Because the label is located on the tire sidewall, it is not likely to be misidentified. A reader will be able to read the date code, by spinning the tire, and therefore inverting the date code will allow it to easily be read.

The petitioner argues that, as with the Cooper tires, the date code on the subject tires is located on the sidewall, is not likely to be misidentified, and a reader will be able to read and understand the date code. Hankook communicated in an email to the agency on November 19, 2020, that a partial TIN is labeled on at least one sidewall of the tire. The subject tires otherwise meet the marking and performance requirements of FMVSS No. 139.

4. Hankook is not aware of any complaints, claims, or incidents related to the subject noncompliance.

Hankook concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

*VI. NHTSA's Analysis:* In evaluating this tire labeling noncompliance issue, NHTSA considered if the incorrectly marked date code could mislead a consumer about the actual age of the tire or make it difficult to correctly determine if the tire has been recalled. The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement with no performance implications*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such performance-related noncompliances inconsequential.[1] Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

An important issue to consider in determining inconsequentiality is the safety risk to individuals who experience the type of event against which the recall would otherwise protect.[2] In general, NHTSA does not consider the absence of complaints or injuries to show that the issue is inconsequential to safety. ''Most importantly, the absence of a complaint does not mean there have not been any safety issues, nor does it mean that there will not be safety issues in the future.'' [3] ''[T]he fact that in past reported cases good luck and swift reaction have prevented many serious injuries does not mean that good luck will continue to work.'' [4]

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected have also not justified granting an inconsequentiality petition.[5] Similarly, NHTSA has rejected petitions based on the assertion that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance. The percentage of potential occupants that could be adversely affected by a noncompliance does not determine the question of inconsequentiality. Rather, the issue to consider is the consequence to an occupant who is exposed to the consequence of that noncompliance.[6] These considerations are also relevant when considering whether a defect is inconsequential to motor vehicle safety.

In the instant case, the date code required by FMVSS No. 139 is properly located in the right-most position and shows the correct week and year of manufacture but has been imprinted upside-down, and the upside-down font cannot be confused with right-side up font. If a consumer reads the label as it is, the fact that the date code is inverted would become self-evident. In such a case, it would not be difficult to rotate the tire to a position where the code could be read and deciphered. The tire's age would then be available as needed and the tire could also be identified if recalled.

*VII. NHTSA's Decision:* In consideration of the foregoing, NHTSA finds that Hankook has met its burden of persuasion that the subject FMVSS No. 139 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, Hankook's petition is hereby granted, and Hankook is exempted from the obligation of providing notification of, and a remedy for, the noncompliance under 49 U.S.C. 30118 and 30120.

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 subject tires that Hankook no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve tire 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 Hankook notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke, III,**

*Director, Office of Vehicle Safety Compliance.*

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**BILLING CODE 4910–59–P**

[1] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[2] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[3] *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016).

[4] *United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

[5] *See Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance,* 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

[6] *See Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance,* 64 FR 29408, 29409 (June 1, 1999).

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0219]**

## Agency Information Collection Activity Under OMB Review: CHAMPVA Benefits—Application, Claim, Other Health Insurance, Potential Liability & Miscellaneous Expenses

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

**DATES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0219.

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0219'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Authority:* 44 U.S.C. 3501–21.

*Title:* CHAMPVA Benefits—Application, Claim, Other Health Insurance, Potential Liability & Miscellaneous Expenses.

*OMB Control Number:* 2900–0219.

*Type of Review:* Reinstatement with change of a previously approved collection.

*Abstract:* This information collection includes several forms, as well as a review and appeal process, which are used to administer the Civilian Health And Medical Program of the Department of Veterans Affairs (CHAMPVA).

