

## II. Discussion

4. The Commission has reviewed the initial request made by CIX in its petition—that we clarify our network information disclosure rules to require incumbent local exchange carriers to provide information regarding DSLAMs and line conditioning to ISPs. CIX essentially asks the Commission to clarify that section 251(c)(5) of the Communications Act and the rules implementing that section require disclosure of such information. We decline to do so. The Commission did not raise this issue in the Further Notice of Proposed Rulemaking in these dockets. Thus, the CIX request for clarification with regard to information on deployment of DSLAMs and line conditioning is beyond the scope of this proceeding. Accordingly, we deny that request for clarification on reconsideration.

5. CIX next requests that the Commission clarify that the BOCs are obligated to post on their websites a complete copy of all their CEI plans—rather than merely a copy of “new or altered” plans. We grant this request. It was not our intention in the Computer III Report and Order to exclude from the CEI posting requirement the BOCs’ existing plans. As CIX notes in its petition, it is important for all CEI plans to be available on the BOCs’ websites, including those previously filed plans. Otherwise, it would be difficult for the ISPs to get information regarding plans filed with the Commission under the prior CEI regime. Moreover, we do not believe that requiring the BOCs to post all their plans and plan amendments—both old and new—is unduly burdensome, especially given the benefit of having all these plans in one, easily accessible place. Accordingly, we clarify that the BOCs must post all their existing and new CEI plans and plan amendments on their Internet websites and notify the Common Carrier Bureau at the time of the posting.

## III. Ordering Clause

6. The petition for reconsideration and clarification filed by the Commercial Internet eXchange Association IS GRANTED IN PART and IS DENIED IN PART, to the extent discussed above.

Federal Communications Commission  
Magalie Roman Salas,  
Secretary.

[FR Doc. 00–13039 Filed 5–23–00; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 575

[Docket No. 00–7364]

RIN 2127–AG96

### Consumer Information Regulations: Uniform Tire Quality Grading Test Procedures

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the treadwear testing procedures under the Uniform Tire Quality Grading Standards (UTQGS). To ensure the consistency of the treadwear grades from one year to the next, the agency monitors the changing roughness of the test course, periodically calculates a base course wear rate (BCWR), and uses it to adjust the measured wear rates of tires driven over the course. To monitor the test course, the agency uses special tires designated as course monitoring tires (CMTs).

The agency is amending the UTQGS to change the computation of the BCWR used in calculating the treadwear grade of passenger car tires. These amendments establish a direct comparison of the wear rates of CMTs used as the control standard with the wear rates of the candidate tires, *i.e.*, the tires being tested for the purposes of grading. This direct comparison will result in more consistent treadwear ratings by compensating for any changes or variations in CMT characteristics. NHTSA will measure the wear rate of CMTs 4 times per year and use the average wear rate from the last 4 quarterly CMT tests as a basis for the BCWR. NHTSA is further requiring that CMTs used to determine wear rate be not more than 1 year old at the commencement of the test and that the CMTs used in the test must be used within 2 months after removal from storage.

**DATES:** Effective date: The amendments in this final rule are effective July 24, 2000.

Petitions for reconsideration of this final rule must be received by NHTSA not later than July 10, 2000.

**ADDRESSES:** Petitions for reconsideration should be submitted to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

*For technical issues:* Mr. Sanjay Patel, Safety Standards Engineer, Office of Planning and Consumer Programs, Office of Safety Performance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366–0307.

*For legal issues:* Mr. Stephen P. Wood, Assistant Chief Counsel for Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366–2992.

### SUPPLEMENTARY INFORMATION:

#### A. Background

##### 1. Current Provisions.

Section 30123(e) of title 49, United States Code (U.S.C.) requires the Secretary of Transportation to prescribe a uniform system for grading motor vehicle tires to assist consumers in making informed choices when purchasing tires. In response to that congressional mandate, NHTSA established the Uniform Tire Quality Grading Standards (UTQGS) in 49 CFR 575.104.

The UTQGS require tire manufacturers and tire brand name owners to grade their tires with respect to the tires’ relative performance with respect to treadwear, traction, and temperature resistance. Treadwear grades are shown by numbers, such as 100, 160, and 200, with the higher numbers indicating greater treadwear performance. The traction grades are indicated by AA, A, B, and C, with AA representing the highest performance characteristics and C the lowest. The temperature resistance grades are indicated by the letters A, B, and C, with A representing the best performance and C indicating the minimum level of performance necessary to comply with Federal motor vehicle safety standards.

