

SE., East Building, Washington, DC 20590, phone: (202) 366-1626; or Christopher S. Van Wyk, Office of Chief Counsel, same address, phone: (202) 366-1733.

**SUPPLEMENTARY INFORMATION:** By this notice, FTA is withdrawing circular C5620.1, "Guidelines for Preparing Environmental Assessments." The circular was intended to provide guidance on the preparation of environmental assessments pursuant to the National Environmental Policy Act of 1969 (NEPA). Since the time of the circular's issuance in 1979, there have been numerous substantive legal decisions and changes in applicable law that significantly affect the way in which environmental assessments are prepared pursuant to NEPA. These changes, including a major revision of FTA's regulations for implementing NEPA at 23 CFR Part 771 issued in 1987, have rendered the circular too inaccurate and deficient to continue to provide guidance on the preparation of environmental assessments pursuant to NEPA. Thus, FTA is providing this notice that the circular is withdrawn, should no longer be used as guidance, and should no longer be cited in documents prepared for federally funded transit projects.

The circular will be moved to the "archive" section of its public Web site on the date of publication of this notice. FTA plans to develop new guidance at some point in the future.

Issued on: January 12, 2009.

**Sherry E. Little,**

*Acting Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0074; Notice 2]

#### Goodyear Tire & Rubber Company, Denial of Petition for Decision of Inconsequential Noncompliance

Goodyear Tire & Rubber Company (Goodyear), has determined that certain passenger car tires manufactured during the week of January 7, 2008 failed to comply with the labeling requirements of paragraph S5.5.1(a) of 49 CFR 571.139, Federal Motor Vehicle Safety Standard (FMVSS) No. 139 *New Pneumatic Radial Tires for Light Vehicles*. FMVSS No. 139 requires that radial tires manufactured before September 1, 2009 for use on motor vehicles that have a gross vehicle weight

(GVWR) rating of 10,000 pounds or less must be labeled with the Tire Identification Number (TIN) on one side of the tire and a full TIN or partial TIN on the opposite side. Pursuant to 49 CFR Part 573, Goodyear filed a noncompliance report with the National Highway Traffic Safety Administration (NHTSA) notifying NHTSA of the noncompliance.

Pursuant to 49 U.S.C. 30118(d) and 30120(h), and 49 CFR part 556, on March 28, 2008, Goodyear submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 on the basis that this noncompliance is inconsequential to motor vehicle safety. NHTSA published notice of receipt of the petition, with a 30-day public comment period, on June 12, 2008 in the **Federal Register**, 73 FR 33486. In response to the petition, NHTSA did not receive any comments. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2008-0074."

For further information on this decision, contact Mr. George Gillespie, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5299, facsimile (202) 366-7002.

#### Summary of Goodyear's Petition

Goodyear petitioned NHTSA for a determination that a noncompliance in approximately 18 Goodyear Eagle RS-A P235/55R18 99V passenger car tires manufactured in its Lawton, Oklahoma plant during the week of January 7, 2008 is inconsequential to motor vehicle safety. Paragraph S5.5.1(a) of FMVSS No. 139 requires that radial tires manufactured before September 1, 2009 for motor vehicles less than 10,000 GVWR be permanently labeled with (1) a full TIN required by 49 CFR Part 574 on one sidewall of the tire, and (2) except for retreaded tires, either the full or a partial TIN containing all characters in the TIN, except for the date code, and at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire.<sup>1</sup>

In its petition, Goodyear stated that the 18 Goodyear Eagle RS-A P235/

55R18 99V passenger car tires were mismarked.

Goodyear described the noncompliance as a failure to mark the tires with a complete or partial TIN on the sidewall opposite the sidewall with the full TIN. Thus, Goodyear describes the noncompliance as follows:

Actual stamping is "NOT FOR SALE" (on one sidewall) Correct stamping should be: "M60Y LNER." (on that sidewall).

Goodyear makes the argument that this noncompliance is inconsequential to motor vehicle safety because the tires meet or exceed all other applicable FMVSS performance standards, and that the tires were designed, manufactured and tested to the standards and regulations as applicable and they meet all regulatory performance test requirements.

Goodyear also explains its belief that the Tire Identification Number (TIN) and the partial TIN are used to properly identify tires that are involved in a safety campaign. Goodyear stated its belief that the full TIN is molded on the intended outboard sidewall of these tires and consumers could be directed to have both sidewalls inspected for the TIN if any safety campaign would be required for these tires in the future. Goodyear compared this situation to that of any tire involved in a safety campaign that required the 4-digit week and year code to determine if it were involved.

Goodyear also stated that it has corrected the problem that caused these errors so that they will not be repeated in future production.

In summation, Goodyear states that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

#### NHTSA's Decision

NHTSA does not agree that Goodyear's noncompliance with FMVSS No. 139 is inconsequential to motor vehicle safety. As discussed below, the tire markings required by paragraph S5.5.1(a) of FMVSS No. 139 provide valuable information to assist consumers in determining if their tires are the subject of a safety recall.

