The phrase "as set forth in Volume 6, Chapter 3, Section 2, Subsection 2 of the Federal-Aid Highway Program Manual" in 23 CFR 490.109(c) is hereby deleted since it is no longer applicable to this section.

The matters affected relate to grants, benefits, or contracts within the purview of 5 U.S.C. 553(a)(2), therefore, general notice of proposed rulemaking is not required.

Effective date: February 8, 1977.

Issued on: January 28, 1977.

L. P. LAMM,
Acting Federal Highway Administrator.

[FR Doc.77-3730 Filed 2-4-77;8:45 am]

Title 40—Protection of Environment

[FRL 679-4]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New Jersey State Implementation Plan

The purpose of this notice is to announce Environmental Protection Agency (EPA) approval of a revision to the New Jersey State Implementation Plan. This approval permits 18 facilities located in Cumberland, Salem and Cape May Counties to continue to use, until July 12, 1977, fuel oil with a sulfur content higher than would otherwise be required by the applicable State regulation. The names of the 18 facilities affected by this action, their locations, and applicable sulfur in fuel limitations appear at the end of this notice.

A notice of receipt of New Jersey's proposal was published in the December 16, 1976 FEDERAL REGISTER (41 FR 54954). The reader is referred to this publication for a full discussion of the background associated with this current action. In the December 16 notice it is indicated that 17 of the 18 facilities affected by this current approval action previously were permitted by EPA to use higher sulfur fuel oil until January 12, 1977. Final approval action for the additional facility, owned by Owens Illinois, Inc. in Bridgeton City, New Jersey, was taken on December 22, 1976 (41 FR 55714).

EPA's December 16 proposal also contained a discussion of the air quality impact of the temporary use of higher sulfur fuel by the 18 facilities on the City of Philadelphia. In that FEDERAL REGISTER notice and in a December 10, 1976 letter, the State of Pennsylvania was invited to comment on this issue.

On January 10, 1977, the Pennsylvania Bureau of Air Quality and Noise Control responded stating that it had no indication that the approval of New Jersey's proposal would cause the contravention of national ambient air quality standards in four counties outside of Philadelphia. The State further indicated, however, that approval of this revision would have an air quality impact on the City of Philadelphia where a marginal violation of the ambient sulfur dioxide standard was recently observed at one monitoring site.

As discussed in EPA's December 16 proposal, New Jersey pointed out in its submission that EPA, in a July 13, 1976 FEDERAL REGISTER notice (41 FR 28826), had attributed this recent violation to emissions from a power plant located in Pennsylvania. The power plant is currently on a compliance schedule to bring its emissions into conformance with the Pennsylvania State Implementation Plan. In its letter, Pennsylvania correctly makes reference to the fact that this presumption as to the cause of the recent violation is being tested by a diffusion modeling study of the entire Metropolitan Philadelphia Air Quality Control Region. The State concludes that, "In view of this study and the relatively short time involved, we have no objection to the continuation of the New Jersey variances for the specified time period."

Based upon its analysis of the situation, EPA concurs with the position of the State of Pennsylvania. Between now and July 12, 1977, when this approval expires, the major diffusion modeling study referred to previously will be completed. Among other things, this study is expected to lead to the understanding and correction of the marginal sulfur dioxide air quality problem which was recently observed in Philadelphia. Given the limited duration of this revision and the commitment to any necessary corrective action, EPA believes that this approval will not endanger the attainment and maintenance of ambient air quality standards. However, should the agency's current belief as to the cause of the marginal violation in Philadelphia prove incorrect, EPA reserves the right to take any necessary corrective action.

The State of Delaware, Division of Environmental Control commented that it opposed EPA's approval of the proposed revision because of the potential for violation of the State's secondary annual average ambient air quality standard. The State of Delaware recognizes that, while sources in New Jersey may contribute to the potential for violation of the Delaware secondary standard, "the concentration of SO_2 at any station is due * * * to sources located in nearly all directions." Consequently, as is being done, this potential problem should be addressed on a regional, Air Quality Control Region basis. The culmination of the present diffusion modeling program previously discussed will allow EPA and State air pollution control agencies to address this issue in detail.

The State of Delaware also expressed concern over the air quality impact of this action at a monitoring site which recorded values close to, but not exceeding, the primary twenty-four hour ambient air quality standard for sulfur dioxide. Since the State of Delaware has found that, "the data do not indicate that the variances are having an effect," and there have been no violations observed, the proposed revision is approvable in this regard. However, the Region II Office of EPA will arrange to closely check all air quality data and react to any air quality degradation to ensure that ambient air quality standards be maintained.

The only additional comment received was from one of the 18 New Jersey facilities affected by this action. The facility requested prompt approval action on the part of EPA.

It should be noted that through this action all terms and conditions of the temporary variance issued by New Jersey to the 18 facilities named at the end of this notice are reincorporated into the New Jersey State Implementation Plan. These include, but are not limited to, special monitoring and reporting requirements, and a condition for revocation based upon a finding of a contravention of ambient air quality standards or a threat to public health or welfare.

As stated earlier, EPA finds this revision to be consistent with current EPA policies and goals set forth in the requirements of section 110(a)(2) (A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51 in that it is not expected to result in the contravention of any applicable ambient air quality standard.

This revision will become effective immediately upon publication since it does not result in the imposition of additional substantive burdens on the affected sources and can be implemented without delay if the sources so desire.

(Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-5 and 1857g))

Dated: January 31, 1977.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart FF—New Jersey

1. Section 52.1570 is amended by adding a new paragraph (c)(16) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

* * * * *

(16) A revision submitted by the New Jersey Department of Environmental Protection consisting of an October 27, 1976 letter indicating the extension, to July 12, 1977, of "variances" to the provisions of the New Jersey Administrative Code (N.J.A.C.) 7:27-9.1 et seq., Sulfur in Fuel, for 18 facilities; and supplemental technical information submitted in a November 22, 1976 letter. The extended "variances" including all their terms and conditions are made a part of the New Jersey State Implementation Plan. The facilities affected by these "variances", their location and applicable sulfur in fuel oil limitation until July 12, 1977 are as follow:

Source	Location	Sulfur in fuel oil limitation (by weight; percent)
National Bottle Corp.	Salem City, Salem County.	2.0
E. I. DuPont de Nemours & Co.	Deepwater, Salem County.	1.5
Heinz-USA	Salem City, Salem County.	2.0
B. F. Goodrich Chemical Co.	Pedricktown, Salem County.	1.5
Anchor Hocking Corp.	Salem City, Salem County.	2.0
Atlantic City Electric Deepwater Station.	Penns Grove, Salem County.	1.5
E. I. DuPont de Nemours & Co.	Carney's Point, Salem County.	1.5
Mannington Mills, Inc.	Salem City, Salem County.	2.0
Atlantic City Electric B. L. England Station.	Beesley Point, Cape May County.	2.0
Hunt Wesson Foods, Inc.	Bridgeton City, Cumberland County.	2.5
Kerr Glass Manufacturing Corp.	Millville City, Cumberland County.	2.5
Owens Illinois, Inc., Kimble Products Division.	Vineland City, Cumberland County.	2.5
Leone Industries	Bridgeton City, Cumberland County.	2.5
Owens Illinois, Inc	do	1.5
Progresso Food Corp.	Vineland City, Cumberland County.	2.5
Bridgeton Dyeing & Finishing Corp.	Bridgeton City, Cumberland County.	2.5
Whitehead Bros. Co.	Haleyville, Cumberland County.	2.5
Vineland Chemical Co.	Vineland City, Cumberland County.	2.5

[FR Doc.77-3703 Filed 2-4-77;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Doc. No. HM-148; Amdt. No. 172-33]

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

Correction of ORM Entries

AGENCY: Materials Transportation Bureau, Department of Transportation.

ACTION: Final rule.

SUMMARY: This amendment corrects entries in the Hazardous Materials Table for ORM-A n.o.s. and ORM-B n.o.s. to reflect regulation of materials so described in air transportation only, rather than in air and water transportation as presently shown in the Table as a result of previous amendments under Docket HM-103/112.

EFFECTIVE DATE: This amendment is effective on February 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. C. H. Thompson, Acting Director, Materials Transportation Bureau, 2100 2nd Street, S.W., Washington, D.C. 20590. (202-426-0656).

SUPPLEMENTARY INFORMATION: On December 30, 1976 (41 FR 57018), the Materials Transportation Bureau (MTB) published its last major correction to amendments appearing under Docket HM-103/112 on April 15, 1976 (41 FR 15972). The shipping names ORM-A n.o.s. and ORM-B n.o.s. were shown in the Hazardous Materials Table in the April 15 publication as applicable only to transportation by air and water, shipment of such materials by other modes being not subject to the regulations. However, ORM-A n.o.s. and ORM-B n.o.s. materials were proposed in a notice appearing on January 24, 1974 (39 FR 3022) to apply solely to air shipment, and it was the intent of that notice that any material meeting either ORM-A or ORM-B definition would only be regulated when shipped and transported by air unless otherwise indicated by an individual entry specifically identifying the material.

That intent is evident from an examination of the 1974 notice, which indicates that the ORM-A and ORM-B classes were derived from C.A.B. No. 82, Air Transport Restricted Articles Tariff 6-D and from the International Air Transport Association Restricted Articles Regulations (39 FR 3025). The text proposed regulation of both n.o.s. entries (39 FR 3076) as well as most specifically identified ORM-A and ORM-B materials by air only. Some specifically identified materials (e.g., Chloroform (ORM-A) and Calcium Oxide (ORM-B) were proposed to be regulated by water as well as air.

The ORM-B class was in part also derived from a previously established rulemaking under Docket HM-57 which dealt generally with materials having corrosive effects on steel, aluminum and human skin. On September 8, 1975 (40 FR 41527), MTB noted that its "disposition of the classification of materials corrosive only to aluminum will be in the amendments * * * under Docket No. HM-112." In both the previous January 24, 1974 HM-112 notice and the subsequent April 15, 1976 HM-112 amendments, references proposed and implemented in 49 CFR 173.240 (Corrosive Material; definition) excluded aluminum corrosion and the April 15 preamble observed that materials corrosive only to aluminum "will be classed as ORM-B and regulated for air transportation only" (41 FR 15984).

The necessary correction to the ORM-A n.o.s. and ORM-B n.o.s. entries in the Table, consisting of a removal of the "W" in column 1 of each entry, was overlooked in HM-103/112 publications and is being made herein. As this amendment relieves a previously stated requirement and does not impose any burden on the general public, public proceedings are unnecessary.

This amendment is effective February 7, 1977 to avoid any further disruption to shippers and carriers of ORM-A n.o.s. and ORM-B n.o.s. materials.

In view of the foregoing, Part 172 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 172.101 the Hazardous Materials Table is amended by revising the entries "ORM-A n.o.s." and "ORM-B n.o.s." to read as follows:

§ 172.101 Hazardous materials table

(1)	(2)	(3)	(4)	(5) Packaging		(6) Maximum net quantity in 1 package		(7) Water shipments		
•/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	•		•	•	•	•	•		•	•
A	ORM-A n.o.s.	ORM-A	None	173.505	173.510	No limit	No limit			
A	ORM-B n.o.s.	ORM-B	do	173.505	173.510	do	do			
•	•		•	•	•	•	•		•	•

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

Issued in Washington, D.C. on January 28, 1977.

JAMES T. CURTIS, Jr.,
Director, Materials Transportation Bureau.

[FR Doc.77-3497 Filed 2-4-77;8:45 am]

[Doc. No. HM-137; Amdt. No. 172-34]

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

Transportation of Gallium Metal

AGENCY: Materials Transportation Bureau, Department of Transportation.

