

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.¹ 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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¹ 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. 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

gas and hazardous liquid pipeline facilities.

Advisory: PSIA 2002 was signed into law on December 17, 2002. Certain provisions of Section 13 of PSIA 2002, which are not yet incorporated into the existing OQ regulations at 49 CFR Part 192, Subpart N, and 49 CFR 195, Subpart G, require that pipeline operators modify their existing OQ programs by December 17, 2004, as follows:

1. An operator OQ program must include a periodic requalification component that provides for examination or testing of individuals, including:

A method for examining or testing the qualifications of individuals, which may include written examination, oral examination, observation during on-the-job performance, on-the-job training, simulations, and other forms of assessment. The method may not be limited to observation of on-the-job

performance, except with respect to tasks for which RSPA/OPS has determined that such observation is the best method of examining or testing qualifications. The results of any such observations shall be documented in writing.

In accordance with the OQ review protocols and existing industry practice, the requalification intervals established by operators must reflect the relevant factors including the complexity, criticality, and frequency of performance of the task, and be justified by appropriate documentation.

2. A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

3. If the operator of a pipeline facility significantly modifies a program that has been reviewed for compliance by

RSPA/OPS, the operator must notify RSPA/OPS of the modifications. RSPA/OPS will review such modifications in accordance with applicable laws and regulations.

Operators are again reminded that these OQ program requirements are part of public law, and reviews of 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.

Issued in Washington, DC on November 19, 2004.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

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