

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD-2008 0078]****Requested Administrative Waiver of the Coastwise Trade Laws****AGENCY:** Maritime Administration, Department of Transportation.**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MISS LINDA.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2008-0078 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before September 19, 2008.

ADDRESSES: Comments should refer to docket number MARAD-2008-0078. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version

of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21-203, Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MISS LINDA is:

Intended Use: "charter fishing."

Geographic Region: "Virginia, Maryland and North Carolina."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Dated: August 13, 2008.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E8-19259 Filed 8-19-08; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****[Docket No. NHTSA-2008-0009; Notice 2]****Bridgestone Firestone North American Tire, LLC, Denial of Petition for Decision of Inconsequential Noncompliance**

Bridgestone Firestone North American Tire, LLC (BFNT) determined that certain tires that it manufactured in September and October of 2007, failed to comply with the labeling requirements of paragraph S5.5.1(a) of 49 CFR 571.139, Federal Motor Vehicle Safety Standard (FMVSS) No. 139 *New Pneumatic Radial Tires for Light Vehicles*. FMVSS No. 139 requires that radial tires manufactured before September 1, 2009 for use on motor vehicles that have a gross vehicle weight (GVWR) rating of 10,000 pounds or less must be labeled with the Tire Identification Number (TIN) on one side of the tire and a full TIN or partial TIN on the opposite side. Pursuant to 49 CFR part 573, BFNT filed a

noncompliance report with the National Highway Traffic Safety Administration (NHTSA) notifying NHTSA of the noncompliance.

Pursuant to 49 U.S.C. 30118(d) and 30120(h), and 49 CFR part 556, on November 30, 2007, BFNT submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 on the basis that this noncompliance is inconsequential to motor vehicle safety. NHTSA published notice of receipt of the petition, with a 30-day public comment period, on January 29, 2008, in the **Federal Register**. 73 FR 5261. In response to the petition, NHTSA did not receive any comments. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2008-0009."

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

Summary of BFNT's Petition

On November 30, 2007, BFNT petitioned NHTSA for a determination that a noncompliance with approximately 3,963 Bridgestone brand P235/60R17, Dueler H/T 684 II tires, produced in the Aiken plant during the DOT weeks 38, 39, 40, 41, and 42 in 2007 is inconsequential to motor vehicle safety. See 73 FR 5261. Paragraph S5.5.1(a) of FMVSS No. 139 requires that radial tires manufactured before September 1, 2009 for motor vehicles less than 10,000 GVWR be permanently labeled with (1) a full TIN required by 49 CFR part 574 on one sidewall of the tire, and (2) except for retreaded tires, either the full or a partial TIN containing all characters in the TIN, except for the date code, and at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire.¹

In its petition, BFNT stated that the 3,963 P235/60R17 size Bridgestone Dueler H/T 684 II tires, produced at its Aiken plant (DOT serial code is 7XOUBD43807 through 7XOUBD44207) were mismarked. BFNT reported that

¹ Tires manufactured after September 1, 2009 must be labeled with the TIN on the intended outboard sidewall of a tire and either the TIN or partial TIN on the other sidewall. 49 CFR 571.139 S5.5.1(b). If a tire manufactured after September 1, 2009 does not have an intended outboard sidewall, one sidewall must be labeled with the TIN and the other sidewall must have either a TIN or partial TIN. *Id.*

1,862 of the noncompliant tires are within its control and already remedied, and 2,101 remain in the replacement market in the U.S.

BFNT described the noncompliance as a failure to mark the tires with a complete or partial TIN on the sidewall opposite the sidewall with the full TIN. Thus, BFNT describes the noncompliance as follows:

Actual stamping is BLANK. (on one sidewall). Correct stamping should be: 7XOUBD4 (on that sidewall).

BFNT argued that the noncompliant tires meet or exceed all performance requirements of FMVSS No. 139, and, that the labeling noncompliance will have no impact on the operational performance or safety of vehicles on which these tires are mounted.

BFNT further claimed that the TIN only becomes important in the event of a safety recall campaign so that the consumer may properly identify the recalled tire(s). The noncompliant tires here are marked in a manner that is sufficient for notice to consumers and compliant with tire labeling requirements prior to the adoption of the new tire marking requirements in 2002. BFNT contends, therefore, that for this noncompliance, any safety recall campaign communication, if necessary, could include in the listing of recalled TINs with a direction to the consumer to read both sidewalls of each tire on the vehicle for the TINs or partial TINs so that the consumer would know that these noncompliant tires are included in any future recall.