ACTION: Final rule.

SUMMARY: This amendment corrects typographical errors in the "Gallium metal, liquid" and "Gallium metal, solid" entries in the Hazardous Materials Table republished under Docket HM-103/112 on December 30, 1976 (41 FR 57018). As republished, those entries erroneously permit transportation of liquid Gallium metal aboard cargo-only aircraft and forbid transportation of solid Gallium metal aboard passenger aircraft. This amendment restates, without change, the Gallium metal entries as originally published under Docket HM-137 (41 FR 37114, September 2, 1976).

EFFECTIVE DATE: This amendment is effective on February 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. C. H. Thompson, Acting Director, Office of Hazardous Materials Operations, Materials Transportation Bureau, 2100 2nd Street, S.W., Washington, D.C. 20590 ((202) 426-0656).

SUPPLEMENTARY INFORMATION: The effective date and absence of public notice and opportunity for comment are justified for reasons stated in the original September 2, 1976, publication.

In view of the foregoing, Part 172 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 172.101 the Hazardous Materials Table is amended by revising the entries "Gallium metal, liquid" and "Gallium metal, solid" to read as follows:

§ 172.101 Hazardous materials table

(1)	(2)	(3)	(4)	(5) Packaging		(6) Maximum net quantity in 1 package		(7) Water shipments		
•/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	•		•	•	•	•	•		•	•
	Gallium metal, liquid	ORM-B	None	None	173.861	Forbidden	Forbidden	1	5	None.
	Gallium metal, solid	ORM-B	do	do	173.862	40 lb	40 lb	1, 3	1	Shade from radiant heat.
•	•		•	•	•	•	•		•	•

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

Issued in Washington, D.C. on January 28, 1977.

JAMES T. CURTIS, Jr.,
Director, Materials Transportation Bureau.

[FR Doc.77-3496 Filed 2-4-77;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 71-19; Notice 06; Docket No. 75-32; Notice 02]

PART 567—CERTIFICATION

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars

This notice responds to petitions for reconsideration of the newly established Standard No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*, by amendments to the standard in the areas of tire and rim selection, rim marking, and tire label information. A minor amendment of Part 567, "Certification," is also made. In addition, the decision that the agency no longer regulates mobile structure trailers (mobile homes) is also set forth, along with appropriate conforming amendments of Standard No. 120, Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, and § 571.3, *Definitions*, of Part 571.

Standard No. 120 (49 CFR 571.120) establishes that multipurpose passenger vehicles (MPV's), trucks, buses, motorcycles, and trailers shall be equipped with tires and rims that are adequate to support the fully-loaded vehicle under contemplated operating conditions. The legislative history of the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. 1381, et seq.) and § 202 of that Act establish Congress' concern

that motor vehicles could be equipped with inadequate tires and that regulation would be necessary to protect against this problem:

SEC. 202. In standards established under title I of this Act the Secretary shall require that each motor vehicle be equipped by the manufacturer or by the purchaser thereof at the time of the first purchase thereof in good faith for purposes other than resale with tires which meet the maximum permissible load standards when such vehicle is fully loaded with the maximum number of passengers it is designed to carry and a reasonable amount of luggage.

Standard No. 120 was promulgated January 19, 1976 (41 FR 3478, January 26, 1976), and 17 petitions for reconsideration of particular provisions were filed by vehicle, tire, and rim manufacturers, and by trade associations representing these manufacturers. In view of the length of time that has been taken to respond to these petitions for reconsideration, the effective dates for implementation of several of the standard's provisions were delayed (41 FR 18659, May 6, 1976) (41 FR 36657, August 31, 1976). The standard's basic provision for tire and rim selection (S5.1) was not delayed and became effective September 1, 1976.

Tire and rim selection. The primary effect of Standard No. 120 is fulfillment of § 202 of the Act by specification of the minimum load-carrying characteristics of tires on motor vehicles not already subject to the passenger car tire and rim selection requirements of Standard No. 110, *Tire Selection and Rims*, of Part 571. The rim selection requirements of the standard are limited (use of a rim designated as suitable by the tire manufacturer for use with its product; use of "DOT" labeled rims on and after September 1, 1979) in anticipation of more comprehensive regulation of rims as part of an upcoming wheel standard.

Tire selection consist of two elements: With one exception, each vehicle must be equipped with tires that comply with Standard No. 119, *New Pneumatic Tires for Vehicles Other than Passenger Cars* (or Standard No. 109, *New Pneumatic Tires*), and the load rating of the tires on each axle of the vehicle must together at least equal the gross axle weight rating (GAWR) for that axle. The term GAWR is defined in § 571.3 of Part 571 as "* * * the value specified by the vehicle manufacturer as the load-carrying capacity of a single axle system, as measured at the tire-ground interfaces." The GAWR concept formalizes the decision each manfacturer makes about the load-bearing ability of the tires, rims, axle, brakes, and suspension components (at a minimum) chosen to support and control the loaded vehicle.

The Truck Equipment Body Distributors Association (TEBDA) questioned the requirement that, with one exception, each vehicle subject to Standard No. 120 be equipped with tires that conform to Standard No. 119 (or Standard No. 109). TEBDA's March 17, 1976, letter concerned certification of trucks equipped for agricultural service with Goodyear "Terra-Tires." The "Terra-Tire" is one example of tires that are placed on specialized motor vehicles which operate both on and off the highway. The tires are specially designed and are unable to be certified to either of the tire performance standards.

