

Tireco who identified the tires as “Geo-Trac” brand P235/75R15 passenger car tires. In consultation with the fabricating manufacturer, the Shandong Linglong Tyre Co., Ltd., Tireco has determined that all of the noncompliant tires were manufactured between June 12, 2009 (Serial Week 24) and August 20, 2009 (Serial Week 34). A total of 6,170 these noncompliant tires have been recovered from its distributors and dealers and are currently in Tireco’s possession for relabeling. The remaining tires (approximately 3,370) are still in the hands of Tireco’s customers.

Tireco explains that the noncompliance is that the markings on the non-compliant tires specifying the maximum inflation pressure in kPa and in psi are reversed from the order required by paragraph S5.5.5(c). The Company said that the maximum inflation pressure should have been marked as “300 kPa (44 psi)” but were “inadvertently” marked on both sidewalls with a maximum inflation pressure of “44 kPa (300 psi).” Tireco reported that this noncompliance was brought to their attention on August 19, 2009 by one of the company’s distributor customers.

Tireco argues that no vehicle operator would ever inflate the tires to the incorrect pressures that appear on the sidewalls of the subject tires, and specifically stated that “it would be virtually impossible to do so.” Tireco supports this conclusion with the following statements:

- With respect to the erroneous psi marking, no commercially available air compressor used in tire retail stores, at gas stations, or for home use has the capacity to inflate tires to 300 psi, and consumers would immediately be aware from their past experience that a pressure of 300 psi could not be correct.
- With respect to the erroneous kPa marking, it [is] extremely unlikely that a consumer would attempt to inflate the tires to 44 kPa, since (1) Drivers in the United States almost always utilize the psi parameter rather than kPa value when they inflate their tires; and (2) any driver who used the kPa parameter would know that the 44 kPa value was not correct, since all passenger car tires have a maximum inflation pressure of at least 240 kPa. Moreover, even if a consumer were to attempt to inflate the tires to 44 kPa (which is equivalent to approximately 7 psi), he or she would immediately be aware that the tires were drastically underinflated, and would not be in a drivable state.

Tireco concludes that the subject non-compliance “cannot result in the tires being overloaded, or any other adverse safety consequence to the tires or to the vehicles on which they are mounted.” Additionally, Tireco cites three cases which it believes support its conclusion

that NHTSA has previously granted tire companies inconsequentiality exemptions relating to errors in the marking of maximum inflation pressure. (See *Michelin North America, Inc.*, 70 FR 10161 (March 2, 2005); *Kumho Tire Co., Inc.*, 71 FR 6129 (February 6, 2006); and *Michelin North America, Inc.*, 74 FR 10805 (March 12, 2009).

Furthermore, Tireco points out three other substantive factors that support its petition:

- The subject tires meet or exceed all of the substantive performance requirements of FMVSS No. 139.
- There have been no complaints regarding this issue from vehicle owners (the incorrect markings were brought to Tireco’s attention by one of its distributors).
- The manufacturer of these tires, Shandong Linglong Tyre Co., Ltd., has corrected the molds at its factory, so that this noncompliance will not be repeated in current or future production.

Supported by all of the above stated reasons, Tireco believes that the described noncompliance of its tires to meet the requirements of FMVSS No. 139 is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

**NHTSA Decision:** The agency agrees with Tireco that the noncompliance is inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliances on the operational safety of vehicles on which these tires are mounted. In the agency’s judgment, the incorrect labeling of the tire inflation information will not have any consequential effect on motor vehicle safety because it is extremely unlikely that the consumer will inflate the tires to an incorrect pressure.

The safety of people working in the tire retread, repair, and recycling industries was also to be considered. As with consumers, it is extremely unlikely that this noncompliance will cause anyone working in those businesses to incorrectly inflate these tires in a manner that will cause a measureable effect on motor vehicle safety.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or

noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the 3,370<sup>1</sup> passenger car replacement tires that Tireco no longer controlled at the time that it determined that a noncompliance existed.

In consideration of the foregoing, NHTSA has decided that Tireco has met its burden of persuasion that the subject FMVSS No. 139 labeling noncompliances are inconsequential to motor vehicle safety. Accordingly, Tireco’s petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

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

Issued on: October 20, 2011.

**Claude H. Harris,**

*Acting Associate Administrator for Enforcement.*

[FR Doc. 2011–27651 Filed 10–25–11; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35544]

#### **DesertXpress Enterprises, LLC and DesertXpress HSR Corporation—Construction and Operation Exemption—in Victorville, CA and Las Vegas, NV**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of construction and operation exemption.

**SUMMARY:** The Board grants an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for DesertXpress Enterprises, LLC and its subsidiary (DXE) to build and operate a 190-mile rail line between Victorville, Cal. and Las Vegas, Nev., in order to provide high-speed passenger rail service. This exemption is subject to environmental mitigation conditions and the condition that DXE build the route designated as environmentally preferable.

