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#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 11, 2005.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

#### PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

#### Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended under California (“CA”) by removing the site name “Firestone Tire & Rubber Co.” and the city “Salinas”

[FR Doc. 05–8024 Filed 4–20–05; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 575

[Docket No. 2005–21020]

#### Consumer Information; Uniform Tire Quality Grading Standards

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The Uniform Tire Quality Grading Standards (UTQGS) contain detailed testing procedures for generating consumer information about the treadwear, traction, and temperature resistance of passenger car tires. To ensure the uniformity of treadwear grades, the grading procedures specify a 400-mile test course located near San Angelo, Texas. Two or four-vehicle convoys equipped with candidate tires travel along this course to evaluate the tire treadwear performance.

Because of flooding now affecting several water crossings along a small portion of the test course, NHTSA is issuing this interim final rule to revise the specified treadwear test course route. This change will not compromise the reliability of the treadwear grades, and will not impose or relax any substantive requirements or burdens on manufacturers.

**DATES:** This interim final rule becomes effective April 21, 2005.

Comments must be received by NHTSA not later than June 20, 2005, and should refer to this docket and the notice number of this document.

**ADDRESSES:** You may submit comments (identified by the DOT DMS Docket Number above) by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **Web Site:** <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- **Fax:** 1–202–493–2251.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

- **Hand Delivery:** Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Analyses and Notices.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call George Gillespie, Office of Vehicle Safety Compliance. Telephone: (202) 366–5299. Fax: (202) 366–1024.

For legal issues, you may call George Feygin, Office of the Chief Counsel, at (202) 366–2992, facsimile (202) 366–3820.

#### SUPPLEMENTARY INFORMATION:

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#### I. UTQGS and the Treadwear Test Course

UTQGS require motor vehicle and tire manufacturers and tire brand name owners to provide information indicating the relative performance of passenger car tires in the areas of treadwear, traction, and temperature resistance. This information aids consumers in making informed choices in the purchase of replacement passenger car tires.

The treadwear grades inform consumers about the amount of expected tread life for passenger car tires. Treadwear grades are expressed, in multiples of 20, as a percentage of a nominal treadwear value of 100.<sup>1</sup> For example, a treadwear grade of 160 means the candidate tire tread life should be 1.6 times longer compared to NHTSA’s “control tire.”<sup>2</sup> Although treadwear grades do not predict the actual mileage that a particular tire will

<sup>1</sup> See 49 CFR 575.104(e)(2)(ix)(F).

<sup>2</sup> See <http://www.safercar.gov/Tires/pages/TireRatTreadwear.htm>.

achieve, they are sufficiently accurate to help consumers choose among tires based on their relative tread life.

Appendix A of 49 CFR 575.104 specifies the treadwear test course and driving procedures for convoys evaluating candidate tire treadwear performance. The test course consists of three loops totaling 400 miles in the geographical vicinity of Goodfellow Air Force Base near San Angelo, Texas. The first loop ("Southern Loop") runs south 143 miles through the cities of Eldorado, Sonora, and Juno, Tex. to the Camp Hudson Historical Marker, and returns by the same route. The second loop ("Eastern Loop") runs east over Farm and Ranch Roads and returns to its starting point. The third loop ("Northwestern Loop") runs northwest to Water Valley, northeast toward Robert Lee and returns via Texas 208 to the vicinity of Goodfellow AFB.<sup>3</sup>

As a result of recent overflow of the Devils River, the treadwear testing convoys cannot cross at least one of the several water crossings along Texas 163 and therefore, cannot safely use a small portion of the Southern Loop.<sup>4</sup> Specifically, several low water crossings along Texas 163, located between Franks Crossing and Camp Hudson Historical Marker, are submerged under several inches of water.<sup>5</sup>

Based on agency data, Texas 163 of the Southern Loop represents the "fastest" tire wear area of the entire course. That is, the affected portion of the road produces the most adverse effects on the candidate tires, compared to other portions of the treadwear test course. Because of this characteristic of the affected area, substituting another road could substantively affect the treadwear grades of candidate tires.

## II. Change to the Treadwear Test Course

The agency is revising the treadwear test course. Because the affected portion of the treadwear test course produces the most adverse treadwear conditions (compared to other portions of the road), the agency is not substituting a different road for the flooded portion of the test course. Instead, we will specify that as

<sup>3</sup> See Figure 3, Appendix A, 49 CFR 575.104.

<sup>4</sup> Because the Devils River is usually dry more than 90% of the time, there are no bridges where Texas 163 crosses the river. Instead, the roadway is graded down to the level of the riverbed at five "crossings." During the rare rain events, the river is supposed to flow over the roadway at the crossings. Recently, however, the Devils River became flooded for a continuous period of over 3 months.

<sup>5</sup> Normally, testing convoys proceed to a paved shoulder located at Camp Hudson Historical Marker before reversing course back to the starting point of the Southern Loop.

an alternative to following the current route, the test convoys will have the option of driving through the unaffected portions of Texas 163 several times, by making a series of U-turns. This maneuver will make up the distance that is usually traveled on Texas 163.

Specifically, instead of traveling south down to Camp Hudson Historical Marker, each test convoy will reverse course at Frank's Crossing on Texas 163 and proceed north back to Highway 189 junction. At the Highway 189 junction, the test convoy will reverse course and proceed back to Frank's Crossing; reverse course again and proceed to the completion of the loop.