Section S5.1.1 specifies that "each vehicle equipped with pneumatic tires for highway service shall be equipped with tires that meet the requirement of [the tire] standard[s] * * *." This language is intended to exclude from the requirement for Standard 119 (or 109) tires those vehicles which the manufacturer (or person later in the chain of distribution) decides to equip with tires other than "tires for highway service." The decision is left with the manufacturer at this time in view of the absence of data that demonstrates problems in the use of these tires that would justify their elimination. Any pattern of accident occurrence that points to unsafe utilization of non-highway service tires would presumably constitute a safety-related defect and could lead to revision of Standard No. 120 to regulate them. At this time, the answer to TEBDA is that the tire selection requirements of S5.1.1 (and S5.1.2 as a logical extension of S5.1.1) would not apply to a vehicle equipped with non-highway service tires. It is emphasized that this exclusion from Standard No. 120 bears no direct relationship to the determination of whether a particular vehicle qualifies as a "motor vehicle" as that term is defined in § 102(3) of the Act.

The second requirement for tire selection (S5.1.2) is that "[t]he sum of the maximum load ratings of the tires fitted to an axle shall be not less than the gross axle weight rating (GAWR) of the axle system * * *." Comparable further specification exits when multiple ratings appear on the certification label, or the tires used on the vehicle are not listed on the certification label.

Because no petition directly raised objections to the requirements of S5.1.2, the agency first addresses issues raised in a separate and outstanding NHTSA proposal dealing with tire choice and its relationship to GAWR. The action (Definition of "Gross Axle Weight Rating," 40 FR 58152, December 15, 1975) proposed that the GAWR determination be based on, among other things, the vehicle's maximum attainable speed or the maximum load rating of the tire established by the tire manufacturer at 60 mph, whichever is lower. The proposed modification was intended to reflect the industry practice of assigning (in most cases) and labeling (in accordance with Standards 119 and 109) a tire's basic load-carrying capabilities in recognition of the unrestricted highway speeds to which it is normally exposed. This formalization of GAWR determination was intended to prevent manufacturers from assigning higher capabilities to tires than their 60-mph ratings, based on arbitrarily low speeds.

Most comments supported the GAWR proposal, although several truck manufacturers asked that the term "maximum attainable speed" be specifically defined as it is elsewhere in NHTSA regulations. Ford Motor Company opposed the proposed change in the definition of GAWR as an arbitrary selection of only one of the many criteria that enter into the determination of GAWR. The company suggested that other means exist to prevent assignment of arbitrary GAWR's based on tire ratings other than those established at 60 mph and so labeled on the tire sidewall.

The NHTSA agrees with Ford and notes that the "other means" to regulate this practice exist in the tire selection requirements of S5.1.2 of Standard No. 120. At the time of the GAWR proposal, Standard No. 120 had not been made final. Since its implementation on September 1, 1976, a manufacturer is free to determine GAWR as in the past, but the maximum load ratings (marked on the tire sidewall) of tires on the vehicle must at least equal the GAWR listed. For this reason, the NHTSA's proposal for amendment of the GAWR definition is considered unnecessary and is therefore withdrawn. Further notice and opportunity for comment will precede any further action on the proposal set forth in that notice.

Several issues were raised in regard to the GAWR proposal that should be addressed for purposes of clarification. The Heavy & Specialized Carriers Conference of the American Trucking Associations (HSCC) cautioned the NHTSA against requiring an "unrestricted speed GAWR" on the Part 567 certification label in view of two State laws (or regulations) that no vehicle can operate on the state highways at gross vehicle weights greater than those listed on the vehicle in accordance with Federal regulations. It is common practice to load some "heavy hauler" vehicles to a gross vehicle weight that exceeds the unrestricted speed ratings of the vehicle tires, because the vehicle's tires are capable of carrying greater weight at reduced speeds.

As issued, Standard No. 120 required that the maximum load ratings of the tires at least equal the GAWR. This effectively limits the GVWR to the sum of these GAWR's (except in the case of semi-trailers). In the agency's view, however, the problem cited by HSCC can be avoided by listing additional GAWR's (calculated for reduced speed operation) at the end of the certification plate following the required data on the label. This practice has been followed by members of the Truck Trailer Manufacturers Association (TTMA) and was confirmed as permissible by the NHTSA in a March 5, 1975, letter to the TTMA. In order to aid resolution of issues that may arise between States that wish to refer to the certification label and operators that wish to continue the additional rating system, the agency hereby makes an interpretive amendment to Part 567 to specify where additional ratings may appear.

Based on this understanding of the relationship between choice of tires under S5.1.2 of Standard No. 120 and the de-

termination of GAWR under § 567.4 of Part 567, a modification of the requirements of Standard No. 120 is justified. In the case of a vehicle that is incapable of the 60-mph speed used by tire manufacturers to establish the maximum load rating that is stamped on the tire sidewall (typically a powered vehicle and not a trailer), it would not be reasonable to require the GAWR's to be strictly limited to the sum of the maximum load ratings of the tires on the vehicle. This is because the vehicle will never achieve the speeds for which maximum load ratings were established. In many cases, provision is made to rate tires for a greater load at the lower (but maximum) speed of which a vehicle is capable. In recognition of this extremely limited specialized situation, the agency amends S5.1.2 to permit installation of tires with reduced speed capabilities in the case of vehicles whose maximum attainable speed is not greater than 50 mph. This amendment is considered to be a technical adjustment of language to fully implement the intent of the final rule as that was established. A separate amendment of § 571.3 is made to establish the basis for determination of a vehicle's maximum attainable speeds.

Volkswagen raised a separate issue concerning the requirement that the sum of maximum load ratings at least equal the GAWR of the axle system. This provision, in the case of an MPV, truck, bus, or trailer that is equipped with passenger car tires, requires that the maximum load ratings on the tires be reduced by approximately 10 percent before calculating the sum. The purpose of this 10-percent reduction in tire rating is to account for the generally harsher treatment (impulse and surge loading in the case of MPV's off-road) to which the tires of a vehicle other than a passenger car are exposed that is not accounted for in passenger car tire ratings. Volkswagen requested data showing that MPV's actually experience more abusive treatment in use.

