



July 15, 2019

**SUBMITTED VIA REGULATIONS.GOV TO DOCKET# NHTSA-2019-0035**

Thomas Healy  
Trial Attorney  
Office of the Chief Counsel  
National Highway Traffic Safety Administration (NHTSA)  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590

RE: Notice of Proposed Rulemaking: Record Retention Requirement, 84 FR 21741, RIN 2127-AL81 (May 15, 2019).

Dear Mr. Healy:

On behalf of the U.S. Tire Manufacturers Association (USTMA), I am pleased to submit this letter commenting on the above-captioned rulemaking. As the national trade association for tire manufacturers that produce tires in the U.S., USTMA has a direct interest in this rulemaking. USTMA members operate manufacturing facilities in 17 states, employ nearly 100,000 workers and generate annual sales of more than \$27 billion. Our member companies include Bridgestone Americas, Inc.; Continental Tire the Americas, LLC; Cooper Tire & Rubber Company; Giti Tire (USA) Ltd.; The Goodyear Tire & Rubber Company; Hankook Tire America Corp.; Kumho Tire U.S.A., Inc.; Michelin North America, Inc.; Pirelli Tire LLC; Sumitomo Rubber Industries; Toyo Tire Holdings of Americas Inc. and Yokohama Tire Corporation.

Section 24403 of the Fixing America's Surface Transportation (FAST) Act of 2015<sup>1</sup> mandates NHTSA to lengthen the time that manufacturers of motor vehicles, tires and child restraint systems are required to maintain records required under 49 CFR 576.6 to a "period of not less than 10 calendar years from the date on which they were generated or acquired by the manufacturer."<sup>2</sup> In particular, the records

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<sup>1</sup> Public Law 114-94, sec. 24403(a).

<sup>2</sup> Id.

maintained under 49 CFR 576 pertain to “alleged and proven motor vehicle or motor vehicle equipment defects and malfunctions that may be related to motor vehicle safety.”<sup>3</sup>

We appreciate NHTSA’s selection of the shortest record retention period contemplated in the FAST Act mandate and recognize that Congress did not give NHTSA the flexibility to select a shorter time period for tires. We appreciate the care with which NHTSA crafted this NPRM and the interest in balancing increasing public safety of an aging vehicle fleet with avoiding undue burdens on manufacturers. We also appreciate the agency’s recognition that the “costs and burdens of extending the record retention period in Part 576 for manufacturers of child restraints and tires will be different than the costs and burdens to motor vehicle manufacturers.”<sup>4</sup> We oppose a recordkeeping retention requirement for tire-related information of greater than 10 years, given the use cases for tires and the typical life span of a tire model, and support NHTSA’s conclusion that “there is currently [no] justification to extend the records retention requirements in part 576 beyond the length required by the FAST Act.”<sup>5</sup> USTMA estimates that over 80 percent of tires are removed from service on vehicles within six years of manufacture, with more than 60 percent of tires removed in fewer than four years.<sup>6</sup>

USTMA understands NHTSA’s general assertion that the costs associated with retention of electronic records may be “minimal”.<sup>7</sup> However, NHTSA must consider potential incremental safety benefits when evaluating the potential regulatory burden of a proposed regulation. USTMA agrees with NHTSA that “the benefits of extending the records retention period beyond ten years do not outweigh any burden or costs to manufacturers that would result in a lengthened retention period.”<sup>8</sup> Of note in its notice, NHTSA opines on its previous attempts to extend the record retention period in part 576. In 1995, NHTSA first extended the record retention requirement in Part 576 from five years to eight years, only to rescind the rule in 1996, finding that the additional costs outweighed the potential safety benefits.<sup>9</sup> In 2001, when NHTSA proposed extending the free remedy period for recalled vehicles and equipment,

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<sup>3</sup> 49 CFR § 576.1.

<sup>4</sup> 84 FR 21741, 21743.

<sup>5</sup> *Id.* at 21743.

<sup>6</sup> Rubber Manufacturers Association – Scrap Tire Study Presentation and Data, NHTSA Docket No. NHTSA-2005-21276-0015. While the cited study dates from 2005, USTMA members’ internal data indicates that the study’s findings and conclusions remain valid and relevant today.

<sup>7</sup> 84 FR at 21743.

<sup>8</sup> *Id.* at 21742.

<sup>9</sup> *Id.* at 21742, 61 FR 274 (January 4, 1996).

NHTSA again proposed extending the recordkeeping requirements to ten years.<sup>10</sup> Once again, NHTSA decided against moving forward in its 2002 final rule, stating that “[its] investigative needs ... have been met by existing requirements” that records be retained for five years.<sup>11</sup> NHTSA does not provide any new quantitative or qualitative data in this notice to support the contention that now increasing the record retention requirement, as prescribed by Congress, from five to ten years would inure an additional safety benefit.

