

markings shall be in letters and numerals not less than 2 mm (0.078 inch) high and raised above or sunk below the tire surface not less than 0.4 mm (0.015 inch), except that the marking depth shall be not less than 0.25 mm (0.010 inch) in the case of motorcycle tires. The tire identification and the DOT symbol labeling shall comply with part 574 of this chapter. Markings may appear on only one sidewall and the entire sidewall area may be used in the case of motorcycle tires and recreational, boat, baggage, and special trailer tires \* \* \*

(d) The maximum load rating and corresponding inflation pressure of the tire, shown as follows:

(Mark on tires rated for single and dual load): Max load single    kg (   lb) at    kPa (   psi) cold. Max load dual    kg (   lb) at    kPa (   psi) cold.

(Mark on tires rated only for single load): Max load    kg (   lb) at    kPa (   psi) cold.

CMA explained that the subject tires are marketed with the correct maximum load rating and corresponding inflation pressure in both English and Metric units. The affected tires have English units on one sidewall and Metric units on the other sidewall. The noncompliance being that both English and Metric units do not both appear on each sidewall.

CMA stated that it believes the noncompliance is inconsequential to motor vehicle safety because correct maximum load rating and corresponding inflation pressure information is marked on each tire in both English and Metric units. Therefore, that information is readily available to anyone who uses the tires.

CMA requested that NHTSA consider its petition and grant an exemption from the 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 Decision

The agency agrees with CMA that the noncompliance is inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect on the operational safety of vehicles on which these tires are mounted.

While the correct tire inflation pressure is included on the subject tire sidewalls, it is not marked in both English and Metric unit systems on each sidewall as required by S6.5(d). However, because the tire inflation pressure is available and stated correctly on each tire, in each unit system, albeit separately, it is unlikely that a consumer will not find or will misread pressure units due to the noncompliance. Therefore, the tires, as labeled, are likely

to achieve the safety purpose of the standard. In the agency's judgment, the subject incorrect labeling of the tire inflation pressure information will have an inconsequential effect on motor vehicle safety.

In consideration of the foregoing, NHTSA has decided that CMA has met its burden of persuasion that the subject FMVSS No. 119 labeling noncompliance is inconsequential to motor vehicle safety. Accordingly, CMA's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

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

Issued on: April 1, 2010.

**Claude Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0213; Notice 2]

#### Goodyear Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

Goodyear Tire & Rubber Company (Goodyear), has determined that certain passenger car tires manufactured during the period January 25, 2007, through July 24, 2008, do not fully comply with paragraph S5.5(e) of Federal Motor Vehicle Safety Standards (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Goodyear 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) and the rule implementing those provisions at 49 CFR Part 556, Goodyear 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. Notice of receipt of the petition was published, with a 30-day public comment period, on January 13, 2009, in the **Federal Register** (74 FR 1760). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: <http://www.regulations.gov/> then follow the online search instructions to locate docket number "NHTSA-2008-0213."

For further information on this decision, contact Mr. George Gillespie, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5299, facsimile (202) 366-7002.

Affected are approximately 9,864 size 245/45R17 95H Fierce HP brand passenger car tires manufactured during the period January 25, 2007, through July 24, 2008.

Paragraph S5.5(e) of FMVSS No. 139 requires in pertinent part:

S5.5 Tire markings. Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this 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 to 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 inches \* \* \*

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire; \* \* \*

Goodyear explains that the noncompliance is that the sidewall marking incorrectly identifies the generic material of the plies in the body of the tire as Nylon when they are in fact polyester. Specifically, the tires in question were inadvertently manufactured with "Tread: 1 Polyester + 2 Steel Cords + 1 Nylon Cord. The labeling should have been "Tread: 1 Polyester Cord + 2 Steel Cords + 1 Polyester Cord" (emphasis added).

Goodyear states that it discovered the mold labeling error that caused the non-compliance during a routine quality audit.

Goodyear argues that the noncompliance is inconsequential to motor vehicle safety because the tires meet or exceed all applicable Federal Motor Vehicle Safety performance standards. All of the markings related to tire service (load capacity, corresponding inflation pressure, *etc.*) are correct. The mislabeling of these tires creates no unsafe condition.

Goodyear states that the affected tire molds have been modified and all future production will have the correct material information shown on the sidewall.

Goodyear also points out that NHTSA has previously granted petitions for sidewall marking noncompliances that it believes are similar to the present noncompliance.

In summation, Goodyear states that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

#### NHTSA Decision

The agency agrees with Goodyear that the noncompliance is inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no 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. Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the ply material in a tire.

The agency also believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, since the tire sidewalls are marked correctly for the number of steel plies, this potential safety concern does not exist.

In consideration of the foregoing, NHTSA has decided that Goodyear has met its burden of persuasion that the subject FMVSS No. 139 labeling noncompliance is inconsequential to motor vehicle safety. Accordingly, Goodyear's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

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

Issued on: April 1, 2010.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2009-0005; Notice 2]

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

Michelin North America, Inc. (Michelin), has determined that certain passenger car tires manufactured between September 18, 2008, and October 10, 2008, did not fully comply with paragraphs S5.5(e) and S5.5(f) of Federal Motor Vehicle Safety Standards (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Michelin 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) and the rule implementing those provisions at 49 CFR Part 556, Michelin 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. Notice of receipt of the petition was published, with a 30-day public comment period, on February 19, 2009, in the **Federal Register** (74 FR 7738). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2009-0005."

For further information on this decision, contact Mr. George Gillespie, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5299, facsimile (202) 366-7002.

Affected are approximately 2,240 size P195/60R15 (87T) Michelin Harmony brand passenger car tires manufactured between September 18, 2008, and October 10, 2008, at Michelin's plant located in Pictou, Canada. Approximately 1,590 of these tires have been delivered to Michelin's customers.

The remaining tires (approximately 650) are being held in Michelin's possession until they can be correctly relabeled.

Paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139 require in pertinent part:

S5.5 Tire markings. Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this 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 to 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 inches\* \* \*

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;\* \* \*

(f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different \* \* \*

Michelin explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the reference side of the tires incorrectly describes the number of plies in the tread area of the tires. Specifically, the tires in question were inadvertently manufactured with "Tread Plies: 2 Polyester + 2 polyamide + 2 steel; Sidewall plies: 2 polyester" marked on the intended outboard sidewall. The labeling should have been "Tread Plies: 2 Polyester + 1 polyamide + 2 steel; Sidewall plies: 2 polyester" (emphasis added). Michelin also explains that the marking on the other sidewall of the tires correctly describes the plies in the tread area of the tires.

Michelin states that it discovered the mold labeling error that caused the noncompliance during a routine quality audit.

Michelin argues that this noncompliance is inconsequential to motor vehicle safety because the noncompliant sidewall marking does not affect the strength of the tires and all other labeling requirements have been met.

Michelin points out that NHTSA has previously granted petitions for sidewall marking noncompliances that Michelin believes are similar to the instant noncompliance.

Michelin also stated that it has corrected the problem that caused these