the choice of tire types and sizes, and the number of axles needed to meet the performance criteria.

#### **IV. Discussion of Additional Issues Raised by Commenters**

##### *A. Speed Restriction*

The New York DOT expressed concerns about the proposed speed restrictions for manufactured homes transported on tires overloaded by 9 percent or more of the load rating. The New York DOT stated:

Enforcement of a speed restriction on any vehicle with overloaded tires would be difficult. Most law enforcement agencies have dedicated staff for weight enforcement. This staff is a minor part of agency manpower and is usually not involved in speed enforcement. The standard officer on road patrol would not stop a manufactured home if it was within the speed limit. If a manufactured home did reduce its speed to less than 50 MPH, it would create a speed differential hazard, especially on interstate highways. It is the speed differential, not just the pure speed, which creates unsafe conditions.

Given the two above observations about speeds, please consider them. That is, speed restrictions that are just set to be cautious may be counter productive. Speed restrictions should be made only where there is good data indicating real safety benefits outweighing their costs.

The FHWA and HUD have concluded that the 80 km/hour (50 mph) speed restriction proposed for 49 CFR 393.75 is necessary for cases in which the amount of overloading is 9 percent or more of the load rating for the tire. The FHWA and HUD have reviewed the Tire and Rim Association, Inc., Year Book, an authoritative source concerning tire loading. The Year Book indicates that the speed at which a tire is operated should not exceed 80 km/hour (50 mph) for tires overloaded by up to 9 percent.

The Tire and Rim Year Book does not encourage the overloading of tires but

the recommended limitation of the speed to 80 km/hour (50 mph) suggests that the operation of the manufactured home at the reduced speed will improve the safety of operation of manufactured homes transported on overloaded tires. Based upon the agencies' experience with the transportation of manufactured homes, the FHWA and HUD have concluded that the 80 km/hour (50 mph) speed restriction is necessary.

The FHWA and HUD are aware that many States have increased the speed limits on their highways and that traffic may move at speeds up to 120 km/hour (75 mph). Transporters of manufactured homes that operate on such high-speed routes are strongly encouraged to select tires and axles so that overloading is not necessary. The speed restriction does not apply to the movement of all manufactured homes, only those that are operated on tires overloaded by 9 percent or more.

##### *B. Availability of 8-14.5 Tires*

Only one tire manufacturer provided comments in response to the NPRM. Goodyear stated:

The NPRM notes a 1994 letter from Goodyear to the Florida Manufactured Housing Association which stated that for an expected demand at that time of 2.4 million tires, Goodyear could only supply 20 % of that demand in the 8-14.5MH LR-E size. That situation has changed. There is or will be enough capacity in the industry to supply the 8-14.5MH LR-E [tires] by the time this rulemaking is issued as a final rule with an effective date set for nine months thereafter.

Based upon the information provided by Goodyear, the FHWA and HUD believe the supply of tires necessary to comply with the requirements of this rule is presently, or soon will be, sufficient to meet the needs of manufactured home producers and transporters. The agencies do not expect that motor carriers will have difficulty obtaining the 8-14.5 MH tires or that cost for such tires will escalate as a result of the increased demand. However, the agencies believe that the 9-month delay in the effective date will minimize the short-term economic impact on the affected parties.

#### **V. Discussion of Implementation Schedule and Final Rule**

After reviewing all of the comments received in response to the NPRM, the FHWA and HUD have determined that limiting the overloading of manufactured home tires to 18 percent is the most cost-effective approach to substantially reduce the number of tire failures attributed to tire overloading.

Shipments of manufactured homes continue to increase and both agencies will work together to ensure highway safety and prevent disruptions of the delivery of manufactured homes, and adverse economic impacts on consumers and producers of manufactured homes.

##### *A. Implementation Schedule*

Based upon the public comments and other information, the FHWA and HUD are following the proposed phase-in schedule which will result in the final rule and interpretative bulletin taking effect 9 months after publication in the **Federal Register**. The purpose of the 9-month period is to minimize the possibility of tire shortages and cost distortions due to the changeover to higher load rated tires.

For the purposes of HUD requirements, the revised interpretative bulletin is applicable to manufactured homes which are labeled on or after the effective date. HUD's authority to prescribe construction standards is limited to the first sale of the manufactured home. HUD does not have the authority to prescribe how homes previously built and certified to the HUD standards should be retrofitted with tires and axles if they are subsequently moved after the first sale of the unit. Also, since there is no current mechanism for the purchaser to complete an engineering analysis or other acceptable method of complying with the law, the FHWA and HUD believe that this final rule should be mandatory only for homes manufactured on or after the effective date of the final rule.

For the purposes of the FHWA's regulations, the tires on any manufactured home, new or used, transported in interstate commerce on or after the effective date of this rule must meet the requirements of 49 CFR 393.75.

##### *B. Revisions to the Wording of the Final Rule and Interpretative Bulletin*

In response to the public comments, the FHWA and HUD are using information from the latest edition (1997) of the Tire and Rim Association, Inc. Year Book—the tire load limits for manufactured (mobile) homes have not been changed from the 1994 Year Book used in developing the proposed rule. The Year Book also provides that the load and cold inflation pressure on the wheels and rims should not exceed the manufacturer's recommendation even if the tire has been approved for a higher loading. The FHWA and HUD agree with this recommendation and this requirement has been included in the

amended Interpretative Bulletin and in 49 CFR 393.75.

The FHWA and HUD note that the MHI recommended that the FHWA include in its regulations a definition of the term "special permit." However, the FHWA and HUD have concluded that there is no readily apparent need to define the term. The term is not used with regard to the transportation of manufactured homes, and is only used in relation to allowing overloading of tires on commercial motor vehicles other than manufactured housing units. In addition, the States are responsible for issuing permits for oversize and overweight vehicles. The States have the latitude to establish permitting and other requirements appropriate for the traffic conditions present in their State. If the meaning of the term special permit becomes a significant issue in the future, the FHWA will consider proposing a definition at that time.

Both the interpretative bulletin and 49 CFR 393.75 reference 49 CFR 571.119, paragraph S5.1(b), which lists the Tire and Rim Association, Inc., Year Book along with several technical references recognized in other countries. Given the production of tires in other countries, FHWA/HUD have concluded that the final rule should be consistent with this section.

Finally, the FHWA has revised the regulatory language that is to be included in 49 CFR 393.75(g). Section 393.75(g) now includes a clause

indicating that the FHWA and HUD will review industry and other data submitted concerning this matter.

*C. Changes to Interpretative Bulletin J-1-76 of the Manufactured Housing Standards*

The Department of Housing and Urban Development's authority to issue interpretative bulletins is provided by 42 U.S.C. 3535(d) and 5424. HUD has determined that the following changes should be made to Interpretative Bulletin J-1-76:

1. Section C—"Axles" is deleted in its entirety.
2. Section D—"Tires, Wheels, and Rims" is revised in its entirety to reflect the preceding discussions in the preamble.

*D. Amendments to the FMCSRs*

The FHWA is amending 49 CFR 393.75 to make the FMCSRs consistent with HUD's amendments to Interpretative Bulletin J-1-76. Section 393.75(f)(1)(i) and (ii) have been redesignated as § 393.75(f)(1) and (2), respectively. The redesignated paragraphs would address all commercial motor vehicles with the exception of manufactured homes. Section 393.75(f)(2) establishes a speed restriction of 80 km/hour (50 mph) on commercial motor vehicles operated on overloaded tires.

Section 393.75(g) allows 18 percent overloading of manufactured home tires

for a period of two years after the effective date of the final rule. Manufactured homes operating on tires overloaded by 9 percent or more would be restricted to a maximum speed of 80 km/hr (50 mph).

Tire pressure and inflation requirements currently found at § 393.75(f)(2) and (3), are included in a new paragraph, § 393.75(h).

**VI. Cost Analysis of Regulation**

The Administration's policy in Executive Order 12866, Regulatory Planning and Review, provides that "Agencies should assess costs and benefits, both quantifiable and non-quantifiable and choose the approach with the maximum net benefits." As discussed in the NPRM (pages 18018 through 18020, and repeated, in part, in Section III, D of this document), the FHWA and HUD estimated the costs of various alternatives, ranging from 18 percent overloading to no tire overloading, and estimated the cost per manufactured home transported for each of the alternatives.

