

PART 571—[CORRECTED]

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.139 is amended by adding to S3, in alphabetical order, a definition of “Snow tire,” and revising S5.5 to read as follows:

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

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S3. *Definitions.*

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Snow tire means a tire that attains a traction index equal to or greater than 110, compared to the ASTM E-1136 Standard Reference Test Tire when using the snow traction test as described in ASTM F-1805-00, Standard Test Method for Single Wheel Driving Traction in a Straight Line on Snow- and Ice-Covered Surfaces, and which is marked with an Alpine Symbol specified in S5.5(i) on at least one sidewall.

* * * * *

S5.5 *Tire markings.* Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches.

(a) The symbol DOT, which constitutes a certification that the tire conforms to applicable Federal motor vehicle safety standards;

(b) The tire size designation as listed in the documents and publications specified in S4.1.1 of this standard;

(c) The maximum permissible inflation pressure, subject to the limitations of S5.5.4 through S5.5.6 of this standard;

(d) The maximum load rating and for LT tires, the letter designating the tire load range;

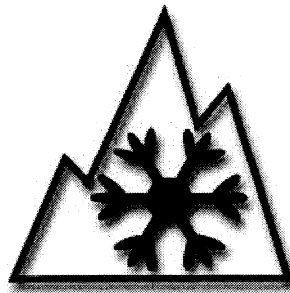
(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;

(f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different;

(g) The term “tubeless” or “tube type,” as applicable;

(h) The word “radial,” if the tire is a radial ply tire; and

(i) *Alpine Symbol.* A tire meeting the definition of a snow tire as defined in paragraph S3 may, at the option of the manufacturer, show the pictograph of a mountain with a snowflake as shown below. If the manufacturer chooses to mark the snow tire with the alpine symbol, the mountain profile must have a minimum base of 15 mm and a minimum height of 15 mm, and must contain three peaks with the middle peak being the tallest. Inside the mountain, there must be a six-sided snowflake having a minimum height of one-half the tallest peak.



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■ 3. Section 571.208 is amended by revising S20.2.1.6.2(g) and S22.2.1.6.2(h), to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

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S20.2.1.6.2 * * *

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(g) If the child restraint uses a linear sliding or ratcheting mechanism that requires the application of force to securely install the child restraint, within 25±5 seconds, apply a 475±25N force, that has no lateral component, aligned angularly ±10 degrees with a parallel plane located within ±100 mm of the plane formed by the linear mechanism. Release the force.

* * * * *

S22.2.1.6.2 * * *

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(h) If the child restraint uses a linear sliding or ratcheting mechanism that requires the application of force to securely install the child restraint, within 25±5 seconds, apply a 475±25N force, that has no lateral component, aligned angularly ±10 degrees with a parallel plane located within ±100 mm

of the plane formed by the linear mechanism. Release the force.

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Issued: November 21, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 574

[Docket No. NHTSA-2008-0187]

RIN 2127-AK11

Tire Registration and Recordkeeping

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

ACTION: Final rule.

SUMMARY: In this final rule, we are amending our tire identification and recordkeeping regulation to codify existing interpretations regarding opportunities for electronic registration of tire sales and leases and to create new opportunities for the public to use electronic means to register new tires. This regulation requires manufacturer-owned tire distributors and dealers to register the names and addresses of the people to whom they sell or lease new tires, and currently specifies the use of standardized paper forms for this purpose. It also requires independent distributors and dealers to provide purchasers with standardized registration forms, with the tire identification number filled in, that they can complete and mail to the manufacturer or its designee. Today's rule accommodates and facilitates Internet and other electronic registration of tires, including voluntary registration of tires by independent dealers.

DATES: This final rule takes effect January 27, 2009. Optional immediate compliance with this final rule is permitted as of November 28, 2008.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received not later than January 12, 2009.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, Mr. Jeff Woods,

Vehicle Dynamics Division, Office of Vehicle Safety Standards (Telephone: 202-366-6206) (Fax: 202-366-7002). Mr. Woods' mailing address is National Highway Traffic Safety Administration, NVS-122, 1200 New Jersey Avenue, SE., Washington, DC 20590.

For legal issues, Ms. Dorothy Nakama, Office of the Chief Counsel (Telephone: 202-366-2992) (Fax: 202-366-3820). Ms. Nakama's mailing address is National Highway Traffic Safety Administration, NCC-112, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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I. Overview

In today's final rule, we are amending Part 574, Tire Identification and Recordkeeping, to codify existing interpretations regarding opportunities for electronic registration of tire sales and leases and to create new opportunities for the public to use electronic means to register new tires. Part 574 requires manufacturer-owned tire distributors and dealers to register the names and addresses of the people to whom they sell or lease new tires, and currently specifies the use of standardized paper forms for this purpose. It also requires independent distributors and dealers to provide purchasers with standardized registration forms, with the tire identification filled in, that purchasers can complete and mail to the manufacturer or its designee.

Under the final rule, we make the following changes concerning

registration of tires sold by independent dealers and dealers owned or controlled by tire manufacturers:

Independent Tire Dealers

- *Use of electronic instead of paper registration.* Dealers may, in lieu of providing a paper registration form to the consumer, voluntarily register a tire by Internet or other electronic means, so long as such means were authorized by the tire manufacturer.

- *Informing consumers of opportunities for electronic registration.* If dealers use standardized paper registration forms, they may use one that identifies a Web site and/or other means (e.g., a telephone number) authorized by the tire manufacturer by which the consumer could register the tires instead of mailing in the form.

- *Added flexibility in paper registration.* Dealers have the option of providing to the consumer a mailable standardized paper registration form that includes the tire identification number (TIN) and the dealer's name and address (this is the current requirement set forth in Part 574), or using the same standardized paper registration form, but voluntarily completing the form and registering the tire by sending the form to the tire manufacturer or its designee.

- *Added flexibility in designing paper registration forms.* The figures showing the standardized paper registration form are removed from the CFR. Some requirements that were expressed by referring to the forms in the regulatory text are added to the regulatory text, but the regulation no longer specifies as many details concerning the format of the forms.

Dealers Owned or Controlled by Tire Manufacturers

- *Added flexibility in designing paper registration forms.* The regulation clarifies that dealers owned or controlled by tire manufacturers may register tires by electronic means, consistent with a past agency interpretation. The figure showing the form used for these tires is also removed from the CFR.

This final rule does not impose new obligations on tire dealers or tire manufacturers. Instead, it accommodates and facilitates Internet and other electronic registration of tires, including voluntary registration of tires by independent dealers. The rule also clarifies that tire manufacturers must meet requirements concerning retention of information for registration information submitted to them by electronic or other means they authorize, in addition to that submitted

to them on the standardized paper forms.

