



**RUBBER**  
manufacturers  
association

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June 24, 2009

Submitted electronically to docket@energy.state.ca.us  
(Hard copy to follow via U.S. Postal Service)  
California Energy Commission  
Dockets Office, MS-4  
Re: Docket No. 07-FET-1  
1516 Ninth Street  
Sacramento, CA 95814-5512

**DOCKET**

**07-FET-1**

DATE JUN 24 2009

RECD. JUN 25 2009

RE: Comments on CEC Staff Workshop held June 10, 2009

On behalf of the tire manufacturer members of the Rubber Manufacturers Association (RMA),<sup>1</sup> I appreciate the opportunity to submit comments on the CEC Committee Workshop on AB 844 that was held on June 10, 2009. RMA appreciated the opportunity to offer its perspective on the Staff Draft Regulations during the workshop. The RMA presentation, given by Mike Wischhusen of Michelin North America on behalf of RMA, outlined RMA's observations and concerns regarding the Staff Draft Regulations. This comment letter does not seek to restate the entirety of that presentation. Instead, this letter highlights RMA's concerns about the Staff Draft Regulations and incorporates by reference the RMA presentation made on June 10, 2009 and the testimony given during that workshop, as well as all previous RMA docket submissions and testimony. As requested during the June 10 workshop, RMA requests the opportunity to submit additional comments regarding the Staff Draft Regulations after the transcript of the June 10, 2009 workshop is made available.

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<sup>1</sup> The Rubber Manufacturers Association (RMA) is the national trade association representing more than 100 companies that manufacture various rubber products. These member companies include every major domestic tire manufacturer including: Bridgestone Americas Holding, Inc., Continental Tire N.A.; Cooper Tire & Rubber Company; The Goodyear Tire and Rubber Company; Michelin North America, Inc.; Pirelli North America; Toyo Tire (U.S.A.) Corporation; and Yokohama Tire Corporation.

## **I. The Staff Draft Regulation Rating Approach would not Foster Innovation in Tire Design to Improve Tire Efficiency**

In order to achieve the goals of AB 844 and AB 32 to improve tire energy efficiency and reduce greenhouse gas emissions in California through the increased use of low rolling resistance tires, it is imperative that regulations stimulate manufacturer innovation and competition. The Staff Draft Regulation would not achieve this important goal.

Instead, the Staff Draft Regulation proposes a regulatory structure that would require *all* tire manufacturers to submit tire efficiency data before any tire ratings can be determined. Tire manufacturers would not know in advance of that data submittal whether any particular tire would be considered Energy Efficient or Not Energy Efficient. Because the rating approach relies on the data submittal to establish a baseline for energy efficiency, it is impossible for a tire manufacturer to set design or manufacturing targets for new products designed for energy efficiency. It is unreasonable to assume that a tire manufacturer would devote significant research and development resources to develop a new tire designed for energy efficiency without some assurance that the product would meet the criteria for energy efficiency. In addition, manufacturers cannot prepare marketing and advertising campaigns promoting fuel efficiency ratings of tires to support product launches if they do not know the status of the rating.

The federal ENERGY STAR Program, on the contrary, establishes a baseline for energy efficiency so that manufacturers can set design targets for new products. While ENERGY STAR requirements and approaches vary for different products, they all have the common feature of giving manufacturers clear criteria on which to base product design plans. For example, for clothes washers, “ENERGY STAR criteria require all qualified products to have a Modified Energy Factor (MEF) of 1.72 or greater as well as a Water Factor (WF) of 8.0 or lower.”<sup>2</sup> The program provides formulas for calculating MEF and WF. For water heaters, the Energy Star program provides specific energy

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<sup>2</sup> [http://www.energystar.gov/index.cfm?c=clotheswash.pr\\_crit\\_clothes\\_washers](http://www.energystar.gov/index.cfm?c=clotheswash.pr_crit_clothes_washers) (accessed June 24, 2009).

factors that must be met in order to label the various types of water heaters as ENERGY STAR appliances.<sup>3</sup> For refrigerators, federal energy efficiency standards exist. In order to label a refrigerator as ENERGY STAR, it must be 20 percent more efficiency than the federal energy efficiency standard and use “40% less energy than the conventional models sold in 2001.”<sup>4</sup>

In addition, manufacturers have no idea how long their product would continue to qualify for that rating since the “target” would potentially move every year when CEC updates its database. It is unrealistic to expect manufacturers to chase a target that moves every year. As the Staff Draft Regulation is drafted, a tire designated as “Fuel Efficient” one year could be designated as “Not Energy Efficient” the next year. The ENERGY STAR program has addressed this type of situation in the refrigerator category, where energy efficiency standards have changed over time, consequently changing the baseline for the ENERGY STAR designation. The ENERGY STAR website provides this information about the refrigerator program: “You may still find refrigerator and freezer models designated as ENERGY STAR at retail that met the previous ENERGY STAR criteria for an extended period of time. If you have recently purchased one of these models, even though these models do not meet the current ENERGY STAR criteria for refrigerators and freezers, you can be confident that the product is highly efficient.”<sup>5</sup> This statement illustrates that refrigerator manufacturers are not required to remove ENERGY STAR designations achieved during an earlier time in the program.