*A. Examination of the "Cost Impact" of Upgraded Tires and Axles*

HUD has obtained updated cost information for the various types of tires used on manufactured homes. The cost estimates assume that each transportable section uses 6 tires; the cost information is shown in Table A:

TABLE A

Type of tire	Wholesale cost of 8-14.5 10 ply (Series E)	Wholesale cost of 7-14.5 8 ply (Series D)	Increase in wholesale cost	Total incremental cost per section
NEW .....	\$43	\$35	\$8	\$48
USED .....	30	26	4	24

As shown in Table A, the cost for upgraded tires is relatively modest. It results in an average wholesale cost increase of approximately \$50 per manufactured home shipped. The determination of the average cost per home is based on the usage patterns of new versus used tires (45 percent new, 55 percent used); the relative percentage of single section (53 percent) and multi-section (47 percent) homes; and the use of 6 tires per section; and is calculated as follows:

$$(0.45)[\$8 \times 6 \times (.53) + 2 \times \$8 \times 6 \times (.47)] + (0.55)[\$6 \times 6 \times (.53) + 2 \times \$6 \times 6 \times (.47)] = \$51.15$$

or about \$50.

*B. Examination of Manufacturer Approved Designs*

Manufactured home designs have substantially changed in the last several years due to consumer demand, changes in the HUD construction standards and the evolution of manufactured housing. For manufacturers already using additional axles or upgraded tires, the cost impact of this final rule would be reduced.

The information gathered at the time of preparation of the proposed rule did not reflect these new designs. Accordingly, HUD has undertaken a technical review of manufacturer design packages to see the changes in weight due to heavier exterior coverings,

additional framing and shear wall requirement, and other changes.

Based upon a review of design packages, HUD has estimated that approximately 25 percent of all homes produced were affected by the 1994 standards changes and that the increase in weight for those homes was estimated at 5 percent. Therefore, there will be some manufacturers which have already upgraded their transportation systems through the addition of axles, upgraded tires or both.

Also, in reviewing the design packages, HUD has determined that many manufacturers design their axles for weights substantially greater than the actual gross weight of the home. For example, a manufacturer may be using

4 axles when an engineering analysis of the design indicates that only 3 axles are actually needed. Engineering review of several packages indicated that the decrease in the permissible level of tire overloading would not necessarily require an additional axle, since the number of axles is already in excess of what is required to handle the dead load.

Furthermore, the use of 8-14.5 Series E tires with a load rating of 2,540 lbs. could even reduce manufacturer costs as the upgraded load capacity of the tires may reduce the number of axles needed. In several cases, the reduction in the number of axles would more than offset the differential cost for upgraded tires, thus reducing the manufacturer's overall cost. Manufacturers have indicated that they expect that the use of upgraded tires would reduce the number of blowouts and the expenses and damage to the home that might result.

The financial impact of the final rule has been determined to be approximately \$17 million per year. This amounts to \$50 for each of the approximately 340,000 manufactured homes shipped each year.

### C. Examination of the Costs of Service Calls and Tire Failure

The research report submitted by the MHI indicates that transporters reported an average of one tire failure for every 2.038 sections moved from the home manufacturer to the retailer. Site installers reported an average of one tire failure for every 11.182 sections moved from retailer to home site. Using these tire failure rates, and HUD's revised estimate of 500,000 shipments per year, there are approximately 245,338 tire failures per year for movements between the manufacturer and the retailer and 44,714 tire failures per year for movements between the retailer and the home site. The authors of the report believe that the tire failure rate could be reduced by  $\frac{2}{3}$  (193,174) if the 8-14.5 MH tires are used. This does not, however, mean that there are 193,174 failures caused by tire overloading.

A cost of \$123.36 per failure was calculated. The decrease in the transporters' costs could be more than \$23 million per year based upon the estimates in the MHI's report. Preventing tire blowouts would also reduce site installation problems associated with damage to the running gear and chassis. The benefits for reducing site installation problems are estimated by the MHI to be \$2.8 million.

The MHI also estimates that using upgraded tires would result in a reduction in damage claims (i.e., transportation shock and vibration

damage to the manufactured home structure caused by tire failures) and traffic congestion caused when manufactured homes break down. Those benefits are estimated to be approximately \$4.3 million and \$5.2 million, respectively.

