

Issued in Camp Hill, PA on November 17, 2004.

**John B. Carter,**

*Acting Manager, Harrisburg Airports District Office, Eastern Region.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statement; Chittenden County, VT

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed transportation project in Chittenden County, Vermont.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Sikora, Jr., Environmental Program Manager, Federal Highway Administration, PO Box 568, Montpelier Vermont 05601, Telephone: (802) 828-4433.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Vermont Agency of Transportation (VTrans), will prepare an environmental impact statement (EIS) on a proposal to improve the transportation system from Interstate Route I-89 to the Towns of Williston and Essex and the Village of Essex Junction. The project study area is approximately 4 miles in length, and includes the corridor that would have been served by the previously proposed Chittenden County Circumferential Highway Project Construction Segments A and B. The Circumferential Highway Construction Segments G-J included in the Metropolitan Long Range Transportation Plan are not part of this proposed transportation project. The Circumferential Highway Construction Segments C-F have been partially constructed and open to traffic.

The EIS will identify transportation needs and deficiencies in the project study area, including mobility, access, system continuity, and safety. The range of transportation alternatives to be evaluated in the EIS will not be restricted to previously considered alternatives or the conclusions of previous studies. In addition, the EIS will specifically address the relationship between transportation and land use in and around the project study area.

The EIS will evaluate potential alternative transportation improvements to meet the existing and future demands

on the transportation system serving the aforementioned communities. Potential alternatives and combinations thereof will include but are not limited to (1) taking no action, *i.e.*, the No-Build Alternative; (2) strategies to better manage transportation demand; (3) improving public transportation facilities and services; (4) improving existing roadways, pedestrian walkways, and bikeways; and (5) constructing a new roadway connection between Route I-89 and Vermont Route 289 and other roadways. Design variations of potential alternatives will also be studied, as appropriate.

The EIS will be initiated with a scoping process. The scoping process will include a program of public outreach and agency coordination will be conducted over the next several months in order to elicit input on project purpose and need, potential alternatives, significant and insignificant issues, and collaborative methods for analyzing transportation alternatives and environmental impacts. As part of scoping, VTrans plans to hold several public meetings at different locations in Chittenden County and to contact and meet with local, state, and federal agencies and officials as well as private individuals and organizations concerned with the project. In addition, a public hearing will be held in connection with the circulation of the draft EIS. Public notice will be given of the time and place of the meetings and hearing.

The information gained during the scoping process will be widely disseminated and used to guide the development of the EIS. An internet website and other communication media will be developed early in the scoping process and used to provide public information and to receive comments. All comments and input received during the scoping and subsequent steps of the EIS process will be considered and documented. Beginning with scoping, continuous and regular public involvement and agency coordination will continue throughout the preparation of the EIS.

(Catalog of Federal Domestic Assistance Program Number 20.205 Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: November 19, 2004.

**Charles E. Basner,**

*Division Administrator, Montpelier, Vermont.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2004-19103; Notice 2]

#### The Goodyear Tire and Rubber Company, Grant 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." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Goodyear 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 petition was published, with a 30-day comment period, on October 8, 2004, in the **Federal Register** (69 FR 60459). NHTSA received no comments.

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.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Public Law 106-414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the

**Federal Register** on December 1, 2000 (65 FR 75222).

The agency received more than 20 comments on the tire labeling information required by 49 CFR 571.109 and 119, part 567, part 574, and part 575. In addition, the agency 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.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have concluded that it is likely that few consumers have been influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.

Therefore, the agency agrees with Goodyear's statement that the incorrect markings in this case do not present a serious safety concern.<sup>1</sup> There is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in the tire. In addition, the tires are certified to meet all the performance requirements of FMVSS No. 109 and all other informational markings as required by FMVSS No. 109 are present. Goodyear has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Goodyear's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

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

Issued on: November 18, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

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<sup>1</sup> This decision is limited to its specific facts. As some commenters on the ANPRM noted, the existence of steel in a tire's sidewall can be relevant to the manner in which it should be repaired or retreaded.

