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November 30, 2005

Mr. Stephen R. Kratzke
Associate Administrator for Rulemaking
National Highway Traffic Safety Administration
c/o Docket Management, Room PL – 401
400 Seventh Street, SW
Washington, D.C. 20590

VIA Department of Transportation Online Docket Management System

RE: DOT Docket No. NHTSA – 2005-22242 – Federal Motor Vehicle Safety Standards;
Cargo Carrying Capacity

Dear Mr. Kratzke:

The National Marine Manufacturers Association (NMMA) appreciates the opportunity to provide the National Highway Traffic Safety Administration (NHTSA) with additional comments regarding the new label requirements in Federal Motor Vehicle Safety Standards (FMVSS) No. 110 which applies to trailers less than 4,536 kilograms (10,000 pounds) Gross Vehicle Weight Rating (GVWR) and became effective on September 1, 2005.¹

NMMA is the nation's largest recreational marine industry association, representing more than 1,500 boat builders, engine manufacturers, and marine accessory manufacturers. NMMA members collectively produce more than 80 percent of all recreational marine products made in the United States. With 13 million registered boats and almost 69 million boaters nationwide, the recreational boating industry contributes \$33 billion annually to our nation's economy. One of NMMA's affiliates is the Trailer Manufacturers Association (TMA). TMA is comprised of trailer and trailer component manufacturers who are committed to industry promotion and use of the latest technical and safety standards. Its mission is to assist manufacturers in building the best boat trailers to enhance the boating experience. TMA members include manufacturers who specialize in manufacturing boat trailers, trailer components and accessories. The overwhelming majority of these manufacturers are small businesses.

¹ 70 Fed. Reg. 51,707 (Aug. 31, 2005) (proposing to revise FMVSS 110 and 120, 49 C.F.R. §§ 571.110 & 571.120); 70 Fed. Reg. 62,086 (Oct. 28, 2005) (extending the comment period and specifically mentioning the petition filed on behalf of a broad coalition that was entered into the DOT Docket No. NHTSA-2005-22242).

Background

As you recall, NMMA, along with a broad coalition of similarly affected parties, petitioned NHTSA to commence a rulemaking and to provide interim relief from the FMVSS No. 110 vehicle capacity and weight tire information which requires a vehicle manufacturer to know the accurate to the pound weight of the vehicle in order to calculate its cargo capacity.² The cargo capacity is the GVWR minus the vehicle's empty weight. Specifically, the coalition asked the agency to issue a final rulemaking authorizing or clarifying that:

1. The vehicle capacity weight statement required by FMVSS No. 110 allows for a reasonable tolerance in the calculation of "vehicle capacity weight" and that such vehicle capacity weight is "estimated."
2. Alternatively, that such vehicle capacity weight is "as originally manufactured."
3. When necessary, placards/labels may be modified in lieu of replacement.
4. When a part or accessory (equipment) is added to a vehicle, any revised cargo capacity weight may be calculated by subtracting from the stated cargo capacity weight on the existing tire placard or label, the supplier stated shipping weight of the equipment, or its weight as determined by use of a commercially reasonable scale.

The agency responded to this petition on October 4, 2005 by indicating that our concerns could be addressed in an already commenced rulemaking which addresses the cargo carrying capacity of motor homes and travel trailers over 4,536 kg (10,000 pounds) GVWR. In addition, the coalition's letter and the agency's response were added to the docket of this rulemaking. The agency noted in its October 4, 2005 letter that it will allow manufacturers to immediately comply with the proposed FMVSS No. 110 requirements and "will not challenge compliance on vehicles with GVWRs equal to or less than 4,536 (10,000 pounds) that meet the requirements of the proposed rule." According to the agency, this relief is effective until FMVSS No. 110 is amended.

NHTSA, in its August 31, 2005 proposed rule, included a measure of relief in response to concerns raised by the coalition about what must be done when optional equipment and accessories are added to a vehicle before its first retail sale that increases the vehicle's weight and decreases the weight allotted for passengers and cargo. Specifically, NMMA expressed its concern to NHTSA about boat dealers who are unfamiliar with the majority of motor vehicle requirements and who are overwhelmingly small businesses being required to replace a trailer manufacturer's original cargo capacity label. In NMMA's view, it would be prohibitively expensive and onerous for boat dealers to be required to weigh each and every boat trailer after adding an accessory prior to first retail sale. In addition, original trailer manufacturers were concerned about the resulting accuracy of the subsequent label. In response, NHTSA proposed that dealers be exempt from relabeling as long as the additional weight did not exceed 0.5% of

² The July 29, 2005 petition was signed by the Nat'l Assn. of Trailer Manufacturers, Nat'l Trailer Dealers Ass'n, Nat'l Automobile Dealers Ass'n, Nat'l Truck Equipment Ass'n, Nat'l Marine Manufacturers Ass'n, and the Recreation Vehicle Dealer Ass'n.

the vehicle's GVWR. In addition, dealers would no longer be required to replace the original manufacturer's cargo capacity label, but instead to add a new label next to it that reads:

“Caution – Cargo Carrying Capacity Reduced” Modifications to this vehicle have reduced the original cargo carrying capacity ____ by kilograms (____ pounds).

