



**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

**Docket No. NHTSA-2019-0074**

**RIN 2127-AL87**

**Federal Motor Vehicle Safety Standards; Technical Corrections and Clarifications Related to Tires and Rims**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes amendments to Federal Motor Vehicle Standard (FMVSS) No. 109 in response to a petition from the Tire and Rim Association to clarify the applicability of the FMVSSs to certain types of tires intended for use on trailers. Based on a review of prior amendments to FMVSS Nos. 109 and 119, NHTSA concludes that it inadvertently made these tires subject to both FMVSS Nos. 109 and 119, when it was the agency's intent to make them subject only to FMVSS No. 119. This document also proposes nonsubstantive technical corrections to tire and rim regulations.

**DATES:** Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments electronically to the docket identified in the heading of this document by visiting the following website:

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

Alternatively, you can file comments using the following methods:

- Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-0001
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- Fax: (202) 493-2251

Regardless of how you submit your comments, you should mention the docket number identified in the heading of this document.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

**FOR FURTHER INFORMATION CONTACT:** David Jasinski, Office of the Chief Counsel, by telephone at (202) 366-2992, and by fax at (202) 366-3820. You may send mail to this official at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590.

## **SUPPLEMENTARY INFORMATION:**

### **I. Tire & Rim Association Petition and Background**

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

The June 2003 final rule established a new FMVSS No. 139 to provide upgraded requirements for tires for passenger cars and light trucks. In addition, the final rule changed the applicability of FMVSS No. 109 and FMVSS No. 119. Previously, FMVSS No. 109 applied solely to tires for passenger cars and FMVSS No. 119 applied to tires for all other vehicles. The June 2003 final rule made FMVSS No. 109 applicable to bias-ply tires and tires for use on light vehicles (those with a GVWR of 10,000 lb. or lower) and made FMVSS No. 119 applicable to tires used on motorcycles and heavy vehicles (those with a GVWR of over 10,000 lb.) The requirements set forth in the June 2003 final rule were set to become effective on June 1, 2007.

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<sup>1</sup> 68 FR 38116.

NHTSA received petitions for reconsideration of the June 2003 final rule from eight petitioners addressing 18 different issues. In a January 6, 2006 final rule, NHTSA responded to these petitions.<sup>2</sup> Pertinent to this rulemaking, we received petitions to amend the applicability section of FMVSS No. 119 to indicate that it applies to Special Trailer (ST), Farm Implement (FI), and tires with rim diameter code of 12 and below (hereinafter collectively referred to as “specialty tires”). In the June 2003 final rule, NHTSA had excluded specialty tires from FMVSS No. 139 and indicated they would remain subject to FMVSS No. 109 and FMVSS No. 119. However, the petitioners indicated that specialty tires have been and should remain subject only to FMVSS No. 119 because they are not used on passenger cars.

In response to the petitions, NHTSA amended the application sections of FMVSS Nos. 109, 119, and 139 in order to clarify that specialty tires are subject to the requirements of FMVSS No. 119. The January 2006 final rule also delayed the effective date for these requirements to September 1, 2007.

NHTSA received a petition for reconsideration of the January 2006 final rule and issued a final rule on August 28, 2007 to respond to this petition.<sup>3</sup> Although NHTSA denied the petition, it made a number of technical corrections. Although the change was not discussed in the preamble, NHTSA amended the “Application” section of FMVSS No. 109 to add specialty tires. NHTSA made no changes to the applicability of FMVSS No. 119. Thus, as a result, both FMVSS No. 109 and FMVSS No. 119 applied to specialty tires.

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<sup>2</sup> 71 FR 877.

<sup>3</sup> 72 FR 49207.

In June 2013, TRA submitted a petition for rulemaking requesting that NHTSA clarify specialty tires are subject to the requirements of FMVSS No. 119 and not those in FMVSS No. 109.<sup>4</sup> Specifically, TRA requested three actions:

1. Remove from the title and main test of FMVSS No. 109 all references to specialty tires.
2. Add to the title of FMVSS No. 119 a reference to “specialty tires.”
3. Add appropriate values to Table III of FMVSS No. 119 to account for specialty tires in load ranges A through E.

