

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

Issued on: May 5, 2008.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0087; Notice 1]

Michelin North America, Receipt of Petition for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (MNA), has determined that certain light vehicle tires that it manufactured during the period beginning September 22, 2007 through October 26, 2007 (DOT weeks 3707 and 4207), do not fully comply with paragraphs S5.5 & S5.5(c) of 49 CFR 571.139 (Federal Motor Vehicle Safety Standard (FMVSS) No. 139 *New Pneumatic Radial Tires for Light Vehicles*). MNA has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), MNA has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of MNA's petition 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 petition.

Affected are approximately 3,385 Michelin brand P235/55R17 98H MXV4 PLUS tires, produced September 22, 2007 through October 26, 2007 (DOT weeks 3707 and 4207). Paragraphs S5.5 & S5.5(c) of 49 CFR 571.139 require in pertinent part that:

S5.5 *Tire Markings*. Except as specified in paragraphs (a) through (h) of S5.5 each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one side wall with the information specified in S5.5(e) through (h) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section in S7 of the standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead of the shoulder

of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inch.

S5.5(c) The maximum permissible inflation pressure, subject to the limitations of S5.5.4 through S5.5.6 of this standard.

MNA explained that the subject tires were manufactured with an incorrect maximum pressure value (350kPa (51 PSI)) marked on the outboard (reference) sidewall while the correct maximum pressure value (300 kPa (44 PSI)) was marked on the inboard sidewall. MNA expressed its belief that both maximum pressure values marked on the tires are acceptable choices for this tire. MNA also believes that the noncompliance exists because two maximum pressure values have been applied to the same tire.

MNA defends its belief that the noncompliance is inconsequential to motor vehicle safety by stating the following reasons:

(1) Performance requirements—The Subject Tires meet or exceed all of the minimum performance requirements of FMVSS No. 139.

(2) Maximum Pressure Value—Paragraph S5.5.4 of FMVSS No. 139 limits the choices for the allowed maximum inflation pressure to 240, 280, 290, 300, 330, 340, 350, or 390 kPa depending on the load version of the tire. The Tire & Rim Association (T&RA) standard "P. 1-34" specifies pressure level options for the maximum permissible inflation pressure marking for a corresponding load version and its maximum tire load. The choice of the maximum inflation pressure level then becomes the choice of the tire manufacturer, as long as it is in compliance with the established values under FMVSS No. 139 paragraph S5.5.4. For the subject P235/55R17 standard load tire, both maximum inflation pressure values (350 kPa and 300 kPa) are acceptable choices.

(3) Maximum Pressure Marking—Paragraphs S5.5 and S5.5(c) of FMVSS No. 139 both specify that each tire must be marked on each sidewall with the maximum permissible inflation pressure. The manufacturer's selected inflation pressure value must be marked on both sidewalls of the tire in kPa, followed by the appropriate PSI value (FMVSS No. 139 paragraph S5.5.4(a)) in parentheses. Since only one selection is allowed, the same value is required on both sidewalls. Therefore, the noncompliance lies only in the fact that

both values have been applied to the same tire.

(4) Strength—Each standard load tire has a specified tire strength requirement. This requirement is defined in FMVSS No. 139 paragraph S6.5 (and FMVSS No. 109 paragraph S5.3) and must be met whether the selected maximum permissible pressure marking value is 240 kPa (35 PSI), 300 kPa (44 PSI), or 350 kPa (51 PSI). The Michelin P235/55 R17 98H MXV4 PLUS tire meets this requirement. The 350 kPa (51 PSI) maximum inflation pressure marking therefore has no impact to the tire's performance.

(5) Overloading—The use of either of the maximum inflation pressures displayed on the subject tire sidewalls as the source of information for the recommended inflation pressure will not result in an overloading of the tires nor reduce the load carrying capacity of the tires since both values are above the recommended inflation pressure (240 kPa (35PSI)) for the tire's maximum load rating.

(6) Tire labeling—Maximum permissible inflation pressure labeling on tire sidewalls is poorly understood by the general public and it should be removed from tire sidewalls because it has limited safety value and may confuse customers about the proper source for the recommended inflation pressure.

MNA also states that it has corrected the problem that caused these errors so that they will not be repeated in future production.

MNA requested that NHTSA consider its petition and grant an exemption from the notification and recall requirements of the National Traffic and Motor Vehicle Safety Act on the basis that the noncompliance described above is inconsequential as it relates to motor vehicle safety.

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.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building

Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at http://www.regulations.gov by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 11, 2008.

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

Issued on: May 6, 2008.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0092]

Notice of Receipt of Petition for Decision That Nonconforming 2007 Harley Davidson FX, FL, XL and VR Series Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2007 Harley Davidson FX, FL, XL and VR Series Motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2007 Harley Davidson FX, FL, XL and VR Series Motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 11, 2008.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to http://www.regulations.gov. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202-493-2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your

comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at http://www.regulations.gov. Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the