

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration****49 CFR Part 393**

[Docket No. FMCSA-97-2341]

**Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Final rule; denial of petitions for rulemaking and for extension of deadline.

**SUMMARY:** The FMCSA is amending its tire regulation to reflect the expiration of a provision allowing the overloading of tires used for the transportation of manufactured homes. The agency is also denying petitions from the Manufactured Housing Institute (MHI) for rulemaking and for an extension of the expiration date of the overloading provision, and from Multinational Legal Services, PLLC (Multinational Legal Services), for rescission of an earlier extension of the expiration date. Currently, tires used in the transportation of manufactured homes may be loaded up to 18 percent over the load rating marked on the sidewall of the tires, or in the absence of such a marking, 18 percent above the load rating specified in publications of certain organizations specializing in tires. The rule was scheduled to expire—thus prohibiting tire overloading—on November 21, 2000, unless extended by joint agreement of FMCSA and the Department of Housing and Urban Development (HUD). The expiration date was delayed until December 31, 2001, to give the agency enough time to complete its review of the MHI's petition to allow 18-percent overloading on a permanent basis. Denial of all petitions means motor carriers are prohibited from transporting manufactured homes built on or after January 1, 2002, in interstate commerce on overloaded tires.

**DATES:** The effective date for this final rule is December 31, 2001.**FOR FURTHER INFORMATION CONTACT:** Mr. Larry W. Minor, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366-4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001.**SUPPLEMENTARY INFORMATION:****Background**

On February 18, 1998, the Federal Highway Administration (FHWA) and the Department of Housing and Urban Development (HUD) jointly published a final rule amending, respectively, the Federal Motor Carrier Safety Regulations (FMCSRs) and an interpretation of the Manufactured Home Construction and Safety Standards (see 63 FR 8330). The FHWA and HUD actions reduced the amount of tire overloading allowed (at the time up to 50 percent above the tire manufacturer's load rating) on tires used to transport manufactured homes. As a result of the rulemaking, the maximum amount of loading on a manufactured home tire could not exceed the manufacturer's load rating by more than 18 percent. Manufactured homes transported on tires overloaded by 9 percent or more could not be operated at speeds exceeding 80 kilometers per hour (km/hr) (50 mph). The final rule allowed 18-percent overloading for a two-year period. The two-year period began on November 16, 1998, the effective date of the final rule, and was scheduled to end on November 20, 2000.

In publishing the final rule and interpretative bulletin, the agencies indicated there was sufficient data to support the premise that overloading tires may be potentially unsafe. The agencies also indicated that unless both of them were persuaded by the end of the two-year period that 18-percent overloading did 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 would be prohibited.

**MHI Petition for Rulemaking**

On August 7, 2000, the MHI filed a petition for rulemaking with the FMCSA and HUD to initiate a joint rulemaking to amend the agencies' rules concerning manufactured home tires to enable the manufactured home industry to continue to exceed the tire manufacturer's load rating by up to 18 percent, indefinitely. The MHI requested that (1) the FMCSA amend 49 CFR 393.75(g); and (2) HUD revise Interpretative Bulletin J-1-76 to 24 CFR part 3260. MHI recognized that it would be difficult, if not impossible, for the FMCSA and HUD to act on the petition and, if granted, complete the rulemaking before November 20, 2000. Therefore, the MHI also petitioned the FMCSA and HUD to provide interim regulatory relief from the November 20, 2000, deadline

until the agencies acted on the petition for rulemaking. A copy of the MHI's petition for rulemaking and request for an exemption are included in the docket referenced at the top of this document.

**FMCSA and HUD Preliminary Responses to the MHI Petition**

On November 21, 2000, the FMCSA published a final rule delaying the termination date of the rule allowing overloading of manufactured home tires (65 FR 70218). The FMCSA indicated that it had met with officials from HUD to discuss the MHI's request. Both agencies believed that MHI's petition and its supporting documentation warranted a thorough review, but because relevant staff were otherwise committed, neither was able to complete such an analysis before November 20, 2000, the termination date established by the 1998 final rule. On November 21, 2000, HUD amended Interpretative Bulletin J-1-76 to remove a paragraph that referenced the November 20, 2000, termination date.

