

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Rescinding the Notice of Intent for an Environmental Impact Statement: Gilpin, Clear Creek, and Jefferson Counties, CO**

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: This notice rescinds the Notice of Intent for preparing an Environmental Impact Statement that was issued on August 11, 2000, for a proposed transportation improvement project in Gilpin, Clear Creek, and Jefferson Counties, Colorado. The action is being taken because there are no federal or state funds identified to make the proposed transportation improvements in this corridor for the next 20 years. It is not known when federal or state funds may become available for these improvements therefore an Environmental Impact Statement will not be prepared until further notice.

FOR FURTHER INFORMATION CONTACT: Ms. Melinda Urban, Operations Engineer, FHWA, Colorado Division, 12300 West Dakota Avenue, Suite 180, Lakewood, CO, 80228, Telephone: (720) 963-3015. Mr. Russel Cox, Resident Engineer, Colorado Department of Transportation Region 1, 425 Corporate Circle, Suite 250, Golden, Colorado 80401, Telephone: (720) 497-6905.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA) in cooperation with the Colorado Department of Transportation (CDOT) initiated an Environmental Impact Statement (EIS) with a Notice of Intent August 11, 2000, to improve access into the gaming towns of Blackhawk and Central City along the SH 119 corridor. The FHWA and CDOT have determined that while major transportation improvements along SH 119 are needed, federal, state, or other funds are not available to meet these needs in the foreseeable future. Much work has been completed towards an EIS for this corridor and can serve as a planning foundation for future projects by CDOT.

In late 2008 it became apparent that many transportation needs in the State would be competing for very limited funding. This EIS project was one of six major Denver-area EISs initiated in 2000 with the expectation that funding levels would continue and possibly increase. While the need for a project is an important factor in determining which projects receive funding, those with the

greatest public and local-entity support are more likely to receive funding in a fiscally-constrained, long-range plan. As a result, the current long-range plan does not include funding for the improvements considered in the Gaming Area EIS. As such, it is not the best use of limited public funds to complete the NEPA process for this project.

If any entity or authority, public or private, wants to proceed with improvements or connections to state highways in this area in the future, applicable state and federal requirements must be met and established study processes followed to determine feasibility and environmental impacts. In consultation with CDOT and FHWA, the information collected as part of Gaming EIS could support efforts to develop these future NEPA, technical studies, or smaller safety projects. Decision-making for future projects within the SH 119 corridor should consider the purpose and need, alternatives development and evaluation, environmental resource background data, and public and agency coordination that was compiled as part of the EIS process.

Authority: (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: March 31, 2010.

Karla S. Petty,
Colorado Division Administrator.

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration**

[Docket No. NHTSA-2008-0185; Notice 2]

China Manufacturers Alliance, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

China Manufacturers Alliance, LLC (CMA), as importer of record for Dynacargo brand truck and bus radial tires manufactured by Shandong Jinyu Tyre Company Limited (Jinyu) has determined that certain tires manufactured during the period May 2007 through June 2008 do not fully comply with paragraph S6.5(d) of 49 CFR 571.119 Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles With a GVWR of More than 4,536 Kilograms (10,000 pounds) and*

Motorcycles. The affected tires were imported by CMA and sold to American Tire Distributors (ATD). CMA has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), CMA 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. Notice of receipt of the petition was published, with a 30-day public comment period, on December 19, 2008, in the **Federal Register** (73 FR 77873). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2008-0185."

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

Affected are approximately 2,537 size 235/75R17.5/16 Dynacargo brand load range H truck and bus tires manufactured during the period May 2007 through June 2008 with DOT date codes in the range 1407 through 2608. 1,153¹ of these tires are currently under the control of ATD and 1,384 have been sold to consumers.