II. Background—Tire Registration Requirements

As originally enacted, the National Traffic and Motor Vehicle Safety Act of 1966 (now codified at Title 49 U.S.C. Chapter 301 *Motor Vehicle Safety*) did not include a requirement for tire registration. However, in May 1970, Congress amended the law to mandate that every tire manufacturer shall maintain records of the names and addresses of the first purchaser of tires produced by that manufacturer.¹ NHTSA was given the authority to establish procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers in securing the names and addresses of first purchasers. The names and addresses of purchasers and lessors are used by a tire or vehicle manufacturer to contact those people in the event that the tire manufacturer must conduct a campaign to recall and remedy tires that either fail to comply with an applicable Federal motor vehicle safety standard or to have a safety-related defect.

Pursuant to this authority, in a final rule published in the **Federal Register** (35 FR 17257) on November 10, 1970, NHTSA established the initial tire identification and recordkeeping requirements of 49 CFR part 574. The rule required all tire dealers to record the name and address of the purchaser to whom they sold the tire, along with the dealer's name and address, and forward that information to the tire manufacturer.

However, under the Motor Vehicle Safety and Cost Savings Authorization Act of 1982 (Pub. L. 97-331), Congress amended the Safety Act to mandate that the obligations of independent distributors and dealers be limited to giving "a registration form (containing the tire identification number) to the first purchaser." The tire purchaser could then mail the form to the tire manufacturer. Congress also mandated that NHTSA should prescribe a standardized registration form and that tire manufacturers had to ensure that they gave sufficient copies of these forms to their dealers.

Congress adopted these amendments after the House Committee on Energy and Commerce found in its report on the 1982 amendments that tire dealers whose business was owned or controlled by a tire manufacturer (these

¹ Public Law 91-265.

dealers accounted for just under 1/3 of tire sales) registered between 80 and 90 percent of the tires they sold.² At that time, however, independent tire dealers, which accounted for more than 2/3 of tire sales, registered only 20 percent of the tires they sold.

The changes mandated by the 1982 amendments were established in an interim final rule published on May 19, 1983 (48 CFR 22572). The regulation required tire manufacturers to provide both independent and non-independent distributors and dealers with standardized tire registration forms. The regulation specified the exact content of the forms given to independent distributors and dealers, and that no other information may appear on the forms.³ When an independent distributor or dealer sells or leases a tire to a consumer, the distributor or dealer must fill in the tire identification number and its name and address on a registration form and give the form to the consumer. The consumer may then fill in his or her name and address, add a stamp and mail the form to the manufacturer or its designee. In a follow-up final rule published on February 8, 1984 (49 FR 4755), the agency made slight revisions to the tire registration form to improve its clarity and also reduced the size of the form so that it could be mailed using post card postage.

As part of the agency's implementation of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106-414) that was enacted on November 1, 2000, the agency increased the tire registration record retention requirements for tire manufacturers from three years to five years. The record retention period was extended in a final rule published in the **Federal Register** (67 FR 45822) on July 10, 2002.

III. January 2008 Notice of Proposed Rulemaking

On January 24, 2008 (73 FR 4157), NHTSA published in the **Federal Register**, a notice of proposed rulemaking (NPRM) to amend the part 574 tire registration procedures to facilitate Internet and other electronic registration of tires by independent tire dealers. For a full explanation of these issues, please refer to the NPRM on pages 4158 through 4161.

Specifically, under our proposal:

- Independent tire dealers could, in lieu of providing a paper registration

form to the consumer, voluntarily register a tire by Internet or other electronic means, so long as such means were authorized by the tire manufacturer. These dealers would also have the option of providing to the consumer the mailable standardized paper registration form that includes the tire identification number (TIN) and the dealer's name and address (this is the current requirement set forth in part 574), or using the same standardized paper registration form, but voluntarily completing the form and registering the tire by sending the form to the tire manufacturer or its designee.

- The standardized paper registration form would be permitted to identify a Web site authorized by the tire manufacturer at which the consumer could register the tires instead of mailing in the form.

- We proposed to remove the figures showing the standardized paper registration form from the CFR. Some requirements that were expressed by referring to the forms in the regulatory text would be added to the regulatory text, but we proposed that the regulation would no longer specify as many details concerning the format of the forms.

- We also proposed regulatory text that would clarify that dealers owned or controlled by tire manufacturers may register tires by electronic means, consistent with a past agency interpretation. The figure showing the form used for these tires was also proposed to be removed.

We stated that our proposal was not intended to impose new obligations on tire dealers or tire manufacturers. Instead, it would accommodate and facilitate Internet and other electronic registration of tires, including voluntary registration of tires by independent dealers. We noted that we were proposing a provision that would clarify that tire manufacturers must meet requirements concerning retention of information for registration information submitted to them by electronic or other means they authorize, in addition to that submitted to them on the standardized paper forms.

The details of our proposal were as follows:

A. Tires Sold by Independent Tire Dealers—Alternative Means of Tire Registration

A number of issues concerning electronic registration of tires arose between 2005 and 2007 in connection with obtaining clearance of tire registration requirements under the Paperwork Reduction Act. In a March 21, 2007 (722 FR 1334) **Federal Register** notice, we stated that we were

considering revisions to update 49 CFR part 574 to allow, to the extent consistent with the agency's authority, for use of electronic and other possible means of registering new tires at the point of sale.

The statutory requirements relevant to independent tire dealers are found at 49 U.S.C. 30117(b)(2)(B), which reads as follows:

The Secretary shall require each distributor and dealer whose business is not owned or controlled by a manufacturer of tires to give a registration form (containing the tire identification number) to the first purchaser of a tire. The Secretary shall prescribe the form, which shall be standardized for all tires and designed to allow the purchaser to complete and return it directly to the manufacturer of the tire. The manufacturer shall give sufficient copies of forms to distributors and dealers.

Given the pre-Internet date of enactment of the statute, the statutory provision appears to contemplate a mail-in paper form ("the manufacturer shall give sufficient copies of forms to distributors and dealers"). Also, the legislative history (House report⁴) refers to forms that are suitable for mailing and addressed to the manufacturer or its designee.

One relevant issue is the effect of voluntary tire registration by independent tire dealers on their obligations under section 30117(b)(2)(B). While the statute provides for a program in which purchasers of tires from independent tire dealers may register their tires by returning a form to the tire manufacturer, a 1983 NHTSA letter to Congressman Timothy E. Wirth⁵ addressed the situation in which independent tire dealers may wish to register tires voluntarily for consumers. Invoking the principles of equitable interpretation, the agency concluded that voluntary registration would partially relieve independent dealers of their statutory obligations. Under those principles, a statutory requirement need not be literally applied in instances in which the underlying Congressional intent is otherwise satisfied. More specifically, the agency stated:

Based on the principles of equitable interpretation, we believe that an independent tire dealer or distributor who (1) registers tires by computer; (2) attaches a computer-printed invoice containing all of the information necessary for registration to a blank standardized registration form; and (3) furnishes the two documents to the customer when the tires are purchased; fully

² H.R. Rep. No. 576, 97th Cong. 2d Sess. 8-9 (1982).