In fact, NHTSA notes that, as applied to motor vehicles, “lengthening the record retention period in part 576 beyond ten years would result in manufacturers being required to retain records generated late in the life of a vehicle, likely well after any defect trend has emerged,”<sup>12</sup> arguing against extending the record retention period beyond 10 years. Additionally, NHTSA provides information about how the age of the U.S. vehicle fleet has changed since 1974, when the five-year record retention period was established by Congress, stating that the average age of light vehicles had increased to 11.6 years in 2016, up from 5.7 years in 1974 for passenger cars (7 years for trucks).<sup>13</sup> However, although today’s vehicles last longer, tires face a similar duration cycle as compared to the past. Since vehicles (and the tires on them) see more miles per year and tires’ increased mileage has tracked consistently with increases in U.S. vehicle miles traveled per year (VMT), tires see roughly the same chronological age cycle relative to the past. In particular, while tire manufacturers have improved tire performance and endurance significantly in the 45 years since 1974, VMT has also increased dramatically during that same period. Since tire service life depends on a number of factors, including tread miles, road conditions and hazards, driving styles, tire maintenance and vehicle maintenance, vehicle miles traveled has a significant impact on tire replacement cycles. From 1970 to 2015, VMT increased nearly 280 percent, from 1,120,328 million miles to 3,095,373 million miles.<sup>14</sup> During that same period, U.S. shipments of passenger, light truck and truck tires increased just over 2.3 times from 146,287 million tires to 347,148 million tires.<sup>15</sup> The difference in the rates of increase show the increased levels of performance and

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<sup>10</sup> 66 FR 66189 (December 21, 2001).

<sup>11</sup> 67 FR 45821, 45868 (July 10, 2002).

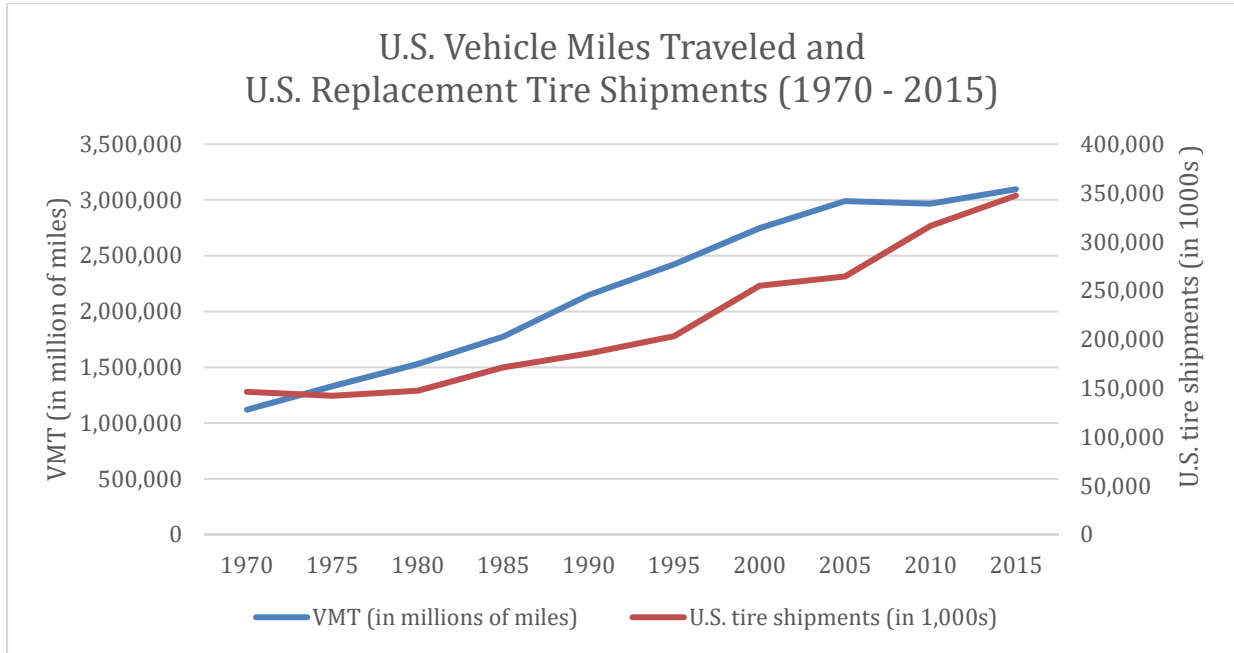
<sup>12</sup> 84 FR at 21743.

<sup>13</sup> Id. at 21742.

<sup>14</sup> Federal Highway Administration Office of Highway Policy Information Historical Monthly VMT Report, [https://www.fhwa.dot.gov/policyinformation/travel\\_monitoring/historicvmt.cfm](https://www.fhwa.dot.gov/policyinformation/travel_monitoring/historicvmt.cfm), accessed 13 July 2019.

<sup>15</sup> Rubber Manufacturers Association Fact Books 2005, 2011 and 2016.

longevity of modern highway tires, but reinforces the relationship between VMT and tire consumption. The table below shows the trends in VMT and U.S. replacement tire shipments 1970 – 2015.



These similar trends demonstrate why tire replacement cycles have remained stable over time as tire technology has improved. So, despite the upward trend in vehicle fleet age, tire replacement cycles remain comparable to past trends and do not support a modification to the existing record retention requirement. However, as stated above, we understand the statutory constraints and appreciate NHTSA’s selection of the shortest record retention period contemplated in the FAST Act mandate.

Thank you for the opportunity to provide these comments. Should you have any questions or require further information, please contact me at 202-682-4839 or [tnorberg@ustires.org](mailto:tnorberg@ustires.org).

Sincerely,

Tracey J. Norberg  
Senior Vice President & General Counsel  
U.S. Tire Manufacturers Association