In the FHWA and HUD's joint NPRM the agencies estimated (based upon 450,000 shipments per year) the number of tire failures caused by tire overloading is at least 22,500. The agencies used a failure rate of 7 percent for new tires and 9 percent for used tires with an overall average failure rate of 8 percent. The agencies estimated that a tire will fail on about 40 percent of the sections shipped each year. Using current figures on the number of manufactured home shipments, the FHWA and HUD estimate that tire overloading causes approximately 25,000 tire blowouts per year. This represents a conservative estimate.

In a number of cases, the tire failure is corrected by the transporter and therefore, the associated costs are included in the per mile cost or other charges assessed by the transporters. Where the manufacturer has to send service personnel, the data obtained from manufactured home service managers indicates that the average repair cost is \$180.

If 25 percent of the tire blowouts require road site service, the costs to manufacturers would be approximately \$1.1 million to 1.3 million per year. Therefore, the total estimated costs of tire failures caused by overloading is more than \$36 million per year and it is likely that much of this cost, disruption of transportation and even damage to the home can be abated through the use of upgraded tires.

Other potential benefits from the adoption of this final rule include increased safety on the nation's highways and a decreased likelihood of accidents, injuries, and property damage losses resulting from tire failures. In addition, the FHWA and HUD expect benefits in the form of reduced insurance costs, more on-time deliveries and reduced likelihood of injuries that can occur because of changing blown tires.

In summary, it is expected that there will be substantial cost savings by reducing the number of tire failures through the use of upgraded tires and axles. While there are some manufacturers that may have to increase the number of axles, a review of manufactured home designs indicates that existing number of axles in the approved designs may be adequate, despite the reduction in tire overloading.

Other manufacturers may actually reduce their overall costs by using upgraded tires in conjunction with fewer axles. Finally, this reduction in tire overloading will increase highway safety, and the final rule provides the maximum benefits at the least additional cost of all of the alternatives included in the proposed rule.

## VII. Rulemaking Analysis and Notices

### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA and HUD have determined that this action is a significant regulatory action within the meaning of Executive Order 12866 because it involves a significant amount of public interest. In addition, the FHWA has determined that this action is significant within the meaning of Department of Transportation regulatory policies and procedures. This action has undergone a formal review by the Office of Management and Budget. Any changes to the rule resulting from this review are available for public inspection in the docket referenced at the beginning of this document.

This rule establishes tire loading limitations for manufactured homes transported in interstate commerce and eliminates the inconsistency between the FHWA and HUD requirements for manufactured homes. The FHWA and HUD have evaluated the economic impact of the changes to the regulatory requirements concerning the safe transportation of manufactured homes and determined that the standard is reasonable, appropriate, and the least costly and intrusive approach for the resolution of this issue (see section VII of this notice). The financial impact of the final rule has been determined to be approximately \$17 million per year. This amounts to \$50 for each of the approximately 340,000 manufactured homes shipped each year. The total economic benefits are estimated to be more than \$36 million per year. Therefore, the FHWA and HUD estimate that the final rule has a net benefit of approximately \$19 million per year. Other options examined by the FHWA would have significant increases in the costs while providing only a marginal increase in the estimated benefits.

### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the FHWA and HUD have evaluated the potential effects of this final rule on small entities and determined that the proposed standard is reasonable, appropriate, and the least costly and

intrusive approach for the resolution of this issue. The FHWA and HUD certify that this rulemaking does not have a significant economic impact on a substantial number of small entities.

The FHWA and HUD obtained cost information directly from tire suppliers and from the MHI Task Force which includes transporters, manufacturers, and tire suppliers. The cost information obtained from all sources was very similar and the FHWA and HUD believe the data are reasonably accurate.

The number of additional tires and/or axles required to satisfy this rule is a function of the size and weight of the manufactured home. Because of this, manufacturers will have differing cost impacts. Also, some manufacturers may already be using additional axles or upgraded tires thereby greatly reducing the costs.

Based upon the information reviewed by the FHWA and HUD, and the information provided by commenters, the agencies do not believe the costs per manufactured home for small entities to comply with this rule will be significantly greater than the costs per manufactured home for larger manufacturers and transporters.

Therefore, the costs per manufactured home for small entities to comply with this rule are not expected to exceed \$50.

A small manufacturer, for example, producing 5 manufactured homes per week, would have to spend approximately \$250 per week or \$13,000 annually. However, most, if not all, of the costs would be factored into the prices of the manufactured homes produced. If all of the costs are factored into the manufactured homes produced, the price for a new manufactured home would increase by approximately \$50, plus any additional mark-up by the manufacturers and retailers.