VA Form 10–10d: Application for CHAMPVA Benefits

VA Form 10–7959a: CHAMPVA Claim Form

VA Form 10–7959c: CHAMPVA Other Health Insurance (OHI) Certification

VA Form 10–7959d: CHAMPVA Potential Liability Claim

VA Form 10–7959e: VA Claim for Miscellaneous Expenses

**Review and Appeal Process**

*Clinical Review*

a. VA Form 10–10d, Application for CHAMPVA Benefits, is used to determine eligibility of persons applying for healthcare benefits under the CHAMPVA program in accordance with 38 U.S.C. 501 and 1781.

b. VA Form 10–7959a, CHAMPVA Claim Form, is used to adjudicate claims for CHAMPVA benefits in accordance with 38 U.S.C. Sections 501 and 1781, and 10 U.S.C. Sections 1079 and 1086. This information is required for accurate adjudication and processing of beneficiary submitted claims. The claim form is also instrumental in the detection and prosecution of fraud. In addition, the claim form is the only mechanism to obtain, on an interim basis, other health insurance (OHI) information.

c. VA Form 10–7959c, CHAMPVA Other Health Insurance (OHI) Certification, is used to systematically obtain OHI information and to correctly coordinate benefits among all liable parties. Except for Medicaid and health insurance policies that are purchased exclusively for the purpose of supplementing CHAMPVA benefits, CHAMPVA is always the secondary payer of healthcare benefits (38 U.S.C. 501 and 1781, and 10 U.S.C. 1086).

d. VA Form 10–7959d, CHAMPVA Potential Liability Claim, provides basic information from which potential third party liability can be assessed. The Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) mandates recovery of costs associated with healthcare services related to an injury/illness caused by a third party. Additional authority includes 38 U.S.C. 501; 38 CFR 1.900 *et seq.;* 10 U.S.C. 1079 and 1086; 42 U.S.C. 2651–2653; and Executive Order 9397.

e. VA Form 10–7959e, VA Claim for Miscellaneous Expenses, is used to adjudicate claims for certain children of Korea and/or Vietnam veterans authorized under 38 U.S.C., chapter 18, as amended by section 401, Public Law 106–419 and section 102, Public Law 108–183. VA's medical regulations 38 CFR part 17 (17.900 through 17.905) establish regulations regarding provision of health care for certain children of Korea and Vietnam veterans and women Vietnam veterans' children born with spina bifida and certain other covered birth defects. These regulations also specify the information to be included in requests for preauthorization and claims from approved health care providers.

f. Review and Appeal Process pertains to the approval of health care, or approval for payment relating to the provision of health care, under the Veteran Family Member Programs. The provisions of chapter 51 of 38 U.S.C. or 38 CFR 17.276 and 38 CFR 17.904 establish a review process regarding disagreements by an eligible beneficiary of a Veteran Family Member Program, provider, Veteran, or other representative of the Veteran or beneficiary with a determination concerning provision of health care or a health care provider's disagreement with a determination regarding payment. The person or entity requesting reconsideration of such determination is required to submit such a request in writing. If such person or entity remains dissatisfied with the reconsideration determination, the person or entity is permitted to submit a written request for additional review.

g. Clinical Review pertains to the requirement of VHA to preauthorize certain medical services under 38 CFR 17.273 and 38 CFR 17.902. Clinical review determines if services are medically necessary and appropriate to allow under the Veteran Family Member Programs. The person requesting the services must submit medical documentation or applicable supporting material for review.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at: 86 FR 105 on June 3, 2021, pages 29883 and 29884.

*Affected Public:* Individuals and households.

*Estimated Annual Burden:* 34,548 total hours.

VA Form 10–10d—8,963 hours.

VA Form 10–7959a—9,167 hours.

VA Form 10–7959c—8,947 hours.

VA Form 10–7959d—239 hours.

VA Form 10–7959e—200 hours.

Review and Appeal Process—6,255 hours.

Clinical Review—777 hours.

*Estimated Average Burden per Respondent:*

VA Form 10–10d—10 minutes.

VA Form 10–7959a—10 minutes.

VA Form 10–7959c—10 minutes.

VA Form 10–7959d—7 minutes.

VA Form 10–7959e—15 minutes.

Review and Appeal Process—30 minutes.

Clinical Review—20 minutes.

*Frequency of Response:* Once annually.

*Estimated Number of Respondents:* 180,142 total.

VA Form 10–10d—53,775.

VA Form 10–7959a—55,000.

VA Form 10–7959c—53,680.

VA Form 10–7959d—2,045.

VA Form 10–7959e—800.

Review and Appeal Process—12,510.

Clinical Review—2,332.

By direction of the Secretary.

**Dorothy Glasgow,**

*VA PRA Clearance Officer, Alt. Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.*

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