The distance between the Highway 189 junction and Frank's Crossing on Texas 163, is approximately one half of the distance between the Highway 189 junction and Camp Hudson Historical Marker. Thus, traveling between Highway 189 junction and Frank's Crossing twice, produces the approximate distance traveled on Texas 163, if the convoys proceeded all the way to Camp Hudson Historical Marker. This change ensures that the treadwear test course change will not substantively affect wear characteristics of the Southern Loop, and consequently, will not affect treadwear grades.

Because flooding is presently affecting the treadwear test course, NHTSA finds good cause to issue this interim final rule to revise the treadwear test course route. Because there is an immediate need to continue testing, we find good cause that it should take effect immediately. The agency has concluded that this course change will not compromise the reliability of the treadwear grades, and will not impose or relax any substantive requirements or burdens on manufacturers.<sup>6</sup> We are accepting comments on test course route change.

## III. Regulatory Analyses and Notices

### a. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

<sup>6</sup> Because the treadwear test course change affects only = 10 miles, or 2.5% of the 400-mile test course, the agency concludes that this change is so minor that it does not warrant establishing a new baseline with NHTSA's "control tire."

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. This interim final rule will not impose or relax any substantive requirements or burdens on manufacturers. Instead, it revises a small portion of the treadwear test course. The agency believes that this impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

### b. Environmental Impacts

We have not conducted an evaluation of the impacts of this interim final rule under the National Environmental Policy Act. This rulemaking does not impose any change that would have any environmental impacts. Accordingly, no environmental assessment is required.

### c. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rulemaking action will have on small entities (5 U.S.C. 601 *et seq.*). I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act.

The following is our statement providing the factual basis for the certification (5 U.S.C. 605(b)). The interim final rule affects manufacturers of motor vehicles and tires. Specifically, the agency is revising a small portion of the treadwear test course. This change will have no economic impact on any entities affected by this rulemaking and will not result in any additional financial expenditures. Accordingly, we have not prepared a Regulatory Flexibility Analysis.

### d. Executive Order 13132, Federalism

E.O. 13132 requires NHTSA to develop an accountable process to

ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” E.O. 13132 defines the term “Policies that have federalism implications” to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under E.O. 13132, NHTSA may not issue a regulation that has federalism implication, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This interim final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *e. The Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. This action will not result in additional expenditures of more than \$100 million by state, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

#### *f. Paperwork Reduction Act*

There are no information collection requirements in this rule.

#### *g. Privacy Act*

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

published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit <http://dms.dot.gov>.

#### *h. Civil Justice Reform*

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a Federal motor vehicle safety standard only if the standard is identical to the Federal standard. However, the United States Government, a state, or political subdivision of a state, may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings are not required before parties file suit in court.

#### *i. Executive Order 13045*

This rule is not subject to E.O. 13045 because it is not “economically significant” as defined under E.O. 12866, and does not concern an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

### **IV. Request for Comments**

#### *How Do I Prepare and Submit Comments?*

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long. We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically by logging onto the Docket Management System website at <http://dms.dot.gov>. Click on “Help & Information” or “Help/Info” to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we

ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.<sup>7</sup> Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB’s guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT’s guidelines may be accessed at <http://dmses.dot.gov/submit/DataQualityGuidelines.pdf>.

#### *How Can I Be Sure That My Comments Were Received?*

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

#### *How Do I Submit Confidential Business Information?*

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

#### *Will the Agency Consider Late Comments?*

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment

<sup>7</sup> Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

*How Can I Read the Comments Submitted by Other People?*

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

- (1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).
- (2) On that page, click on "Simple Search."
- (3) On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "Search."
- (4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the

comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

**List of Subjects in 49 CFR Part 575**

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

■ In consideration of the foregoing, NHTSA amends 49 CFR part 575 as follows:

**PART 575—CONSUMER INFORMATION**

■ 1. The authority citation for part 575 continues to read as follows:

**Authority:** 49 U.S.C. 32302, 30111, 30115, 30117, 30166, and 30168, and Pub. L. 106-414, 114 Stat. 1800; delegation of authority at 49 CFR 1.50.

■ 2. Section 575.104 is amended by revising the paragraph entitled "Southern Loop" in Appendix A to read as follows:

**§ 575.104 Uniform tire quality grading standards.**

\* \* \* \* \*

*Southern Loop.* The course begins at the intersection (1) of Ft. McKavitt Road and Paint Rock Road (FM388) at the

northwest corner of Goodfellow AFB. Drive east via FM 388 to junction with Loop Road 306 (2). Turn right onto Loop Road 306 and proceed south to junction with US277 (3). Turn onto US277 and proceed south through Eldorado and Sonora (4), continuing on US277 to junction with FM189 (5). Turn right onto FM189 and proceed to junction with Texas 163 (6). Turn left onto Texas 163, and at the option of the manufacturer:

- (A) Proceed south to Camp Hudson Historical Marker and onto the paved shoulder (7). Reverse route to junction of Loop Road 306 and FM 388 (2); or
- (B) Proceed south to junction with Frank's Crossing. Reverse route at Frank's Crossing and proceed north on Texas 163 to junction with Highway 189; Reverse route at junction with Highway 189; proceed south on Texas 163 to junction with Frank's Crossing; reverse route at Frank's Crossing and proceed north to junction of Loop Road 306 and FM 388 (2).

\* \* \* \* \*

Issued on: April 15, 2005.

**Jacqueline Glassman,**  
*Chief Counsel.*

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