

11.2 kilometers (6.9 miles) north in order to avoid short-spacing conflicts with the licensed site of Station WBKJ(FM), Channel 286C1, Kosciusko, Mississippi, and with a construction permit for Station WLPX(FM)[formerly WYCG(FM)], Channel 288A, Water Valley, Mississippi. The coordinates for Channel 286A are at Oxford 34-28-06 and 89-30-33. With this action, this proceeding is terminated.

**DATES:** Effective October 7, 1996. The window period for filing applications will open on October 7, 1996, and close on November 7, 1996.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 96-93, adopted August 16, 1996, and released August 23, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### **PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### **§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Channel 286A at Oxford.

Federal Communications Commission.

John A. Karousos,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 96-22843 Filed 9-6-96; 8:45 am]

**BILLING CODE 6712-01-F**

## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

#### **49 CFR Part 575**

[Docket No. 94-30, Notice 06]

**RIN 2127-AF17**

#### **Consumer Information Regulations: Uniform Tire Quality Grading Standards**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Uniform Tire Quality Grading Standards to: Revise treadwear testing procedures to maintain the base course wear rate of course monitoring tires at its current value of 1.34. This revision is expected to eliminate treadwear grade inflation, reduce testing expenses, and reduce the environmental consequences of operating test convoys for the purpose of calculating the base course wear rate for each new batch of course monitoring tires; and add a top end traction grading category of "AA" to the current traction grading categories of A, B, and C. The new AA category will make possible the differentiation of tires with the very highest traction characteristics from those with lower traction characteristics.

**DATES:** This final rule is effective March 9, 1998.

Any petition for reconsideration of this rule must be received by NHTSA not later than October 24, 1996.

**ADDRESSES:** Petitions for reconsideration should refer to the docket and notice numbers noted above for this rule and be submitted to the Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street SW, Room 5109, Washington, DC 20590; telephone (202) 366-4949. Docket room hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** For technical issues: Mr. Orron Kee, Chief, Consumer Programs Division, Office of Planning and Consumer Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW, Room 5307, Washington, DC 20590; telephone (202) 366-0846; FAX (202) 493-2739. For legal issues: Mr. Walter K. Myers, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW, Room 5219, Washington, DC 20590; telephone (202) 366-2992; FAX (202) 366-3820.

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I. Introduction

This final rule amends the Uniform Tire Quality Grading Standards (49 CFR 575.104) to fix the base course wear rate of course monitoring tires at a permanent value of 1.34, and establishes an AA traction grade. A proposal in the agency's Notice of Proposed Rulemaking of May 24, 1995 (60 FR 27472) to rescind the temperature resistance grade and substitute therefor a fuel economy grade based on low rolling resistance characteristics of tires is not addressed in this notice (see the discussion in paragraph II(d) below).

II. Background

(a) *Current Provisions.* Section 30123(e) of Title 49, United States Code 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. Pursuant to that congressional mandate, NHTSA promulgated the Uniform Tire Quality Grading Standards (UTQGS) in 49 CFR 575.104. The UTQGS apply to new pneumatic tires for use on passenger cars, except deep tread, winter-type snow tires, space-saver or temporary-use spare tires, tires with nominal rim diameters of 10 to 12 inches, and limited production tires as defined in § 575.104(c)(2).

The UTQGS require tire manufacturers and tire brand name owners to grade their tires with respect to their relative treadwear, traction, and

temperature resistance performance. Treadwear grades are shown by numbers, such as 100, 150, and 200, while traction and 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 Standard No. 109, *New pneumatic tires*.

(1) *Treadwear*. Treadwear is graded by first running the tires being graded, called "candidate tires," over a selected 400-mile segment of public highway near 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 truck vehicles. Each driver remains in the same position within the convoy. The vehicles are rotated among the 4 positions in the convoy regularly as are the positions of the tires on the test vehicles so that the tires get equal time with each driver, each vehicle, and each wheel position.

"Course monitoring tires" (CMT) are used as the control standard in grading candidate tires. CMTs are specially designed and built to American Society for Testing and Materials (ASTM) standard E1136 to have narrow limits of variability. When NHTSA procures a new batch, or lot, of CMTs, the agency establishes a new base course wear rate (BCWR) for that lot. The BCWR, measured in miles per thousand miles (MPTM), is established 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. A course severity adjustment factor (CSAF) for the CMTs is determined 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 is then multiplied by the CSAF to determine the adjusted wear rate (AWR) of the new CMTs, which then becomes the BCWR for the new CMTs.

Once the BCWR for the new CMTs is established, these CMTs are used to grade candidate tires. Upon completion of the 6,400-mile test, the BCWR is divided by the average wear rate of the CMTs to determine the CSAF for the candidate tires. That factor is then applied to the wear rates of the candidate tires to obtain the AWR of the candidate tires. That AWR is then extrapolated to the point of wearout (considered to be 1/16th inch of remaining tread depth), which is then converted to the treadwear rating of the tire.

The BCWR is intended to provide a common baseline by which to grade candidate tires by relating all new CMTs to the original lot of CMTs. However, NHTSA has noted that the BCWRs of successive new lots of CMTs have been steadily declining over the years. Specifically, the first lot of CMTs procured from Goodyear Tire and Rubber Company (Goodyear) in 1975 yielded a BCWR of 4.44. The latest batch, procured by the agency in 1995, produced a BCWR of 1.34.

The significance of the decrease in the BCWR rate is that as the BCWR decreases, the treadwear grade increases. Consequently, the newer treadwear grades have increased to the point that they have become a somewhat misleading indicator of actual tread life when compared to tires tested with higher BCWRs.