³ July 18, 2003 letter from Jacqueline Glassman to Ann Wilson of RMA. Letter is available at: <http://isearch.nhtsa.gov/files/onlinetireregistration.html>.

⁴ H.R. Rep. No. 97-576, p. 8.

⁵ February 1983 letter from Diane K. Steed to the Honorable Timothy E. Wirth. Letter is available at: <http://isearch.nhtsa.gov/gm/83/1983-1.12.html>.

satisfies the tire registration amendments.

* * *

While, as discussed below, we now believe that this interpretation goes to some extent beyond what is necessary to satisfy Congressional intent, we believe the basic principle is correct. In particular, if an independent tire dealer voluntarily registers tires for the consumer, it serves no purpose to require the full procedures necessary to enable consumers to also register those tires.

Several other issues are whether the statute can be interpreted to permit the use of electronic forms in lieu of paper forms and, assuming that the answer to that issue is "yes," the meaning of the statutory command to "* * * give a registration form (containing the tire identification number) to the first purchaser * * *" in the context of electronic forms. As to the term "form," it could be interpreted broadly enough to include electronic as well as paper forms, notwithstanding the statutory language and legislative history mentioned above that suggests the forms are to be paper ones.

As to the term "give," it could readily be interpreted in the context of the statute to mean physically provide either "take away" means of registration (i.e., mailable form) or means of "on-the-spot" registration (i.e., an in-store computer terminal accessible to purchaser). It is not apparent how the term could be further interpreted to mean simply inform the purchaser about the opportunity to use means not physically present in the dealer's store (e.g., use of a computer terminal located at the purchaser's home or elsewhere.) It is even less apparent how such further interpretation could be given the term "give" given the additional requirement that the form given the purchaser "* * * contain the tire identification number * * *".

A possible scenario that could be viewed as meeting all of the statutory requirements would be one in which the purchaser was provided access to a computer at the dealership where the screen showed the form with the tire identification numbers already filled in, and the purchaser could register the tires with the manufacturer by entering his or her name and address and clicking on a button to register the tires. In preparing the NPRM, we did not know whether manufacturers and dealerships would be interested in an option along these lines, but noted that we were requesting comments on this type of approach. We also noted that a number of approaches for electronic registration by purchasers would appear

not to meet these statutory requirements, but could be viewed as supplemental means of transmitting tire registration to manufacturers.

In the NPRM, after discussing the statutory requirements, we stated our belief: (1) The regulation must include a basic procedure consistent with the statutory requirement that enables purchasers of tires from independent tire dealers to register their tires by returning a form with the TIN already filled in to the tire manufacturer; (2) the regulation may provide options under which an independent tire dealer may voluntarily register tires for consumers, in which case the dealer need not meet the full procedures necessary to enable consumers to register those tires; and (3) the regulation may accommodate means that tire manufacturers may provide for tire registration (e.g., Internet registration) that consumers may use instead of mailing in the form.

Voluntary Registration by Independent Dealers

After reviewing our 1983 interpretation to Congressman Wirth, we stated our belief that it went to some extent beyond what was necessary to satisfy Congressional intent. In particular, we stated our belief that electronic registration of the tires by independent dealers would satisfy the statutory requirements, without the need to provide an additional blank form to the purchaser. The purpose of the statutory requirement is to enable the purchaser to register the tire purchase with the manufacturer. As such, if the dealer registers the tires electronically for the purchaser and provides a blank form to the purchaser, confusion could result, since the purchaser might think there was a need to submit the paper form to the manufacturer.

Regarding the statement in the interpretation that the purchaser be given a computer-printed invoice with the information on the tire registration paper form, we stated our belief that that statement also exceeds what is necessary. The tire registration information is kept by the tire manufacturer (or its designee). There is no need for the purchaser to separately be given that information. Instead of duplicating the required information on the invoice given to the purchaser, we stated our belief that a written statement on the invoice regarding the registration of the tires by the dealer would be sufficient to inform the consumer that the tires have been registered.

We therefore proposed that independent tire dealers have the option of voluntarily electronically registering

tires with the tire manufacturer. We noted, however, that whether this option can be used depended on the tire manufacturer's providing a means to receive this information electronically, or designating an agent to do so for it. We stated we were not aware of what specific means might be used to provide electronic registration, such as specific software that identifies tire sales and then automatically uses the Internet to transmit the information to the tire manufacturer or its designee. However, we stated our belief that many company-controlled tire dealers have autonomous systems in place to register the tires as part of the sales transaction. Such systems do not require additional or separate actions by sales personnel to register the tires. The agency welcomed additional details on the methods that are currently in place and also other methods that might be used, including how independent tire dealers may be able to register tires electronically.

Our proposal also included an option in which independent tire dealers could use the standardized paper registration form, but voluntarily complete the form and register the tires by sending the form to the tire manufacturer or its designee.

One issue that arises with independent dealers being permitted to register tires voluntarily for consumers is whether they could charge a separate registration fee. Tentatively concluding that this should not be permitted, as it could discourage registration and cause confusion, we requested comments on this issue.

Another issue that arises with electronic registration of tires is the security of the information being transmitted. The proposed regulatory text would require that electronic registration be by secure means, e.g., use of https on the Web. We requested comments on the need for such a provision, and whether it should be more specific. We noted that in September 2005 we decided not to include an "encryption" requirement for electronic registration of child safety seats.⁶

We noted that registration by independent tire dealers would be voluntary. Nothing in the proposed rulemaking would require independent tire dealers to register tires for the purchaser.

For the new electronic registration requirements, NHTSA also proposed to permit the tire manufacturer to designate a third party to collect or store the tire registration information. Such third party designation is currently

⁶ 70 FR 53569, 53572-73, September 9, 2005.

allowed for the paper registration forms under 574.7, and we stated we were not aware of any reason not to extend third party designation to electronic tire registration methods.

Alternative Means of Registration by Tire Purchasers

Consistent with a 2003 interpretation letter to RMA, we included in the proposed regulatory text a provision stating that tire manufacturers may voluntarily provide means for tire registration via the Internet, by telephone or other electronic means.

Based in part on comments to NHTSA's requests for comment to extend OMB approval for the Part 574 collection of information, we tentatively concluded that including, at the tire manufacturer's option, a Web site address for purchasers to register tires could facilitate registration for tire purchasers, and also improve the quality of information received by the tire manufacturer.

We checked several tire manufacturers' Web sites, for both widely-known tire brands and lesser-known tire brands, and found in all but one case that the tire manufacturers already have Web site-based tire registration capability. Inclusion of Web site registration information would be performed at the option of the tire manufacturer. We proposed simple text to keep information on the form to a minimum: "Instead of mailing this form, you can register online at [insert tire manufacturer's Web site address]". This proposed language deviated slightly from the FMVSS No. 213 *Child restraint systems*, text which includes references to registering online on both sides of the form, although the text on the mailing label side of that form is on a part of the form that is removed prior to mailing. However, the tire registration form is not of that design, and much of the form space is needed for recording the tire identification numbers. We sought comments on the proposed text and location of the optional Web site registration information.