The UTQGS provide that treadwear grades are developed first by running the tires being graded, called “candidate tires,” over a selected 400-mile segment of public highway outside San Angelo, Texas. After an 800-mile “break-in” run, the candidate tires are driven over the test course for a total of 6,400 miles in test convoys composed of 4 passenger cars and/or light trucks. Each driver remains in the same position within the convoy. The vehicles are regularly rotated among the 4 positions in the convoy as are the positions of the tires on the test vehicles so that each candidate tire gets equal time with each driver, each vehicle, and each wheel position.

Special tires known as "course monitoring tires" (CMT) are used as the control in grading candidate tires. CMTs are specially designed and built to American Society for Testing and Materials (ASTM) standard E1136 to have particularly narrow limits of variability.<sup>1</sup> Until the amendments to the UTQGS published in a final rule on September 9, 1996 (61 FR 4737), whenever the agency procured a new batch, or lot, of CMTs, we established a new base course wear rate (BCWR) for that lot. We established the BCWR, measured in mils per thousand miles, by running tires from the new lot of CMTs over the 6,400-mile test course, in the same manner as candidate tires, with tires from the previous batch of CMTs. We determined a course severity adjustment factor (CSAF) for the new CMTs by dividing the BCWR for the old

CMTs by the average wear rate of the old CMTs in the test. The wear rate of the new CMTs was then multiplied by the CSAF to determine the adjusted wear rate (AWR) of the new CMTs. That value then became the BCWR for the new CMTs.

Once the BCWR for the new CMTs was established, the new CMTs were used to grade candidate tires. Upon completion of the 6,400-mile test, the BCWR was divided by the average wear rate of the CMTs to determine the CSAF for the candidate tires. That factor was then applied to the wear rates of the candidate tires to obtain the AWR of the candidate tires. That AWR was then extrapolated to the point of wearout (considered to be  $\frac{1}{16}$ th inch of remaining tread depth). The resultant value was then converted to the treadwear rating of the tire.

The BCWR was originally intended to provide a common baseline by which to grade candidate tires by relating all new CMTs to the original lot of CMTs. We noted, however, that the BCWRs of successive new lots of CMTs steadily declined over the years. The trend has been that every time a fresh CMT of the new lot was tested in the same convoy with an old CMT, the fresh CMT consistently experienced a lower wear rate than the old CMT. The first lot of CMTs that we procured in 1975 were commercially-available Goodyear Custom Steelguards that yielded a BCWR of 4.44. The lot of ASTM E-1136 CMTs that we procured in 1995, on the other hand, produced a BCWR of 1.34. Table I shows the consistent decline in wear rate for each new lot of CMTs.

CMT WEAR RATE AND BASE COURSE WEAR RATE ADJUSTMENT FACTORS

Year	Manufacturer	Series	Measured wear rate	CSAF	Adj. wear rate	BCWR
1975 .....	Goodyear .....	Batch 1	4.44	1.0	4.44	4.44
1979 .....	Goodyear .....	Batch 1	4.08	1.09	4.44	.....
1979 .....	Goodyear .....	Batch 2	3.82	1.09	4.16	4.16
1980 .....	Goodyear .....	Batch 2	5.29	0.79	4.16	.....
1980 .....	Goodyear .....	Batch 3	4.76	0.79	3.74	3.74
1984 .....	Goodyear .....	Batch 3	4.22	0.89	3.74	.....
1984 .....	Uniroyal .....	4000	3.27	0.89	2.90	2.90
1987 .....	Uniroyal .....	4000	5.96	0.49	2.90	.....
1987 .....	Uniroyal .....	71000	4.56	0.49	2.22	2.22
1989 .....	Uniroyal .....	71000	5.01	0.44	2.22	.....
1989 .....	Uniroyal .....	91000	4.84	0.44	2.14	2.14
1991 .....	Uniroyal .....	91000	6.24	0.34	2.14	.....
1991 .....	ASTM E1136 .....	010000	4.94	0.34	1.70	1.70
1991 .....	ASTM E1136 .....	010000	6.96	0.24	1.70	.....
1992 .....	ASTM E1136 .....	110000	6.65	0.24	1.62	1.62
1992 .....	ASTM E1136 .....	110000	5.83	0.28	1.62	.....
1992 .....	ASTM E1136 .....	210000	5.60	0.28	1.56	1.56
1993 .....	ASTM E1136 .....	210000	7.21	0.22	1.56	.....
1993 .....	ASTM E1136 .....	310000	6.80	0.22	1.47	1.47
1995 .....	ASTM E1136 .....	310000	6.47	0.23	1.47	.....
1995 .....	ASTM E1136 .....	410000	5.91	0.23	1.34	1.34

In replacing CMTs from the original lot procured in 1975, we note that the greatest difference in the AWR between nominally identical CMTs of different ages was about 30 percent. This occurred in 1987 when the old CMTs had been stored for about 3 years. The least difference in the AWR between nominally identical CMTs of different ages was about 4 percent that occurred in the second 1992 replacement. At that time, the old CMTs had been stored less than a year. Table I also shows that the treadwear rate disadvantage of the aged CMTs at replacement varied considerably from a linear relationship with age. This could suggest that the

rate may have been exacerbated by actual batch differences of the commercial tires used as CMTs prior to 1991.

The significance of the decrease in the BCWR rate is that as the BCWR decreased, the treadwear grades of candidate tires increased. Consequently, the newer treadwear grades have increased to the point that they are no longer a reliable indicator of actual treadwear performance when compared to tires tested with higher BCWRs.

To correct this problem, we froze the BCWR at 1.34 mils in the final rule of September 9, 1996 (61 FR 47437), believing that freezing the BCWR at that

figure would significantly reduce, if not eliminate, any variation in the grading between lots. We also believed that the use of ASTM E1136 tires that are produced with strict quality control would also contribute to reduction of any lot-to-lot variations. We stated, however, that we had requested the assistance of the ASTM F9 committee in devising a better treadwear test and that we would request data in a future rulemaking on the effects of tire aging on treadwear performance and storage procedures to reduce aging.

<sup>1</sup> The designation "E1136" refers to the standard specification of materials and construction practices

codified by ASTM as suitable for control tires for scientific experimentation.

*(2) Notice of Proposed Rulemaking*

On June 5, 1998, we published a Notice of Proposed Rulemaking (NPRM) proposing to revise the treadwear testing procedures of the UTQGS to ensure the consistency of treadwear grades from one year to the next.<sup>2</sup> To achieve that result, we proposed to revise the procedure for calculating the BCWR by directly comparing the wear rates of CMTs with the wear rates of the candidate tires. Specifically, we proposed to measure the wear rates of CMTs 4 times per year, then use the average wear rate from the last 4 quarterly CMT tests as a basis for the BCWR. We also proposed that CMTs used to determine the wear rate be no more than 6 months old at the commencement of the test and that the difference in production dates of the CMTs being tested be not greater than 3 months. If CMTs being tested were more than 6 months old, we proposed that the average wear rate be reduced by 10 percent.

**B. Comments on the NPRM**

We received 2 comments on the NPRM, one from the Rubber Manufacturers Association (RMA), and the other from Uniroyal Goodrich Tire Manufacturing (Uniroyal).

*1. General*

RMA opposed the proposals in the NPRM, stating that our action in freezing the BCWR at 1.34 in the final rule of September 9, 1996 was sufficient to solve the treadwear inflation

problem. Uniroyal generally supported the agency's intent in trying to ensure the consistency of the treadwear grades from year to year, but believed that this can be accomplished more efficiently than by the procedures that we proposed.

Both opposed our proposal to require that CMTs be not more than 6 months old when tested to determine the BCWR, arguing that that requirement would increase the costs of production, shipping, and storage for all manufacturers with no additional benefit for consumers. Uniroyal, the sole current manufacturer of E-1136 tires, stated that having to test CMTs that are 6-months old and within 3 months' production dates of each other would mean that testers would specify the most recent CMTs rather than take a chance on reducing their wear rates by 10 percent. This would require that CMTs be produced on a quarterly basis. Uniroyal stated that E-1136 tires are already produced in extremely small quantities and that more frequent production would be logistically impossible. RMA stated that the complexities associated with coordination, production, shipping, storage, and testing of CMTs and candidate tires within a 6-month period is not realistic. Both commenters agreed that the cost and logistical problems of producing E-1136 tires so frequently and in such small quantities would increase the unit cost of such tires by a factor of 3 to 4 and could result in less lot-to-lot consistency.