The Firestone tire recalls in year 2000 highlighted the difficulty that consumers experienced when attempting to determine whether a tire is subject to a recall if the tire is mounted so that the sidewall bearing the TIN faces inward, i.e., underneath the vehicle. After a series of congressional hearings about the safety of and experiences regarding the Firestone tires involved in those recalls,

<sup>1</sup> Tires manufactured after September 1, 2009 must be labeled with the TIN on the intended outboard sidewall of a tire and either the TIN or partial TIN on the other sidewall. 49 CFR 571.139 S5.5.1(b). If a tire manufactured after September 1, 2009 does not have an intended outboard sidewall, one sidewall must be labeled with the TIN and the other sidewall must have either a TIN or partial TIN. *Id.*

Congress passed and the president signed into law the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act on November 1, 2000. Public Law 106-414. 114 Stat. 1800.

One matter addressed by the TREAD Act was tire labeling. Section 11 of the TREAD Act required a rulemaking to improve the labeling of tires to assist consumers in identifying tires that may be the subject of a recall.

In response to the TREAD Act's mandate, NHTSA published a final rule that, among other things, required that the TIN be placed on a sidewall of the tire and a full or partial TIN be placed on the other sidewall. *See* 67 FR 69600, 69628 (November 18, 2002), as amended 69 FR 31306 (June 3, 2004). In the preamble to the 2002 final rule, the agency identified the safety problem which prompted the issuance of the rule. 67 FR at 69602, 69606 and 69610. The agency explained that when tires are mounted so that the TIN appears on the inward facing sidewalls, motorists have three difficult and inconvenient options for locating and recording the TINs. Consumers must either: (1) Slide under the vehicle with a flashlight, pencil and paper and search the inside sidewalls for the TINs; (2) remove each tire, find and record the TIN, and then replace the tire; or (3) enlist the aid of a garage or service station that can perform option 1 or place the vehicle on a vehicle lift so that the TINs can be found and recorded. Without any TIN information on the outside sidewalls of tires, the difficulty and inconvenience of obtaining the TIN by consumers results in a reduction of the number of people who respond to a tire recall campaign and the number of motorists who unknowingly continue to drive vehicles with potentially unsafe tires.

Goodyear suggests that a recall of these tires could include an instruction to check the inboard sidewall if the TIN is not found on the outboard sidewall. This approach is inadequate. The noncompliance here is the exact problem that plagued millions of Firestone tire owners in 2000 and one that Congress mandated that NHTSA address. When the TIN is placed on one sidewall of a tire and that sidewall is mounted on the inboard side of a wheel, it is very difficult and inconvenient for the consumer to locate and record the TIN. In such situations, consumers who attempt to determine if a tire is within the scope of a recall may not be able to read the inboard sidewall without taking one of the three inconvenient steps discussed above. The difficulty and inconvenience that locating a TIN under these circumstances poses serious

impediments to the successful recall of the noncompliant tire, which may result in motorists continuing to drive their vehicles with potentially unsafe tires.

While NHTSA has determined in the past that in some instances TIN marking omissions were inconsequential to motor vehicle safety, those determinations occurred prior to the adoption of FMVSS No. 139 pursuant to the TREAD Act. Following the enactment of the TREAD Act, NHTSA found that there is a safety need for a full TIN on one sidewall and a full or partial TIN on the other sidewall. As previously discussed, FMVSS No. 139 now requires TIN markings on both sidewalls of a tire so that consumers can readily determine if a tire is subject to a safety recall. Accordingly, the omission of a TIN or partial TIN on either sidewall is now considered to be a serious safety problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Goodyear's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

**Authority:** (49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: January 13, 2009.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

[FR Doc. E9-1012 Filed 1-16-09; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

January 13, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before February 20, 2009 to be assured of consideration.

### Internal Revenue Service (IRS)

*OMB Number:* 1545-1962.

*Type of Review:* Extension.

*Form:* 8899.

*Title:* Notice of Income Donated Intellectual Property.

*Description:* Form is filed by charitable org. receiving donations of intellectual property if the donor provides a timely notice. The initial deduction is limited to the donor's basis; additional deductions are allowed to the extent of income from the property, reducing excessive deductions.

*Respondents:* Businesses or other for-profits.

*Estimated Total Burden Hours:* 5,430 hours.

*OMB Number:* 1545-1231.

*Type of Review:* Revision.

*Title:* Final (T.D. 9436) Tax Return Prep/IA-38-90 Final Regulations (T.D. 8382) Penalty on Income Tax Return Preparers Who Understate Taxpayer's Liability on a Federal Income Tax Return or a Claim for Refund.

*Description:* This information is necessary to make the record of the name, taxpayer identification number, and principal place of work of each tax return preparer, make each return or claim for refund prepared available for inspection by the Commissioner of Internal Revenue, and to document that the tax return preparer advised the taxpayer of the penalty standards applicable to the taxpayer in order for the tax return preparer to avoid penalties under section 6694. The likely respondents are tax return preparers and their employers. These regulations implement amendments to the tax return preparer penalties under sections 6694 and 6695 of the Internal Revenue Code and related provisions under sections 6060, 6107, 6109, 6696, and 7701(a)(36) reflecting amendments to the Code made by section 8246 of the Small Business and Work Opportunity Tax Act of 2007 and section 506 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008. The final regulation affects tax return preparers and provides guidance regarding the amended provisions.

*Respondents:* Businesses or other for-profits.

*Estimated Total Burden Hours:* 10,679,320 hours.

*OMB Number:* 1545-0913.

*Type of Review:* Extension.

*Title:* Below-Market Loans LR-165-84 (NPRM).