TRA reasoned that NHTSA had already agreed to the substance of this petition when it determined in the January 2006 final rule that it would clarify that specialty tires were subject to the requirements of FMVSS No. 119. However, TRA stated, in August 2007, NHTSA reinserted specialty tires into FMVSS No. 109 without explanation while still keeping them subject to FMVSS No. 119. TRA believes that this change was inadvertent.

TRA stated that the inclusion of specialty tires in FMVSS No. 109 sets up impossible test conditions. FMVSS No. 109 specifies tire strength requirements that are tested using a plunger test. The test conditions are based on the maximum inflation pressure of the tire. However, the inflation pressure values specified in FMVSS No. 109 do not cover all of the maximum inflation pressures for specialty tires that are subject to the standard. In contrast, FMVSS No. 119 previously specified test conditions according to load range designations. This covers all variations of specialty tires.

## **II. NHTSA’s Response to the Petition**

NHTSA is granting TRA’s petition for rulemaking. NHTSA acknowledges that, in the January 2006 final rule, NHTSA stated its intent for specialty tires to be subject to FMVSS No.

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<sup>4</sup> See Docket No. NHTSA-2013-0004.

119, but inadvertently made specialty tires subject to FMVSS No. 109 in addition to FMVSS No. 119 in August 2007. Further, NHTSA acknowledges that FMVSS No. 109 does not specify test conditions for specialty tires with maximum inflation pressures not specified in FMVSS No. 109. Without specified test pressures, NHTSA cannot test specialty tires for compliance with FMVSS No. 109. While this issue could be remedied by adding new test pressures to FMVSS No. 109, we believe that making these tires subject to FMVSS No. 119 is preferable because it specifies test conditions based on load range designations. This allows the tire industry flexibility to change maximum tire inflation pressures for specialty tires without first requesting regulatory changes from NHTSA.

As for the specific relief requested by TRA, NHTSA is proposing an amendment to FMVSS No. 109 to remove references to specialty tires from the title and the “Application” section. Second, NHTSA is proposing to add a reference to specialty tires to the title of FMVSS No. 119. In addition, though not suggested by TRA, NHTSA is proposing an amendment to the “Scope” section of FMVSS No. 119 to include a reference to specialty tires to provide added clarity regarding the applicability of FMVSS No. 119 to specialty tires. Specialty tires are already listed in the “Application” section of FMVSS No. 119.

As for the suggested amendments to Table III, the endurance test schedule, in FMVSS No. 119, in a September 29, 2010 Notice of Proposed Rulemaking (NPRM), NHTSA proposed amendments similar to those suggested by TRA.<sup>5</sup> The September 2010 NPRM proposed upgrades to FMVSS No. 119. In addition, it proposed technical corrections to Table III of FMVSS No. 119 to include items that have been inadvertently omitted from the table over the course of years of amendments to the standard, including in the June 2003 final rule. The NPRM

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<sup>5</sup> 75 FR 60036.

proposed correcting the omission of load range C, D, M, and N for speed-restricted service tires, load range A through E and M from the list of “All other” tires, and missing footnotes. TRA’s suggested changes included correcting the omission of load range C and D for speed restricted service tires, load range A through E from the list of “All other” tires, and the missing footnotes. TRA’s suggested changes do not include the omission of load range M and N tires for speed restricted service or the omission of load range M for all other tires.<sup>6</sup>

In response to the September 2010 NPRM, NHTSA received no adverse comments to the inclusion of load range M and N tires in the tables for speed restricted service or load range M for all other tires. Consequently, NHTSA is including the technical corrections to Table III proposed in the September 2010 NPRM in this proposal, which are inclusive of the changes to Table III suggested by TRA.

NHTSA is also proposing a corresponding change to FMVSS No. 110. In a March 13, 2013 NPRM, NHTSA proposed an amendment to FMVSS No. 110 to clarify that specialty tires could be equipped on new light trailers (those with GVWR of 10,000 pounds or less). In the proposed regulatory text, NHTSA stated it would allow light trailers to be equipped with specialty tires meeting the requirements of FMVSS No. 109. TRA, though generally supportive of the proposal, submitted a comment suggesting that specialty tires on light trailers should be required to meet FMVSS No. 119 rather than FMVSS No. 109. The rationale for this comment mirrored TRA’s rationale in its petition for rulemaking.