Other Possible Options for Tire Registration

We requested comments on whether the regulation should specify additional options for registering tires sold by independent tire dealers that would be consistent with our statutory authority. Several options were discussed in the NPRM at page 4163.

Registration Forms

As discussed above, for tires sold by independent tire dealers, NHTSA is required by statute to prescribe a

standardized tire registration form for all tires. Specifically, 49 U.S.C. 30117(b)(2)(B) provides "(t)he Secretary shall prescribe the form, which shall be standardized for all tires * * *."

The statute provides that tire manufacturers must give sufficient copies of the registration forms to distributors and dealers. Also, Part 574.8 permits distributors and dealers to use registration forms obtained from other sources.

Pursuant to the requirement to prescribe a standardized tire registration form, NHTSA has adopted requirements through rulemaking and placed them in Part 574. The details of some of the requirements, including size and data elements, are set in the regulatory text. The details of certain other requirements are not set out in the regulatory text. Instead, the regulatory text requires that forms conform in content and format to the forms depicted in the figures included in Part 574. See 574.7(a)(2).

To promote flexibility, in the NPRM, we proposed to remove the figures showing the forms in Part 574. To ensure that the forms remain standardized, we proposed to add some requirements to the regulatory text that are currently expressed by referring to the figures, but with fewer details concerning format. We also proposed to update the size standards to reflect the current U.S. Postal Service's "Domestic Mail Manual" (Updated 12-6-07) at Section 6.3 "Cards Claimed at Card Rates," that specifies physical standards that postcards must meet in order to be eligible for mailing at card rates.

Under our proposal, on the address side of the form, the following would continue to be required to be provided: The name and address of the manufacturer or its designee, and, in the upper right hand corner, the statement: "Affix a postcard stamp."

The other side of the form would continue to include the tire manufacturer's name (unless it already appears on the address side), and the statement: "IMPORTANT, In case of a recall, we can reach you only if we have your name and address." There would also continue to be a statement indicating that sending in the card will add a person to the manufacturer's recall list. However, we proposed that the regulation no longer specify that the statement indicate that a person "must" send in the card to be on the recall list, since manufacturers may provide alternative means of registering tires.

Under our proposal, if a tire manufacturer provides a Web site where its tires can be registered, it may (but is not required to) include the following

sentences: "Instead of mailing this form, you can register online at [insert tire manufacturer's registration Web site address]".

The form would also include the text: "Do it today."

The form would also continue to include space for recording the tire identification numbers for six tires. There would also continue to be shading to distinguish between areas of the form to be filled in by sellers and customers.

As indicated above, under our proposal, the regulation would no longer specify as many details concerning the format of the form.

We requested comments on the removal of these figures and on what requirements expressed by reference to the figures should be added to the regulatory text.

Registration Rates

We sought comments on the current registration rates of tires sold by independent tire dealers. Commenters were asked to provide information concerning the total number of such tires that are sold and the number of those tires that are currently being registered by each alternative means, *e.g.*, the number of tires registered by returning the paper form, the number registered using the tire manufacturer's Web site, etc. We requested that commenters provide the specific basis for any numbers or rates that are provided. We also requested comments on how and why these registration rates may change if the agency adopts the proposed rule.

B. Tires Sold by Dealers Controlled by Tire Manufacturers—Electronic Tire Registration

In the NPRM, we noted that the tire registration form in Figure 4 of Part 574 is the form that is to be filled out by company-controlled tire dealers and returned to the manufacturer upon the sale of new tires. We noted that we have no data on the continued use of this form, or what percentage of company-controlled dealers continue to use this form versus submit the registration information to the tire manufacturer using electronic means.

We reiterated that we have previously provided an interpretation letter to the RMA (July 18, 2003 agency letter) stating that while company-controlled dealers are permitted to register tires electronically:

This interpretation does not relieve non-independent distributors and dealers from the requirements of section 574.8(b) that they themselves record the purchaser's name and address, the tire identification number(s) of

the tire(s) sold, and a suitable identification of themselves as the selling dealer on a tire registration form and return the completed forms to the tire manufacturers or their designees. While we would interpret Part 574 to permit non-independent distributors and dealers to accomplish these tasks by electronic means, they may not transfer this responsibility to consumers.

In the NPRM, we proposed to include a provision expressly reflecting this existing option in the Part 574 requirements. Specifically, we proposed that electronic means be permitted as an alternative to the paper registration forms specified in § 574.7(b).

In the NPRM, we also noted that as to Part 574's requirements for these forms, requirements concerning data elements are set forth in the regulatory text, and the regulatory text also specifies that the forms must be similar in format and size to that in Figure 4. We noted that the statutory requirement that NHTSA prescribe a standardized tire registration form does not apply to ones for tires sold by dealers controlled by tire manufacturers.

To promote flexibility, in the NPRM, we proposed to remove Figure 4 showing the registration forms to be used. We proposed to add several requirements currently expressed by reference to the figure, and leave all other details to the tire manufacturer. Under our proposal, the form would continue to be required to include:

- A statement indicating where the form should be returned, including the name and mailing address of the manufacturer or its designee.
- The tire manufacturers' logo or other identification, if the manufacturer is not identified as part of the statement indicating where the form should be returned.
- The statement: "IMPORTANT; FEDERAL LAW REQUIRES TIRE IDENTIFICATION NUMBERS MUST BE REGISTERED."

We sought comments on the removal of this figure and on what requirements expressed by reference to the figure should be added to the regulatory text.

IV. Public Comments and NHTSA's Response

In response to the January 2008 NPRM, NHTSA received comments from: CIMS; Dealer Tire; the National Association of Trailer Manufacturers (NATM); the National Automobile Dealers Association (NADA); the Rubber Manufacturers Association (RMA); Ms. Barbara Sachau; Safety Research and Strategies, Inc. (SRS); the Small Business Administration's (SBA) Office of Advocacy; Specialty Equipment Market Association (SEMA); TBC

Corporation; and the Tire Industry Association (TIA).

Commenters generally supported our proposal, with some offering suggestions they believed would improve the rule. A number of commenters urged that we issue the final rule as soon as possible. While some commenters raised other issues about Part 574, none opposed our proposal.

RMA stated that it fully supports the proposed changes and urged the agency to issue the final rule in its entirety, and as expeditiously as possible. TIA stated that it enthusiastically supports the proposed changes. SEMA stated that it strongly supports the proposed rule.

