Dimensional Information.'' Persons desiring to use newly designed replaceable headlamp light sources are required to submit interchangeability and performance specifications to the agency. After a short agency review to assure completeness, the information is placed in a public docket for use by any person who would desire to manufacture headlamp light sources for highway motor vehicles. In Federal Motor Vehicle Safety Standard No. 108, Lamps, reflective devices and associated equipment,'' part 564 submission are referenced as being the source of information regarding the performance and interchangeability information for legal headlamp light sources, whether original equipment or replacement equipment. Thus, the submitted information about headlamp light sources becomes the basis for certification of compliance with safety standards.

*Estimated Total Annual Burden:* 28.

*Estimated Number of Respondents:* 7.

(2) *Title:* Compliance Labeling of Retroreflective Materials heavy Trailer Conspicuity.

*OMB Number:* 2127–0569.

*Type of Request:* Extension of a currently approved collection.

*Affected Public:* Business or other for profit organizations.

*Abstract:* Federal Motor Vehicle Safety Standard No. 108, ''Lamps Reflective Devices, and Associated Equipment,'' specifies requirements for vehicle lighting for the purposes of reducing traffic accidents and their tragic results by providing adequate roadway illumination, improved vehicle conspicuity, appropriate information transmission through signal lamps, in both day, night, and other conditions of reduced visibility. For certifications and identification purposes, the Standard requires the permanent marking of the letters ''DOT–C2,'' ''DOT–C3'', or ''DOT –C4'' at least 3mm high at regular intervals on retroreflective sheeting material having adequate performance to provide effective trailer conspicuity.

The manufacturers of new tractors and trailers are required to certify that their products are equipped with retroreflective material complying with the requirements of the standard. The Federal Motor Carrier Safety Administration (FMCSA) enforces this and other standards through roadside inspections of trucks. There is no practical field test for the performance requirements, and labeling is the only objectives way of distinguishing trailer conspicuity grade material from lower performance material. Without labeling, FMCSA will not be able to enforce the performance requirements of the standard and the compliance testing of new tractors and trailers will be complicated. Labeling is also important to small trailer manufactures because it may help them to certify compliance. Because wider stripes or material of lower brightness also can provide the minimum safety performance, the marking system serves the additional role of identifying the minimum stripe width required for retroreflective brightness of the particular material. Since the differences between the brightness grades of suitable retroreflective conspicuity material is not obvious from inspection, the marking system is necessary for tractor and trailer manufacturers and repair shops to assure compliance and for FMCSA to inspect tractors and trailers in use. Permanent labeling is used to identify retroreflective material having the minimum properties required for effective conspicuity of trailers at night. The information enables the FMCSA to make compliance inspections, and it aids tractor and trailer owners and repairs shops in choosing the correct repair materials for damaged tractors and trailers. It also aids smaller trailer manufacturers in certifying compliance of their products.

The FMCSA will not be able to determine whether trailers are properly equipped during roadside inspections without labeling. The use of cheaper and more common reflective materials, which are ineffective for the application, would be expected in repairs without the labeling requirement.

*Estimated Total Annual Burden:* 1.

*Estimated Number of Respondents:* 3.

**ADDRESSES:** Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on October 20, 2011.

**Nathaniel Beuse,**

*Director, Office of Crash Avoidance Standards.*

[FR Doc. 2011–27656 Filed 10–25–11; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2010–0047; Notice 2]**

### Tireco, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Grant of Petition for Decision of Inconsequential Noncompliance.

**SUMMARY:** Tireco, Inc., (Tireco), has determined that approximately 6,170 of its ''GEO-Trac'' brand P235/75R15 passenger car tires, manufactured between June 12, 2009 and August 20, 2009 by the fabricating manufacturer, the Shandong Linglong Tyre Co., Ltd., and imported into the United States by Tireco, do not comply with paragraph S5.5(c) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New pneumatic radial tires for light vehicles.* Tireco has filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* (dated August 31, 2009).

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Tireco 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 Tireco's petition was published, with a 30-day public comment period, on April 21, 2010, in the **Federal Register** (75 FR 20879). 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–2010–0047.''

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 6,170 tires imported into the United States by

Tireco who identified the tires as ''Geo-Trac'' brand P235/75R15 passenger car tires. In consultation with the fabricating manufacturer, the Shandong Linglong Tyre Co., Ltd., Tireco has determined that all of the noncompliant tires were manufactured between June 12, 2009 (Serial Week 24) and August 20, 2009 (Serial Week 34). A total of 6,170 these noncompliant tires have been recovered from its distributors and dealers and are currently in Tireco's possession for relabeling. The remaining tires (approximately 3,370) are still in the hands of Tireco's customers.