**Multinational Legal Services Petition**

On January 16, 2001, Multinational Legal Services filed a petition with the FMCSA and HUD requesting that the FMCSA and HUD rescind their regulatory actions relating to overloading of manufactured home tires. A copy of Multinational Legal Services' petition is included in the docket referenced at the beginning of this document. Multinational Legal Services argued that the FMCSA and HUD actions delaying the termination date are contrary to both Federal law and the public interest. Multinational Legal Services claimed that the FMCSA violated 5 U.S.C. 553(b) by publishing the final rule without prior notice and request for public comment. It said the agencies could have requested public comment when the MHI submitted its preliminary data on July 7, 2000. Multinational Legal Services argued that the "good cause" exception to the requirement for requesting public comment prior to issuing a final rule should not apply in this case.

In addition, Multinational Legal Services asserted that the delay in the termination date was issued in violation of the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113, 110 Stat. 775) which requires that Federal agencies use standards established by voluntary consensus standards organizations unless the adoption of the voluntary standards would be impractical or inconsistent with law.

### FMCSA Notice of Intent To Deny the Petitions for Rulemaking

On April 20, 2001 (66 FR 20345), the FMCSA published a notice announcing the agency's intent to deny MHI's and Multinational Legal Services' petitions for rulemaking. The agency explained that the data submitted by MHI in August, 2000, did not provide an adequate basis on which to allow continued 18-percent overloading of tires. FMCSA requested comments from all interested parties, and encouraged commenters to discuss any of the specific issues mentioned in the notice, as well as other issues they believed to be relevant.

#### Discussion of Comments

The FMCSA received eight comments in response to its notice of intent to deny the petitions. The commenters were: the California Manufactured Housing Institute; Fleetwood Enterprises, Inc. (Fleetwood); Greenball Corporation (Greenball); the Manufactured Housing Institute (MHI); Mobile Home Materials, Inc.; Multinational Business Services, Inc. (Multinational Business Services); the Oregon Manufactured Housing Association; and TJT, Inc.

The California Manufactured Housing Institute, Fleetwood, MHI, the Oregon Manufactured Housing Association, and TJT, Inc. opposed the FMCSA's proposal to deny MHI's petition to allow overloading of tires on a permanent basis. Greenball, Mobile Home Materials, and Multinational Business Services supported the FMCSA's proposal. A discussion of the major issues raised by the commenters appears below, followed by the FMCSA's response.

#### *Comments Opposed to FMCSA's Proposal*

TJT, Inc. indicated that it supported the February 18, 1998 final rule that established a schedule for phasing out the practice of overloading of tires used in the transportation of manufactured homes. However, TJT believes that MHI's data concerning tire failure rates justify a rule to allow 18 percent overloading on a permanent basis.

We believe that the imposition of this rule revision was necessary and well thought out, and implementation has been relatively uneventful. However, it would seem that we have now reached the point of rapidly diminishing return[s]. If this rule is allowed to "sunset," and allowable tire loading is further reduced to 100 percent of the sidewall rating, transport of the homes would require either the use of an "F" rated tire, which is substantially more expensive and currently unavailable in quantity, or the

addition of more axles. Many home sections currently use five and six axles to meet the tire loading requirements. Addition of even more axles would severely impact the ability to turn the unit, and would place greater strain on all of the running gear components when turning, increasing the potential for failure. Reducing the length of each section and increasing the number of sections is an option that, while making it possible to meet further load restrictions safely, would greatly add to the cost.

TJT believes the 18-percent overloading currently allowed is achieving the desired result of reduced tire failure and the accompanying benefits of lessened traffic obstruction, transporter downtime, and transit damage. TJT states:

To further restrict tire loading would be counter productive, in that any further potential reductions in tire failure would be minimal, and offset by major cost implications and the possible creation of additional safety risks. The rule, as it currently exists should be extended indefinitely or made permanent.

MHI argues that FMCSA's observations and conclusions "gloss over" the existence and the significance of the data MHI presented with its petition. MHI stated:

By focusing just upon the data gleaned from the study of the 53 shipments, showing individual wheel weights and possible causes of tire failure, FMCSA suggests the existence of a correlation between tire overloading and tire failure and, more importantly, between tire overloading and unreasonable risks to the traveling public and the safe transportation of the manufactured homes. MHI has never accepted the validity of either correlation. The litmus test is whether tire failures that manufactured housing transporters have experienced have resulted in accidents involving property damage or personal injury. Only if they have is there a need to engage in the second inquiry, whether the tire failures causing the accidents are the result of tire overloading.