Paragraph S6.5(d) of 49 CFR 571.119 requires in pertinent part:

S6.5 Tire markings. Except as specified in this paragraph, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of this section. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, the markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The

¹ CMA's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt CMA as importer from the notification and recall responsibilities of 49 CFR Part 573 for all 2,537 of the affected tires. However, the agency cannot relieve ATD as distributor of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires currently under its control. Those tires must be brought into conformance, exported, or destroyed.

markings shall be in letters and numerals not less than 2 mm (0.078 inch) high and raised above or sunk below the tire surface not less than 0.4 mm (0.015 inch), except that the marking depth shall be not less than 0.25 mm (0.010 inch) in the case of motorcycle tires. The tire identification and the DOT symbol labeling shall comply with part 574 of this chapter. Markings may appear on only one sidewall and the entire sidewall area may be used in the case of motorcycle tires and recreational, boat, baggage, and special trailer tires * * *

(d) The maximum load rating and corresponding inflation pressure of the tire, shown as follows:

(Mark on tires rated for single and dual load): Max load single kg (lb) at kPa (psi) cold. Max load dual kg (lb) at kPa (psi) cold.

(Mark on tires rated only for single load): Max load kg (lb) at kPa (psi) cold.

CMA explained that the subject tires are marketed with the correct maximum load rating and corresponding inflation pressure in both English and Metric units. The affected tires have English units on one sidewall and Metric units on the other sidewall. The noncompliance being that both English and Metric units do not both appear on each sidewall.

CMA stated that it believes the noncompliance is inconsequential to motor vehicle safety because correct maximum load rating and corresponding inflation pressure information is marked on each tire in both English and Metric units. Therefore, that information is readily available to anyone who uses the tires.

CMA requested that NHTSA consider its petition and grant an exemption from the recall requirements of the National Traffic and Motor Vehicle Safety Act on the basis that the noncompliance described above is inconsequential as it relates to motor vehicle safety.

NHTSA Decision

The agency agrees with CMA 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 on the operational safety of vehicles on which these tires are mounted.

While the correct tire inflation pressure is included on the subject tire sidewalls, it is not marked in both English and Metric unit systems on each sidewall as required by S6.5(d). However, because the tire inflation pressure is available and stated correctly on each tire, in each unit system, albeit separately, it is unlikely that a consumer will not find or will misread pressure units due to the noncompliance. Therefore, the tires, as labeled, are likely

to achieve the safety purpose of the standard. In the agency's judgment, the subject incorrect labeling of the tire inflation pressure information will have an inconsequential effect on motor vehicle safety.

In consideration of the foregoing, NHTSA has decided that CMA has met its burden of persuasion that the subject FMVSS No. 119 labeling noncompliance is inconsequential to motor vehicle safety. Accordingly, CMA'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: April 1, 2010.

Claude Harris,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0213; Notice 2]

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

Goodyear Tire & Rubber Company (Goodyear), has determined that certain passenger car tires manufactured during the period January 25, 2007, through July 24, 2008, do not fully comply with paragraph S5.5(e) of Federal Motor Vehicle Safety Standards (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Goodyear has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, 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. Notice of receipt of the petition was published, with a 30-day public comment period, on January 13, 2009, in the **Federal Register** (74 FR 1760). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: <http://www.regulations.gov/> then follow the online search instructions to locate docket number "NHTSA-2008-0213."

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

Affected are approximately 9,864 size 245/45R17 95H Fierce HP brand passenger car tires manufactured during the period January 25, 2007, through July 24, 2008.

Paragraph S5.5(e) of FMVSS No. 139 requires in pertinent part:

S5.5 Tire markings. Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches * * *

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire; * * *

Goodyear explains that the noncompliance is that the sidewall marking incorrectly identifies the generic material of the plies in the body of the tire as Nylon when they are in fact polyester. Specifically, the tires in question were inadvertently manufactured with "Tread: 1 Polyester + 2 Steel Cords + 1 Nylon Cord. The labeling should have been "Tread: 1 Polyester Cord + 2 Steel Cords + 1 Polyester Cord" (emphasis added).

Goodyear states that it discovered the mold labeling error that caused the non-compliance during a routine quality audit.

Goodyear argues that the noncompliance is inconsequential to motor vehicle safety because the tires meet or exceed all applicable Federal Motor Vehicle Safety performance standards. All of the markings related to tire service (load capacity, corresponding inflation pressure, etc.) are correct. The mislabeling of these tires creates no unsafe condition.

Goodyear states that the affected tire molds have been modified and all future production will have the correct material information shown on the sidewall.