

Issued in Washington, DC, on December 19, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-25525; Notice 2]

Fulmer Helmets, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

Fulmer Helmets, Inc. (Fulmer) has determined that certain helmets it produced in 2001 through 2006 do not comply with S5.2 of 49 CFR 571.218, Federal Motor Vehicle Safety Standard (FMVSS) No. 218, "Motorcycle Helmets." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Fulmer 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." Notice of receipt of the petition was published, with a 30 day comment period, on August 8, 2006 in the **Federal Register** (71 FR 45106). NHTSA received no comments.

Affected are a total of approximately 32,052 helmets which Fulmer certified as complying with FMVSS No. 218. These consist of approximately 26,762 Modular Motorcycle Helmets AF-M produced between January 2002 and April 2006, and approximately 5,290 Modular Snowmobile Helmets SN-M produced between November 2001 and November 2005. S5.2 of FMVSS No. 218, Penetration, requires that "when a penetration test is conducted in accordance with S7.2, the striker shall not contact the surface of the test headform." When this test was conducted on the subject helmets, the striker contacted the surface of the test headform. Fulmer has corrected the problem that caused these errors so that they will not be repeated in future production.

Fulmer believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Fulmer states that it asked Harry Hurt, "a leading expert in helmet testing and motorcycle crash research * * * [whose] experience is more than 50 years," to review the test results. Fulmer further states,

[Harry Hurt's] opinion is that the noncompliance on the penetration test is inconsequential because the helmets performed exceptionally well on all impact attenuation tests. In his experience, there has never been any correlation between the penetration test and accident performance, and damage like the penetration test is never seen in crash involved motorcycle helmets.

NHTSA has reviewed the petition and has determined that the noncompliance is not inconsequential to motor vehicle safety. The petitioner has not provided sufficient arguments or data to meet its burden of persuasion.

Fulmer asserts that the noncompliance is inconsequential to motor vehicle safety based on the opinion of Hugh H. (Harry) Hurt, Jr., President of the Head Protection Research Laboratory. Mr. Hurt contends that "there has never been any correlation between the penetration test and accident performance." While Mr. Hurt may have significant research experience related to motorcycle helmets, his statement alone is insufficient to justify that the failure of the Fulmer AF-M and SN-M helmets to meet S5.2 of the standard is inconsequential to motor vehicle safety.

The agency adopted the penetration performance requirement from ANSI Z90.1-1971. This performance requirement was adopted by the Standards Committee Z90 which included representatives from various consumer groups, helmet manufacturers, testing organizations, and government organizations.

Since its adoption, NHTSA has reviewed the relationship of the penetration test to motor vehicle safety. The agency requested comments on the merits of the penetration performance test in 1988 (53 FR 11280) but received no comments regarding the elimination of this performance requirement, or proving or disproving the benefits. In 1997, a study was commissioned to evaluate upgrading FMVSS No. 218 ("Feasibility Study of Upgrading FMVSS No. 218, Motorcycle Helmets," D.R. Thom, H.H. Hurt, T.A. Smith, J.V. Ouelelet, Head Protection Research Laboratory, University of Southern California, DTNH22-97-P-02001). The study considered potential areas for FMVSS No. 218 to be upgraded, including the penetration test. With regard to the latter, the authors, including Mr. Hurt, stated that "[t]he advantage [of the FMVSS No. 218 penetration test] is that the test is very severe, simple, repeatable, and absolutely denies qualification to an inferior helmet." (pg. 11) The study (at pages 1 and 54) recommended that the agency retain the penetration tests.

These reviews provide ample support for the value of the penetration test within FMVSS No. 218.

At an independent test lab, NHTSA conducted FMVSS No. 218 compliance tests on eight of the subject Fulmer AF-M motorcycle helmets. Six of the eight helmets failed the penetration requirement of S5.2, representing a 75 percent failure rate of the sample set. NHTSA believes that the rate of noncompliance presents a safety concern, and the arguments presented by the petitioner have not alleviated this concern.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Fulmer's petition is hereby denied.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8).

Issued on: December 18, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E6-21990 Filed 12-21-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2006-25981; Notice 2]

Michelin North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (Michelin) has determined that certain tires it imported in 2005 and 2006 do not comply with S6.5(d) of 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, "New pneumatic tires for vehicles other than passenger cars." 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." Notice of receipt of a petition was published, with a 30-day comment period, on October 12, 2006, in the **Federal Register** (71 FR 60230). NHTSA received no comments.

Affected are a total of approximately 6,189 11R24.5 Load Range H BFGoodrich DR444 tires produced between November 20, 2005 and July 22, 2006. S6.5(d) of FMVSS No. 119 requires that each tire shall be marked on each sidewall with "[t]he maximum

load rating and corresponding inflation pressure of the tire * * *." The sidewall labeling on the subject tires incorrectly states the maximum dual load carrying capacity. They are incorrectly marked "Max load dual 3075 kg (6780 lbs) at 830 kPa (120 psi)." They should have been marked "Max load dual 3000 kg (6610 lbs) at 830 kPa (120 psi)." The tires are correctly marked for the maximum single load carrying capacity. Michelin has corrected the problem that caused these errors so that they will not be repeated in future production.

Michelin believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Michelin states,

When both single and dual loads are marked on the tire (as is the case here), FMVSS No. 119 requires that performance compliance testing be done based on the single (higher, more punishing) tire load. Therefore, an incorrect maximum dual load marking is inconsequential and [the] tire meets all FMVSS No. 119 minimum performance requirements.

Michelin cites NHTSA's grant of a previous inconsequential noncompliance petition it submitted for a similar maximum dual load noncompliance (69 FR 62512; October 26, 2004; Docket No. NHTSA-2004-18973, Notice 2), where NHTSA stated,

The agency also agrees that safety will not be compromised for the tires marked with the incorrect "max load dual" since the more severe "max load single" load is marked correctly. In addition, these tires meet or exceed all of the performance requirements of FMVSS No. 119, and all other informational markings as required by FMVSS No. 119 are present.

Michelin says that the tires meet or exceed all other FMVSS No. 119 requirements.

The agency agrees with Michelin that the noncompliance is inconsequential to safety. As Michelin points out, when both single and dual loads are marked on the tire, as is the case here, FMVSS No. 119 requires that performance compliance testing be done based on the single higher and more severe tire load, which is correctly labeled.

Industry standardizes its tire sizes in the various yearly standards publications. Due to the demanding environment in which a dual tire is used, industry imposes a safety factor for load whenever a tire is used in a dual application. The safety factor may vary within a small range from tire to tire, and the values are published in one of the standard publications allowed in FMVSS No. 119. In this case, Michelin apparently used the Tire & Rim

Association (T&R) Yearbook for 2006, which states that for the 11R24.5 radial truck tire, the max rated load and pressure values are as follows: Max single load 3250 kg (7160 lbs) @ 830 kPa (120 psi); Max dual load 3000 kg (6610 lbs) @ 830 kPa (120 psi). The safety factor here is 92.3%.

The subject noncompliant tires were mismarked with a dual load of 3075 kg (6780 lbs) @ 830 kPa (120 psi). The safety factor for the mismarked tire is therefore reduced to 94.7%. (The safety factor as used here is the ratio between the max rated dual load and the max rated single load expressed as a percentage. An increase in this percentage indicates a reduction in the margin of safety. In this case, the mismarked tires can be loaded to 94.7% of the single load instead of the intended dual load of 92.3% of the single load.)

A review of the T&R Yearbook for 2006 for this and similar sized and load rated radial truck tires reveals that the safety factors vary from 90.8% to 94.9%.¹ Since the Michelin mismarking keeps the safety factor within the range established for similar radial truck tires, the noncompliance has minimal safety impact even if the consumer loads the vehicle according to the mismarked tire labeling.

In addition, the tires are certified to meet all of the other performance and labeling requirements of FMVSS No. 119.

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, Michelin'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: December 18, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

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¹ See T&R Yearbook for 2006, pages 3-16, Radial Ply tires for Trucks, Buses and Trailers Used in Normal Highway Service, Table TTB-3R.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket: PHMSA-99-6355]

Request for Public Comments and Office of Management and Budget (OMB) Approval of an Existing Information Collection (2137-0604)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

SUMMARY: This notice requests public participation in the Office of Management and Budget (OMB) approval process for the renewal of an existing PHMSA information collection. In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) described below has been forwarded to OMB for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. This renewal of information complies with the integrity management rule for hazardous liquid pipelines for operators with more than 500 miles of pipeline. PHMSA published a **Federal Register** Notice soliciting comments on the following information collection and received none. The purpose of this notice is to allow the public an additional 30 days from the date of this notice to submit comments.

DATES: Comments must be submitted on or before January 22, 2007.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

FOR FURTHER INFORMATION CONTACT: William Fuentevilla at (202) 366-6199, or by e-mail at William.Fuentevilla@dot.gov.

SUPPLEMENTARY INFORMATION: Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department. These include (1) whether the information will have practical utility; (2) the accuracy of the Department's estimate of the burden of the proposed information collections; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.