MHI believes that the FMCSA was unrealistic to have expected them to "scientifically authenticate" the percentage of tire failures attributable to 18-percent overloading. MHI also argues that FMCSA does not address the potential effects that denial of the petition would have on the manufactured housing industry. They believe the potential effects are material and stem from denying the petition without allowing sufficient time for a transition to upgraded tires.

#### *Comments in Support of FMCSA's Proposal*

Mobile Home Materials believed the FMCSA should not allow overloading of tires and that the new tires necessary to comply with the prohibition on overloading would be available in

sufficient quantity. Mobile Home Materials stated:

With regard to availability of the 8-14.5 F12 (2,790 lbs carry capacity) or equivalent tire: This tire is made from the same molds as the 8-14.5 E10 tire. This was not the case for the change from 7-14.5 D8 to 8-14.5 E10 tires in 1998. There is adequate capacity for there to be no disruption in supply to the industry for a January 1, 2002 implementation date if you issue a final ruling by August 2001. The additional cost to the industry will be significantly less than the change from the 50 percent overload to the current [18-percent] overload.

Greenball stated:

We are supporting the denial of the petitions concerning the overloading of mobile home tires of 118 [percent]. We have developed a tire for the industry that has a load carrying capacity of 3070 lbs at normal highway speeds. This tire is the same size as the industry is currently using but in a LRG rating. We feel this tire will perform to the standards set forth and will thus eliminate the need to overload the units as is now being done.

### FMCSA Response to Comments

#### *MHI Petition*

The FMCSA has carefully considered the views of the commenters in favor of MHI's petition but continues to believe that there is no basis for allowing the manufactured home industry to continue its practice of overloading tires. None of the commenters' arguments negate the fact that exceeding tire manufacturers' load ratings reduces significantly the margin of safety between the maximum load that the tires are designed to support under normal circumstances (e.g., normal inflation pressures, operating speeds and temperatures, etc.), and the maximum load the tires can withstand before they fail. There is no technical reason for allowing such operating practices when tires of greater load carrying capacity could be purchased by the producers of manufactured homes, but would not be purchased by most of these producers until the Federal government mandates the use of such tires.

As for MHI's argument that FMCSA had unrealistic expectations about the data submitted with their petition, we never indicated that we were in search of scientifically flawless data. We recognize the realities of data collection and analysis in the real world in general, and in the transportation industry in particular. However, data should be of such quality and quantity that a statistically meaningful analysis could be conducted. This was not the case for the data submitted by MHI.

As we indicated in our notice of intent to deny MHI's petition, data from

the industry indicates that in 1999, the manufactured housing industry shipped 122,926 single-section and 225,745 multi-section homes for a total of 582,498 sections transported. However, the MHI provided data concerning on-the-road performance, including the amount of tire loading, for only 53 shipments of manufactured homes. Therefore, any inferences made from MHI's data would be based on a sample size of approximately 0.0091 percent [ $100 \times (53/582,498)$ ] of all shipments transported in 1999. The agency continues to believe this sample size is entirely too small to make any valid judgment about the on-the-road performance of tires overloaded by 18 percent.

Some commenters supported continued tire overloading because they claimed it has not been shown to contribute to accidents, injuries, or fatalities. The lack of such evidence is not surprising—the causes of accidents are often hard to determine—but the absence of accident data does not, in and of itself, serve as proof that there have not been accidents attributable in whole, or in part, to tire overloading. FMCSA does not believe that regulatory action should necessarily be foreclosed by the lack of specific accident-causation data. Tire failures can and do lead to secondary accidents by blocking part of the roadway or shoulder, disrupting traffic flow, or even creating the conditions for a severe crash if an inattentive driver fails to recognize that a vehicle just ahead has slowed dramatically or stopped. There is no reason to believe that tire failures on manufactured homes could not cause similar events. The agency's mission is to prevent or reduce accidents. Regularly loading tires beyond the maximum weight limit designated by the manufacturer is almost by definition a likely cause of tire failure. And a reduction in tire failures—whatever the cause of those failures—is likely to prevent accidents in the long run.

