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The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: November 8, 2004.

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

Issued on: September 30, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04-22621 Filed 10-7-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-19103; Notice 1]

The Goodyear Tire and Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

The Goodyear Tire and Rubber Company (Goodyear) has determined that certain tires it produced in 2004 do not comply with S4.3(e) of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New pneumatic tires." Goodyear has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Goodyear has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Goodyear's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

A total of approximately 3,793 tires are involved. These include approximately 1,075 Kelly Charger HPT 235/45R18 tires manufactured from May 18, 2004 to May 27, 2004 and approximately 2,718 Essenza 210 Type R 235/45R18 tires manufactured from

July 15, 2004 to August 15, 2004. Paragraph S4.3 of FMVSS No. 109 requires "each tire shall have permanently molded into or onto both sidewalls * * * (e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different." The affected tires are incorrectly labeled to state that there is one nylon ply in the tread area when the actual number of nylon plies is two.

Goodyear believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted, because the mislabeling of these tires creates no unsafe condition. Goodyear states that the tires meet or exceed all applicable FMVSS performance requirements. In addition, Goodyear says that all markings related to tire service, including load capacity and corresponding inflation pressure, are correct. Goodyear has corrected the problem.

Interested persons are invited to submit written data, views, and arguments on the petition described above. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help" to obtain instructions for filing the document electronically. Comments may be faxed to 1-202-493-2251, or may be submitted to the Federal eRulemaking Portal: go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

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Comment closing date: November 8, 2004.

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

Issued on: September 29, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2004-18714; Notice 2]

Volkswagen of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Volkswagen of America, Inc. (Volkswagen) has determined that label information on certain vehicles that it produced in 2003 and 2004 does not comply with S5.3 of 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire selection and rims for motor vehicles other than passenger cars." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Volkswagen has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Notice of receipt of a petition was published, with a 30-day comment period, on August 11, 2004, in the **Federal Register** (69 FR 48907). NHTSA received no comments.

A total of approximately 23,017 Volkswagen Touareg MPV vehicles produced between November 3, 2003 and July 2, 2004 are affected. S5.3 of FMVSS No. 120, "Label information," requires that the certification label or a separate tire information label shall show certain information about the tires and rims, as specified in S5.3.1 and S5.3.2. S5.3.1, "Tires," refers to "The size designation * * * and the recommended cold inflation pressure for those tires * * * ." S5.3.2, "Rims," refers to "The size designation * * * of Rims * * * appropriate for those tires." Volkswagen chose to use a separate label on the affected vehicles that does not contain the rim size markings required by S5.3.2.

Volkswagen believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Volkswagen stated the following:

Volkswagen believes that the lack of rim size information on any of the labels does not create a risk to motor vehicle safety because any replacement tires of equivalent size to the factory installed tires or to any factory