The MPV category is based in part on the existence of characteristics that make these vehicles less amenable to passenger car standards. If Volkswagen has data indicating that the two categories actually experience identical usage, the NHTSA would prefer to adjust the definition to ensure that these vehicles are subject to all passenger car standards. Until that time, the existing rationale for excusing these vehicles from some passenger car standards dictates the use of higher strength tires.

An earlier noted, the rim selection requirements of Standard No. 120 are not substantial, consisting of a requirement that the rims be listed by the tire manufacturer as suitable for use with its tires, and a requirement that, on and after September 1, 1979, the rims used on a vehicle be labeled as specified in S5.2 of the standard. The September 1, 1979, date for use of labeled rims replaced a March 1, 1977, date that proved impractical in view of large inventories of unlabeled rims that exist and will exist long after rim labeling is begun. In establishing the later effective date, the agency noted that it was considering the possibility of eliminating this requirement entirely, to simplify the phase-in of properly marked rims as they become available. Experience with phase-in of newly regulated equipment in other areas such as tires and brake hoses has demonstrated that the requirement for labeled equipment on and after a particular date can create substantial inventory and potential economic waste problems. In view of experience that the delay of labeling requirements has not substantially impeded certification verification and defect actions, the NHTSA has decided to withdraw the requirement (that appears as the last sentence of S5.1.1). It is noted that withdrawal of this requirement does not affect the requirement of S5.1.2 that rims be listed as suitable by the tire manufacturer for use with the tires that equip the vehicle, or the requirement of S5.2 that rims be labeled with specified information.

Mobile structure trailers. With regard to the applicability of this standard and other standards as a general matter, the NHTSA takes this opportunity to publish in the FEDERAL REGISTER its conclusion that enactment of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) (the Mobile Home Act) impliedly repealed this agency's authority to regulate mobile homes. This conclusion was announced in a May 5, 1976, letter to the Department of Housing and Urban Development that stated in relevant part:

> The National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) (the "Mobile Home Act") established within the Department of Housing and Urban Development a comprehensive program for the regulation of mobile homes. We have concluded that one result of that statute's enactment was the implied repeal of the NHTSA's authority with respect to mobile homes. Accordingly, we consider that the enactment has the effect of amending the Vehicle Safety Act's definition of "motor vehicle" to exclude "mobile homes" as the latter term is defined in the Mobile Home Act.

The effect of this conclusion is that tire and rim selection for mobile homes (known as "mobile structure trailers" by the NHTSA) is no longer subject to Standard No. 120 or other regulations issued under authority of the Act. For this reason, references to "mobile structure trailer" in Standard No. 120, Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, and the general definitions section of Part 571 (§ 571.3) are deleted.

On the same subject, a May 25, 1976 (and supplementing July 7, 1976), letter from Firestone to the NHTSA asked whether tires manufactured exclusively for mobile homes and tires that are used on mobile homes (although manufactured for other uses) are subject to regulation under the Act. Similar questions were raised as to the status of rims, some of which are designed exclusively for use on mobile homes and some of which are used on mobile homes and other vehicles.

As for tires, Standard No. 109 applies to "tires for use on passenger cars" and Standard No. 119 applies to "tires designed for highway use on [specified motor vehicles]." By these terms, neither standard applies to tires designed exclusively for use on mobile homes. In the case of tires actually used on mobile homes but designed for use also on vehicles subject to the Act, the agency considers such tires to be subject to the standards' requirements because they constitute motor vehicle equipment as that term is defined in § 102(4) of the Act.

As for rims, Standard No. 110 contains specifications only for rims that equip passenger cars and therefore contains no requirements that would directly require performance of a rim that was installed on a mobile home. Standard No. 120 applies to rims "for use on" MPV's, trucks, buses, motorcycles, and trailers (other than mobile structure trailers) and therefore would not apply to rims designed exclusively for use on mobile homes. In the case of rims designed for use on any of the motor vehicle types listed, the NHTSA would consider Standard No. 120's requirements applicable, and labeling in accordance with S5.2 would be required.

Rim marking. The second requirement of Standard No. 120 is an equipment requirement specifying five items of information (six in the case of multipiece wheels) that must appear on any rim for use on MPV's, trucks, buses, trailers, or motorcycles. The requirements for location of the information varies according to the type of information and whether the rim is part of a single or multipiece wheel. In answer to a question raised by Kelsey-Hayes and Motor Wheel, it is confirmed that these marking requirements have no bearing on the use of the rim on passenger cars, except as future labeling requirements in Standard No. 110 might prohibit one or more of the items required by S5.2. This eventuality is considered to be extremely unlikely.

Based on a comprehensive review of the petitions for reconsideration, the agency has decided that some requested modifications in labeling requirements are justified. The Japanese Automobile Manufacturers Association and Suzuki asked that required labeling be permitted to be embossed as well as impressed on the rim. Volkswagen (and representatives from Motor Wheel and Goodyear in a February 4, 1976, meeting with the NHTSA) asked that rim labeling be permitted on the disc portion of a single-piece wheel. The agency considers these suggestions to constitute justifiable options that would not diminish the level of motor vehicle safety represented by the standard, and the standard is accordingly amended.

Motor Wheel requested amendment of the standard to state that labeling of multipiece rims is permitted in the bolt hole area. The agency does not consider

the addition of advisory information to be a desirable drafting practice because the mention of bolt hole locations would imply that some restriction on location exists when in fact it does not. In answer to another question from Motor Wheel, more than one "rim type designation" on rim components of a multipiece wheel is permitted by the standard.

Motor Wheel and Goodyear also asked if numbers that contain decimals or "trailing zeros" (e.g., 7.50) could be shortened by deleting the decimal and "trailing zero." The agency believes that abbreviation by dropping the zero will not be confusing and amends the standard to include an example of such abbreviation. Confusion would result from dropping the decimal.