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### Pipeline Safety: Operator Qualification Requirements

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice; issuance of advisory bulletin.

**SUMMARY:** RSPA's Office of Pipeline Safety (RSPA/OPS) is issuing this advisory bulletin to owners and operators of natural gas and hazardous liquid pipeline systems concerning the minimum requirements for operator qualification (OQ) programs for personnel performing covered tasks on a pipeline facility. The bulletin reminds system owners and operators that the deadline for modifying their OQ programs to comply with the additional statutory requirements in Section 13 of the Pipeline Safety Improvement Act of 2002 is December 17, 2004. The bulletin also advises system owners and operators that reviews of OQ programs conducted by RSPA/OPS inspectors after December 17, 2004, will consider whether the programs are in compliance with these additional statutory requirements, even if the relevant provisions of the pipeline safety regulations are not amended by that date.

**ADDRESSES:** This document can be viewed at the OPS home page at: <http://ops.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stanley Kastanas, (202) 366-3844; or by e-mail, [stanley.kastanas@rspa.dot.gov](mailto:stanley.kastanas@rspa.dot.gov). This document can be viewed at the RSPA/OPS home page at <http://ops.dot.gov>. General information about the RSPA/OPS programs may be obtained by accessing RSPA's home page at <http://rspa.dot.gov>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In 1999, RSPA/OPS issued regulations requiring operators of natural gas and hazardous liquid pipelines to establish and follow operator qualification (OQ) programs to ensure that pipeline personnel performing covered tasks on a pipeline facility were properly qualified to do so. (64 FR 46866; Aug. 27, 1999) (codified at 49 CFR Part 192, Subpart N, and 49 CFR Part 195, Subpart G). These regulations required pipeline operators to have a written OQ program in place by April 27, 2001, and to have completed the qualification of individuals performing covered tasks by October 28, 2002.

On December 17, 2002, the President signed the Pipeline Safety Improvement Act of 2002 (Pub. L. 107-355, 116 Stat. 2985) (PSIA 2002). Section 13 of PSIA 2002 (codified at 49 U.S.C. 60131) contains additional OQ program requirements that are not yet incorporated into the existing regulations, and requires that they be implemented by pipeline operators no later than December 17, 2004. Of particular note, Section 13 of PSIA 2002 requires that OQ programs provide for periodic requalification of pipeline personnel. In addition, once an OQ program has undergone compliance review by RSPA/OPS, operators must notify RSPA/OPS of any significant program modifications and those modifications are subject to RSPA/OPS review.

With respect to the time frame for pipeline operators to modify their OQ programs, paragraph (e)(6) of Section 13 of PSIA 2002 requires operators to comply with the new statutory OQ requirements:

\* \* \* Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in subsection (d) not later than 2 years after the date of enactment of this section [December 17, 2004].

RSPA/OPS has called attention to these additional OQ program requirements in public forums attended by operators as well as during reviews of OQ programs. RSPA/OPS is currently preparing amendments to the existing OQ regulations in Parts 192 and 195 to incorporate these additional program requirements. Operators are reminded that these requirements are part of public law, and reviews of OQ programs conducted by RSPA/OPS inspectors after December 17, 2004, will consider whether the programs were in compliance as of the required date, even if the relevant provisions of the pipeline safety regulations are not yet amended by that date.

##### II. Advisory Bulletin (ADB-04-05)

**To:** Owners and Operators of Gas and Hazardous Liquid Pipeline Systems.

**Subject:** Implementation of Operator Qualification (OQ) Requirements Mandated by the Pipeline Safety Improvement Act of 2002 (Pub. L. 107-355, 116 Stat. 2985) (PSIA 2002).

**Purpose:** To inform pipeline system owners and operators of congressionally mandated requirements for modifications to OQ programs for individuals performing covered tasks on