In a November 9, 2016 final rule, NHTSA clarified that new light trailers could be equipped with specialty tires.<sup>7</sup> In addressing TRA’s comment, NHTSA determined that the

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<sup>6</sup> This technical correction is separate from the issue raised in the September 2010 NPRM whether load range M tires should be subject to upgraded test requirements.

<sup>7</sup> 81 FR 78724.

matter of how specialty tires could comply with FMVSS No. 109 was outside the scope of that rulemaking. NHTSA noted the pendency of this petition for rulemaking and stated that the matter raised by TRA would be addressed in NHTSA's response to TRA's petition. As an interim solution until NHTSA could respond to the petition, NHTSA determined it was sufficient to refer to both FMVSS No. 109 and FMVSS No. 119 as the standards which apply to specialty tires.

Having proposed that specialty tires should be subject to the requirements of FMVSS No. 119 and not FMVSS No. 109, this proposal also removes the reference to FMVSS No. 109 as a standard under which specialty tires could be certified.

### **III. Other Technical Corrections**

#### **A. Date of Manufacture of Tires Subject to FMVSS No. 109**

In addition to the inclusion of specialty tires in the "Application" section of FMVSS No. 109, we have noted another inadvertent error in that section. When adopting FMVSS No. 139, NHTSA made all tires for vehicle manufactured after 1975 subject to FMVSS No. 139 and left all tires for vehicles manufactured before 1975 subject to FMVSS No. 109. NHTSA inadvertently made no standard applicable to tires for vehicles manufactured in 1975. NHTSA intended for FMVSS No. 109 to apply to all vehicles manufactured in or before 1975. In addition, FMVSS No. 109 only applies to vehicles manufactured after 1948. To clarify the applicability of FMVSS No. 109 and simplify the language, this proposal changes the application of FMVSS No. 109 to passenger cars manufactured from 1949 through 1975.

#### **B. Technical Amendments to FMVSS No. 119**

This proposal includes several minor amendments to FMVSS No. 119 that were included in a January 10, 2013 Supplemental NRPM.<sup>8</sup> NHTSA received no adverse comment to that Supplemental NPRM. Those amendments were proposed in part after an inquiry from Continental Tire, the Americas (Continental) regarding the tire strength requirement for rayon tires. Continental noted that a footnote was missing in Table II of FMVSS No. 119, which specified a lower minimum breaking energy requirement for rayon cord tires. After considering Continental's inquiry, NHTSA determined that two footnotes for Table II of FMVSS No. 119 were inadvertently removed from the standard.

The breaking energy requirement for rayon cord tires is less than other materials to make the severity of the test comparable to tires made of other cord materials. The breaking energy requirement for rayon cord tires for light vehicles in FMVSS No. 109 remain less than the requirement for nylon or polyester cord tires. The agency can determine whether a tire is composed of rayon cord from information that is required by S6.5(f) of FMVSS No. 119 to be molded on the tire's sidewall.

However, only one footnote needs to be reinstated. The other footnote related to the procedure used for rounding metric conversions, and it is not necessary to include that information in the text of the standard.

NHTSA is also including three previously proposed non-substantive formatting changes to Table II in from the January 2013 SNPRM. First, some of the headings have been revised to more clearly explain the tire characteristics. Second, the heading row alignment has been modified. Third, the order of the columns in the right portion of the table for tires other than light truck, motorcycle, and 12 rim diameter code or smaller has been modified to group tube

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<sup>8</sup> 78 FR 2236.

type and tubeless tires together. The agency believes that these formatting changes will make Table II easier to read.

NHTSA is also including a previously proposed correction to an error NHTSA discovered in the formula for computing the breaking energy of a tire in metric located in S7.3(f) of FMVSS No. 119. In S7.3(f)(1), the breaking energy (W) is reported in joules (J); however, the explanation incorrectly states the unit abbreviation for joules as kJ, which is the abbreviation for kilojoules. In S7.3(f)(2), unit abbreviations are not included in the explanation and the breaking energy equation formatting is inconsistent with S7.3(f)(1).