The April 23, 1996, notice of proposed rulemaking requested public comments concerning the costs and benefits associated with the rule to end the practice of overloading tires used in the transportation of manufactured homes (61 FR 18014). The comments were considered and appropriate revisions to the estimates were included in the preamble for the February 18, 1998, final rule setting conditions for phasing out the overloading of tires. The analysis demonstrated that the benefits of the rule exceed the costs (see 63 FR 8330). Neither the MHI nor any of the other commenters responding to the April 20, 2001, notice of intent provided

a detailed analysis to refute the analysis presented in the preamble of the final rule, or identified deficiencies in the methodology used to generate the estimates.

Some of the commenters suggested that the industry needed at least six months' warning of any final decision to prohibit tire overloading. FMCSA announced its preliminary intent to do so on April 20, 2001, and explained its reasoning in detail. FMCSA encouraged commenters to "discuss any of the specific issues mentioned" in that document and said that "[d]epending on the comments received, the agency will issue a notice denying the MHI's and Multinational's petitions." While the notice of intent to deny MHI's petition was not a definitive response to the petition, it was a clear indication that we did not intend to initiate a rulemaking to allow tire overloading after the December 31, 2001, expiration date unless the industry could present evidence clearly demonstrating the safety of 18-percent overloading or arguments casting significant doubt upon the agency's reasoning.

*Multinational Legal Services' Petition To Rescind the November 21, 2000, Final Rule*

With regard to Multinational Legal Services' petition to rescind the November 21, 2000, final rule extending the deadline for compliance with the prohibition on tire overloading, none of the commenters discussed the issues raised in that petition.

We continue to believe that the period between MHI's submission of its August 7, 2000, petition for rulemaking, and the November 20, 2000, expiration date for the overloading provision was not long enough to allow the agency, occupied with a wide variety of prior commitments, to prepare a notice that discussed the issues in meaningful detail, review the public comments submitted, and issue a final decision. Our actions were necessary and consistent with the requirements of the Administrative Procedure Act given the impracticability of publishing a notice requesting public comments on the MHI petition prior to the expiration date.

We also continue to believe that our actions concerning overloaded tires are not inconsistent with the National Technology Transfer and Advancement Act of 1995, or the Office of Management and Budget's Circular No. A-119, which provides executive direction to Federal agencies in implementing the statutory requirements. We did not establish a government-unique standard for the design of manufactured home tires, or a

government-unique standard concerning the use of such tires. Furthermore, our actions did not ignore a private sector "consensus standard" as defined in OMB's Circular No. A-119.

We carefully examined the Tire and Rim Association's "Year Book"—the only private-sector publication that appears to be relevant to the current debate—and determined that it is not a consensus standard applicable to overloaded manufactured home tires. The Tire and Rim Association publication provides information on interchangeability standards for tires and rims—the ability to replace components, parts, or equipment of one manufacturer with those of another, without losing function or suitability. Furthermore, the organization disclaimed all responsibility or involvement with respect to the use or performance of any tire. Since the only private-sector standard we are aware of is not a consensus standard applicable to overloaded manufactured home tires, we did not violate the National Technology Transfer and Advancement Act of 1995.

**MHI's Petition for Postponement of the December 31, 2001, Deadline**

On October 10, 2001, MHI petitioned the FMCSA to extend the deadline for compliance with the prohibition on tire overloading until 180 days after the date the agency publishes its decision on MHI's August 7, 2000, petition. They argued that it is virtually impossible for the manufactured housing industry to fully comply with the rule by January 1, 2002, if the agency denies the petition to allow 18-percent overloading on a permanent basis. A copy of the petition is in the docket referenced at the beginning of this notice.

In addition, MHI noted that "[p]rior to the 118 Percent Rule, the provisions of 49 CFR 393.75(f) were applicable to the movement of manufactured homes. In the event the 118 Percent Rule is sunsetted, the provisions of 49 CFR 393.75(f) will again be applicable."

The Manufactured Housing Association for Regulatory Reform (MHARR) and Multinational Business Services submitted comments to the docket in response to MHI's petition for postponement of the January 1, 2002, deadline.

MHARR supports MHI's petition because it believes Congress has given HUD primary jurisdiction over the construction of manufactured housing and HUD had not participated in FMCSA's notice-and-comment proceedings concerning MHI's petition to allow 18-percent overloading on a permanent basis. MHARR stated that

manufacturers would be left with two conflicting tire loading standards if the FMCSA does not extend the deadline and that no action should be taken without HUD's full participation.