## **II. The Staff Draft Regulation Rating Approach would not Provide Useful Information on Many Tires**

The Draft Regulation proposes a simplistic tire rating approach that would identify tires within a combined tire size designation and load index as “Fuel Efficient Tires” or “Tires That Are Not Fuel Efficient”. The draft proposal would make this determination for each

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<sup>3</sup> [http://www.energystar.gov/index.cfm?c=water\\_heat.pr\\_crit\\_water\\_heaters](http://www.energystar.gov/index.cfm?c=water_heat.pr_crit_water_heaters) (accessed June 24, 2009).

<sup>4</sup> [http://www.energystar.gov/index.cfm?c=refrig.pr\\_refrigerators](http://www.energystar.gov/index.cfm?c=refrig.pr_refrigerators) (accessed June 24, 2009).

<sup>5</sup> [http://www.energystar.gov/index.cfm?c=refrig.pr\\_crit\\_refrigerators](http://www.energystar.gov/index.cfm?c=refrig.pr_crit_refrigerators) (accessed June 24, 2009).

combined tire size designation and load index of tires separately. Not all tires in a combined tire size designation and load index are appropriate for installation and use on the same vehicle. Grouping tire efficiency by a combined tire size designation and load index category for tires would include tires of many different speed ratings and service applications. It is likely that in a given combined tire size designation and load index, tires deemed Fuel Efficient could be clustered in a few speed ratings, leaving the consumer with a different speed rating need with tire choices only deemed Not Fuel Efficient. Speed ratings are not discretionary – the speed rating of a tire must meet or exceed the speed capability of the vehicle.

Consumers in this situation would not get actionable information about the energy efficiency of their tire choices, even though there is likely a range of energy efficiencies available to suit their needs. In addition, this lack of differentiation in the Not Fuel Efficient group could cause some consumers to purchase a tire that is not appropriate for their vehicle, with potential negative safety implications. Additionally, since energy efficiency determinations would be made only within a combined tire size designation and load index, this approach would not give consumers considering two or more tire size choices any comparative information on which to base a purchasing decision across tire sizes and could mislead a consumer to make a tire choice that actually is less efficient even if the consumer's intent was to purchase a more efficient tire.

Furthermore, grouping by tire size designation and load index also groups “summer tires”, “winter tires” and “all-season” tires together. Different design considerations apply to these three types of tires. The U.S. marketplace is dominated by all-season tires, but summer tires or winter tires may have a lower typical rolling resistance. The proposed regulatory structure may favor seasonal tires and lead to inappropriate tire purchases for some consumers with potential safety consequences depending on geographic location and whether seasonal tires are used all year around. Notably, the regulation would exclude deep tread winter tires, but not winter tires that are not deep tread.

### **III. The Staff Draft Regulation Implementation Schedule would not Give Sufficient Time to Test all Tires Sold in California**

The Staff Draft Regulation would require tire manufacturers to test three replicates of every tire sold in California. Current available test capacity in the industry would not accommodate this testing burden, even with the utilization of third-party test laboratory resources. In addition, given the severe economic turndown and adverse impact on the tire industry, including plant closures and layoffs, some RMA members have indefinitely frozen capital expenditures and are not in a position to invest in the required equipment at this time. As presented by Smithers Scientific in the February 5, 2009 staff workshop, the timeframe for purchasing and installing new test equipment is 15 to 18 months. Given that the Staff Draft Regulation contemplates a July 2011 compliance date, this would not give sufficient time to purchase and install new test equipment and then test all tires sold in California.

In a presentation given at the April 8, 2009 staff workshop, RMA provided aggregate industry cost and time estimates for purchasing and installing new equipment and testing three replicates of all tires subject to the regulation. RMA estimates that nine new test machines would need to be purchased within its membership in order to complete the testing contemplated in the Staff Draft Regulation. RMA estimated a three-year compliance period, with 18 months to purchase and install equipment and 18 months to test all tires sold in California at a cost of about \$21,545,400 to RMA member companies in aggregate. It is important to note that these estimates are for RMA members only, and do not include costs that would be borne by other tire companies that comprise at least 20 percent of the market. It is important to note, as well, that these burdensome testing and reporting requirements would not be reflected in the simplistic tire efficiency information provided to consumers under the Staff Draft Regulation.

