

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: March 25, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 573

[Docket No. NHTSA-2001-10856; Notice 3]

RIN 2127-AI29

#### Motor Vehicle Safety; Disposition of Recalled Tires

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule; response to petition for reconsideration.

**SUMMARY:** This document responds to the Rubber Manufacturers Association's (RMA) September 27, 2004 petition for reconsideration of the August 13, 2004 final rule addressing the disposal of recalled tires. RMA requested that NHTSA reconsider a statement in the preamble to the final rule that Section 7 of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act prohibits the use of recalled tires in the construction of landfills. NHTSA has decided that the TREAD Act does not prohibit the use of recalled tires in landfill construction.

**FOR FURTHER INFORMATION CONTACT:** For technical issues: Mr. George Person, Office of Defects Investigation, NHTSA. Telephone 202-366-5210. For legal issues: Ms. Jennifer Timian, Office of Chief Counsel, NHTSA. Telephone 202-366-5263.

**SUPPLEMENTARY INFORMATION:** On November 1, 2000, the TREAD Act, Pub. L. 106-414, 114 Stat. 1800, was enacted. The Act mandated, among other things, that a manufacturer's remedy program for recalled tires "include a plan addressing how to limit, to the extent reasonably within the control of the manufacturer, the disposal of replaced tires in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses." Section 7 TREAD Act, codified at, 49 U.S.C. 30120(d).

To implement Section 7 of the TREAD Act, on December 18, 2001, we

published a Notice of Proposed Rulemaking that, among other things, would require manufacturer remedy programs to address how the manufacturer will limit the disposal of the recalled tires in landfills and instead channel them into positive categories of reuse. 66 FR 65165. RMA and the National Solid Waste Management Association (NSWMA) commented that certain States and local jurisdictions currently permit the use of scrap tires in landfills in certain applications like lining and engineering fill. Accordingly, RMA asked NHTSA in its final rule to distinguish between the use of tires as landfill construction materials, which RMA argued was an alternative beneficial non-vehicular use encouraged under the statute, and the discarding of tires into landfills.

On August 13, 2004, NHTSA published a final rule implementing Section 7. 69 FR 50077. In the preamble, we rejected the request by RMA and NSWMA that we affirmatively authorize the use of scrap tires in landfills in the final rule.

On September 27, 2004, RMA petitioned the agency to reconsider its views. It asserted that Section 7's and the final rule's language addressed disposal of tires in landfills, and that use of tires in landfill construction does not meet this definition. The association argued that this end-use application is considered in the scrap tire industry and market to be an "alternative beneficial non-vehicular use" specifically allowed and encouraged under the TREAD Act. In support of its petition, RMA provided a copy of its report, "U.S. Scrap Tire Markets, 2003 edition," which noted that the use of shredded tires in landfill construction and operation was the fastest growing civil engineering application for scrapped tires.

RMA's petition presents the narrow question of whether Section 7 of the TREAD Act prohibits the use of recalled tires or parts thereof in landfill construction. We conclude that it does not. Section 7 employs the term "disposal," and also refers to beneficial non-vehicular uses. In the context of Section 7, disposal does not include the use of tires or parts thereof in landfill construction.

This notice is limited to Section 7 of the TREAD Act. Our interpretation of Section 7 does not limit how any Federal, State, or local regulatory authorities address replaced tires under the laws and regulations they administer. Moreover, NHTSA does not authorize or endorse the use of tires or parts thereof in landfill construction or

any other particular application for scrapped tires.

#### Regulatory Analyses and Notices

This notice does not alter the burdens and impacts discussed in the Regulatory Analyses in the preamble to the final rule. 69 FR 50083-84. To the extent that the Regulatory Analyses may be relevant, they are hereby incorporated by reference. The analysis of the Paperwork Reduction Act is updated as follows. On January 11, 2005, OMB approved the information collection necessitated by the final rule. The approval number associated with this information collection is OMB No. 2127-0004 (expiration date January 31, 2008).

Issued on: March 29, 2005.

**Jeffrey W. Runge,**

*Administrator.*

[FR Doc. 05-6471 Filed 3-31-05; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 300 and 679

[Docket No. 040607171-5078-02; I.D. 051804C]

RIN 0648-AR88

#### Pacific Halibut Fisheries; Subsistence Fishing

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to amend the subsistence fishery rules for Pacific halibut in waters off Alaska. This action is necessary to address subsistence halibut management concerns in densely populated areas. This action is intended to meet the conservation and management requirements of the Northern Pacific Halibut Act of 1982 (Halibut Act) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective on May 2, 2005.

**ADDRESSES:** Copies of the environmental assessment (EA), regulatory impact review (RIR), Initial Regulatory Flexibility Analysis (IRFA), and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: