



March 14, 2008

BY ELECTRONIC MAIL

The Honorable Nicole Nason
Administrator, National Highway Traffic Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590
Electronic Address: www.regulations.gov (Docket No. NHTSA-2008-0014)

Re: Proposed Tire Registration and Recordkeeping Rule

Dear Administrator Nason:

The U.S. Small Business Administration's (SBA) Office of Advocacy (Advocacy) submits the following comments on the National Highway Traffic Safety Administration's (NHTSA's) *Proposed Tire Registration and Recordkeeping Rule*.¹ The proposed rule seeks to facilitate the use of the Internet to register tires that consumers purchase.² The proposed rule is expected to reduce costs to small businesses and improve tire registration rates so that consumers can be notified of tire safety recalls.³ As such, Advocacy strongly supports the proposed rule and encourages NHTSA to retain the proposed Internet registration provisions in the final rule.

Office of Advocacy

Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within SBA, so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA),⁴ as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),⁵ gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives. Moreover, on August 13, 2002, President Bush signed Executive Order 13272,⁶ which requires federal agencies to notify Advocacy of any

¹ 73 Fed. Reg. 4157 (January 24, 2008).

² *Id.* at 4161.

³ *Id.*

⁴ 5 U.S.C. § 601 et seq.

⁵ Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. § 601 et seq.).

⁶ Executive Order 13272, *Proper Consideration of Small Entities in Agency Rulemaking* (67 Fed. Reg. 53461) (August 16, 2002).

proposed rules that are expected to have a significant economic impact on a substantial number of small entities and to give every appropriate consideration to any comments on a proposed or final rule submitted by Advocacy. Further, the agency must include, in any explanation or discussion accompanying publication in the *Federal Register* of a final rule, the agency's response to any written comments submitted by Advocacy on the proposed rule.

Background

In order to be able to notify consumers of tire safety recalls, Congress mandated that every tire manufacturer maintain records of the names and addresses of the first purchasers of tires that the manufacturer produces.⁷ In accordance with that mandate, NHTSA established a tire registry program that required all tire dealers to record the name and address of the purchaser of the tire, along with the dealer's name and address, and forward that information to the tire manufacturer. However, Congress later excluded independent tire dealers from some provisions of the rule, requiring only that they give the consumer a tire registration card that the consumer could complete and mail back to the manufacturer. The regulation mandated the exact content of the card as well as its specific size and dimensions. In 2000, Congress increased the record retention requirements on tire manufacturers from three to five years.⁸

While the tire registration program has been successful in some respects, it has failed to take advantage of the Internet and other electronic technologies to register tires, which has resulted in low tire registration rates.⁹ As a result, tire dealers have been saddled with burdensome paperwork requirements and many consumers have not received timely tire safety recall information. NHTSA's proposed rule would improve this situation by specifically allowing tire dealers to electronically transmit tire registry information to the manufacturer via the Internet.¹⁰

Small Businesses Support the Proposed Rule

Advocacy has heard from a number of small businesses representing automobile and tire dealers who have expressed strong support for NHTSA's proposed rule. As NHTSA points out in its Regulatory Flexibility Act certification, a "very significant number" of these automobile and tire dealers are small businesses.¹¹ As such, Advocacy strongly supports the proposed rule and specifically encourages NHTSA to retain the proposed Internet registration provisions in the final rule. Advocacy notes that the tire registry rules, as currently formulated, impose significant paperwork burdens on small automobile and tire dealers and fail to utilize the Internet to ease compliance burdens. The current

⁷ 73 Fed. Reg. 4157.

⁸ *Id.* at 4158.

⁹ *Id.*

¹⁰ *Id.* at 4170.

¹¹ *Id.* at 4166.

rules are, accordingly, out of step with the RFA, the Paperwork Reduction Act,¹² and the Administration's Electronic Government (E-Government) Initiative.¹³

The Tire Registry Rule Was Nominated Under Advocacy's r3 Initiative

Advocacy also notes that the current tire registration program was nominated as a regulation in need of review and reform under Advocacy's new Regulatory Review and Reform (r3) Initiative.¹⁴ The r3 Initiative is designed to identify and address existing federal regulations that should be revised because they are ineffective, duplicative, or out of date. Under the r3 Initiative, small business stakeholders can nominate specific regulations for review and suggest needed reforms. In that sense, r3 is similar to the Section 610 review process under the RFA.¹⁵ Both the r3 Initiative and Section 610 seek to have agencies consider whether their current regulations are still needed, and the degree to which technology, economic conditions, or other factors have changed since their rules were first promulgated. While the current tire registration rule was not selected as one of our final "Top 10" r3 rules for 2008, it likely would have been if not for NHTSA's timely proposed rule that does exactly what the r3 submitter sought - for NHTSA to modernize its rule to allow for Internet registration of tires.

Conclusion

Advocacy appreciates the opportunity to comment on NHTSA's *Proposed Tire Registration and Recordkeeping Rule* and commends the agency for seeking innovative ways to reduce the costs of its regulation on small business while improving safety for the public. Please feel free to contact me or Bruce Lundegren at (202) 205-6144 (or bruce.lundegren@sba.gov) if you have any questions or require additional information.

Sincerely,

/signed/

Thomas M. Sullivan
Chief Counsel for Advocacy

/signed/

Bruce E. Lundegren
Assistant Chief Counsel for Advocacy

Copy to: The Honorable Susan E. Dudley
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget

¹² 44 U.S.C. § 3501 et seq.

¹³ See, <http://www.whitehouse.gov/omb/egov/>.

¹⁴ See, www.sba.gov/advo/r3/.

¹⁵ 5 U.S.C. § 610.