SBA stated that it "strongly supports the proposed rule" and did not suggest any changes to the proposal. SBA stated that it heard from "a number of small businesses representing automobile and tire dealers who have expressed strong support for NHTSA's proposed rule." SBA further stated that the current tire registration program was nominated "as a regulation in need of review and reform under Advocacy's new Regulatory Review and Reform (r3) Initiative." SBA concluded that while Part 574 "was not selected as one of our final 'Top 10' r3 rules for 2008, it likely would have been if not for NHTSA's timely proposed rule that does exactly what the r3 submitter sought—for NHTSA to modernize its rule to allow for Internet registration of tires."

NADA generally supported the proposed rule. It offered three suggestions. First, tire manufacturers should be allowed to voluntarily list on their forms as many electronic filing methods as they choose (e.g., Web site, phone, fax, etc.). NADA stated that this appears to be provided for by proposed § 574.7(e), but not by § 574.7(a)(2)(iii)(B)(4), which it said should be revised commensurately. NADA stated that § 574.8(a)(1)(iii) should be revised to indicate that independent tire dealers may voluntarily register tires by any electronic manner listed on the form or by such other means as may be authorized by a tire manufacturer.

After considering this comment, NHTSA agrees that tire manufacturers should be permitted to voluntarily list on their forms as many electronic filing methods as they choose, and that independent tire dealers may voluntarily register by any electronic manner listed on the form or by such other means as may be authorized by a tire manufacturer. We agree that this will help maximize the rate of electronic tire registration. We have amended § 574.7(a)(2)(iii)(B)(4) to now read tire

manufacturers may voluntarily provide means for tire registration via the Internet, by telephone, or other electronic means. If a tire manufacturer voluntarily provides a Web site or other means by which its tires can be registered, it may (but is not required to) include a sentence listing one or more such means, beginning with the phrase "Instead of mailing this form, you can * * *" Example: Instead of mailing this form, you can register online at [insert tire manufacturer's registration Web site address].

We are amending § 574.8(a)(1)(iii) to read electronically transmit the following information on the tire registration form by any means listed on the form by the tire manufacturer, or by such other means as may be authorized by the tire manufacturer, to the tire manufacturer or its designee, using secure means (e.g., https on the Web), at no charge to the tire purchaser and within 30 days of the date of sale or lease:

NADA's second comment was that while NHTSA need not mandate that independent tire dealers inform purchasers or get their permission before voluntarily registering on their behalf, nothing in the final rule should prevent independent tire dealers from doing so. NHTSA notes that the final rule does not prevent independent tire dealers from doing this.

Third, NADA recommended that to more "appropriately distinguish between the different registration options, NHTSA should redraft § 574.8(a)(1) to read 'independent distributor and each independent dealer selling or leasing new tires to tire purchasers or lessors (hereinafter referred to as 'tire purchasers') shall comply with paragraph (a)(1)(i) of this section. In the alternative, independent distributors and independent dealers may elect to voluntarily comply with paragraphs (a)(1)(ii) or (a)(2)(iii) of this section.'"

NHTSA has decided not to adopt this recommendation. We believe the language proposed in the NPRM is clear in this area.

In the NPRM,⁷ we asked whether, if independent tire dealers voluntarily registered tires for their customers, they should be able to charge a separate registration fee. We tentatively concluded that this should not be permitted, as it could discourage registration and cause confusion. In response, CIMS and TIA agreed with the agency and both opposed permitting fees for independent tire dealers to voluntarily register tires for their

⁷ See page 4163.

customers. No other comments on this issue were received. Thus, in this final rule, we will not permit independent tire dealers to impose fees for voluntarily registering tires for their customers.

Besides its recommendation that NHTSA not permit independent tire dealers to charge customers to register their tires for them, TIA opposed mandatory installation of computer terminals in dealer showrooms for use of consumers to register their tires. TIA, however, did not object to voluntary installation of such computer terminals. In this final rule, we do not require independent dealers to provide computer terminals for use of its customers to register their new tires. However, nothing in this final rule prohibits independent dealers from voluntarily providing such computer terminals for their customers.

CIMS commented in support of the proposed changes to Part 574. It further recommended that in order to avoid confusion, NHTSA should "leave no doubt about the following points":

- Tire registration is still the law
- Tire dealers must still provide every customer with a tire registration form *or*
- Tire dealers must complete the registration process electronically on behalf of the customer.

NHTSA notes that independent tire dealers will also have the option of voluntarily completing the paper form and registering the tire by sending the form to the tire manufacturer or its designee. The agency agrees, however, with CIMS that it is important that independent tire dealers understand their responsibilities. We are currently developing information specifically for tire dealers similar to what the agency has now on NHTSA's Web site: <http://www.nhtsa.dot.gov>, for manufacturers.

SRS commented that the "current proposal does not do enough to close the considerable gaps that remain between tire recordkeeping, consumer notification in recalls, and the ability of the tire service professional to capture recalled tires." It recommended that NHTSA initiate rulemaking to promote adoption of Radio Frequency Identification Tags (RFID). SRS stated that if embedded in tires, RFIDs could contain all of the information now in TINs. When combined with scanners at service locations and a recall database, consumers and technicians can easily determine whether a given tire has been recalled.

While identification of recalled tires through RFIDs is an interesting concept, the agency notes that it could supplement but not replace tire registration, given the current statutory

requirement. Moreover, we note that there are many issues that would need to be addressed in order to implement such a program. Some of the issues include the need to develop the technology and the infrastructure to ensure RFID tags installed in tires from all manufacturers can be read with a standard scanner, the availability of standardized software for the scanner, and the availability of such scanners at tire dealers, including gas stations and car dealerships that sell new tires.

While we decline to initiate rulemaking in this area, we note that nothing in the rule prevents tire manufacturers, dealers and parties such as service centers from creating networks using RFIDs.

NATM stated that it has no fundamental objection to and supports what it called the important reform included in our proposal, but argued that in order to materially improve the effectiveness of future defective tire safety recall campaigns, the agency "must totally revamp Part 574." That organization stated that NHTSA's approach overlooks what it referred to as second-tier recordkeeping requirements, those impacting the motor vehicle manufacturer, and in particular, the trailer manufacturer of light- and medium-duty trailers. NATM stated:

The absence of coordination between tire and trailer manufacturers and the lack of clarity in the rules governing their respective recordkeeping roles are at the heart of the problem of second-tier tire record keeping. To address this fundamental problem NHTSA must revise Part 574 top to bottom, redesigning it to facilitate integrating the tire manufacturers and distributors into the complete tire recordkeeping chain by requiring and fostering coordination and cooperation among all tire suppliers and customers throughout the OEM chain of distribution down to the point of sale when the retail purchaser takes possession of his or her new motor vehicle, whether automobile, truck, or trailer.

NATM raised a variety of issues and made a number of suggestions related to this general area.

In the January 2008 NPRM, NHTSA proposed only to change requirements concerning the means by which information about the retail customers of new tires is collected, i.e., to facilitate electronic registration of tires. We did not propose to change the basic nature or scope of Part 574 or requirements concerning the various responsibilities of tire manufacturers, dealers, and distributors, motor vehicle manufacturers, etc.