The FHWA and HUD note that the AAR stated that it believes "the action contemplated by the NPRM could cost consumers \$600 per home or more." The FHWA and HUD have carefully reviewed the estimates of the economic impact of this rulemaking and the information provided by other commenters to the docket and believe the AAR's estimate of the impact on small entities and consumers is far in excess of the cost estimates presented by the MHI. According to the MHI, its members produce 65 percent of the manufactured homes built each year in the United States. The MHI indicated that approximately 339,601 manufactured homes were produced by 92 member companies in 285 plants. The FHWA and HUD believe the experiences of the MHI's members provide a sound basis for estimating the

costs for small entities and consumers and consider the estimates presented by the FHWA and HUD in the final rule to be consistent with the MHI's.

#### *Executive Order 12612 (Federalism Assessment)*

The FHWA has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, Federalism, and determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Under this rule, certain commercial motor vehicles will be prohibited from traveling at speeds exceeding 80 km/hour (50 mph), but the FHWA does not believe this requirement preempts State law nor does the agency believe this requirement will significantly affect the States' ability to discharge traditional State governmental functions. The FHWA also notes that several State agencies commented to the docket in support of this rulemaking.

The General Counsel of HUD, as the Designated Official under Section 6(a) of Executive Order 12612, has determined that the policies contained in this final rule are covered by section 604(d) of the National Manufactured Housing Construction and Safety Standards Act of 1974, which provides: "Whenever a Federal manufactured home construction and safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard."

#### *Executive Order 12372 (Intergovernmental Review)*

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

#### *Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

This rule will not pose an environmental health risk or safety risk to children.

#### *Unfunded Mandates Reform Act*

This rule does not impose a Federal mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532).

#### *Paperwork Reduction Act*

The proposal in this document does not contain information collection requirements [44 U.S.C. 3501 *et seq.*].

#### *National Environmental Policy Act*

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined that this action would not have any effect on the quality of the environment.

A Finding of No Significant Impact with respect to the environment was prepared for the proposed rule in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969. Because the proposed rule is adopted by this final rule without significant change, the initial Finding of No Significant Impact remains applicable, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the office of the Rules Docket Clerk at the above address.

#### *Regulation Identification Numbers*

A regulation identification number (RIN) is assigned 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. The RINs contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

#### **List of Subjects**

##### *24 CFR Part 3280*

Fire prevention, Housing standards, Manufactured homes.

##### *49 CFR Part 393*

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety.

In consideration of the forgoing, the Department of Housing and Urban Development, under 42 U.S.C. 3535(d), is amending Interpretative Bulletin J-1-76, and the Department of Transportation, Federal Highway Administration is amending title 49, Code of Federal Regulations, Chapter III, part 393 as follows:

**Department of Housing and Urban Development**

**Note:** HUD Interpretative Bulletin J-1-76 does not and the amendments to it will not appear in the Code of Federal Regulations.

1. HUD Interpretative Bulletin J-1-76 is amended by removing and reserving Section C and by revising Section D, as follows:

**Interpretative Bulletin J-1-76, Transportation—Subpart J of Part 3280**

\* \* \* \* \*

C. [Reserved]

D. Section 3280.904(b)(8)—Tires, Wheels, and Rims

[This Section D is effective November 16, 1998.] Manufactured homes that are labeled on or after the effective date must comply with this Section D. This provision will expire November 20, 2000, unless extended by mutual consent of the Federal Highway Administration and HUD during any subsequent rulemaking.]

Tires and rims shall be sized and fitted to axles in accordance with the gross axle weight rating determined by the manufactured home manufacturer. The permissible tire loading may be increased up to a maximum of 18 percent over the rated load capacity of the manufactured home tire marked on the sidewall of the tire or increased up to a maximum of 18 percent over the rated load capacity specified for the tire in any of the publications of any of the organizations listed in Federal Motor Vehicle Safety Standard (FMVSS) No. 119 (49 CFR 571.119, S5.1(b)).

Used tires may also be sized in accordance with the above criteria whenever the tread depth is at least <sup>2</sup>/<sub>32</sub> of an inch as determined by a tread wear indicator. The determination as to whether a particular used tire is acceptable shall also include a visual inspection of thermal and structural defects (e.g., dry rotting, excessive tire sidewall splitting, etc.). Wheels and rims shall be sized in accordance with the tire manufacturer's recommendations as suitable for use with the tires selected.