Both commenters supported a requirement that CMTs be tested within 1 year after production. RMA stated that if the proposals in the NPRM are not withdrawn, it requested that no penalties be applied to tires tested within 1 year of production. RMA argued that the aging characteristics of CMTs and candidate tires would contribute to a "leveling effect" which, together with the logistical restrictions of production, shipping, and storage, would minimize any difference in tread life during the first year. RMA stated, however, that for CMTs older than 1 year, any penalty should be no more than 5 percent. Uniroyal recommended that E-1136 CMTs be utilized for testing up to 1 year after production, with no more than 3 months' difference in production dates between the tires tested.

*2. Additional Uniroyal Comments*

a. Uniroyal suggested using a linear relationship to adjust for aging of CMTs rather the "step" function that the agency proposed. Uniroyal referred to NHTSA study DOT HS 808-701, Critical Evaluation of UTQG Treadwear Testing & Methodology, which found an aging effect of approximately 5 percent per year for cave-stored tires and about 10 percent for non-cave-stored tires. Thus, Uniroyal encouraged the continued use of cave storage for CMTs.

Uniroyal recommended that tires used in NHTSA's tests be used as soon as they are received from the cave and the BCWR calculated as follows:

$$ABCWR = BCWR * \left[ 1 - \frac{TESTWK - DOTWK}{52} CMT * AAF_c \right]$$

Where:

ABCWR=Adjusted Base Course Wear Rate  
BCWR=Base Course Wear Rate  
TESTWK - DOTWK<sub>CMT</sub>=Difference, in weeks, between date at start of test and CMTDOT

AAF<sub>c</sub>=Age Adjustment Factor for cave-stored tires=0.05

The new adjusted base course wear rate will be obtained by using average wear rate from the last 4 quarterly tests conducted by NHTSA.

$$1 - \frac{DOTWK - DOTWK_{TST}}{52} CMT * AAF_o$$

(b) Since NHTSA showed in its study that CMTs that were not continually cave-stored aged at twice the rate of those that were, Uniroyal proposed the following calculation for the adjustment factor if the production date of the CMT is older than that of the candidate tire:

Thus, the grade (P) would be computed as follows:

<sup>2</sup> The NPRM originally called for a comment closing date of August 4, 1998. At the request of the

Rubber Manufacturers Association, however, we

extended the comment period until October 5, 1998 (63 FR 41538, August 4, 1998).

$$P = \frac{\text{Projected Mileage} - \left[ \frac{\text{DOTWK}_{\text{TST}} - \text{DOTWK}_{\text{CMT}} * \text{AAF}_o}{52} \right] * \text{ABCWR}}{402}$$

Where:

ABCWR=Adjusted Base Course Wear Rate (from a. above)

$\text{DOTWK}_{\text{TST}}$  =

DOTWK<sub>CMT</sub>=Difference, in weeks, between candidate tire and CMT

AAF<sub>o</sub>=Age Adjustment Factor for tires stored at test site after leaving cave=0.10

If the candidate tire is equal to or older than the CMT tire, no adjustment is made.

c. NHTSA should measure the CMT wear rate at least 4 times per year and include CMTs approximately one year old in their measurements. The inclusion of older CMTs in these measurements would result in a long term record of the aging effect and verify (or not) the approximately 5 percent per year age effect reported in DOT HS 808-701.

### C. Discussion

For the past few years, NHTSA has been studying various ways to arrest the consistent decline in the BCWR that we believe has been the primary cause of the inflation that has plagued the treadwear grading system almost from the beginning. That treadwear grade inflation was the basis on which we froze the BCWR at 1.34 mils in the final rule of September 9, 1996 (61 FR at 47441), which became effective March 9, 1998. The elapsed time since then has not given us sufficient data on which to determine whether the freezing of the BCWR has had the desired effect of arresting the treadwear grade inflation altogether, although preliminary indications are that it has had a very positive effect on the problem. In addition to contributing to the arrest of the treadwear grade inflation, however, the procedures specified in this final rule are intended to provide CMT replacement procedures that would be valid in all circumstances. We could use these procedures, for example, if ASTM changed its design specifications of the E-1136 tires; if E-1136 tires became unavailable and we were required to substitute other tires for use as CMTs; or in the event of a significant change in the surface of the test road course. Finally, these procedures will enable us to test the assumption of batch uniformity of ASTM-specification tires.