Because NATM's comment addresses requirements that NHTSA did not propose to change, its suggestions are largely outside the scope of this rulemaking. In its comment, NATM

cited a statement in the preamble that the agency intended the scope of the proposal to be broad. However, in the sentence immediately preceding that statement, the agency stated that it was requesting comments on whether the regulation should specify additional options for registering tires sold by independent tire dealers that would be consistent with our statutory authority. Nothing in our proposal indicated that we were considering totally "revamping" Part 574.

One of NATM's suggestions was that we amend § 574.10 to extend the electronic communication option to motor vehicle manufacturers. That section requires motor vehicle manufacturers to maintain records concerning tires and purchasers. However, it does not specify how these records must be maintained, and thus does not prevent motor vehicle manufacturers from using electronic methods.

While we will consider NATM's comment advocating a significant revision of Part 574 as a suggestion for future rulemaking, we will not consider that request as part of this rulemaking.

V. Final Rule

For the reasons discussed above, we are adopting as a final rule the requirements we proposed in our January 2008, with minor adjustments. As explained in our discussion of the comments from NADA, we have amended § 574(a)(2)(iii)(B)(4) and § 574.8(a)(1)(iii) in light of its recommendations. In general, the commenters to the NPRM agreed with the proposal. Thus, no other changes have been made to the regulatory text proposed in the NPRM.

VI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking action has been determined not to be significant under that Executive Order or those policies and procedures.

In this document, NHTSA amends Part 574 to permit collection of the names and addresses of first purchasers of new tires by Internet and other electronic means. Nothing in this final rule requires any tire dealer to use these new electronic procedures. All collection of the names and addresses of first purchasers of new tires may continue to be collected by the existing means utilizing paper forms. However,

we believe that permitting electronic means of tire registration will increase the rate of registrations, which will in turn increase the effectiveness of future tire recalls and thus improve motor vehicle safety.

There are some cost impacts associated with increased registrations of tires by electronic means. Since the new options are voluntary, we do not know the extent to which they will be utilized by independent tire dealers and tire manufacturers. However, we are providing the following analysis to show the cost impacts.

Increased Registrations by Consumers Using the Internet

Under today's final rule, tire manufacturers can provide, on a voluntary basis, Internet registration information on the tire registration form that is given to purchasers by independent tire dealers. Consumers can then register their tires online instead of filling out the paper form and

mailing it to the tire manufacturer or its designee. The cost of printing this information on the form is negligible, and therefore there is no cost increase to tire manufacturers that are responsible for printing the forms and providing them to independent tire dealers. However, the tire manufacturers offering the option of Internet-based tire registration on their Web sites will incur some cost to include a registration site. The agency has found that most tire manufacturers already have tire registration sites included on their Web sites. Web site registration will save consumers the cost of a postcard postage stamp, and will save costs for tire manufacturers because they (or their designee) will not have to transcribe the information on the paper forms into a tire registration database.

In the table which follows, we are providing estimates of the monetized costs associated with various rates of increased tire registration using the Internet. Under this scenario, paper

forms will continue to be provided to purchasers, but the additional registrations will occur via the Internet rather than by the forms being mailed in. Therefore, although tire registrations will increase, mailing and other costs associated with the paper form will remain the same. We assume, for purposes of these estimates, that the costs associated with the current level of tire registration will not change. The additional costs associated with this scenario will be the time consumers spend registering tires via the Internet that they otherwise would not register. We also assume that because the tire registration information is collected using purely electronic means, there is no additional labor burden for the tire manufacturer for recordkeeping associated with these additional registrations. To monetize the costs of consumers filling out paper forms or using the Internet, a labor rate of \$14.61 per hour is used.⁸

CONSUMER COST PROJECTIONS ASSOCIATED WITH INCREASED TIRE REGISTRATIONS WITH CONSUMERS REGISTERING TIRES USING THE INTERNET

| | Current tire registrations | Future tire registrations using internet-based registration by consumers | | |
|--|----------------------------|--|---------------------|---------------------|
| | | 10 Percent increase | 15 Percent increase | 20 Percent increase |
| Consumer Hour Burden Estimates: | | | | |
| Number of Consumers | 10,000,000 | 11,000,000 | 11,500,000 | 12,000,000 |
| Total Tire Registrations | 54,000,000 | 59,400,000 | 62,100,000 | 64,800,000 |
| Tire Registration Hours | 225,000 | 247,500 | 258,750 | 270,000 |
| Monetized Costs (Consumer time valued at @ \$14.61/Hour) | \$3,287,250 | \$3,615,975 | \$3,780,338 | \$3,944,700 |

Voluntary Registration by Independent Tire Dealers

Under today's final rule, independent tire dealers may voluntarily register tires for consumers by electronic means, if this is authorized by the tire manufacturer. Dealers that do this will incur additional costs to upgrade their computer systems, with both initial startup costs and then costs for periodic maintenance of the systems. We assume that many independent tire dealers, especially the larger ones, already collect tire purchaser information as part of the sales process. For these manufacturers, we believe it may be possible to upgrade the sales system to include automatic electronic registration on behalf of the purchaser. We do not know the details of how this process may work, which will be up to the tire manufacturer and the independent tire dealers. The process might also include companies designated by the tire

manufacturers to provide services in this area. We also do not know what actual startup and annual costs might be to independent tire dealers. However, once these systems are installed, tire registration rates could be 100 percent for tires sold through these large independent dealers. This compares with overall current registration rates of 10 percent for tires sold through independent dealers.

The costs associated with voluntary tire registration by independent tire dealers will be offset, or partially offset, by the fact that these dealers will no longer need to provide paper forms to consumers, or fill out these forms with tire identification numbers.

The agency has estimated that there are a total of 59,000 tire dealers in the U.S., including 13,000 that are company-controlled dealers. The remaining 46,000 tire dealers include

20,000 car and truck dealers and 26,000 independent tire dealers.

There are two unknowns for estimating the cost impacts on independent tire dealers—how many independent dealers will voluntarily upgrade computer systems to register tires, and what the cost of these computer systems will be in terms of initial cost and annual maintenance. Each year, a number of independent dealers will install or upgrade computer systems, and they continue to maintain their systems in subsequent years. We assume that an initial installation cost of providing an upgraded system is \$750 and that annual maintenance thereafter is \$200. We do not know whether each tire manufacturer will work directly with each independent tire dealer, or whether third party designees will provide an interface service for all tire manufacturers and independent tire dealers. We note that third party

⁸ The median hourly rate among all occupations, May 2006, according to the Bureau of Labor

Statistics; see http://www.bls.gov/oes/current/oes_nat.htm#b00-0000.

designees can provide efficiencies of having a single contact company that can be the interface for an independent tire dealer and multiple tire manufacturers.