<sup>1</sup> Tireco’s petition, which was filed under 49 CFR part 556, requests an agency decision to exempt Tireco as a manufacturer from the notification and recall responsibilities of 49 CFR part 573 for 3, 370 of the affected tires. However, a decision on this petition cannot relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Tireco notified them that the subject noncompliance existed.

**DATES:** The exemption will be effective on November 25, 2011; petitions to reopen must be filed by November 15, 2011.

**ADDRESSES:** An original and 10 copies of all pleadings, referring to Docket No. FD 35544, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of all pleadings must be served on petitioner's representative: Linda J. Morgan, Nossaman LLP, 1666 K Street, NW., Suite 500, Washington, DC 20006.

Copies of filings will be available for viewing at the Board's Web site.

**FOR FURTHER INFORMATION CONTACT:**

Joseph H. Dettmar at 202-245-0395. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Board's decision, which is available on our Web site at: "<http://www.stb.dot.gov>".

Decided: October 20, 2011.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2011-27679 Filed 10-25-11; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

October 20, 2011.

The Department of the Treasury will submit the following public information collection requirements 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. A copy of the submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

**DATES:** Written comments should be received on or before November 25, 2011 to be assured consideration.

#### Internal Revenue Service (IRS)

*OMB Number:* 1545-0001.

*Type of Review:* Revision of a currently approved collection.

*Title:* Employer's Annual Railroad Retirement Tax Return.

*Forms:* CT-1, CT-1X.

*Abstract:* Railroad employers are required to file an annual return to report employer and employee Railroad Retirement Tax Act (RRTA). Form CT-1 is used for this purpose. IRS uses the information to insure that the employer has paid the correct tax.

*Respondents:* Private Sector: Businesses or other for-profits.

*Estimated Total Burden Hours:* 39,455.

*OMB Number:* 1545-0003.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Application for Employer Identification Number; Solicitud de Numero de Identificacion Patronal (EIN).

*Forms:* SS-4, SS-4-PR.

*Abstract:* Taxpayers are required to have an identification number for use on any return, statement, or other document must prepare and file Form SS-4 or Form SS-4PR (Puerto Rico only) to obtain a number. The information is used by the IRS and the SSA in tax administration and by the Bureau of the Census for business statistics.

*Respondents:* Private Sector: Businesses or other for-profits.

*Estimated Total Burden Hours:* 15,941,913.

*OMB Number:* 1545-0024.

*Type of Review:* Revision of a currently approved collection.

*Title:* Claim for Refund and Request for Abatement.

*Form:* 843.

*Abstract:* IRC section 6402, 6404, and sections 301.6404-2, and 301.6404-3 of the regulations, allow for refunds of taxes (except income taxes) or refund, abatement, or credit of interest, penalties, and additions to tax in the event of errors or certain action by the IRS. Form 843 is used by taxpayers to claim these refunds, credits, or abatements.

*Respondents:* Individuals and Households.

*Estimated Total Burden Hours:* 875,295.

*OMB Number:* 1545-0049.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Form 990-BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons; Form 6069, Return of Excise Tax on Excess Contributions to BL Trust.

*Forms:* 990-BL, 6069.

*Abstract:* IRS uses Form 990-BL to monitor activities of black lung benefit trusts, and to collect excise taxes on these trusts and certain related persons if they engage in proscribed activities. The tax is figured on Schedule A and attached to Form 990-BL. Form 6069 is used by coal mine operators to figure the maximum deduction to a black lung benefit trust. If excess contributions are made, IRS uses the form to figure and collect the tax on excess contributions.

*Respondents:* Private Sector: Businesses or other for-profits.

*Estimated Total Burden Hours:* 563.

*OMB Number:* 1545-0058.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

*Form:* 1028.

*Abstract:* Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in IRC section 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.

*Respondents:* Private Sector: Businesses or other for-profits, Farms.

*Estimated Total Burden Hours:* 2,545.

*OMB Number:* 1545-0152.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Application for Change in Accounting Method.

*Form:* 3115.

*Abstract:* Form 3115 is used by taxpayers who wish to change their method of computing their taxable income. The form is used by the IRS to determine if electing taxpayers have met the requirements and are able to change to the method requested.

*Respondents:* Private Sector: Businesses or other for-profits.

*Estimated Total Burden Hours:* 929,066.

*OMB Number:* 1545-0216.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* International Boycott Report.

*Form:* 5713 and Schedules A, B, and C to Form 5713.

*Abstract:* Form 5713 and related Schedules A, B, and C are used by any entity that has operations in a "boycotting" country. If that entity cooperates with or participates in an international boycott it loses a portion of the foreign tax credit, or deferral of FSC and IC-DISC benefits. The IRS uses Form 5713 to determine if any of the above benefits should be lost. The