NHTSA has discovered an additional error in Table III of FMVSS No. 119. Table III specifies the schedule for the endurance test, including the test wheel speed, and the test load over the length of the 47-hour test (34 hours for tires subject to the high speed performance test). For reference, Table III lists the total number of revolutions of the test wheel. However, several of the values for the total number of revolutions are incorrect in the current Table III and were incorrect in prior version of Table III. NHTSA has recalculated the number of total test revolutions for each type of tire listed in the schedule. For example, the endurance test for non-speed-restricted truck and bus tires with load range H or above is 48 km/h or 150 rpm for 47 hours. This computes to 423,000 revolutions ( $150 \times 60 \times 47$ ). However, Table III currently shows the test is 423,500 revolutions. This proposal corrects this and similar miscalculations in Table III. This change would not affect how the test is conducted because the test is conducted at the rpm rate listed in the schedule for the appropriate amount of time (47 or 34 hours) and not based on the total number of revolutions.

C. Application of FMVSS No. 139

We have identified an issue similar to the one raised by TRA with respect to deep tread tires for light trucks. In the January 2006 final rule responding to petitions for reconsideration of the June 2003 final rule, NHTSA addressed a petition from Denman requesting that deep tread light truck tires (those with tread depths of 18/32 inch or greater) be excluded from FMVSS No. 139. NHTSA agreed that a number of requirements in FMVSS No. 139 were impracticable for deep tread tires and determined it was more appropriate to subject those tires to the requirements of FMVSS No. 119. Consequently, NHTSA amended the “Application” section of FMVSS No. 119 to include light truck tires with a tread depth of 18/32 inch or greater for use on light vehicles. However, NHTSA made no corresponding amendment to FMVSS No. 139 to exclude deep tread light truck tires. Thus, as presently written, deep tread light truck tires would be subject to both FMVSS No. 119 and FMVSS No. 139. This was not NHTSA’s intention. This proposal removes deep tread light truck tires from the “Application” section of FMVSS No. 139 to be consistent with NHTSA’s intent in the January 2006 final rule and remove any ambiguity in the regulation.

The “Application” section of FMVSS No. 139 also presently excludes specialty tires. However, in addressing tires for smaller rims, FMVSS No. 139 excludes from its application tires with rim diameters of 8 inches or below. Specialty tires, as referenced in all other NHTSA regulations, include tires with rim diameters of 12 inches or below. This is a typographical error in FMVSS No. 139. This proposal corrects this typographical error and changes FMVSS No. 139 to exclude tires with rim diameters of 12 inches or below.

D. Table Headings in FMVSS No. 139

There is a typographical error in the tables setting forth the test pressure for the high speed performance test, the tire endurance test, and the low inflation pressure performance test. Each of these tables provides test pressure for standard load and extra load passenger car tires and load range C, D, and E light truck tires. Light truck tires use different test pressures depending on whether the nominal cross section is greater than 295 millimeters. However, the test pressures for light truck tires with a nominal cross section of 295 millimeters or less is listed under the heading "Passenger car tires." There should be a heading "Light truck tires with a nominal cross section  $\leq$  295 mm (11.5 inches)" between the extra load tires and load range C tires. This proposal adds this missing heading in each of the three tables.

E. NHTSA Address

In FMVSS No. 110 and FMVSS No. 139, manufacturers of rims and tires, respectively, may provide certain information to NHTSA by mail. However, the address for NHTSA's office in these standards is incorrect. This proposal corrects NHTSA's address in FMVSS No. 110 and FMVSS No. 139.

F. Typographical Error in Application of FMVSS No. 110

In FMVSS No. 110, the application section contains two minor typographical errors. First, the abbreviation for GVWR is missing one parenthesis. Second, the word "of" is used in place of the word "or". This proposal corrects both of these typographical errors.

#### **IV. Public Participation**

##### 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 (49 CFR § 553.21). NHTSA 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 your comments electronically to the docket following the steps outlined under ADDRESSES. You may also submit two copies of your comments, including the attachments, by mail to Docket Management at the beginning of this document, under ADDRESSES.

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

If you wish to be notified upon receipt of your mailed 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 the following to the NHTSA Office of Chief Counsel, 1200 New Jersey Avenue S.E., Washington, D.C. 20590: (1) a complete copy of the submission; (2) a redacted copy of the submission with the confidential information removed; and (3) either a second complete copy or those portions of the submission containing the material for which confidential treatment is claimed and any additional information that you deem important to the Chief Counsel's consideration of your confidentiality claim. A request for confidential treatment that complies with 49 CFR part 512 must accompany the complete submission provided to the Chief Counsel. For further information, submitters who plan to request confidential treatment for any portion of

their submissions are advised to review 49 CFR part 512, particularly those sections relating to document submission requirements. Failure to adhere to the requirements of Part 512 may result in the release of confidential information to the public docket. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under ADDRESSES.

