



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

APR - 7 2006

400 Seventh Street, S.W.
Washington, D.C. 20590

John Russell Deane III, Esq.
General Counsel
Specialty Equipment Market Association
1317 F Street, NW, Suite 500
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Dear Mr. Deane:

This is in response to your November 30, 2005, letter concerning legal responsibilities of vehicle modifiers (i.e., entities that modify motor vehicles after the first retail sale) with respect to the requirements of S4.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, Tire selection and rims for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less. Specifically, you ask whether vehicle modifiers are obligated to replace the tire safety information placard required by S4.3, if the relevant information on the placard becomes inaccurate as a consequence of their actions. As discussed below, the answer is no.

By way of background, S4.3 of FMVSS No. 110 requires that vehicles with a GVWR of 10,000 pounds or less contain a placard showing certain critical tire safety information, including but not limited to, the vehicle capacity weight, the recommended inflation pressure, and the tire size designation. This information enables consumers to ascertain the cargo carrying limitations of their vehicles, and to properly inflate their tires. It also enables consumers to purchase correct size replacement tires.

49 U.S.C. §30122 prohibits manufacturers, distributors, dealers, or motor vehicle repair businesses from “making inoperative, in whole or in part” any part of a device or element of design installed on or in a motor vehicle in compliance with an applicable safety standard.

In your letter, you ask whether it would be a violation of the §30122 make inoperative provision if modifiers change a vehicle’s tire size, cold inflation pressure, and/or cargo capacity rating but do not update the tire placard.

In evaluating this question, we have focused on the language of S4.3 of FMVSS No. 110. One of the items of safety information required by that section is identified in paragraph (d), which reads as follows:



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888-327-4236

“Tire size designation, indicated by the headings “size” or “original tire size” or “original size,” and “spare tire” or “spare,” for the tires installed at the time of the first purchase for purposes other than resale. For full size spare tires, the statement “see above” may, at the manufacturer's option replace the tire size designation. If no spare tire is provided, the word “none” must replace the tire size designation;” [Emphasis added]

Thus, the requirement for one of the critical items of safety information to be provided on the tire placard is specifically expressed in terms of the “tires installed at the time of first purchase for purposes other than resale.” We also note that there is a relationship between a number of the items required to be specified on the tire placard.

We observe that regardless of what changes a modifier may make to a vehicle, it does not change the size of the tires that were installed at the time of the first purchase for purposes other than resale (the information S4.3 of FMVSS 110 requires to be on the placard). Given this, and recognizing the relationship between a number of the items required to be specified on the tire placard, it is our opinion that it would not be a violation of the §30122 make inoperative provision, with respect to S4.3 of FMVSS 110, if modifiers change the vehicle’s tire size, cold inflation pressure, and/or cargo capacity rating but do not update the tire placard.

We note that while our regulations do not require changes to the tire safety information placard if the changes to the vehicle occur after it is first sold for the purposes other than retail, the potential inconsistency between the information on the placard and the actual vehicle could in some cases be misleading and dangerous to vehicle operators. Specifically, relying on what has become inaccurate information, vehicle operators could over-inflate or under-inflate their tires, thereby creating a safety hazard. Also, vehicle operators could overload their vehicles, which also would create a safety hazard. Finally, vehicle operators could end up purchasing incorrect replacement tires (e.g., original tire size not appropriate for aftermarket rim), erroneously relying on the placard that is no longer accurate.

In light of these concerns and consistent with previous interpretation letters concerning post-sale modifications relating to a vehicle’s Gross Vehicle Weight Rating (May 24, 1993, letter to Mr. John Paul Barber, Esq., and April 2, 1997, letter to Mr. James Baker), we would urge a party which modifies a used vehicle so that the tire safety information is no longer accurate to either add a new label to the vehicle which indicates the correct tire safety information or add a warning label (preferably proximate to the placard) indicating that the tire safety information placard is no longer accurate.

We would like to conclude this letter with a couple of observations. First, I note that your letter suggested that the “make inoperative” provision should not apply to the situation

because it was not discussed by the agency during the FMVSS 110 rulemaking. However, because the “make inoperative” provision is statutory and applies to all FMVSSs, the agency does not separately address this statutory prohibition in each rulemaking action.

I also note that this interpretation applies only to modifications occurring after the first retail sale. With respect to vehicles altered prior to first retail sale, S4.3.2 of FMVSS No. 110 specifically requires that a new tire information placard replace the original placard if the previously certified vehicle has been altered such that the information on the existing placard is no longer valid.

If you have further questions, you may contact Mr. George Feygin of my staff at (202) 366-2992.

Sincerely,



Stephen P. Wood,
Acting Chief Counsel