We are providing cost estimates assuming that 30 percent of independent tire dealers will participate in such a voluntary program, with 10 percent beginning the first year (4,600

dealers), an additional 10 percent beginning the second year, and the third 10 percent beginning the third year. These costs can be summarized as follows:

| Year | Startup costs for computer systems | Annual maintenance costs | Total cost |
|-----------------------|------------------------------------|--------------------------|------------|
| 2009 | \$3.45 M | 0 | \$3.45 M |
| 2010 | 3.45 M | 0.92 M | 4.37 M |
| 2011 | 3.45 M | 1.84 M | 5.29 M |
| 2012 and Beyond | 0 | 2.76 M | 2.76 M |

Since the final rule establishes collection of information procedures to be used entirely at the discretion of the tire dealer, and the estimated paperwork burdens of tire dealers electing to use these procedures are not expected to exceed \$100 million annually, the agency does not consider this rulemaking to be “economically significant,” as defined by E.O. 12866. Moreover, the impacts are sufficiently small that the agency has not prepared a full regulatory evaluation.

B. 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 that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. As explained above, NHTSA amends Part 574 by permitting collection of the names and addresses of first purchasers of new tires by Internet and other computerized means. Electronic collection is

permitted in place of paper forms. This regulatory flexibility analysis does not apply to manufacturer-owned tire dealers, because they are not considered small businesses under SBA’s affiliation rule at 5 CFR 121.103(a)(1) which states in part: “Concerns and entities are affiliates of each other when one controls or has the power to control the other * * *.” The tire manufacturer either “controls or has the power to control” dealerships that it owns.

Under SBA’s size standard regulations (at 5 CFR part 121), “tire dealers” are classified under North American Industry Classification System (NAICS) Code 441320 with a size standard of average yearly sales of \$6 million. “New car dealers” are classified under NAICS Code 441110 with a size standard of average yearly sales of \$24.5 million. “Used car dealers” are classified under NAICS Code 441120 with a size standard of average yearly sales of \$19.5 million.

In its February 27, 2006 comments to NHTSA, NADA stated that of its “20,000 franchised automobile and truck dealers who sell new and used motor vehicles,” a “significant number are small businesses as defined by the SBA.” At that time, NADA did not specify the number that would be considered “small businesses.” In the **Federal Register** of March 21, 2007 (54 FR 133440), we estimated the number of independent tire dealers to be 26,000. In the January 2008 NPRM to amend Part 574, we stated our assumption that all NADA members are small businesses and that therefore, the total number of independent tire dealers that are small businesses would be 46,000.

In its comment to the NPRM, NADA provided a clarification, stating that “NADA suggests that approximately 40 percent of the 22,000 dealerships nationwide fall within SBA’s current small business definition in annual gross receipts 73 FR 4166.” NADA was referring to that part of its membership that is independent motor vehicle dealers. Forty percent of 22,000 is 8,800

or the number of NADA members that are small businesses. The previous estimate of 26,000 tire dealers plus NADA’s small business (and therefore independent) motor vehicle dealers numbering 8,800 equals 34,800 small business independent tire dealers. 34,800 is a smaller figure than the 46,000 small business independent tire dealers estimated in the NPRM.

I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. The factual basis for the certification is that this final rule will not substantively change existing 49 CFR part 574 requirements for small businesses that are independent tire dealers. Adherence to the electronic collection of information procedures is voluntary for independent tire dealers. The statement on the paper form giving Web site information about online registration of new tires or other electronic means of registration (and the paper form itself) are to be provided by the tire manufacturer. If independent dealers choose not to adopt electronic tire registration procedures, the responsibilities of the independent dealer remains the same, i.e., to pass out the paper forms to first purchasers of new tires.

C. 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.

D. Executive Order 13132 (Federalism)

NHTSA has examined today’s final rule 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 this final rule does not have federalism

implications because the rule will not have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

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, February 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) 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 Federalism effect of this final rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. These final changes to the tire registration and recordkeeping rule affect the scope of the rule’s “collection of information,” as that term is defined by OMB at 5 CFR part 1320. In the January 24, 2008 NPRM (see pages 4167–4168), we described how the proposed rule would affect the scope of the collection of information. Given that the various proposed options would be voluntary, we stated we did not know to what extent they would be utilized by independent tire dealers, tire manufacturers and consumers. Therefore, based on the available information, we provided the following estimates of burden.

The same information (name and address of the purchaser) would be collected regardless of the format, paper form, or typing in information on a company Web site. Because some

people type faster and some people write faster, we stated our belief that the amount of time it will take to provide information about the name and address of the purchaser would be very roughly the same, regardless of the format. To the extent more consumers registered their tires, actual burdens realized could thus increase concomitantly with the higher registration rates. On the other hand, it may be possible for tire manufacturers and independent tire dealers to develop electronic systems, tied in with the systems used for monitoring inventory and recording sales information, that could automatically register the tires with the tire manufacturer at little additional cost.

We stated our belief that virtually all recordkeeping by tire manufacturers is already done electronically. We estimated that it takes roughly 25,000 hours to transfer handwritten data to an electronic format for storage. Because, with Web site-based information, there would be no change in format (i.e., going from electronic reporting to electronic storage), we stated our belief that there would be virtually no burden hours imposed in transferring information provided on a tire manufacturer’s Web site to a recordkeeping site. For these reasons, we stated our belief that the recordkeeping burden hours would remain at 25,000 hours.

We solicited comments on the proposed changes in the collection of information associated with Part 574 and on our analysis of how the changes will affect the number of burden hours affecting the public. We provided a 60-day comment period on the proposed collection of information.

We received no comments specifically addressing this Paperwork Reduction Act analysis. Therefore, when this final rule takes effect, the total annual tire registration and recordkeeping hours associated with Part 574 (OMB Clearance No. 2127–0050) will remain at 250,000 hours per year.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or

adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs the agency to provide Congress, through the OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

After carefully reviewing the available information, NHTSA has determined that there are no voluntary consensus standards relevant to this rulemaking, as the information to be collected and sent to tire manufacturers is needed only in the event of a tire recall. Accordingly, this rule is in compliance with Section 12(d) of NTTAA.

H. 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 in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and to 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 NHTSA 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 why that alternative was not adopted.

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of more than \$100 million annually. Accordingly, the agency has not prepared an Unfunded Mandates assessment.

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public’s needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?

—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

—Would more (but shorter) sections be better?

—Could we improve clarity by adding tables, lists, or diagrams?

—What else could we do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in comments to the docket number cited in the heading of this final rule.

J. 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.

K. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478) or you may visit <http://docketsinfo.dot.gov/>.

List of Subjects in 49 CFR Part 574

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

■ In consideration of the foregoing, NHTSA amends 49 CFR part 574 as follows:

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

■ 1. The authority for part 574 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 574.7 is amended by revising paragraphs (a)(2) and (a)(3), removing figures 3a, 3b, and 4 immediately following paragraph (d), and adding new paragraphs (e) and (f) to read as follows:

§ 574.7 Information requirements—tire manufacturers, new tire brand name owners.

