

Actions by the agency since November 2000, in response to Congressional requirements, have addressed most of the concerns raised by Advocates in its docket submission. As previously stated, written comments to the ANPRM on tire labeling issues indicated that the tire construction information molded onto the tire is of little safety value to the general public since most consumers do not understand tire construction technology. Additionally, few consumers use the tire construction information as input to tire or vehicle purchasing decisions, according to the results of focus group surveys sponsored by the agency. However, the tire repair, retread, and recycling industries use the tire construction information and the agency is considering retaining all the current labeling requirements of FMVSS No. 109 in some form.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered. The tires have been chosen by GM as original equipment, suited for pickup trucks. Further, the tires are certified to meeting all the performance requirements of FMVSS No. 109. The agency agrees with GM's statement indicating that, in customer use, the LW or outboard side or the tire would likely stay in the original configuration through the life of the tire. Although tire construction affects tire strength and durability, neither the agency nor the tire industry provides information relating the strength and durability of a tire to the number and types of plies in the tread and sidewall. The agency believes the incorrect labeling of the tire construction information will have an inconsequential effect on consumer safety. The agency believes the safety of the GM pickup truck users and the users of these tires as replacements will not be adversely affected by the noncompliance because most consumers do not base tire purchases or vehicle operation parameters on tire construction information. The agency believes the noncompliance will have an inconsequential effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction is the primary safety concern of these industries, according to ITRA. In this case, the steel used in the construction of the tires is properly labeled.

In consideration of the foregoing, NHTSA has decided that the burden of

persuasion has been met and that the noncompliance is inconsequential to motor vehicle safety. Accordingly, Continental's application is granted and the applicant is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 3, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001-10312; Notice 1]

Michelin North America, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Michelin North America, Inc., has determined that approximately 173,800 205/55R16 Michelin Energy MXV4+ tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires." FMVSS No. 109 requires that each tire shall have permanently molded into or onto both sidewalls the generic name of each cord material used in the plies of the tire. (S4.3(d)).

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Michelin has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

During the period of the 4th week of 2000 through the 9th week of 2001, the subject tires were produced and cured with erroneous marking. Instead of the required marking of the cord material of Polyester, the tires were marked: Rayon. Of the total, approximately 162,500 tires may have been delivered to customers. The remaining tires have been identified in Michelin's warehouse.

Michelin states that all performance requirements of FMVSS 109 were met or exceeded and that this noncompliance

is inconsequential as it relates to motor vehicle safety.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: (30 days after Publication Date).

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

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Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA-01-10293 (PDA-28(R))]

Application by the Town of Smithtown, NY for a Preemption Determination as to Ordinance on Transportation of Liquefied Natural Gas

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public Notice and Invitation to comment.

SUMMARY: Interested parties are invited to submit comments on an application by the Town of Smithtown, New York for an administrative determination whether Federal hazardous material transportation law preempts certain sections of the Town Code that require a permit for any motor vehicle used to deliver liquefied petroleum gas (LPG) within the Town and a "certificate of fitness" for any person who delivers LPG.

DATES: Comments received on or before September 24, 2001, and rebuttal comments received on or before November 7, 2001, will be considered before issuance of an administrative