NHTSA is persuaded by the comments of the RMA and Uniroyal that

it is not logistically feasible to produce E-1136 tires as frequently and in such small lots as would be necessary to consistently provide CMTs that are less than 6 months old. We have historically procured about 200 CMTs per year, retaining 12 for our own use and providing the remainder to other testers. In making the CMT test runs 4 times per year, we will now consume 64 CMTs per year, but the other testers are expected to consume about the same number as before. Therefore, the increase in the number of CMTs consumed per year is relatively small and not enough to justify Uniroyal's having to make more production runs of CMTs than before, with the additional logistical problems of lot-to-lot consistency, storage, and shipping.

Because of Uniroyal's production and logistical constraints on the manufacture of E-1136 tires, we have decided that the most practical solution would be to require that CMTs used in establishing the BCWR be less than 1 year old, instead of not more than 6-months old as we proposed. Further, we will not require that the CMTs used in the testing have production dates within 3 months of each other, nor will we require the 10 percent adjustment for tires over the prescribed age since this could create a demand for newer tires that would disrupt Uniroyal's production schedule. We are, however, requiring that CMTs be cave-stored until used<sup>3</sup> and that, in addition to being not more than 1 year old, the CMTs must be used within 2 months after being removed from cave storage. The 2-month requirement is intended to minimize any degradation while in uncontrolled storage conditions. The aging of up to 1 year in the cave could result in a degradation of up to 5 percent, an amount that we have decided to accept under the circumstances as the best compromise available within the economic constraints of the CMT supply system.

Although the rate of treadwear degradation due to aging is not an exact science, our experience has been that tires stored outside the cave degrade at approximately 10 percent per year,

<sup>3</sup> Uniroyal ships its E-1136 tires immediately after production to a storage facility located in a cave in the Ozark mountains. This facility has a constant temperature of about 60 °F, and is remote from ozone-producing electrical equipment.

while tires stored under the controlled climatic conditions of the cave degrade at a significantly lower rate, no more than a nominal 5 percent. The above computations that Uniroyal suggested would compensate for that possible 5 percent aging degradation, if meticulous records were kept of the amount of time each CMT spent in the cave and in uncontrolled storage and if our estimate of the aging effect were accurate. We believe that the proposed Uniroyal computation is too complicated in relation to the small increase in accuracy. Therefore, for the sake of simplicity and, as stated above, considering that the treadwear measurement is not a precision test, we are willing to accept the possibility of tire degradation of up to 5 percent, which might result in the slight overgrading of candidate tires.

Accordingly, we adhere to the formula

$$P = \text{Projected mileage} * \text{BCWR}_n / 402$$

that we proposed in the NPRM.

In summary, this final rule revises the procedure for measuring the wear rate of CMTs by running them over the test course 4 times per year, then using the average wear rate from the last 4 quarterly CMT test runs as a basis for the BCWR. The CMTs used in the test runs must be not more than 1 year old at the commencement of the test and must be used within 2 months after being withdrawn from storage.

This final rule makes one additional change. NHTSA has been leasing a warehouse to store the CMTs for sale to other testers. Given the amendments made by this final rule, NHTSA need no longer store the CMTs for the testers. They can purchase tires directly from the manufacturer for less than what NHTSA was charging. Accordingly, we are amending 575.104(e)(1)(ii) to delete the sentence stating that CMTs are available from NHTSA.