NMMA appreciates NHTSA taking such quick action to address some of the issues the coalition brought to it regarding the FMVSS No. 110 standard.

NMMA / Boat Trailer Manufacturers Comments and Concerns

NMMA would like to offer the following comments in addition to the petition originally submitted by the coalition.

New Dealer Label

NMMA supports the new dealer label proposed by NHTSA in the August 31, 2005 notice of proposed rulemaking. Boat trailer manufacturers do not support and warn against NHTSA adopting anything that would require or allow a dealer or other trailer modifier to replace an existing cargo capacity label to reflect items to the vehicle added prior the first sale and after certification. NMMA is especially pleased that NHTSA has allowed dealers to use shipping weight of the accessory items on the new label rather than require dealers to weigh each and every item added to a trailer prior to final sale.

Weight Tolerance for New Dealer Label & for Manufacturers

While NMMA appreciates that NHTSA allowed for a weight tolerance before a dealer would need to add this new reduction in cargo capacity label, unfortunately, the 0.5% tolerance is much too low to be of any regulatory relief. For example, this label would be required by a dealer adding more than 17.5 pounds to a 3,500 GVWR trailer (a common boat trailer GVWR). That amount would be exceeded by the extremely common addition of a spare tire and bracket. The weight of a spare tire and bracket, depending on the size tire and rim, will range from 44 pounds to 63 pounds. Adding a jack will add an additional 13 pounds. Other common additions include a bunk load guide (from 36 pounds to 114 pounds depending on the type of guide and the size of trailer) and a swing tongue (from 2 to 12 pounds). For these reasons, NMMA strongly urges NHTSA to consider a dealer tolerance of a minimum of 3% or 100 kgs. (220 lbs) (whichever is greater) in order to provide true regulatory relief. Any regulatory relief granted by a tolerance lower than 3% or 100 kgs. (220 lbs) (whichever is greater) would be illusory at best.

It is NMMA's view that such a tolerance level would not lead to a reduction of safety to consumers as many manufacturers are already building this figure into their current published cargo capacity ratings to protect against overloaded boat trailers. In addition, the boat trailer industry already takes great pains to inform consumers about the need to purchase a trailer that will more than adequately meet their capacity needs. For example, many manufacturers in their sales material provide consumers with a calculation chart to estimate the “wet weight of a boat.” This calculation includes adding the weights of the following to provide a realistic estimate of the consumer's cargo capacity needs: dry boat weight, motor, fuel (6 lbs per gallon), water (8.5

lbs per gallon) batteries (45 lbs per battery), and personal gear and accessories (lifejackets, food, etc.). Manufacturers explain that the carrying cargo capacity listed for each trailer is the maximum amount that the boat can weigh when being trailered and that the GVWR is the maximum amount that the boat and trailer combined can weigh.³

Although the majority of manufacturers are already overstating their boat trailer weights in the cargo capacity label, NMMA also requests that the agency provide a tolerance of 0.5% for manufacturers in the original label. This tolerance amount will account for the inaccuracies in scales (noted in the coalition's petition) and allow a margin of error for slight weight differences in same model designs. In addition, it provides a measure of regulatory relief for situations where a trailer is custom built to order and there is no need or opportunity for dealer add-ons. The regulatory burden on manufacturers by the cargo carrying capacity label requirement would be eased by making this change to the current regulation (FMVSS No. 110) and, since the amount is so minor, there would be no impact on vehicle safety.

Addition of "Originally Manufactured"

NMMA also requests that NHTSA amend the FMVSS No. 110 to allow manufacturers to note in the cargo capacity label the language "as originally manufactured." This will make it clear to the consumer that this information was accurate as the vehicle left the manufacturer and alert them to be aware that there may be an additional label to review before determining the vehicle's cargo capacity.

Plain English Guide & Interim Relief Notice

NMMA also asks that NHTSA develop a plain English guide for trailer manufacturers and dealers to educate them about the final regulatory requirements of FMVSS No. 110. In addition, the industry would greatly appreciate a statement that clearly explains the current interim regulatory relief. Right now an interested party must refer to items in the docket, multiple federal register notices and the C.F.R. to gain a true understanding of the regulatory relief available. Boat trailer manufacturers and boat dealers need a simple guide to inform them about the existence of the interim relief and how to comply with the parameters of that relief.

* * *

The National Marine Manufacturers Association appreciates the opportunity to provide comment on NHTSA's proposed changes to FMVSS No. 110 in response to the coalition petition. NMMA and its members have a long history of providing the boating public with safe and affordable boat trailers. This commitment to safety and a quality boating experience is why NMMA developed a trailer certification program to help boat trailer manufacturers comply with established industry standards and federal safety regulations. The NMMA Certified logo helps to inform the public of such compliance when purchasing a boat trailer.

³ An example of such sales material can be found at <http://www.ezloader.com/>.

Please do not hesitate to contact NMMA's Regulatory Counsel, Cindy Squires, Esq. at 202-737-9766 or csquires@nmma.org if you have any questions or need any additional assistance.

Respectfully submitted,

A handwritten signature in black ink that reads "Monita W. Fontaine". The signature is written in a cursive, flowing style.

Monita W. Fontaine, Esq.
Vice President Government Relations

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