

of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

#### Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 13 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 66 FR 17994; 68 FR 15037; 65 FR 66286; 66 FR 13825; 68 FR 10300; 68 FR 13360; 65 FR 78256; 66 FR 16311; 67 FR 68719; 68 FR 2629; 67 FR 76439; 68 FR 10298). Each of these 13 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

#### Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 22, 2005.

In the past FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew, and reliance on a summary statement of evidence to make its

decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 69 FR 51346 (August 18, 2004). FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2002-13743; Notice 2]

#### Continental Tire North America Inc., Grant of Application for Decision of Inconsequential Noncompliance

Continental Tire North America Inc., (Continental) has determined that a total of 159 P265/70R16 AmeriTrac SUV Radial Passenger Tires and 7,131 P265/70R16 ContiTrac SUV Radial Tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires." The noncompliant tires were produced during the periods March 11-24, 2001, and May 14, 2000-March 24, 2001, respectively. Pursuant to 49 U.S.C. 30118(d) and 30120(h), Continental 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 the application was published, with a 30-day comment period, on November 15, 2002, in the **Federal Register** (67 FR 69300). NHTSA received no comments.

The petitioner argued as follows: FMVSS No. 109 (S4.3.4(b)) requires both the maximum load in kilograms and pounds be molded on the tire's sidewall. The rated maximum kilogram load was incorrectly marked 1190 kg rather than 1090 kg. The rated maximum load in pounds was marked correctly. These tires are primarily sold in the domestic replacement market, where the load in pounds would be the predominant consumer unit of measurement. Continental stated that test results confirm that the subject tires meet all other test requirements of FMVSS No. 109, support the petition of an inconsequential stamping error,

which does not affect performance, and is not safety related.

The agency believes the true measure of inconsequentiality with respect to the noncompliance with FMVSS No. 109, paragraph (S4.3.4(b)), is whether a consumer and/or retailer who relied on the incorrect information could experience a safety problem. In the case of this noncompliance, the maximum load value is marked correctly in English units. However, while the corresponding load value is correctly marked in English units, it is overstated in Metric units. The agency has conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Since FMVSS No. 109 applies to tires sold in the U.S., and since consumers in the U.S. overwhelmingly rely on units of English measure for loading information, the safety issue associated with overloading tires as a result of this noncompliance is very small.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance described is inconsequential to safety. Accordingly, Continental's application is hereby granted and the applicant is exempted from providing the notification of the noncompliance as required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

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

Issued on: March 17, 2005.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-20545; Notice 1]

#### IC Corporation, Receipt of Petition for Decision of Inconsequential Noncompliance

IC Corporation (IC) has determined that certain school buses that it manufactured in 2001 through 2004 do not comply with S5.2.3.2(a)(4) of 49 CFR 571.217, Federal Motor Vehicle Safety Standard (FMVSS) No. 217, "Bus emergency exits and window retention