#### Will the Agency Consider Late Comments?

NHTSA will consider all comments received before the close of business on the comment closing date indicated at the beginning of this notice under DATES. In accordance with DOT policies, to the extent possible, NHTSA will also consider comments received after the specified comment closing date. If NHTSA receives a comment too late to consider in developing the proposed rule, NHTSA 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 on the Internet. To read the comments on the Internet, go to <http://www.regulations.gov> and follow the on-line instructions provided.

You may download the comments. The comments are imaged documents, in either TIFF or PDF format. Please note that even after the comment closing date, NHTSA will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, NHTSA recommends that you periodically search the Docket for new material.

You may also see the comments at the address and times given near the beginning of this document under ADDRESSES.

## **V. Rulemaking Analyses and Notices**

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

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

This proposal clarifies the applicability of the FMVSSs to tires intended for use on trailers and makes other technical amendments. It will not result in any costs nor will it have any impact on safety.

### *B. Executive Order 13771*

Executive Order 13771 titled "Reducing Regulation and Controlling Regulatory Costs," directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, "Regulatory Planning and Review," are subject to these requirements. As discussed above, this rule is not a significant rule under Executive Order 12866 and, accordingly, is not subject to the offset requirements of 13771.

### *C. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR Part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this proposal under the Regulatory Flexibility Act. I certify that this proposal will not have a significant economic impact on a substantial number of small entities. This proposal would directly impact manufacturers of trailers with a GVWR of 4,536 kg (10,000 lbs.) or less. Although we believe many manufacturers affected by this proposal are considered small businesses, we do not believe this proposal will have a significant economic impact on those manufacturers. This proposal would not impose any costs upon manufacturers and relieves any confusion that may have been generated by the inclusion of specialty tires within the applicability of FMVSS No. 109 in the August 2007 final rule.

*D. Executive Order 13132 (Federalism)*

NHTSA has examined this proposal pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposal would not have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

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

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

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

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

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

*E. Executive Order 12988 (Civil Justice Reform)*

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

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

*F. Protection of Children from Environmental Health and Safety Risks*

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

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

#### *G. Paperwork Reduction Act*

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

#### *H. National Technology Transfer and Advancement Act*

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

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

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

#### *I. Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the agency to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation of why that alternative was not adopted.

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

#### *J. National Environmental Policy Act*

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

*K. Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

*L. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**List of Subjects in 49 CFR Parts 571**

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

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Part 571 as follows:

**PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

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

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

2. Amend § 571.109 by revising the section heading and paragraph S2 to read as follows:

**§ 571.109 Standard No. 109; New pneumatic tires for vehicles manufactured from 1949 to 1975, bias ply tires, and T-type spare tires.**

\* \* \* \* \*

*S2. Application.* This standard applies to new pneumatic radial tires for use on passenger cars manufactured from 1949 through 1975, new pneumatic bias ply tires, and T-type spare tires. However, it does not apply to any tire that has been so altered so as to render impossible its use, or its repair for use, as motor vehicle equipment.

\* \* \* \* \*

3. Amend § 571.110 by

- a. Revising paragraph S2;
- b. Revising paragraph S4.1(b)(2); and
- c. Revising paragraph S4.4.2(e)(1).

The revisions read as follows:

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

\* \* \* \* \*

S2. *Application.* This standard applies to motor vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less, except for motorcycles, and to non-pneumatic spare tire assemblies for those vehicles.

\* \* \* \* \*

S4.1 *General* \* \* \*

(b) \* \* \*

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

\* \* \* \* \*

S4.4.2 *Rim markings for vehicles other than passenger cars.* \* \* \*

(e) \* \* \*

(1) Any manufacturer that elects to express the date of manufacture by means of a symbol shall notify NHTSA in writing of the full names and addresses of all manufacturers and brand name owners utilizing that symbol and the name and address of the trademark owner of that symbol, if any. The notification shall describe in narrative form and in detail how the month, day, and year or the month and year are depicted by the symbol. Such description shall include an actual size graphic depiction of the symbol, showing and/or explaining the interrelationship of the component parts of the symbol as they will appear on the rim or single piece wheel disc, including dimensional specifications, and where the symbol will be located on the rim or single piece wheel disc. The notification shall be received by NHTSA not less than 60 calendar days before the first use of the symbol. The notification shall be mailed to National Highway Traffic Safety Administration, West Building, 1200 New Jersey Ave. S.E., Washington, DC 20590. All information provided to NHTSA under this paragraph will be placed in the public docket.