#### **IV. California Should Adopt NHTSA Regulations to Maximize Regulatory Efficiencies, Save Scarce Resources and Provide All Consumers with Consistent and Useful Information about Tire Efficiency**

One national tire efficiency rating system and consumer information program would benefit consumers. Consumers Union advocated for “one system universally” during the April 8, 2009 CEC Staff Workshop,<sup>6</sup> stating that one system would enable clearer more understandable information to be communicated to its readership and the public. Since the June 10, 2009 Committee Workshop, the National Highway Traffic Safety Administration (NHTSA) has published its Notice of Proposed Rulemaking (NPRM) on its Tire Fuel Efficiency Consumer Information Program pursuant to the Energy Independence and Security Act of 2007 (EISA).<sup>7</sup> Published just two days ago (June 22, 2009) in the Federal Register, RMA is still reviewing the NPRM. However, it appears that this NPRM represents a significant investment by the Federal Government over the past five years to develop a comprehensive regulatory approach to tire fuel efficiency ratings that is based on science and supported by engineering testing<sup>8</sup>, cost-benefit analysis<sup>9</sup> and consumer focus group studies<sup>10</sup>. It would be indeed unfortunate and costly to the citizens of California if the CEC chose not to exploit this opportunity to achieve the same basic goals if AB 844 and AB 32 by not adopting the Federal proposal.

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<sup>6</sup> [http://www.energy.ca.gov/transportation/tire\\_efficiency/documents/2009-04-08\\_workshop/2009-04-08\\_TRANSCRIPT.PDF](http://www.energy.ca.gov/transportation/tire_efficiency/documents/2009-04-08_workshop/2009-04-08_TRANSCRIPT.PDF) at 133.

<sup>7</sup> 74 Fed. Reg. 29542 et seq. (June 22, 2009).

<sup>8</sup> See, NHTSA Tire Fuel Efficiency Consumer Information Program Development: Phase 1 — Evaluation of Laboratory Test Protocols, DOT HS 811 119, June 2009, NHTSA Docket ID 2008-0121-0019 and NHTSA Tire Fuel Efficiency Consumer Information Program Development: Phase 2 – Effects of Tire Rolling Resistance Levels on Traction, Treadwear, and Vehicle Fuel Economy, DOT HS (TBD) and Date (TBD), NHTSA Docket ID 2008-0121-0016.

<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=NHTSA-2008-0121> (accessed June 24, 2009).

<sup>9</sup> See, *Preliminary Regulatory Impact Analysis: Notice of Proposed Rulemaking, Replacement Tire Consumer Information Program Part 575.106*, Office of Regulatory Analysis and Evaluation, National Center for Statistics and Analysis, June 2009, NHTSA Docket ID 2008-0212-0015.1.

<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=NHTSA-2008-0121> (accessed June 24, 2009).

<sup>10</sup> See, *NHTSA Rolling Resistance Focus Group Report*, NHTSA Docket ID 2008-0121-0018.

<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=NHTSA-2008-0121> (accessed June 24, 2009).

This NPRM presents an opportunity for California to partner with the federal government to provide all consumers across the nation with consistent information about tires. On May 19, 2009, it was announced that the California Air Resources Board would collaborate with NHTSA and the U.S. Environmental Protection Agency to create nationwide regulations for transportation-related greenhouse gas emissions. The NHTSA proposed rule presents another opportunity for such collaboration that would provide clearer, more consistent information to consumers, maximize regulatory efficiency and conserve scarce state resources at a time when the California state budget is on the verge of collapse.

While RMA is still reviewing the NPRM and is not able to provide detailed comments on it at this time, it is clear that the NHTSA proposal would provide consumer education about tire efficiency and other tire performances (traction and treadwear) and proper tire maintenance, which would enable consumers to make more informed tire choices and maximize the efficiency of all tires, regardless of tire choice. If CEC were to simply adopt the federal program, CEC would be able to realize public policy goals contemplated in AB 844 and AB 32 without incurring significant administrative, technical, compliance assurance and enforcement costs associated with an ongoing state regulatory program.

Respectfully submitted,

A handwritten signature in black ink, reading "Tracey J. Norberg." The signature is written in a cursive, flowing style.

Tracey J. Norberg

Senior Vice President and Corporate Counsel