### Rulemaking Analyses and Notices

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

This document was not reviewed under Executive Order 12866,

#### Regulatory Planning and Review

NHTSA has analyzed the impact of this rulemaking action and has determined that it is not "significant" under the DOT's regulatory policies and

procedures. This action changes the calculation for determining the base course wear rate of course monitoring tires which is, in turn, used to determine the treadwear grade of candidate tires under the Uniform Tire Quality Grading Standards. This action does not impose any additional costs on motor vehicle or tire manufacturers, distributors, or dealers. Instead, it permits tire manufacturers greater flexibility in their testing programs and could result in slightly lower costs by permitting them to procure course monitoring tires directly from the manufacturer rather than through NHTSA, as has been the practice in the past. Specifically, NHTSA has been leasing a warehouse to store the CMTs for sale to other testers. We have charged them a markup on each tire to cover our storage and handling expenses. Given the amendments made by this final rule, NHTSA need no longer store the CMTs for the testers. They can purchase tires directly from the manufacturer for less than what NHTSA was charging, which also saves NHTSA the time, trouble, and expense of storage and handling. We estimate that this will save the tire companies approximately \$24,000 per year. Accordingly, because the cost savings are minimal, the agency did not prepare a full regulatory evaluation.

#### *b. Regulatory Flexibility Act*

The agency has considered the effects of this rulemaking action under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* I hereby certify that this rulemaking action will not have a significant impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The amendments proposed herein will primarily affect manufacturers of passenger car tires. The Small Business Administration (SBA) regulation at 13 CFR part 121 defines a small business in part as a business entity "which operates primarily within the United States" (13 CFR 121.105(a)).

SBA's size standards are organized according to Standard Industrial Classification (SIC) codes. SIC code No. 3711, *Motor Vehicles and Passenger Car Bodies*, has a small business size standard of 1,000 or fewer employees. SIC code No. 3714, *Motor Vehicle Parts and Accessories*, has a small business size standard of 750 or fewer employees.

The amendments in this rulemaking action merely change the testing procedure for and calculation of the treadwear grade under the Uniform Tire Quality Grading Standards. The purpose

of this new procedure is to arrest the treadwear grade inflation that has been experienced over the past several years. The amendments will make it necessary for NHTSA to conduct additional testing to determine the base course wear rate from which treadwear grades are calculated by tire manufacturers. The amendments, however, will not impose any additional requirements or burdens on tire manufacturers, most of which do not qualify as small businesses under SBA guidelines. Thus, the new procedures will not result in any increase in costs for tire manufacturers, small businesses, or consumers. Accordingly, there will not be any significant impact on small businesses, small organizations, or small governmental units by the amendments in this final rule. Thus, the agency has not prepared a final regulatory flexibility analysis. Annual expenditures from this final rule will not exceed the \$100 million threshold.

#### *c. Executive Order 13132 (Federalism)*

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule has no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

#### *d. National Environmental Policy Act*

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

#### *e. Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1980, Pub.L. 96-511, NHTSA states that there are no information collection requirements associated with this rulemaking action.

#### *f. Civil Justice Reform*

The amendments made by this final rule will not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision thereof may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, the United

States government or a state or political subdivision of a state may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. Section 30161 of Title 49, U.S. Code sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings is not required before parties may file suit in court.

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

Consumer information, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR Part 575 is amended as follows:

#### **PART 575—CONSUMER INFORMATION REGULATIONS**

1. The authority citation for Part 575 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 575.104 is amended by revising paragraph (e)(1)(ii), paragraph (e)(2)(ix)(C), and paragraph (e)(2)(ix)(F), to read as follows:

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

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(ii) Treadwear grades are evaluated by first measuring the performance of a candidate tire on the government test course, and then correcting the projected mileages obtained to account for environmental variations on the basis of the performance of the course monitoring tires run in the same convoy.

\* \* \* \* \*

(2) \* \* \*

(ix) \* \* \*

(C) Determine the course severity adjustment factor by dividing the base course wear rate for the course monitoring tires (see *Note* to this paragraph) by the average wear rate for the four course monitoring tires.

**Note to paragraph (e)(2)(ix)(C):** The base wear rate for the course monitoring tires will be obtained by the government by running ASTM E-1136 course monitoring tires for 6,400 miles over the San Angelo, Texas, UTQGS test route 4 times per year, then using the average wear rate from the last 4 quarterly CMT tests for the base course wear rate calculation. Each new base course wear rate will be filed in the DOT Docket

Management section. This value will be furnished to the tester by the government at the time of the test. The course monitoring tires used in a test convoy must be no more than one year old at the commencement of the test and must be used within two months after removal from storage.