The load and cold inflation pressure imposed on the rim or wheel must not exceed the rim and wheel manufacturer's instructions even if the tire has been approved for a higher load or inflation. Tire cold inflation pressure limitations and the inflation pressure measurement correction for heat shall be as specified in 49 CFR 393.75(h).

\* \* \* \* \*

**Federal Highway Administration**

**49 CFR CHAPTER III**

**PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION**

2. The authority citation at the end of § 393.75 is removed and the authority citation for 49 CFR Part 393 continues to read as follows:

**Authority:** Section 1041(b) of Pub. L. 102-240, 105 Stat. 1914, 1993 (1991), 49 U.S.C. 31136 and 31502; 49 CFR 1.48.

3. Section 393.5 is amended by adding the definitions of "manufactured home," "length of a manufactured home," and "width of a manufactured home," placing them in alphabetical order, to read as follows:

**§ 393.5 Definitions.**

\* \* \* \* \*

*Length of a manufactured home.* The largest exterior length in the traveling mode, including any projections which contain interior space. Length does not include bay windows, roof projections, overhangs, or eaves under which there is no interior space, nor does it include drawbars, couplings or hitches.

\* \* \* \* \*

*Manufactured home* means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. This term includes all structures which meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to 24 CFR 3282.13 and complies with the standards set forth in 24 CFR part 3280.

\* \* \* \* \*

*Width of a manufactured home.* The largest exterior width in the traveling mode, including any projections which contain interior space. Width does not include bay windows, roof projections,

overhangs, or eaves under which there is no interior space.

4. Section 393.75 is amended by revising paragraph (f), and by adding paragraphs (g) and (h) to read as follows:

**§ 393.75 Tires.**

\* \* \* \* \*

(f) *Tire loading restrictions.* With the exception of manufactured homes, no motor vehicle shall be operated with tires that carry a weight greater than that marked on the sidewall of the tire or, in the absence of such a marking, a weight greater than that specified for the tires in any of the publications of any of the organizations listed in Federal Motor Vehicle Safety Standard No. 119 (49 CFR 571.119, S5.1(b)) unless:

(1) The vehicle is being operated under the terms of a special permit issued by the State; and

(2) The vehicle is being operated at a reduced speed to compensate for the tire loading in excess of the manufacturer's rated capacity for the tire. In no case shall the speed exceed 80 km/hr (50 mph).

(g) *Tire loading restrictions for manufactured homes.* Effective November 16, 1998, tires used for the transportation of manufactured homes (i.e., tires marked or labeled 7-14.5MH and 8-14.5MH) may be loaded up to 18 percent over the load rating marked on the sidewall of the tire or, in the absence of such a marking, 18 percent over the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b)). Manufactured homes which are labeled (24 CFR 3282.7(r)) on or after November 16, 1998 shall comply with this section. Manufactured homes transported on tires overloaded by 9 percent or more must not be operated at speeds exceeding 80 km/hr (50 mph). This provision will expire November 20, 2000 unless extended by mutual consent of the FHWA and the Department of Housing and Urban Development after review of appropriate tests or other data submitted by the industry or other interested parties.

(h) *Tire inflation pressure.* (1) No motor vehicle shall be operated on a tire which has a cold inflation pressure less than that specified for the load being carried.

(2) If the inflation pressure of the tire has been increased by heat because of the recent operation of the vehicle, the cold inflation pressure shall be estimated by subtracting the inflation buildup factor shown in Table 1 from the measured inflation pressure.

TABLE 1.—INFLATION PRESSURE MEASUREMENT CORRECTION FOR HEAT

Average speed of vehicle in the previous hour	Minimum inflation pressure buildup	
	Tires with 1,814 kg (4,000 lbs.) maximum load rating or less	Tires with over 1,814 kg (4,000 lbs.) load rating
66–88.5 km/hr (41–55 mph) .....	34.5 kPa (5 psi) .....	103.4 kPa (15 psi).

Issued on: February 11, 1998.

**Kenneth R. Wykle,**  
*Federal Highway Administrator.*

**Nicolas P. Retsinas,**  
*Assistant Secretary for Housing-Federal  
Housing Commissioner.*

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