(2) *Traction*. Traction grades are established by locked-wheel braking tests of traction on wet asphalt and wet concrete surfaces at the Uniform Tire Quality Grading Test Facility (UTQGTF), located at Goodfellow Air Force Base near San Angelo, Texas. A test trailer is equipped first with two control tires manufactured in accordance with ASTM standard E501. The trailer is towed over the wet asphalt surface at a speed of 40 miles per hour (mph) and one wheel equipped with a control tire is locked. The traction coefficient of that tire is recorded continuously and averaged for a period of 0.5 to 1.5 seconds after lockup. The UTQGTF is arranged so that the test trailers traverse both the asphalt and the concrete test surfaces in a loop. The test is repeated for a total of 10 times on each surface for each tire and the measurements taken on a surface are averaged to determine the control tire's traction coefficient for that surface. The purpose of testing the control tires is to monitor the friction properties of the asphalt and concrete surfaces to account for daily fluctuation due to environmental factors and the polishing effects of sustained use.

The same procedure is used to measure the locked-wheel braking traction coefficients of candidate tires. The measured traction coefficients of candidate tires are adjusted by the difference between the nominal coefficients of the control tires on the test surfaces (0.50 for the asphalt surface and 0.35 for the concrete surface) and the actual coefficient of the control tire run simultaneously with the candidate tire. Using this procedure, the measured coefficients of all candidate tires are adjusted to a common pavement friction basis for each of the test surfaces.

The grades of the candidate tires are currently designated as "A", "B", and "C". A tire achieving a high level of traction performance on both the wet asphalt (above 0.47 $\mu$ ) and the wet concrete (above 0.35 $\mu$ ) surfaces is graded "A." A tire achieving medium traction performance (above 0.38 $\mu$  on wet asphalt and above 0.26 $\mu$  on wet concrete) is graded "B." A tire achieving a traction performance level of 0.38 $\mu$  or less on the wet asphalt and 0.26 $\mu$  or less on wet concrete is graded "C."

(b) *Request for Comments*. As a result of the White House Conference on Global Climate Change held on June 10 and 11, 1993, the White House issued a report announcing nearly 50 initiatives to reduce greenhouse gas emissions in the United States. The report, entitled "Climate Change Action Plan," was issued on October 19, 1993 and, among other things, calls for reduction of greenhouse gas emissions to 1990 levels by the year 2000. One such initiative called for DOT, through NHTSA, to issue new rules and test procedures requiring tire manufacturers to test and label tires relative to their fuel economy based on their rolling resistance.<sup>1</sup>

Pursuant to the Climate Change Action Plan, NHTSA published a Request for Comments on April 25, 1994 (59 FR 19686) seeking responses to a series of questions regarding available data on rolling resistance and testing procedures. The notice also posed questions concerning whether and how the treadwear testing procedures should be changed; and whether a traction grade of "AA" should be created to identify those tires with clearly superior traction characteristics. NHTSA also asked whether the UTQGS should include peak traction, how it should be measured and expressed, and the cost of measuring peak traction.<sup>2</sup> NHTSA noted that if peak traction performance of tires differed substantially from sliding traction, an alternative traction grading procedure might be necessary.

(c) *Notice of Proposed Rulemaking*. After consideration of the 34 timely comments received in response to the Request for Comments, NHTSA published a Notice of Proposed

<sup>1</sup> Action #22: "DOT, through the National Highway Traffic Safety Administration, will adopt test procedures and new DOT rules requiring tire manufacturers to test and label (for fuel economy based on rolling resistance). DOT will also create a consumer-focused publicity program and a monitoring program in order to realize maximum benefits. The Administration is proposing to obligate \$0.3 million in FY 1995 for this action and \$2 million through 2000."

<sup>2</sup> Peak traction is the primary traction force in anti-lock braking systems in which maximum braking action is obtained while the tire is still rolling.

Rulemaking (NPRM) on May 24, 1995 (60 FR 27472), with a comment closing date of July 10, 1995.

(1) *Treadwear*. The agency proposed to freeze the BCWR of the CMTs used in treadwear grading at its then-current value of 1.47 MPTM in an attempt to reduce treadwear grade creep.

The agency explained in the NPRM that it had considered many possible explanations for the consistent decrease in the BCWR of the CMTs, such as differences in climatic variations, changes in course severity, non-uniformity of wear rates among tires in the same lot, effects of aging and storage of CMTs, and errors in the BCWR calculation. To minimize the aging/storage factor, the agency now wraps CMTs in polyethylene bags for storage in a facility in which, although not temperature controlled, the temperature varies only between 50° and 90° Fahrenheit throughout the year. The agency then proposed fixing the BCWR at 1.47 MPTM to address the possibility of an error in the BCWR calculation. The agency believed that in addition to reducing, if not eliminating, the treadwear grade inflation, fixing the BCWR at a single figure would eliminate the time and expenditure of scarce resources required for operating test convoys for each new lot of CMTs, as well as eliminating the environmental impacts of operating those convoys.

(2) *Traction*. The agency further proposed to create a traction grade of "AA" to distinguish those tires with superior traction characteristics from those with lower traction performance characteristics.

NHTSA noted in the NPRM that analysis of traction data since 1989 revealed that traction performance has improved to the extent that the current grading system does not adequately differentiate between tires with varying levels of traction performance, particularly the tires showing the highest levels of traction performance. To address that situation, the agency solicited comments in the Request for Comments on whether the traction grading rules should be amended to differentiate more clearly between the highest performing tires. After considering the responses to the Request for Comments, NHTSA proposed to establish a new traction grading category of "AA" for tires achieving traction coefficients of more than 0.54 $\mu$  on wet asphalt and more than 0.41 $\mu$  on wet concrete<sup>3</sup>. NHTSA stated that since

the "AA" category would be optional, manufacturers would incur no additional costs beyond modifying paper labels and sales brochures to reflect 4 traction grades instead of three. On the other hand, an "AA" category might provide an incentive to manufacturers to improve the traction performance of their tire lines.

With respect to the peak traction data solicited in the Request for Comments, NHTSA decided, based on the comments received, not to propose inclusion of peak traction in the traction ratings at this time. NHTSA noted that the majority of vehicles currently on the road are not equipped with ABS. The significance of that fact is that those vehicles continue to depend on sliding traction rather than peak traction for maximum stopping action. In addition, several tire manufacturers commented that peak traction performance is highly correlated with sliding traction performance.

(3) *Fuel Economy*. The agency proposed in the NPRM to rescind the temperature resistance grade and substitute therefor a fuel economy rating based on low rolling resistance characteristics of the tire.

(4) *Comments*. The NPRM generated 120 comments, all of which addressed the fuel economy proposal, while 10 commented on the traction proposal and 12 on the treadwear proposal. Commenters to the fuel economy proposals included several members of the U.S. Congress; the Secretary of Energy; tire manufacturers, wholesalers, and retail dealers, including their foreign plants and subsidiaries; environmental, safety, and consumer advocates; educators; and members of the public. Except for a certain few tire manufacturers, the majority of the tire industry and certain members of Congress strongly opposed the fuel economy proposal. The Secretary of Energy, on the other hand, along with most advocacy groups and most members of the public, supported it.

In response to a number of requests, the agency extended the NPRM comment period to August 14, 1995 (60 FR 34961, July 5, 1995) and hosted a public meeting on the UTQGS proposals on July 28, 1995. Twenty-five representatives of the groups enumerated above made oral presentations at the meeting while a number of others, including several members of Congress, filed written submissions. Nearly all the statements presented at the meeting, whether oral or written, addressed the fuel economy issue, expressing positions on both sides of the issue. Thereafter, in response to further requests, the agency again

extended the NPRM comment period to September 1, 1995 to permit participants at the public meeting an opportunity to file written responses to matters presented at the public meeting (60 FR 42496, August 16, 1995).

Although the comment period closed on September 1, 1995, NHTSA continued to receive correspondence on both sides of the rolling resistance issue, including letters from various members of the Congress.

(d) *DOT Appropriations Act of 1996*. In early November, 1995, while NHTSA was still evaluating the comments and data from the NPRM and the public meeting, the Transportation Appropriations Act for Fiscal Year 1996 was enacted. Amendment number 66 to that Act prohibited the obligation or expenditure of any funds

[T]o plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

NHTSA discontinued rulemaking activity on the fuel economy issue, but continued to assess the comments on the treadwear and traction proposals. Accordingly, this final rule addresses only the latter two proposals.

(e) *Public Comments on the NPRM*.

(1) *Treadwear*. Some commenters supported the proposal to fix the BCWR at the current figure, others supported the proposal as better than nothing, and still others opposed it. Regardless of their support for fixing the BCWR at a single figure, all commented that the present treadwear test procedure is inadequate and a new test procedure should be devised.

Michelin, The Cooper Tire Company (Cooper), Continental General Tire, Inc. (CGT), and the Rubber Manufacturers Association (RMA) supported the proposal to fix the BCWR at its current value so that further grade inflation will not occur. RMA and CGT agreed that the BCWR should be fixed immediately at 1.34 to prevent any further deterioration of the treadwear grades. Bridgestone/Firestone, Inc. (BF) supported fixing the BCWR, although it regards the BCWR itself as invalid in view of the consistency of the quality of modern tires. Similarly, Hercules Tire and Rubber Company (Hercules) supported freezing the BCWR at its current value "or simply scrapping the system and starting over." Goodyear commented that the treadwear grade itself should be removed from the UTQGS because as manufacturers' treadwear warranties continue to improve, the treadwear labels under the UTQGS become less

<sup>3</sup> The preamble in the NPRM erroneously discussed a traction coefficient value of 0.41 $\mu$  for the wet concrete surface. The correct value should have been 0.38 $\mu$ .

significant for tire consumers. If the grade is not eliminated, however, Goodyear supports freezing the BCWR at its current value. Nevertheless, the company, like some other commenters, believes the treadwear test to be unreliable, inaccurate, cumbersome, costly, and environmentally unfriendly.

The Kelly Springfield Tire Company (Kelly) and Multinational Business Services, Inc. (MBS) oppose fixing the BCWR at a single figure. The European Tyre and Rim Technical Organisation (ETRTO) stated that changing the BCWR would be misleading to consumers because too many factors have an influence on the test results. Kelly stated that the treadwear grade should be eliminated and that freezing the BCWR would not make the treadwear rating any less confusing to consumers. Advocates for Highway and Auto Safety (Advocates), MTS Systems Corporation (MTS), and Herzlich Consulting, Inc. (Herzlich) expressed no opinion on freezing the BCWR, but commented at length on the inadequacy of the treadwear test. Advocates stated that using CMTs to determine the treadlife of all candidate tires creates test conditions that are arguably much less demanding than actual operating conditions on the road. MTS stated that the treadwear test should be conducted in an indoor test lab under controlled, repeatable conditions.

(2) *Traction*. Ten commenters, including 8 tire manufacturers, submitted comments on the "AA" traction proposal. Two supported the proposal, while the rest opposed it.

In support of the proposal, Michelin stated that creation of an additional traction grade would provide more differentiation between tires with superior traction characteristics without having to redefine the current A, B, and C levels. ETRTO stated that the present traction grades are generally acceptable and should be maintained, but if NHTSA wants to add a grade to indicate higher traction characteristics, ETRTO would prefer to maintain the present grades as they are and add an "AA" grade.

In opposing the addition of an "AA" grade to the traction category, Goodyear, Cooper, Dunlop, and CGT all stated that the traction test procedures were flawed and should be revised to reflect more accurately the true traction characteristics of tires. Goodyear, Dunlop and Kelly stated that the test procedure does not allow tires designed for hydroplane resistance to demonstrate that feature. Goodyear asserted that the average water depth of 0.02 inches used in the UTQGS test procedure is less than half the industry

standard depth of 0.05 inches. Thus, the water depth used in traction grading favors tires with less void area. Dunlop suggested that a hydroplaning test be conducted in water depths of up to 15 millimeters (0.6 inches). Finally, Goodyear repeated its assertion made in earlier comments that the new test pads used at the UTQGS caused traction grades to go down, and adding an "AA" grade would only accentuate the flaws in the test procedure.

Cooper asserted that the current test procedure is not repeatable or sensitive enough to detect the real differences between tires. For example, the ASTM "standard" tire is a straight-ribbed bias tire designed to be specially sensitive to differences in road surfaces, while candidate tires are commercial radial tires designed to yield good traction performance over a wide range of road surfaces and weather conditions.

Dunlop stated that the traction test is an insufficient basis for a traction grade because it is only a straight-ahead test on a damp surface. Dunlop and CGT suggested that, to be more accurate, the test should include accelerating traction, cornering traction, and traction testing under varying ambient conditions. Dunlop also suggested that if the current traction test procedures were not eliminated, a wet lateral braking test should be conducted over 2 different friction surfaces where deceleration Gs are measured and stopping distances calculated. Finally, Dunlop suggested adding the word "wet" to traction labels because the current straight-ahead test renders the traction rating "inconclusive" as a benefit to consumers whose vehicles are equipped with ABS.

MBS stated that the traction rating, based solely on sliding traction, is not helpful because it indicates nothing about other traction characteristics. MBS asserted that the traction rating should include peak traction performance for consumers with vehicles equipped with ABS. Kelly, however, stated that although there is a correlation between peak and sliding traction and that both values can be considered for grading purposes, the results are dependent on the differences among the various types of ABS systems. Thus, since a significant majority of vehicles in service are not equipped with ABS, sliding traction values rather than peak traction values should be retained for the traction ratings.

MBS and Dunlop argued that adding an AA grade could confuse consumers and mislead them because straight-ahead, sliding traction may not be best for ABS-equipped vehicles. Kelly stated

that consumers could be confused by the limited amount of differentiation within the AA category. MBS and Cooper stated that the traction test should be redesigned and improved to be repeatable, sensitive, and relevant, and that research and testing should be conducted to ascertain the correlations among the different tire traction characteristics.

Advocates strongly opposed adding an AA rating to the UTQGS. Rather, Advocates favored increasing the minimum requirements for the existing grades. Advocates argued that adding an AA grade would not be as much of an incentive for tire manufacturers to improve the traction characteristics of their tires as would increasing minimum grade requirements. Advocates further asserted that adding an AA grade would only give manufacturers an excuse to charge higher prices for more highly-rated tires, thereby providing them larger profits.

Finally, Kelly stated that although the cost of tire mold reworking would be minimal, the costs associated with the proposed change would not be insignificant. Kelly stated that the 6,750 paper labels used in the Kelly production scheme would have to be changed to reflect the 4-grade traction rating system when only a very small number of higher grade changes would occur. Kelly asserted that the cost of changing those labels would be significant due to the necessity for new artwork, production of new labels, and subsequent destruction or other disposal of obsolete labels. CGT estimated that adding an AA grade would incur costs of \$48,000 for new labels and required point-of-sale information. Like Kelly, Dean Tire & Rubber Company argued that adding an AA rating to the UTQGS would increase costs with no commensurate benefit.

### III. Agency Decision

(a) *Treadwear*. NHTSA does not disagree that the treadwear grading procedure could be further improved. NHTSA does disagree, however, with Goodyear and Kelly that the treadwear grade should be eliminated. As the agency noted in the NPRM, 74 percent of consumers are familiar with the treadwear rating and 29 percent consider it in purchasing tires. Thus, the solution is not to eliminate the treadwear rating, but to improve the grading procedure to make the rating as meaningful and helpful as possible to the tire-buying public.

As stated above, when the NPRM was published on May 24, 1995, the then-current BCWR was 1.47 MPTM. Since that time, a new lot of CMTs was

procured and calibrated with a BCWR of 1.34. Thus, the BCWR continues its steady decline. To control that decline, this final rule announces the freezing of the BCWR at 1.34. Nothing in the comments has dissuaded NHTSA from believing that freezing the BCWR at 1.34 will significantly reduce, if not eliminate altogether, any variation in the grading results between lots. The agency also believes that the use of ASTM-specification tires with strict quality control will also contribute to controlling any lot-to-lot variations. NHTSA notes that the changes in the BCWRs have been consistently in the downward direction. If tire performance were changing appreciably due to production variables, the BCWR could be expected to change randomly in either direction.

NHTSA also disagrees with the commenters that stated that manufacturers' treadwear warranties have progressed to the point that they can supplant the UTQGS treadwear ratings. One manufacturer acknowledged that manufacturers' treadwear warranties are not always based on test results. Further, not all tires carry manufacturers' warranties and the terms of such warranties are not uniform. Accordingly, NHTSA believes that the UTQGS treadwear ratings are more accurate, consistent, and meaningful to consumers than manufacturers' warranties because the UTQGS ratings are based on uniformly applicable criteria.

The commenters' suggestions for changing the treadwear grading procedure fall into 2 basic categories: Revising the road test and developing a laboratory test. The commenters favoring the revised road test stated that the San Angelo test course is too mild and that, with the great improvement in treadwear in recent years, a test of only 6,400 miles does not provide sufficient tread wear on which to base reliable projections to wearout. The commenters that favored the laboratory test argued that a lab test would eliminate the need for CMTs and test convoys and would provide consistent, repeatable test results. In neither case did commenters suggest any specific test procedures nor offer any data that could form the basis for development of revised tests. NHTSA believes that adoption of either of these alternatives could entail considerable expenditure of funds and resources. Expansion of the road test to more closely approximate full-life testing of treadwear would increase the test duration and significantly increase costs and environmental impact. NHTSA's experience has shown that laboratory test machines lose

repeatability because the abrasive surfaces of the test wheels tend to fill up with rubber particles. Accordingly, NHTSA does not believe that either of these alternatives is practicable at this time. The agency has, however, requested the assistance of the ASTM F9 committee in devising a better treadwear test. In addition, the agency intends to request data on the effects of aging on treadwear performance and storage procedures to reduce aging in a future Federal Register notice.

NHTSA believes, therefore, that until a better treadwear grading procedure can be devised, the BCWR should be fixed at its present value of 1.34 MPTM. The establishment of a BCWR for a new lot of CMTs does not normally need to be promulgated by rulemaking action published in the Federal Register. In this case, however, since the agency solicited public comment on its proposal to change the procedure for calculating the BCWR by fixing it at a permanent value, the agency deems it appropriate to announce this decision in the Federal Register.

(b) *Traction.* As noted above, Goodyear again commented that the new skid pads at the UTQGTF are more severe than the old pads in traction rating. NHTSA notes that the skid pads were changed in December 1991, and acknowledges that there may be a statistical difference in test results between the new pads and the old pads. Since the old pads no longer exist, however, the agency is not able to make a comparison for the purpose of devising a possible correction factor. Nevertheless, the agency believes that any differences in the test results do not significantly affect the traction ratings of tire lines and in any case, new tire lines should by now, after nearly 5 years, have replaced those tested on the old skid pads. Thus, most tires should by now be graded on a common basis.

Several commenters proposed other types of traction testing, including the testing of hydroplaning, cornering, acceleration, and peak traction characteristics, and testing in various water depths, ambient conditions, and road surfaces. While the agency regards these suggestions as worthy of consideration, they go beyond the scope of the proposals in the NPRM. Those traction factors could, however, be the subject of future agency research.

While Dunlop's suggestion that the traction grade be labeled "wet traction" on the tire sidewall and on other required labels may be somewhat more informative to the public, such a change would require the modification of tire molds, tread labels, and point-of-sale brochures. NHTSA believes that the

costs associated with such a subtle change could not be justified by any perceived benefit.

NHTSA does not agree with Advocates' suggestion for raising the cutoff values for the existing traction grades rather than establishing a new grading category. The agency believes that considerable public confusion could be generated during the transition to the higher cutoff values where tires bearing the same grade but with significantly different traction characteristics are available side-by-side on store shelves. Such a transition could be lengthy because changing tire molds could take as long as 2 to 3 years and some tires may remain in dealers' stocks for a year or more. Further, since the UTQGS are only consumer information and do not establish minimum traction performance levels, the agency believes that simply adding an "AA" grade to the UTQGS traction ratings is the simplest, least confusing, least burdensome, and most cost effective way of differentiating between those few tire lines with the highest traction performance characteristics and those tire lines with lower levels of performance.

Advocates expressed concern that manufacturers would increase their prices for AA rated tires to the detriment of consumers. NHTSA acknowledges that manufacturers may choose to increase the prices of their AA traction-rated tires. However, the agency regards that as the type of marketing decision that manufacturers, distributors, and dealers are free to make in response to any product rating program. NHTSA believes that a tire rated AA for traction identifies that tire as one with superior traction performance and even if it costs slightly more, the consumer is advised of the specific characteristics of the tire from which he or she can make an informed purchasing decision.

NHTSA believes that while there may be some costs associated with the preparation and printing of tread labels and point-of-sale brochures, such costs can be minimized with adequate lead time. Manufacturers typically revise their labels and brochures annually, presumably not printing them in unlimited quantities. Thus, a lead time of 18 months should permit new labels and brochures to be prepared and printed in accordance with the normal business cycle, without undue scrapping of obsolete material. With respect to changing tire molds, the agency notes that since an AA rating is optional, tire manufacturers have an unlimited time in which to change molds on qualifying tire lines, if they decide to rate their tires with a traction

grade of AA at all. Accordingly, NHTSA believes that the minor costs associated with this rulemaking are well justified by the value of this rulemaking to consumers (see detailed discussion of costs and benefits in Section IV, below).

The agency proposed the AA rating criteria in the NPRM based on the statistical distribution of traction test results of 254 tire lines tested on the new skid pads at the UTQGTf. The distribution of the traction coefficients of the tested tires showed a mean, or average, value of 0.516 on wet asphalt and 0.364 on wet concrete, with a standard deviation of 0.029 on the wet asphalt and 0.017 on the wet concrete. Since those calculations were made, NHTSA has tested 40 additional tire lines. The mean plus one standard deviation for the entire population of 294 tires is 0.548 for asphalt and 0.387 for concrete. This compares to the values of the mean minus one standard deviation of 0.484 for asphalt and 0.341 for concrete, which are close to the current threshold values for the A grade. The agency believes that the proposed AA traction grade threshold is statistically compatible with the ranges for the A grade and the combined ranges of the B and C grades since, of the 294 tires tested, only 34 (12 percent) would qualify for the AA traction grade while 213 (72 percent) would qualify for the A grade. Thus, there should be approximately the same number of tire lines graded AA as are graded B and C.

#### IV. Cost/Benefit Analysis

(a) *Treadwear.* The fixing of the BCWR at a permanent value of 1.34 MPTM will not cause the Federal government or tire manufacturers to incur any additional costs. Instead, it will substantially reduce the cost of CMTs to tire testers and remove the necessity for the government to contract for one test convoy each year.

Tire manufacturers routinely purchase CMTs from lots procured by the government for testing of their tire lines. Prior to September 1, 1995, NHTSA charged \$304.50 per tire. A DOT Inspector General audit, however, concluded that NHTSA was not recovering the full cost of purchasing, storing, and testing the CMTs. By final rule published on August 2, 1995 (60 FR 39269) NHTSA started charging \$379.00 per tire, effective September 1, 1995. That charge included the government's purchase price of \$250.00, \$45.00 in testing costs to establish the BCWR, \$34.00 for storage costs, and \$50.00 for general facility costs and related salaries.

NHTSA estimates that fixing the BCWR at a permanent value will

eliminate the need to calibrate new lots of CMTs, perhaps even eliminating the need for the government to purchase and store CMTs for resale. The savings to the government realized by not having to procure and store CMTs for resale and by not having to operate at least one test convoy per year is difficult to quantify. However, manufacturers purchasing CMTs from the government, even though they would no longer need to, could realize savings of from \$45.00 to \$95.00 per tire. At least the \$45.00 testing cost could be saved, as well as perhaps some or all of the storage and/or facility costs.

Although the specific benefits of this change are also difficult to quantify, it is expected to reduce or eliminate the treadwear grade inflation experienced in the past, thereby relieving manufacturers of the possible need to retest certain tire lines and providing consumers more consistent and reliable treadwear grade information.

(b) *Traction.* The addition of an AA traction grade will not require any additional testing by manufacturers. Further, as previously noted, the assessing of an AA traction grade is optional for manufacturers. Accordingly, any costs associated with changing tire molds to show an AA grade can be phased in at the manufacturers' convenience and during the regular course of reworking the molds for their tire lines. In any case, only a very few tire lines will be affected. Accordingly, NHTSA estimates that there should be no additional mold or testing costs to manufacturers as a result of this change.

The only additional costs required by this change will be to indicate the existence of a new traction grade on tread labels and point-of-sale brochures. CGT estimated this cost to be \$48,000. Pirelli estimated the cost of new artwork for labels to be \$12,000 and the cost of brochures and dealer price books at \$104,000. Kelly stated that 6,750 label designs would need to be changed, but gave no cost figure. Goodyear estimated that it would cost \$26,000 for new labels and \$120,000 for new point-of-sale brochures. MBS estimated that the costs of new labels and brochures would be \$15 million for the tire industry.

None of the commenters specified whether the costs they quoted were additional annual costs or whether those were one-time costs associated with adding a description of the AA grade for the first time. Tire manufacturers update and reissue their labels and brochures periodically, normally annually, to account for new tire lines and improvements or changes in existing tire lines. It follows,

therefore, that once a description of the AA grade is printed on/in the labels and brochures, that description can be repeated without change on subsequent labels and brochures without adding any additional costs to those printings. Accordingly, the agency assumes the figures quoted above are one-time costs only.

The MBS estimate of \$15 million appears to be very high, compared to the figures estimated by the manufacturers themselves. Even so, NHTSA regards \$15 million as a maximum figure applicable to the entire tire industry that, as previously pointed out, would be a one-time expenditure only.

This change will substantially benefit consumers by allowing them to identify those tire lines with the highest traction performance characteristics, thereby providing them even greater tire selectivity and allowing them to make even more-informed choices. In addition, NHTSA believes that introduction of an AA traction rating will provide an incentive to tire manufacturers to improve the traction performance of new tire lines, thereby contributing to motor vehicle safety.

#### V. Rulemaking Analyses and Notices

##### (a) *Executive Order No. 12866 and DOT Regulatory Policies and Procedures*

This document was reviewed under Executive Order No. 12866, *Regulatory Planning and Review*. NHTSA has analyzed the impact of this rulemaking action and has determined that it is "significant" under the DOT's regulatory policies and procedures because the proposal which preceded it contained an issue of substantial public and congressional interest. That issue, the substitution of a fuel economy grade for the existing temperature resistance grade, is not addressed in this final rule.

The Preliminary Regulatory Evaluation prepared by this agency for the 1995 NPRM remains valid as to the amendments adopted in this final rule. See section IV, Cost/Benefit Analysis, above for a full discussion of cost savings, additional costs, and proposed anticipated benefits of this rulemaking.

##### (b) *Regulatory Flexibility Act*

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that the amendments promulgated by this final rule will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis has not been prepared.

The agency believes that few, if any, tire manufacturers qualify as small

businesses. Small businesses, small organizations, and small governmental units may be affected by this rulemaking action only to the extent that they could possibly pay slightly more for tires that are graded AA for traction performance characteristics.

*(c) Executive Order 12612, Federalism*

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria of Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

*(d) National Environmental Policy Act*

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

*(e) Paperwork Reduction Act*

The provisions of this final rule requiring manufacturers to mold certain information into or onto the sidewalls of tires and to affix labels to tires explaining the tire quality grades for the benefit of consumers are considered to be third-party information collection requirements as defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The information collection requirements for 49 CFR 575.104 have been submitted to and approved by OMB pursuant to the provisions of the Paperwork Reduction Act, 44 U.S.C. § 3501, *et seq.* This collection of information authority has been assigned OMB control number 2127-0519, *Uniform Tire Quality Grading Standards, 49 CFR Part 575.104*, and has been approved for use through September 30, 1998.

*(f) Civil Justice Reform*

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision 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, a state may prescribe a standard for a motor vehicle or equipment obtained for its own use that imposes a higher performance requirement than the Federal standard. 49 U.S.C. § 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other

administrative proceedings is not required before parties may file suit in court.

List of Subjects in 49 CFR Part 575

Consumer protection, Motor vehicle safety, Reporting and recordkeeping, 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 (d)(1)(i)(B); (d)(1)(iii); (d)(2)(i); the introductory text of (d)(2)(ii); (e)(2)(ix)(C); Figure 1; Part I and the introductory text of Part II of Figure 2; and the paragraph entitled "Traction" in Part II of Figure 2; by adding paragraph (d)(2)(ii)(D); and by removing paragraphs (i), (j), (k), and (l), to read as follows:

**§ 575.104 Uniform Tire Quality Grading Standards.**

\* \* \* \* \*

(d) *Requirements*—(1) *Information.*

(i) \* \* \*

(A) \* \* \*

(B) Each tire manufactured on and after the effective date of these amendments, other than a tire sold as original equipment on a new vehicle, shall have affixed to its tread surface so as not to be easily removable a label or labels containing its grades and other information in the form illustrated in Figure 2, Parts I and II. The treadwear grade attributed to the tire shall be either imprinted or indelibly stamped on the label containing the material in Part I of Figure 2, directly to the right of or below the word "TREADWEAR." The traction grade attributed to the tire shall be indelibly circled in an array of the potential grade letters AA, A, B, or C, directly to the right of or below the word "TRACTION" in Part I of Figure 2. The temperature resistance grade attributed to the tire shall be indelibly circled in an array of the potential grade letters A, B, or C, directly to the right of or below the word "TEMPERATURE" in Part I of Figure 2. The words "TREADWEAR," "TRACTION," AND "TEMPERATURE," in that order, may be laid out vertically or horizontally. The text of Part II of Figure 2 may be printed in capital letters. The text of Part I and the text of Part II of Figure 2 need not appear on the same label, but the edges of the two texts must be

positioned on the tire tread so as to be separated by a distance of no more than one inch. If the text of Part I and the text of Part II of Figure 2 are placed on separate labels, the notation "See EXPLANATION OF DOT QUALITY GRADES" shall be added to the bottom of the Part I text, and the words "EXPLANATION OF DOT QUALITY GRADES" shall appear at the top of the Part II text. The text of Figure 2 shall be oriented on the tire tread surface with lines of type running perpendicular to the tread circumference. If a label bearing a tire size designation is attached to the tire tread surface and the tire size designation is oriented with lines type running perpendicular to the tread circumference, the text of Figure 2 shall read in the same direction as the tire size designation.

\* \* \* \* \*

(iii) In the case of information required in accordance with § 575.6(a) to be furnished to the first purchaser of a new motor vehicle, each manufacturer of motor vehicles shall, as part of the required information, list all possible grades for traction and temperature resistance and restate verbatim the explanation for each performance area specified in Figure 2. The information need not be in the format of Figure 2, but it must contain a statement referring the reader to the tire sidewall for the specific tire grades for the tires with which the vehicle is equipped.

(2) *Performance.*—(i) *Treadwear.* Each tire shall be graded for treadwear performance with the word "TREADWEAR" followed by a number of two or three digits representing the tire's grade for treadwear, expressed as a percentage of the NHTSA nominal treadwear value, when tested in accordance with the conditions and procedures specified in paragraph (e) of this section. Treadwear grades shall be expressed in multiples of 20 (for example, 80, 120, 160).

(ii) *Traction.* Each tire shall be graded for traction performance with the word "TRACTION," followed by the symbols AA, A, B, or C, when the tire is tested in accordance with the conditions and procedures specified in paragraph (f) of this section.

\* \* \* \* \*

(D) The tire may be graded AA only when its adjusted traction coefficient is both:

(1) More than 0.54μ when tested in accordance with paragraph (f)(2) of this section on the asphalt surface specified in paragraph (f)(1)(i) of this section; and

(2) More than 0.38μ when tested in accordance with paragraph (f)(2) of this

section on the concrete surface specified in paragraph (f)(1)(i) of this section.

\* \* \* \* \*

- (e) \* \* \*
- (2) \* \* \*
- (ix) \* \* \*

(C) Determine the course severity adjustment factor by assigning a base course wear rate of 1.34 to the course monitoring tires and dividing that rate by the average wear rate for the four course monitoring tires.

\* \* \* \* \*

- (i) Removed.
- (j) Removed.
- (k) Removed.
- (l) Removed.

\* \* \* \* \*

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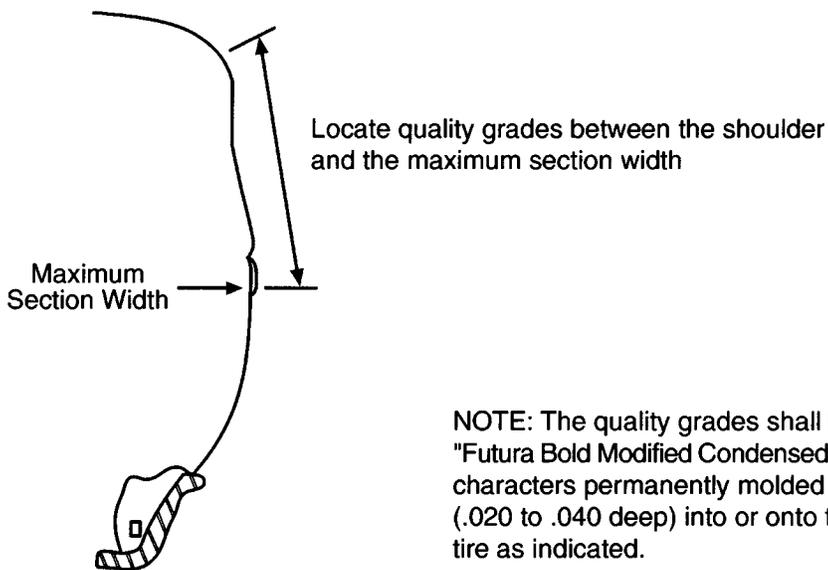
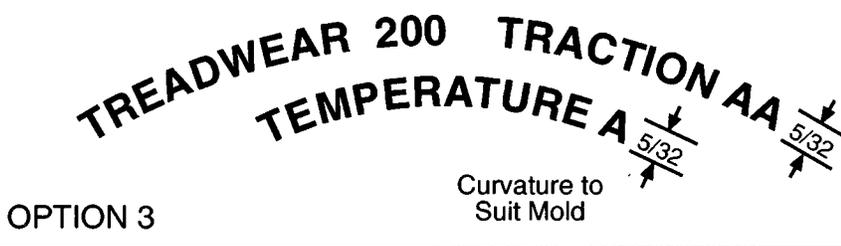
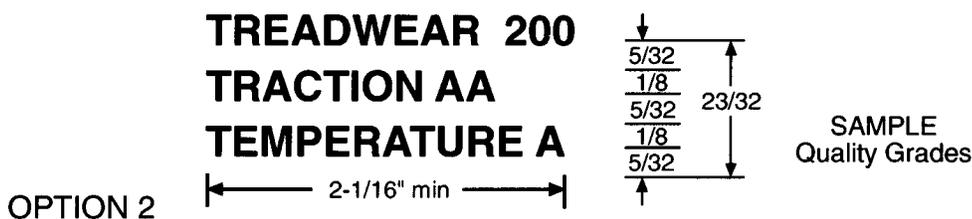
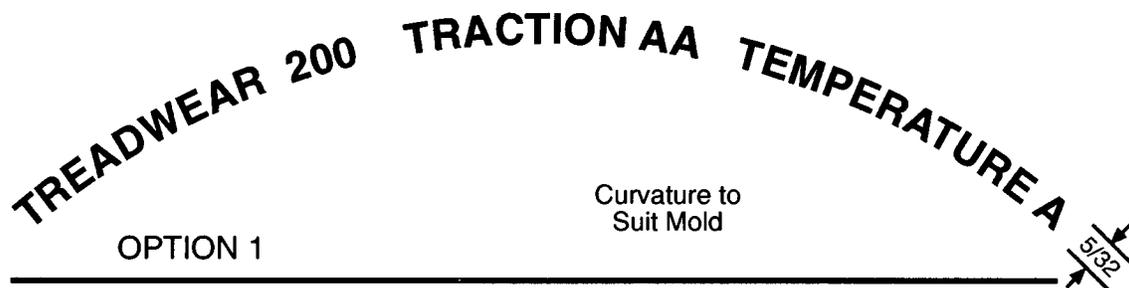


Figure 1

Figure 2—[Part I]—DOT QUALITY GRADES

TREADWEAR

TRACTION AA A B C

TEMPERATURE A B C

(Part II) All Passenger Car Tires Must Conform to Federal Safety Requirements In Addition To These Grades

\* \* \* \* \*

TRACTION

The traction grades, from highest to lowest, are AA, A, B, and C. Those grades represent the tire's ability to stop on wet pavement as measured under controlled conditions on specified government test surfaces of asphalt and concrete. A tire marked C may have poor traction performance. Warning: The traction grade assigned to this tire is based on straight-ahead braking traction tests, and does not include acceleration, cornering, hydroplaning, or peak traction characteristics.

\* \* \* \* \*

Issued on August 30, 1996.

Ricardo Martinez, Administrator.

[FR Doc. 96-22761 Filed 9-6-96; 8:45 am]

BILLING CODE 4910-59-P

Surface Transportation Board

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 35)]

Rail General Exemption Authority—Exemption of Ferrous Recyclables

AGENCY: Surface Transportation Board.

ACTION: Final rule.

**SUMMARY:** Pursuant to its authority under 49 U.S.C. 10502, the Surface Transportation Board is exempting from regulation the transportation by rail of blast furnace, open hearth, rolling mill or coke oven products, NEC (STCC Commodity Group No. 33-119). This commodity group is added to the list of exempt commodities, as set forth below, and is intended to eliminate unnecessary regulation.

**EFFECTIVE DATE:** October 9, 1996.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.] **SUPPLEMENTARY INFORMATION:** Since the Interstate Commerce Commission's<sup>1</sup>

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10701 *et seq.* Citations are to the current sections of the statute.

decision of May 16, 1995 (60 FR 26839, May 19, 1995), in this proceeding, which refrained from exempting commodities in STCC Commodity Group No. 33-119 because it included certain recyclable materials deemed to be nonferrous, Congress has passed the ICCTA. The ICCTA repealed the special statutory protections for transportation of nonferrous recyclable commodities.

As a consequence, because regulation of the rail transportation of commodities in STCC Commodity Group No. 33-119 is not necessary, rather than distinguishing between ferrous and nonferrous commodities within the commodity group, we will exempt the entire five-digit commodity group.

Regulatory Flexibility Act

The Board certifies that this exemption will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. This exemption will reduce regulation; it imposes no new reporting or other requirements directly or indirectly on small entities.

Environment and Energy

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1039

Intramodal transportation, Manufactured commodities, Railroads.

Decided: August 27, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams, Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1039 of the Code of Federal Regulations is amended as follows:

**PART 1039—EXEMPTIONS**

1. The authority citation for part 1039 is revised to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 10502 and 13301.

2. Section 1039.11, paragraph (a), is amended by adding the following new entry to the end of table:

**§ 1039.11 Miscellaneous commodities exemptions.**

(a) \* \* \*

STCC No.	STCC tariff	Commodity
33 119	6001-X, eff. 1-11-96	Blast furnace, open hearth, rolling mill or coke oven products, NEC.

\* \* \* \* \*

[FR Doc. 96-22916 Filed 9-6-96; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 960409106-6207-02; I.D. 031196A]

RIN 0648-AG26

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery Off the Southern Atlantic States; Amendment 1

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 1 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP). This rule prohibits trawling for rock shrimp in an area off the Florida east coast; requires permits for dealers and vessels in the rock shrimp fishery off the southern Atlantic states; requires dealers to report information needed to monitor the fishery; and requires that the initial sale, trade, barter, or transfer of rock shrimp harvested from the exclusive economic zone (EEZ) off the southern Atlantic states occur only between permitted dealers and permitted vessels. In addition, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule. The intended effect is to protect critical habitat and conserve and manage the rock shrimp fishery.

**EFFECTIVE DATES:** October 9, 1996; except that the amendments to §§ 622.4, 622.5, and 622.45 are effective November 1, 1996.

**ADDRESSES:** Requests for copies of the final regulatory flexibility analysis (FRFA) should be sent to Peter J. Eldridge, Southeast Regional Office,