In response to a request by Motor Wheel and Budd Company for a specific provision in S5.1.2 that the marking requirements only apply to newly manufactured wheels, the agency notes the general applicability statement in § 571.7, governing the applicability of all standards found in Part 571, states that "* * * each standard set forth in subpart B of this part applies according to its terms to all motor vehicles or items of motor vehicle equipment the manufacture of which is completed on or after the effective date of the standard." Thus, the standard only applies to rims manufactured on or after the effective date of S5.2.

Manufacturers asked for several revisions of the marking requirements which the agency has considered and concludes are unjustified. This discussion treats the requests in the order that the markings in question appear in S5.2.

With regard to the requirement for marking with a designation that indicates the source of the rim's published dimensions (S5.2(a)), Daido Corporation asked whether the Japanese Industrial Standards' symbol (a stylized combination of the letters J, I, and S) or the letters "JIS" would meet the requirements of S5.2(a)(3) for use of letter "J." The agency interprets its labeling requirements as strictly as any other portion of its requirements and concludes that neither "JIS" nor the JIS symbol would conform to the requirement of S5.2(a)(3). In response to a similar request by Volkswagen to permit "DIN" in place of "D," the agency has considered the idea of permitting the manufacturer the option of a choice of designations, and concludes they are undesirable in the interests of maintaining uniformity and comprehension.

Grove Manufacturing suggested that the single letter designations of "D" and "E" could be mistaken for the load ranges that appear on tires and on the certification label. The agency concludes that the designations on the rim are sufficiently separated to preclude confusion and therefore the recommendation by Grove is not undertaken.

The "rim size designation" required by S5.2(b) is defined in S4 to mean the rim diameter and width. Daido and Volkswagen asked that a width designation followed by a diameter designation be considered as satisfying the requirement for designation of diameter and width. The agency specified the existing order to distinguish rim designations from tire designations. This order of information is being considered as the uniform practice to be adopted by the International Standards Organization. For reasons of uniformity, the requests are denied.

Volkswagen asked that the "DIN" symbol be permitted to signify compliance of the rim with Standard No. 120 in place of the "DOT" symbol required by S5.2(c) for this purpose. The agency does not find that the requirement of § 114 of the Act for certification is satisfied by use of a designation that has a wholly different meaning. Volkswagen's request is therefore denied.

Certification label. The third requirement of Standard No. 120 is that information about suitable tires and rims for use on the vehicle, along with appropriate inflation pressure and speed restriction information, be placed on a label on the vehicle (S5.3). As amended April 29, 1976 (41 FR 18659, May 6, 1976), the standard requires that the information appear on the certification labels of vehicles manufactured on or after September 1, 1977.

Some manufacturers and the Truck Trailer Manufacturers Association (TTMA) objected to the provision of this information on grounds that valid information already appears on the tires and rims that equip the vehicle, and that the information could mislead a person to think that only the listed tires and rims could be used on the vehicle. With regard to the first objection, the NHTSA disagrees and notes that an improper choice of tires or rims (as could occur by replacing original equipment with "custom" rims or the equivalent in tires) could permanently mislead vehicle owners as to the suitable selection of tires and rims. As for the possibility of misleading, the agency believes that a heading over the tire-rim listings (specifically, "Suitable Tire-Rim Choice") can be added to the requirements for optional use by a manufacturer who believes the information would be otherwise misleading. With regard to General Motors' note that an owner should be guided by all available information on tire choice (e.g., information in the owner's manual), the agency notes its longstanding position that manufacturers may add statements referring the reader to other publications for additional information.

It is apparent from the examples cited by manufacturers that the decision to place all required data on the certification label could prove cumbersome in some cases, particularly those involving a heavy truck with several available axle combinations. In view of these problems, the agency has decided to remove the restriction on location and permit the information to appear on the certification label or on a separate label that conforms to the requirements for certification labels. The NHTSA notes that this option to provide information on a separate label responds to concern of the Truck Body and Equipment Association (TBEA) for the responsibilities of its final-stage manufacturing membership. The agency does not believe the tire and rim information would be as useful in a location entirely separate from the certification label, and it therefore declines to adopt General Motors' suggestion to use the Vehicle Identification label.

Motorcycle manufacturers and General Motors pointed out that the requirements for listing tire and rim information after GVWR in the case of vehicles, such as motorcycles, that only utilize one GVWR listing, is redundant and therefore wasteful of space. Other manufacturers suggested that the tire-rim information was redundant in the case of multiple GVWR listings, although this is not the case because of the need to associate the appropriate GVWR with GAWR's that may exceed the GVWR. In any event, these comments suggest that GVWR and GAWR could be better linked by revision of the example format to reduce the amount of information that must be listed. The solution is to permit listing of the GVWR alone, followed immediately by corresponding GAWR's and appropriate tire-rim information. The clearer format would be used for single and multiple listings. This revision is described in the new example that accompanies the rule changes at the end of this notice. In conformity with this simplification, the rule is also amended to delete the requirements for GVWR tire-rim-inflation listings. Depending on manufacturers' reactions to the simplified format, a similar change could be undertaken for the passenger car example found in Part 567 (§ 567.4(h)(1)).

With regard to the items of information that must be listed in accordance with S5.3 General Motors and the TTMA argued that "tire * * * appropriate *as a minimum* for the GAWR" [emphasis added] could be construed to require tires with load ratings less than those that the manufacturer would choose to recommend. To eliminate any ambiguity, the agency replaces "at a minimum" with "as specified by S5.1.2".

Suzuki asked whether "cold inflation pressure" means the maximum inflation pressure specified by the tire manufacturer. The TTMA also asked for clarification on this point. The answer is that the requirement does not call for maximum pressure, but the pressure specified by the tire manufacturer as sufficient to carry the load specified by the vehicle manufacturer as the tire's share of the assigned GAWR.

Michelin Tire Corporation noted that listing inflation pressure could be misleading in the case of tire designations that call for different inflation pressures depending on the tire construction. It is the agency's view that any possibility of confusion can easily be avoided by an indication that the tire designation represents a radial tire, so that a person substituting a non-radial tire size with the same designation is aware that the two tires are not identical.