\* \* \* \* \*

4. Amend § 571.119 by:

- a. Revising the section heading.
- b. Revising paragraph S1.
- c. Revising paragraph S7.3(f)(1) and (2).
- d. Revising Table II-Minimum Static Breaking Energy.
- e. Revising Table III-Endurance Test Schedule.

The revisions read as follows:

**§ 571.119 Standard No. 119; New pneumatic tires for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds), specialty tires, and tires for motorcycles.**

\* \* \* \* \*

S1. *Scope.* This standard establishes performance and marking requirements for tires for use on motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds), specialty tires, and tires for motorcycles.

\* \* \* \* \*

S7.3 \* \* \*

(f) \* \* \*

$$(1) W = [(F \times P)/2] \times 10^{-3}$$

Where:

W = Breaking energy in joules (J),

F = Force in newtons (N), and

P = Penetration in millimeters (mm), or;

$$(2) W = (F \times P)/2$$

Where:

W = Breaking energy in inch-pounds (in-lb),

F = Force in pounds (lb), and

P = Penetration in inches (in).

\* \* \* \* \*

TABLE II—MINIMUM STATIC BREAKING ENERGY  
[Joules (J) and Inch-Pounds (in-lb)]

Tire characteristic	Motorcycle		All 12 rim diameter code or smaller except motorcycle		Tubeless 17.5 rim diameter code or smaller and Light Truck		Tires other than Light Truck, Motorcycle, 12 rim diameter code or smaller							
							Tube type greater than 12 rim diameter code				Tubeless greater than 17.5 rim diameter code			
Plunger diameter (mm and inches)	7.94 mm	5/16"	19.05 mm	3/4"	19.05 mm	3/4"	31.75 mm	1 1/4"	38.10 mm	1 1/2"	31.75 mm	1 1/4"	38.10 mm	1 1/2"
Breaking Energy	J	in-lb	J	in-lb	J	in-lb	J	in-lb	J	in-lb	J	in-lb	J	in-lb
Load Range:														
A.....	16	150	67	600	225	2,000	.....	.....	.....	.....	.....	.....	.....	.....
B.....	33	300	135	1,200	293	2,600	.....	.....	.....	.....	.....	.....	.....	.....
C.....	45	400	203	1,800	361	3,200	768	6,800	.....	.....	576	5,100	.....	.....
D.....	.....	.....	271	2,400	514	4,550	892	7,900	.....	.....	734	6,500	.....	.....
E.....	.....	.....	338	3,000	576	5,100	1,412	12,500	.....	.....	971	8,600	.....	.....
F.....	.....	.....	406	3,600	644	5,700	1,785	15,800	.....	.....	1,412	12,500	.....	.....
G.....	.....	.....	.....	.....	711	6,300	.....	.....	2,282	20,200	.....	.....	1,694	15,000
H.....	.....	.....	.....	.....	768	6,800	.....	.....	2,598	23,000	.....	.....	2,090	18,500
J.....	.....	.....	.....	.....	.....	.....	.....	.....	2,824	25,000	.....	.....	2,203	19,500
L.....	.....	.....	.....	.....	.....	.....	.....	.....	3,050	27,000	.....	.....	.....	.....
M.....	.....	.....	.....	.....	.....	.....	.....	.....	3,220	28,500	.....	.....	.....	.....
N.....	.....	.....	.....	.....	.....	.....	.....	.....	3,389	30,000	.....	.....	.....	.....

NOTE: For rayon cord tires, applicable energy values are 60 percent of those in table.

