

**Authority:** 23 U.S.C. Section 405(c)(3)(E).

Issued in Washington, DC.

**Terry T. Shelton,**

*Associate Administrator, National Center for Statistics and Analysis.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0128; Notice 2]

#### Harley-Davidson Motor Company, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** Harley-Davidson Motor Company, Inc. (Harley-Davidson), has determined that certain model year (MY) 2016–2017 Harley-Davidson XL 1200CX Roadster motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds)*. Harley-Davidson filed a noncompliance information report dated November 4, 2016. Harley-Davidson also petitioned NHTSA on November 28, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**ADDRESSES:** For further information on this decision, contact Kerrin Bressant, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-1110, facsimile (202) 366-3081.

#### SUPPLEMENTARY INFORMATION:

*I. Overview:* Harley-Davidson Motor Company, Inc. (Harley-Davidson), has determined that certain model year (MY) 2016–2017 Harley-Davidson XL 1200CX Roadster motorcycles do not fully comply with paragraph S5.3.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds)*. Harley-Davidson filed a report dated November 4, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Harley-Davidson also

petitioned NHTSA on November 28, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published with a 30-day public comment period, on April 7, 2017, in the **Federal Register** (82 FR 17074). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA-2016-0128.”

*II. Vehicles Involved:* Approximately 2,352 MY 2016–2017 Harley-Davidson XL 1200CX Roadster motorcycles manufactured between March 8, 2016 and August 23, 2016, are potentially involved.

*III. Noncompliance:* Harley-Davidson explains that the noncompliance is that the certification label on the subject vehicles incorrectly identifies the rear wheel rim size as 18 X 4.50 instead of 18 X 4.25, and therefore does not meet the requirements of paragraph S5.3.2 of FMVSS No. 120.

*IV. Rule Text:* paragraph 5.3 of FMVSS No. 120 states:

Each vehicle shall show the information specified in S5.3.1. and S5.3.2 . . . in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the format set forth following this paragraph. This information shall appear either:

(a) After each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter; or at the option of the manufacturer,

(b) On the tire information label affixed to the vehicle in the manner, location, and form described in § 567.4(b) through (f) of this chapter as appropriate of each GVWR–GAWR combination listed on the certification label.

Paragraph S5.3.2 of FMVSS No. 120 states:

S5.3.2 Rims. The size designation and, if applicable, the type designation of Rims (not necessarily those on the vehicle) appropriate for those tires.

*V. Summary of Harley-Davidson’s Petition:* Harley-Davidson described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Harley-Davidson submitted the following reasoning:

1. Harley-Davidson believes this labeling noncompliance is inconsequential to motor vehicle safety because consumers have the following sources to reliably identify the correct tire and rim combination:

a. The correct tire size is listed on the sidewall of the tire originally installed on the rim;

b. The correct tire, including tire size, is listed in the Owner’s Manual;

c. The correct wheel size is shown in the Original Equipment & Recommended Replacement Tires table in the Harley-Davidson Genuine Motor Parts and Accessories catalog; and

d. The correct wheel size is imprinted in the wheel.

Harley-Davidson believes these sources, particularly the tire size information listed on the rear tire’s sidewall, are the most likely places for consumers to look when replacing tires and rims.

2. Harley-Davidson states that NHTSA has granted petitions for inconsequential noncompliance for similar labeling errors regarding the rim size or the omission of the rim size. (Please see Harley-Davidson’s petition for a complete list of referenced petitions.)

In these cases, Harley-Davidson stated that the agency reasoned that consumers were unlikely to mismatch tires and rims because “the rim size information can be found in the vehicle’s owner’s manual or on the rim itself, and the tire size information is available from multiple sources including the owner’s manual, the sidewalls of the tires on the vehicle and on the tire placard or information label located on the door or door opening. The rim size can be derived using this tire information.

3. The incorrect rim size on the subject motorcycles’ certification label is unlikely to expose operators to a significantly greater risk than an operator riding a compliant motorcycle. Operators have several reliable sources to assist them in correctly matching the rims and tires.

4. Lastly, Harley-Davidson is not aware of any warranty claims, field reports, customer complaints, legal claims, or any incidents or injuries related to the subject condition.