Multinational Business Services submitted comments in opposition to the MHI's October 10, 2001, petition. Multinational Business Services argues that the MHI's petition indicates a willful disregard for Federal regulatory deadlines. Multinational Business Services believes MHI has been provided with ample time to comply with the regulation and that MHI is responsible for overlooking the plain meaning of the notices terminating tire overloading.

#### **FMCSA Response to MHI's October 10, 2001, Petition**

The FMCSA has reviewed MHI's petition and the comments of MHARR and Multinational Business Services and determined that § 393.75(g) should not be amended to provide an additional 180 days from the date of publication of the agency's final decision on MHI's August 7, 2000, petition for the industry to comply with the prohibition on the overloading of tires. The agency agrees with Multinational Business Services that MHI has been provided ample time to comply with the rule and that MHI should have recognized the meaning of the FMCSA's **Federal Register** notices in response to the August 7, 2000, petition for rulemaking.

MHI pointed out that § 393.75(f) would still allow tire overloading at the option of each State, even if § 393.75(g) were sunsetted. It was not the intention of FMCSA and HUD that the general provision concerning tire loading for commercial motor vehicles be applicable to tire loading for manufactured homes after the expiration date. While the regulatory language adopted in the February 18, 1998, final rule did not express our intent as clearly as we intended, the preamble to the rulemaking was explicit. The Summary section of the February 18, 1998, final rule states:

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* [63 FR 8330, emphasis added].

The agency clearly indicated that the expiration date was to be the deadline for the industry to discontinue the

practice of overloading tires. By codifying all of the overloading rules applicable to manufactured homes in § 393.75(g), the agency narrowed the scope of § 393.75(f) to effectively exclude manufactured homes.

This final rule makes a technical amendment to the rule only for the purpose of clarifying the applicability of the requirements for homes built before and after December 31, 2001, now that we have reached the expiration date for the tire overloading provision. Section 393.75(f) has been amended slightly to ensure that it will remain inapplicable to manufactured homes, and § 393.75(g)(2) clearly bars tire overloading for manufactured homes labeled on or after January 1, 2002.

With regard to MHARR comments, FMCSA agrees that while HUD has primary authority over the construction of manufactured housing, FMCSA has primary authority over highway transportation by commercial motor vehicle. Therefore, FMCSA's action of today will effectively end any permissibility of overloading.

FMCSA worked closely with HUD in conjunction with issuing the 1998 final rule, and the November 21, 2000, extension of the compliance date. We notified HUD prior to our publication of the April 20, 2001, notice of intent to deny the petitions and we notified the agency prior to the publication of this final rule. Section 393.75(g) explicitly states that the 18-percent overloading provision will expire unless extended by mutual consent of the FMCSA and the Department of Housing and Urban Development.

#### **FMCSA Decision**

For the reasons given above, the FMCSA is denying MHI's August 7, 2000, and October 10, 2001, petitions, and Multinational Legal Services' January 16, 2001, petition. The agency has worked with HUD to require the manufactured housing industry to alter its practice of overloading tires by up to 50 percent above the tire manufacturer's load rating. The agencies have reduced the amount of overloading to 18 percent presently, and through the denial of the MHI's petitions, transporters of manufactured homes must discontinue the practice of overloading tires.

#### **Rulemaking Analysis and Notices**

Under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest.

In this case, additional notice and comment are unnecessary. We jointly completed a rulemaking with HUD in 1998 that established the process for phasing out the overloading of tires. The process included a two-year period during which the industry could gather data and other information to support its contention that overloading tires by 18 percent was not potentially unsafe. The industry submitted a petition on August 7, 2000, requesting that the agencies allow 18-percent overloading on a permanent basis. Although we were under no obligation to respond to the petition given the short amount of time between its submission and the November 20, 2000, expiration date, we extended the expiration date until December 31, 2001, and subsequently published a notice requesting public comment on the petition. Our notice requesting public comment included a detailed discussion of (1) the operational data submitted by MHI in August 2000; (2) the inadequacy of that data as a justification for continued tire-overloading after the expiration date of the current rule; (3) our intent to deny MHI's petition to make overloading permanent; and (4) our response to the petition from Multinational Legal Services for rescission of the extension of the original expiration date from November 20, 2000, to December 31, 2001. This final rule is a technical amendment to 49 CFR 393.75(f) and (g) to reflect the expiration of the provision allowing 18-percent overloading on December 31, 2001. The final rule does include a substantive change to the rule.