\* \* \* \* \*

TABLE III—ENDURANCE TEST SCHEDULE

Description	Load range	Test wheel speed		Test load: Percent of maximum load rating			Total test revolution (thousands)
		km/h	r/m	Step I (7 hours)	Step II (16 hours)	Step III (24 hours)	
Speed-restricted service:							
90 km/h (55 mph) .....	All .....	40	125	66	84	101	352.5
80 km/h (50 mph) .....	C, D .....	48	150	75	97	114	423.0
	E, F, G, H, J, L, M, N .....	32	100	66	84	101	282.0
56 km/h (35 mph) .....	All .....	24	75	66	84	101	211.5
Motorcycle .....	All .....	80	250	<sup>a</sup> 100	<sup>b</sup> 108	117	510.0
All other .....	A, B, C, D .....	80	250	<sup>a</sup> 75	<sup>b</sup> 97	114	510.0
	E .....	64	200	70	88	106	564.0
	F .....	64	200	66	84	101	564.0
	G .....	56	175	66	84	101	493.5
	H, J, L, M, N .....	48	150	66	84	101	423.0

<sup>a</sup> 4 hours for tire sizes subject to high speed requirements S6.3.

<sup>b</sup> 6 hours for tire sizes subject to high speed requirements S6.3.

\* \* \* \* \*

5. Amend §571.139 by:

- a. Revising paragraph S2;
- b. Revising paragraph S4.1.1(a);
- c. Revising paragraph S6.2.1.1.1;
- d. Revising paragraph S6.3.1.1.1; and
- e. Revising paragraph S6.4.1.1.1.

The revisions read as follows:

**§ 571.139 Standard No. 139; New pneumatic radial tires for light vehicles**

\* \* \* \* \*

*S2 Application.* This standard applies to new pneumatic radial tires for use on motor vehicles (other than motorcycles and low speed vehicles) that have a gross vehicle weight rating

(GVWR) of 10,000 pounds or less and that were manufactured after 1975. This standard does not apply to special tires (ST) for trailers in highway service, tires for use on farm implements (FI) in agricultural service with intermittent highway use, tires with rim diameters of 12 inches and below, T-type temporary use spare tires with radial construction, and light truck tires with a tread depth of 18/32 inch or greater.

\* \* \* \* \*

S4.1.1 \* \* \*

(a) Listed by manufacturer name or brand name in a document furnished to dealers of the manufacturer's tires, to any person upon request, and in duplicate to the Docket Section (No. NHTSA-2009-0117), National Highway Traffic Safety Administration, West Building, 1200 New Jersey Ave. S.E., Washington, DC 20590; or

\* \* \* \* \*

S6.2.1.1.1 Mount the tire on a test rim and inflate it to the pressure specified for the tire in the following table:

<b>Tire application</b>	<b>Test pressure (kPa)</b>
<b>Passenger car tires</b>	
Standard load	220
Extra load	260
<b>Light truck tires with a nominal cross section <math>\leq</math> 295 mm (11.5 inches)</b>	
Load Range C	320
Load Range D	410
Load Range E	500
<b>Light truck tires with a nominal cross section <math>&gt;</math> 295 mm (11.5 inches)</b>	
Load Range C	230
Load Range D	320
Load Range E	410

\* \* \* \* \*

S6.3.1.1.1 Mount the tire on a test rim and inflate it to the pressure specified for the tire

in the following table:

<b>Tire application</b>	<b>Test pressure (kPa)</b>
<b>Passenger car tires</b>	
Standard load	180
Extra load	220
<b>Light truck tires with a nominal cross section <math>\leq</math> 295 mm (11.5 inches)</b>	
Load Range C	260
Load Range D	340
Load Range E	410
<b>Light truck tires with a nominal cross section <math>&gt;</math> 295 mm (11.5 inches)</b>	
Load Range C	190
Load Range D	260
Load Range E	340

\* \* \* \* \*

S6.4.1.1.1 This test is conducted following completion of the tire endurance test using the same tire and rim assembly tested in accordance with S6.3 with the tire deflated to the following appropriate pressure:

<b>Tire application</b>	<b>Test pressure (kPa)</b>
<b>Passenger car tires</b>	
Standard load	140
Extra load	160
<b>Light truck tires with a nominal cross section <math>\leq</math> 295 mm (11.5 inches)</b>	
Load Range C	200
Load Range D	260
Load Range E	320
<b>Light truck tires with a nominal cross section <math>&gt;</math> 295 mm (11.5 inches)</b>	
Load Range C	150
Load Range D	200
Load Range E	260

Issued in Washington, D.C., under authority delegated in 49 CFR 1.95 and 501.5.

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Heidi Renate King  
Deputy Administrator

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