BFNT requested that NHTSA consider its petition and grant an exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 on the basis that the noncompliance described above is inconsequential as it relates to motor vehicle safety.

NHTSA's Decision

NHTSA does not agree that BFNT's noncompliance with FMVSS No. 139 is inconsequential to motor vehicle safety. As discussed below, the tire markings required by paragraph S5.5.1(a) of FMVSS No. 139 provide valuable information to assist consumers in determining if their tires are the subject of a safety recall.

The Firestone tire recalls in 2000 highlighted the difficulty that consumers experienced when attempting to determine whether a tire is subject to a recall if the tire is mounted so that the sidewall bearing the TIN faces inward, *i.e.*, underneath the vehicle. After a series of congressional hearings about the safety of and experiences regarding the

Firestone tires involved in those recalls, Congress passed and the president signed into law the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act on November 1, 2000. Pub. L. 106-414, 114 Stat. 1800.

One matter addressed by the TREAD Act was tire labeling. Section 11 of the TREAD Act required a rulemaking to improve the labeling of tires to assist consumers in identifying tires that may be the subject of a recall.

In response to the TREAD Act's mandate, NHTSA published a final rule that, among other things, required that the TIN be placed on a sidewall of the tire and a full or partial TIN be placed on the other sidewall. *See* 67 FR 69600, 69628 (November 18, 2002), as amended 69 FR 31306 (June 3, 2004). In the preamble to the 2002 final rule, the agency identified the safety problem which prompted the issuance of the rule. 67 FR at 69602, 69606 and 69610. The agency explained that when tires are mounted so that the TIN appears on the inward facing sidewalls, motorists have three difficult and inconvenient options for locating and recording the TINs. Consumers must either: (1) Slide under the vehicle with a flashlight, pencil and paper and search the inside sidewalls for the TINs; (2) remove each tire, find and record the TIN, and then replace the tire; or (3) enlist the aid of a garage or service station that can perform option 1 or place the vehicle on a vehicle lift so that the TINs can be found and recorded. Without any TIN information on the outside sidewalls of tires, the difficulty and inconvenience of obtaining the TIN by consumers results in the reduction of the number of people who respond to a tire recall campaign and a number of motorists who unknowingly continue to drive vehicles with potentially unsafe tires.

BFNT suggests that a recall of these tires could include an instruction to check the inboard sidewall if the TIN is not found on the outboard sidewall. This approach is inadequate. The noncompliance here is the exact problem that plagued millions of Firestone tire owners in 2000 and one that Congress mandated that NHTSA address. When the TIN is placed on one sidewall of a tire and that sidewall is mounted on the inboard side of a wheel, it is very difficult and inconvenient for the consumer to locate and record the TIN. In such situations, consumers who attempt to determine if a tire is within the scope of a recall may not be able to read the inboard sidewall without taking one of the three inconvenient steps discussed above. The difficulty and inconvenience that locating a TIN

under these circumstances poses serious impediments to the successful recall of the noncompliant tire, which may result in motorists continuing to drive their vehicles with potentially unsafe tires.

While NHTSA has determined in the past that in some instances TIN marking omissions were inconsequential to motor vehicle safety, those determinations occurred prior to the adoption of FMVSS No. 139 pursuant to the TREAD Act. Following the enactment of the TREAD Act, NHTSA found that there is a safety need for a full TIN on one sidewall and a full or partial TIN on the other sidewall. As previously discussed, FMVSS No. 139 now requires TIN markings on both sidewalls of a tire so that consumers can readily determine if a tire is subject to a safety recall. Accordingly, the omission of a TIN or partial TIN on either sidewall is now considered to be a serious safety problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, BFNT's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

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

Issued on: August 14, 2008.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.
[FR Doc. E8-19324 Filed 8-19-08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0133; Notice 1]

Hyundai Motor Company, Receipt of Petition for Decision of Inconsequential Noncompliance

Hyundai Motor Company (Hyundai), has determined that certain replacement seat belt assemblies sold for various model and model year Hyundai vehicles, including the 2008 model year vehicles, did not fully comply with paragraphs S4.1(k) and S4.1(l) of 49 CFR 571.209 Federal Motor Vehicle Safety Standards (FMVSS) No. 209 *Seat Belt Assemblies*. Hyundai has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.