The TBEA requested clarification of the term "maximum speed" as it appeared in the example that accompanied

the final rule. The TBEA appeared to misunderstand the example as a reference to the speed capabilities of the vehicle instead of the speed restriction of the tires. The agency has in mind only the rare tire types constructed for transit buses and mining and logging operations and so designated. Goodyear and the TTMA appeared to have the same mistaken impression of the requirement.

Speed-restricted vehicles have now been addressed under S 5.1.2. In view of the confusion that arose over the requirement, and the agency's assumption that the users of these tires are knowledgeable in the use of the tires, it has been decided to drop the requirement of S5.3(d) altogether.

The TTMA raised several other questions with regard to the information that appears along with the GAWR. In answer to these questions, the effective dates of the standard are such that the manufacturer will be required to list the information specified by S5.3 on and after September 1, 1977. Also, it is not permissible to "bracket" the GVWR and GAWR values for a particular vehicle by specifying the minimum and maximum values that any tire-rim choice could provide. Section 567.4 of Part 567 requires that the GVWR and GAWR's representing the manufacturer determination of the particular vehicle's characteristics must be listed.

The standard does not require the information specified in S5.3 to be listed alongside the additional GVWR's and GAWR's that a manufacturer might list at the end of its certification label as reduced speed ratings. Lastly, the agency does not agree that the GAWR ratings for a semi-trailer are not related to the trailer's GVWR. While the trailer's axles do not support the entire weight of the vehicle, it is still the case that the various GVWR's that could be assigned to a semi-trailer are affected by the GAWR values that can be assigned, and that the GVWR probably differs depending on the GAWR value assigned. In this sense the GAWR's assigned to a semitrailer's axles do "correspond" to its GVWR.

In accordance with Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16200, April 16, 1976), the agency herewith summarizes its evaluation of the economic and other consequences of this action on the public and private sectors, including possible loss of safety benefits. The new options, simplification, and reduction of marking and labeling requirements should make compliance with the standard less costly, while the changes are not expected to significantly reduce the level of motor vehicle safety. The exception for speed-restricted vehicles provided in S5.1.2 represents a correction of the requirements to reflect the agency's intent not to prevent the assignment of greater load-carrying capabilities to vehicles at lower speeds. Permitting this practice to continue will result in the avoidance of new costs in the economy.

In consideration of the postponement of effective dates already granted for rim marking and the tire information labeling, the agency concludes that the present effective date schedule permits adequate time for compliance.

In view of the three notices that have modified the text of Standard No. 120, the entire standard (incorporating the amendments made by this notice) is published for the convenience of persons affected.

In consideration of the foregoing, Chapter V of Title 49, Code of Federal Regulations, is amended as follows:

I. In Part 567, § 567.4(h) is amended in part to read:

§ 567.4 Requirements for manufacturers of motor vehicles.

* * * * *

(h) Multiple GVWR–GAWR ratings.

(1) * * *

(2) (For multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles) The manufacturer may, at its option, list more than one GVWR–GAWR-tire-rim-combination on the label, as long as the listing conforms in content and format to the requirements for tire-rim-inflation information set forth in Standard No. 120 of this chapter (§ 571.120).

(3) At the option of the manufacturer, additional GVWR–GAWR ratings for operation of the vehicle at reduced speeds may be listed at the bottom of the certification label following any information that is required to be listed.

II. In Part 571, three amendments are made.

§ 571.3 [Amended]

1. Section 571.3 is amended by the deletion of the definition of "mobile structure trailer" and the addition of a new definition following the definition of "service brake" to read:

"Speed attainable in 2 miles" means the speed attainable by accelerating at maximum rate from a standing start for 2 miles on a level surface.

§ 571.108 [Amended]

2. Section S4.1.1.25 of Standard No. 108 (49 CFR 571.108) is deleted and reserved.

3. Standard No. 120 (49 CFR 571.120) is amended to read as set forth below.

Effective date: Changes to the text of the FEDERAL REGISTER may be made immediately. The provisions of Standard No. 120 are in effect at this time, except as otherwise provided in the standard.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on January 28, 1977.

JOHN W. SNOW,
Administrator.

§ 571.120 Standard No. 120; tire selection and rims for motor vehicles other than passenger cars.

S1. *Scope.* This standard specifies tire and rim selection requirements and rim marking requirements.

S2. *Purpose.* The purpose of this standard is to provide safe operational performance by ensuring that vehicles to which it applies are equipped with tires of adequate size and load rating and with rims of appropriate size and type designation.

S3. *Application.* This standard applies to multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles, and to rims for use on those vehicles.

S4. *Definitions.* All terms defined in the Act and the rules and standards issued under its authority are used as defined therein.

"Rim base" means the portion of a rim remaining after removal of all split or continuous rim flanges, side rings, and locking rings that can be detached from the rim.

"Rim size designation" means rim diameter and width.

"Rim diameter" means nominal diameter of the bead seat.

"Rim width" means nominal distance between rim flanges.

"Rim type designation" means the industry or manufacturer's designation for a rim by style or code.

"Weather side" means the surface area of the rim not covered by the inflated tire.

S5. *Requirements.*

S5.1 *Tire and rim selection.*

S5.1.1 Except as specified in S5.1.3, each vehicle equipped with pneumatic tires for highway service shall be equipped with tires that meet the requirements of Standard No. 109 (§ 571.109) or Standard No. 119 (§ 571.119), and with rims that are listed by the manufacturer of the tires as suitable for use with those tires, in accordance with S4.4 of Standard No. 109 or S5.1 of Standard No. 119, as applicable.