\* \* \* \* \*

(F) Compute the grade (P) of the NHTSA nominal treadwear value for each candidate tire by using the following formula:

$P = \text{Projected mileage} \times \text{base course wear rate}_n / 402$

Where base course wear rate<sub>n</sub> = new base course wear rate, *i.e.*, average treadwear of the last 4 quarterly course monitoring tire tests conducted by NHTSA.

Round off the percentage to the nearest lower 20-point increment.

\* \* \* \* \*

Issued on May 11, 2000.

**Rosalyn G. Millman,**  
Acting Administrator.

[FR Doc. 00-12873 Filed 5-23-00; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 000119014-0137-02; I.D. No. 112399C]

RIN 0648-AM48

#### Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2000 Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule, final specifications, and commercial quota adjustment for the 2000 summer flounder, scup, and black sea bass fisheries; notification of commercial quota harvest.

**SUMMARY:** NMFS issues the final specifications for the 2000 summer flounder, scup, and black sea bass fisheries. The annual specifications for the scup fishery include a new provision to restrict fishing in certain areas during certain time periods to reduce discards of scup in small-mesh fisheries. This action contains preliminary adjustments to the 2000 commercial quotas for the summer flounder, scup, and black sea bass fisheries. This action also prohibits

federally permitted commercial vessels from landing summer flounder in the State of Delaware for the year 2000. The intent of this document is to comply with implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) that require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of these fisheries.

**DATES:** Effective 0001 hours, May 24, 2000, through 2400 hours, December 31, 2000.

**ADDRESSES:** Copies of the Environmental Assessment (EA)/Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), including the Essential Fish Habitat Assessment are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>. Comments regarding the collection-of-information requirements contained in this final rule should be sent to the Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Regina L. Spallone, Fishery Policy Analyst, (978)281-9221, fax (978)281-9135, e-mail [regina.l.spallone@noaa.gov](mailto:regina.l.spallone@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The FMP was developed jointly by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3' N. latitude (the latitude of Cape Hatteras Light, NC) northward to the U.S./Canada border. Implementing regulations for these fisheries are found at 50 CFR part 648, subparts A, G (summer flounder), H (scup), and I (black sea bass).

Pursuant to §§ 648.100 (summer flounder), 648.120 (scup), and 648.140 (black sea bass), the Regional Administrator, Northeast Region,

NMFS, (Regional Administrator) implements measures for the fishing year to assure that the target fishing mortality (F) or exploitation rate for each fishery, as specified in the FMP is not exceeded. The target F or exploitation rate and management measures are summarized below by species. Detailed background information regarding the development of the proposed specifications was provided in the proposed specifications for the 2000 summer flounder, scup and black sea bass fisheries (65 FR 4547, January 28, 2000), and is not repeated here. NMFS will publish a proposed and final rule for the 2000 recreational management measures for these fisheries in the **Federal Register** at a later date.

On April 25, 2000, during the last stages of review of this final rule, the United States Court of Appeals for the District of Columbia Circuit (Court) issued an opinion on a challenge to the 1999 summer flounder specifications by a number of environmental groups. The Court noted that the 1999 quota, when adopted, had only an 18-percent likelihood of meeting the conservation goals of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Court invalidated the 1999 quota and remanded the case to NMFS for further proceedings. The Court set a minimum standard for harvest quotas to comply with the Magnuson-Stevens Act, namely that quotas must have at least a 50-percent probability of achieving the target fishing mortality rate.

Given the timing of the opinion and the urgency of regulating the ongoing fishery that began in January, after careful consideration, NMFS has concluded that it must have some measures in place establishing quotas for these fisheries. Therefore, rather than leaving the fisheries unregulated while it addresses the Court's remand, NMFS is proceeding with publication of the rule as drafted at this time. In addition, the specifications for summer flounder are intimately linked to the specifications for the scup and black sea bass fisheries, which were not part of the litigation. All of these specifications must be in place immediately in order to manage effectively the recreational fishery, to monitor the state-by-state commercial quotas, and to restrict landings by Federal permit holders upon attainment of those quotas—measures necessary to control the overall mortality on the summer flounder stock.

NMFS considers it a matter of the highest urgency to address the remand of the Court and will work with its