Tireco explains that the noncompliance is that the markings on the non-compliant tires specifying the maximum inflation pressure in kPa and in psi are reversed from the order required by paragraph S5.5.5(c). The Company said that the maximum inflation pressure should have been marked as ''300 kPa (44 psi)'' but were ''inadvertently'' marked on both sidewalls with a maximum inflation pressure of ''44 kPa (300 psi).'' Tireco reported that this noncompliance was brought to their attention on August 19, 2009 by one of the company's distributor customers.

Tireco argues that no vehicle operator would ever inflate the tires to the incorrect pressures that appear on the sidewalls of the subject tires, and specifically stated that ''it would be virtually impossible to do so.'' Tireco supports this conclusion with the following statements:

- With respect to the erroneous psi marking, no commercially available air compressor used in tire retail stores, at gas stations, or for home use has the capacity to inflate tires to 300 psi, and consumers would immediately be aware from their past experience that a pressure of 300 psi could not be correct.
- With respect to the erroneous kPa marking, it [is] extremely unlikely that a consumer would attempt to inflate the tires to 44 kPa, since (1) Drivers in the United States almost always utilize the psi parameter rather than kPa value when they inflate their tires; and (2) any driver who used the kPa parameter would know that the 44 kPa value was not correct, since all passenger car tires have a maximum inflation pressure of at least 240 kPa. Moreover, even if a consumer were to attempt to inflate the tires to 44 kPa (which is equivalent to approximately 7 psi), he or she would immediately be aware that the tires were drastically underinflated, and would not be in a drivable state.

Tireco concludes that the subject non-compliance ''cannot result in the tires being overloaded, or any other adverse safety consequence to the tires or to the vehicles on which they are mounted.'' Additionally, Tireco cites three cases which it believes support its conclusion that NHTSA has previously granted tire companies inconsequentiality exemptions relating to errors in the marking of maximum inflation pressure. (See *Michelin North America, Inc.,* 70 FR 10161 (March 2, 2005); *Kumho Tire Co., Inc.,* 71 FR 6129 (February 6, 2006); and *Michelin North America, Inc.,* 74 FR 10805 (March 12, 2009).

Furthermore, Tireco points out three other substantive factors that support its petition:

- The subject tires meet or exceed all of the substantive performance requirements of FMVSS No. 139.
- There have been no complaints regarding this issue from vehicle owners (the incorrect markings were brought to Tireco's attention by one of its distributors).
- The manufacturer of these tires, Shandong Linglong Tyre Co., Ltd., has corrected the molds at its factory, so that this noncompliance will not be repeated in current or future production.

Supported by all of the above stated reasons, Tireco believes that the described noncompliance of its tires to meet the requirements of FMVSS No. 139 is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

*NHTSA Decision:* The agency agrees with Tireco 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 of the noncompliances on the operational safety of vehicles on which these tires are mounted. In the agency's judgment, the incorrect labeling of the tire inflation information will not have any consequential effect on motor vehicle safety because it is extremely unlikely that the consumer will inflate the tires to an incorrect pressure.

The safety of people working in the tire retread, repair, and recycling industries was also to be considered. As with consumers, it is extremely unlikely that this noncompliance will cause anyone working in those businesses to incorrectly inflate these tires in a manner that will cause a measureable effect on motor vehicle safety.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the 3,370 [1] passenger car replacement tires that Tireco no longer controlled at the time that it determined that a noncompliance existed.

In consideration of the foregoing, NHTSA has decided that Tireco has met its burden of persuasion that the subject FMVSS No. 139 labeling noncompliances are inconsequential to motor vehicle safety. Accordingly, Tireco'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: October 20, 2011.

**Claude H. Harris,**

*Acting Associate Administrator for Enforcement.*

[FR Doc. 2011–27651 Filed 10–25–11; 8:45 am]

**BILLING CODE 4910–59–P**

[1] Tireco's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt Tireco as a manufacturer from the notification and recall responsibilities of 49 CFR part 573 for 3, 370 of the affected tires. However, a decision on this petition cannot relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Tireco notified them that the subject noncompliance existed.

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35544]**

### DesertXpress Enterprises, LLC and DesertXpress HSR Corporation—Construction and Operation Exemption—in Victorville, CA and Las Vegas, NV

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of construction and operation exemption.

**SUMMARY:** The Board grants an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for DesertXpress Enterprises, LLC and its subsidiary (DXE) to build and operate a 190-mile rail line between Victorville, Cal. and Las Vegas, Nev., in order to provide high-speed passenger rail service. This exemption is subject to environmental mitigation conditions and the condition that DXE build the route designated as environmentally preferable.