S5.1.2 Except in the case of a vehicle which has a speed attainable in 2 miles of 50 mph or less, the sum of the maximum load ratings of the tires fitted to an axle shall be not less than the gross axle weight rating (GAWR) of the axle system as specified on the vehicle's certification label required by 49 CFR Part 567. If the certification label shows more than one GAWR for the axle system, the sum shall be not less than the GAWR corresponding to the size designation of the tires fitted to the axle. If the size designation of the tires fitted to the axle does not appear on the certification label, the sum shall be not less than the lowest GAWR appearing on the label. When a tire listed in Appendix A of Standard No. 109 is installed on a multipurpose passenger vehicle, truck, bus, or trailer, the tire's load rating shall be reduced by dividing by 1.10 before calculating the sum.

S5.1.3 In place of tires that meet the requirements of Standard No. 119 a truck, bus, or trailer may, at the request of the purchaser, be equipped at the place of manufacture of the vehicle with used tires owned or leased by the purchaser if the sum of the maximum load ratings meets the requirements of S5.1.2. On and after January 1, 1978, used tires

employed under this provision must be originally manufactured to comply with Standard No. 119, as evidenced by the DOT symbol.

S5.2 *Rim marking.* On and after August 1, 1977, each rim or, at the option of the manufacturer in the case of a singlepiece wheel, wheel disc shall be marked with the information listed in paragraphs (a) through (e) of this paragraph, in lettering not less than one-eighth inch high, impressed to a depth or, at the option of the manufacturer, embossed to a height of not less than 0.005 inch. The information listed in paragraphs (a) through (c) of this paragraph shall appear on the weather side. In the case of rims of multipiece construction, the information listed in paragraphs (a) through (e) of this paragraph shall appear on the rim base and the information listed in paragraphs (b) and (d) of this paragraph shall also appear on each other part of the rim.

(a) A designation which indicates the source of the rim's published nominal dimensions, as follows:

(1) "T" indicates The Tire and Rim Association.

(2) "E" indicates The European Tyre and Rim Technical Organisation.

(3) "J" indicates Japanese Industrial Standards.

(4) "D" indicates Deutsche Industrie Norm.

(5) "M" indicates The Society of Motor Manufacturers & Traders, Ltd.

(6) "B" indicates British Standards Institution.

(7) "S" indicates Scandinavian Tire and Rim Organization.

(8) "N" indicates an independent listing pursuant to S4.4.1(a) of Standard No. 109 or S5.1(a) of Standard No. 119.

(b) The rim size designation, and, in case of multipiece rims, the rim type designation. For example: N 20 x 5.50, or N 20 x 5.5.

(c) The symbol DOT, constituting a certification by the manufacturer of the rim that the rim complies with all applicable motor vehicle safety standards.

(d) A designation that identifies the manufacturer of the rim by name, trademark, or symbol.

(e) The month, day, and year, or the month and year, of manufacture, expressed in numerals. For example,

"September 4, 1976" may be expressed as:

$$90476, \quad \frac{904}{76}, \text{ or } \frac{76}{904}$$

"September 1976" may be expressed as:

$$976, \quad \frac{9}{76}, \text{ or } \frac{76}{9}$$

S5.3 *Label information.* (For vehicles manufactured on and after September 1, 1977). The information specified in S5.3.1 through S5.3.3 shall, in the format set forth following this section, appear either—

(a) After each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter or, at the option of the manufacturer.

(b) On a tire information label affixed to the vehicle in the manner, location, and form described in § 567.4(b) through (f) of Part 567 of this chapter, as appropriate for each GVWR–GAWR combination listed on the certification label.

S5.3.1 The size designation of tires (not necessarily those on the vehicle) appropriate (as specified in S5.1.2) for the GAWR.

S5.3.2 The size designation and, if applicable, the type designation of rims (not necessarily those on the vehicle) appropriate for those tires.

S5.3.3 Cold inflation pressure for those tires.

Truck example

SUITABLE TIRE—RIM CHOICE

GVWR: 17280.
GAWR: Front—6280 with 7.50—20(D) tires, 20x6.00 rims, at 75 psi cold single.
GAWR: Rear—11000 with 7:50—20(D) tires, 20x6.00 rims, at 65 psi cold dual.
GVWR: 17340.
GAWR: Front—6300 with 7.00—20(E) tires, 20x5.50 rims, at 90 psi cold single.
GAWR: Rear—11040 with 7.00—20(E) tires, 20x5.50 rims, at 80 psi cold dual.

S6. *Vehicles manufactured from September 1, 1976, to February 28, 1977.* Notwithstanding any other provision of this standard, a vehicle to which this standard applies that is manufactured during the period from September 1, 1976, to February 28, 1977, shall meet each requirement of this standard, with the following exception: In place of tires that meet Standard No. 119 (§ 571.119), the vehicle may be equipped with tires that meet every requirement of that standard other than the tire marking requirements of S6.5 of that standard.

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National Highway Safety Administration

[Docket No. 75-21; Notice 2]

PART 556—EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

Petitions by Manufacturers

This notice amends Title 49 of the Code of Federal Regulations to add Part 556, "Exemption for Inconsequential Defect or Noncompliance", which establishes procedures for petitioning by manufacturers for exemption from notice and remedy requirements of the National Traffic and Motor Vehicle Safety Act on grounds that a defect or noncompliance is inconsequential as it relates to motor vehicle safety.

A notice of proposed rulemaking to establish Part 556 was published in the FEDERAL REGISTER on August 25, 1975 (40 FR 37047). Fifteen comments were received from vehicle and equipment manufacturers and trade associations representing these groups. The National Motor Vehicle Safety Advisory Council did not take a position on the proposal. The Vehicle Equipment Safety Commission did not comment on the proposal.

The NHTSA is adding Part 556 to Title 49 to establish procedures that will implement the legislative mandate of section 157 of the National Traffic and Motor Vehicle Safety Act (the Act) (as amended by Pub. L. 93-492, 88 Stat. 1470, October 27, 1974; 15 U.S.C. 1417). The new regulation prescribes procedures for the submission of petitions, including