(a)(1) * * *

(2) Each tire registration form provided to independent distributors and dealers pursuant to paragraph (a)(1) of this section shall contain space for recording the information specified in paragraphs (a)(4)(i) through (a)(4)(iii) of this section. Each form shall:

(i) Have the following physical characteristics:

(A) Be rectangular;

(B) Be not less than 3½ inches high, 5 inches long, and 0.007 inches thick;

(C) Be not more than 4¼ inches high, 6 inches long, and 0.016 inch thick.

(ii) On the address side of the form, be addressed with the name and address of the manufacturer or its designee, and include, in the upper right hand corner, the statement “Affix a postcard stamp.”

(iii) On the other side of the form:

(A) Include the tire manufacturer's name, unless it appears on the address side of the form;

(B) Include a statement explaining the purpose of the form and how a consumer may register tires. The statement shall:

(1) Include the heading “IMPORTANT”.

(2) Include the sentence: “In case of a recall, we can reach you only if we have your name and address.”

(3) Indicate that sending in the card will add a person to the manufacturer's recall list.

(4) A tire manufacturer may voluntarily provide means for tire registration via the Internet, by telephone or other electronic means. If a tire manufacturer voluntarily provides a Web site or other means by which its tires can be registered, it may (but is not required to) include a sentence listing one or more such means, beginning with the phrase “Instead of mailing this form, you can * * *.” Example: Instead of mailing this form, you can register online at [insert tire manufacturer's registration Web site address].

(5) Include the sentence: “Do it today.”

(C) Include space for recording tire identification numbers for six tires.

(D) Use shading to distinguish between areas of the form to be filled in by sellers and customers.

(1) Include the statement: “Shaded areas must be filled in by seller.”

(2) The areas of the form for recording tire identification numbers and information about the seller of the tires must be shaded.

(3) The area of the form for recording the customer name and address must not be shaded.

(E) Include, in the top right corner, the phrase “OMB Control No. 2127–0050”.

(3) Each tire registration form provided to distributors and dealers that

are not independent distributors or dealers pursuant to paragraph (a)(1) of this section must contain space for recording the information specified in paragraphs (a)(4)(i) through (a)(4)(iii) of this section. Each form must include:

(A) A statement indicating where the form should be returned, including the name and mailing address of the manufacturer or its designee.

(B) The tire manufacturers' logo or other identification, if the manufacturer is not identified as part of the statement indicating where the form should be returned.

(C) The statement: “IMPORTANT: FEDERAL LAW REQUIRES TIRE IDENTIFICATION NUMBERS MUST BE REGISTERED”.

(D) In the top right corner, the phrase “OMB Control No. 2127–0050”.

* * * * *

(e) Tire manufacturers may voluntarily provide means for tire registration via the Internet, by telephone or other electronic means.

(f) Each tire manufacturer shall meet the requirements of paragraphs (b), (c) and (d) of this section with respect to tire registration information submitted to it or its designee by any means authorized by the manufacturer in addition to the use of registration forms.

■ 3. Section 574.8 is revised to read as follows:

§ 574.8 Information requirements—tire distributors and dealers.

(a) *Independent distributors and dealers.*

(1) Each independent distributor and each independent dealer selling or leasing new tires to tire purchasers or lessors (hereinafter referred to in this section as “tire purchasers”) shall comply with paragraph (a)(1)(i), (a)(1)(ii) or (a)(1)(iii) of this section:

(i) At the time of sale or lease of the tire, provide each tire purchaser with a paper tire registration form on which the distributor or dealer has recorded the following information:

(A) The entire tire identification number of the tire(s) sold or leased to the tire purchaser, and

(B) The distributor's or dealer's name and street address. In lieu of the street address, and if one is available, the distributor or dealer's e-mail address or Web site may be recorded. Other means of identifying the distributor or dealer known to the manufacturer may also be used.

(ii) Record the following information on a paper tire registration form and return it to the tire manufacturer, or its designee, on behalf of the tire purchaser, at no charge to the tire purchaser and

within 30 days of the date of sale or lease:

(A) The purchaser's name and address,

(B) The entire tire identification number of the tire(s) sold or leased to the tire purchaser, and

(C) The distributor's or dealer's name and street address. In lieu of the street address, and if one is available, the distributor or dealer's e-mail address or Web site may be recorded. Other means of identifying the distributor or dealer known to the manufacturer may also be used.

(iii) Electronically transmit the following information on the tire registration form by any means listed on the form by the tire manufacturer, or by such other means as may be authorized by the tire manufacturer, to the tire manufacturer or its designee, using secure means (e.g., https on the Web), at no charge to the tire purchaser and within 30 days of the date of sale or lease:

(A) The purchaser's name and address,

(B) The entire tire identification number of the tire(s) sold or leased to the tire purchaser, and

(C) The distributor's or dealer's name and street address. In lieu of the street address, and if one is available, the distributor or dealer's e-mail address or Web site may be recorded. Other means

of identifying the distributor or dealer known to the manufacturer may also be used.

(2) Each independent distributor or dealer that complies with paragraph (a)(1)(i) or (ii) of this section shall use either the tire registration forms provided by the tire manufacturers pursuant to § 574.7(a) or registration forms obtained from another source. Paper forms obtained from other sources must comply with the requirements specified in § 574.7(a) for forms provided by tire manufacturers to independent distributors and dealers.

(3) Multiple tire sales or leases by the same tire purchaser may be recorded on a single paper registration form or in a single Web site transaction.

(4) Each independent distributor or dealer that is complying with paragraph (a)(1)(iii) with respect to a sale or lease shall include a statement to that effect on the invoice for that sale or lease and provide the invoice to the tire purchaser.

(b) *Other distributors and dealers.*

(1) Each distributor and each dealer, other than an independent distributor or dealer, selling new tires to tire purchasers:

(i) shall submit, using paper registration forms or, if authorized by the tire manufacturer, secure electronic means, the information specified in § 574.7(a)(4) to the manufacturer of the

tires sold, or to the manufacturer's designee.

(ii) shall submit the information specified in § 574.7(a)(4) to the tire manufacturer or the manufacturer's designee, not less often than every 30 days. A distributor or dealer selling fewer than 40 tires of all makes, types and sizes during a 30 day period may wait until a total of 40 new tires is sold. In no event may more than six months elapse before the § 574.7(a)(4) information is forwarded to the respective tire manufacturers or their designees.

(c) Each distributor and each dealer selling new tires to other tire distributors or dealers shall supply to the distributor or dealer a means to record the information specified in § 574.7(a)(4), unless such means has been provided to that distributor or dealer by another person or by a manufacturer.

(d) Each distributor and each dealer shall immediately stop selling any group of tires when so directed by a notification issued pursuant to 49 U.S.C. 30118, *Notification of defects and noncompliance*.

Issued on: November 19, 2008.

David Kelly,

Acting Administrator.

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