For the same reasons, the FMCSA finds, pursuant to 5 U.S.C. 553(d)(3), that there is good cause for making the final rule effective upon publication. The final rule is a technical amendment to reflect the December 31, 2001, expiration date, and to clarify the applicability of the rules to the transportation of manufactured homes built before and after the December 31, 2001, expiration date. The final rule does not change the substance of the rule.

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

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or within the meaning of Department of Transportation regulatory policies and procedures. The final rule amends § 393.75 to clarify the applicability of the rules to the transportation of manufactured homes built before and after the December 31, 2001, deadline for compliance.

Although the 1998 final rule establishing the current requirements was a significant regulatory action under section 3(f) of Executive Order 12866, the Office of Management and Budget (OMB) does not consider this amendment of the final rule to be a significant action.

#### Regulatory Flexibility Act

This action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The original rule did not have a significant effect on a substantial number of small entities, and this rule simply amends § 393.75 to reflect the expiration of the provision allowing 18-percent overloading on December 31, 2001.

#### Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this rulemaking does not have a substantial direct effect on States, nor would it limit the policy-making discretion of the States. Nothing in this document preempts any State law or regulation.

#### Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

#### Unfunded Mandates Reform Act of 1995

This rule does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*) 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.

#### Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FMCSA has determined that this action does not affect any requirements under the PRA.

#### National Environmental Policy Act

FMCSA is a new administration within the Department of

Transportation (DOT). We are striving to meet all of the statutory and executive branch requirements on rulemaking. The FMCSA is currently developing an agency order that will comply with all statutory and regulatory policies under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). We expect the draft FMCSA Order to appear in the **Federal Register** for public comment in the near future. The framework of the FMCSA Order is consistent with and reflects the procedures for considering environmental impacts under DOT Order 5610.1C. The FMCSA analyzed this final rule under the NEPA and DOT Order 5610.1C. Since the final rule only clarifies the existing rule to reflect the expiration of the tire-overloading provision in 49 CFR 393.75(g), we believe it would be among the type of regulations that would be categorically excluded from any environmental assessment.

#### Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

#### Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Executive Order 13211 (Energy Supply, Distribution, or Use)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of section 4(b) of the Executive Order because it is not economically significant and will not have a significant adverse effect on the supply, distribution, or use of energy.

#### List of Subjects in 49 CFR Part 393

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

For the reasons discussed in the preamble, the FMCSA amends title 49, Code of Federal Regulations, chapter III, part 393 as follows:

#### PART 393—[AMENDED]

1. The authority citation for part 393 continues to read as follows:

**Authority:** Sec. 1041(b) of Public Law 102-240, 105 Stat. 1914, 1993 (1991); 49 U.S.C. 31136 and 31502; 49 CFR 1.73.

2. Amend § 393.75 to revise paragraphs (f) and (g) to read as follows:

#### § 393.75 Tires.

\* \* \* \* \*

(f) *Tire loading restrictions (except on manufactured homes).* No motor vehicle (except manufactured homes, which are governed by paragraph (g) of this section) 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)(1) *Tire loading restrictions for manufactured homes built before January 1, 2002.* Manufactured homes that are labeled pursuant to 24 CFR 3282.362(c)(2)(i) before January 1, 2002, must not be transported on tires that are loaded more than 18 percent over the load rating marked on the sidewall of the tire or, in the absence of such a marking, more than 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 labeled before January 1, 2002, transported on tires overloaded by 9 percent or more must not be operated at speeds exceeding 80 km/hr (50 mph).

(2) *Tire loading restrictions for manufactured homes built on or after January 1, 2002.* Manufactured homes that are labeled pursuant to 24 CFR 3282.362(c)(2)(i) on or after January 1, 2002, must not be transported on tires loaded beyond the load rating marked on the sidewall of the tire or, in the absence of such a marking, 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)).

Issued on: December 26, 2001.

**Julie Anna Cirillo,**

*Assistant Administrator, Chief Safety Officer.*

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