Harley-Davidson concluded by expressing the belief 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.

To view Harley-Davidson's petition analyses in its entirety you can visit <https://www.regulations.gov> by following the online instructions for accessing the dockets and by using the docket ID number for this petition shown in the heading of this notice.

#### NHTSA Decision

**NHTSA Analysis:** NHTSA has evaluated the merits of Harley Davidson's inconsequential noncompliance petition and has determined that this particular noncompliance is inconsequential to motor vehicle safety. Specifically, the 49 C.F.R Part 567 label containing the FMVSS No. 120 S5.3 rim information incorrectly identifies the rear-wheel rim size as 18 X 4.50 instead of 18 X 4.25. NHTSA has concluded that the mislabeling noncompliance does not affect motor vehicle safety because the 18 X 4.50 rim size identified on the certification label is compatible with both the tire fitted to the vehicle and to the tire specified on the label (which are the same in this case). Also, the intended rim and tire sizing combination is available and accessible from multiple sources and locations.

The 2016 Tire and Rim Association guide for rim contours for motorcycle tires, indicates that both the 4.25-inch and the 4.50-inch rim widths are approved rim contours for the tire size (150/70R18), which is the size specified on the certification label and the size of the tires fitted to the vehicle. Therefore, use of either rim size is acceptable for the tire indicated and tire/rim mismatch should not occur.

If the rim size listed on the certification label is not used to determine tire and rim combination when either is being replaced, there are numerous other sources and locations of that information available to the consumer and service technician. These sources include: (1) The correct wheel size imprinted on the wheel, (2) correct wheel size shown in the original equipment and recommended replacement tires table in the Harley-Davidson Genuine Motor Parts and Accessories Catalog, (3) the correct tire size listed in the Owner's Manual, and (4) the correct tire size listed on the sidewall of the tire originally installed on the wheel rim. In particular, we agree with Harley-Davidson's assertion that source number "4" is the most likely place for consumers to look when replacing tires and rims to verify tire size.

**NHTSA'S Decision:** In consideration of the foregoing, NHTSA finds that

Harley-Davidson has met its burden of persuasion that the FMVSS No. 120 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, Harley-Davidson's petition is hereby granted and Harley-Davidson Motor Company, Inc. is consequently exempted from the obligation to provide notification of, and remedy for, the subject noncompliance in the affected vehicles 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 motorcycles that Harley-Davidson no longer controlled at the time it determined that the noncompliance existed. However, on the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Harley-Davidson 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

**Jeffrey M. Giuseppe,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0023; Notice 2]

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

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** Porsche Cars North America, Inc. (PCNA), on behalf of Dr. Ing. h.c.F. Porsche AG (PAG), has determined that certain model year (MY) 2017 Porsche 911 Turbo and Porsche 911 Turbo Cabriolet motor vehicles do not fully comply with Federal Motor Vehicle

Safety Standard (FMVSS) No. 101, *Controls and Displays*, and FMVSS No. 135, *Light Vehicle Brake Systems*. PCNA filed a noncompliance report dated March 16, 2017. PCNA also petitioned NHTSA on March 17, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**ADDRESSES:** For further information on this decision contact Stu Seigel, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5287, facsimile (202) 366-3081.

#### SUPPLEMENTARY INFORMATION:

**I. Overview:** Porsche Cars North America, Inc. (PCNA), on behalf of Dr. Ing. h.c.F. Porsche AG (PAG), has determined that certain model year (MY) 2017 Porsche 911 Turbo and Porsche 911 Turbo Cabriolet motor vehicles do not fully comply with paragraph S5.2.1 of FMVSS No. 101, *Controls and Displays*, and paragraph S5.5.5 of FMVSS No. 135, *Light Vehicle Brake Systems*. PCNA filed a noncompliance report dated March 16, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. PCNA petitioned NHTSA on March 17, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published with a 30-day public comment period, on April 11, 2017, in the **Federal Register** (82 FR 17507). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2017-0023."

**II. Vehicles Involved:** Approximately 17 MY 2017 Porsche 911 Turbo and Porsche 911 Turbo Cabriolet motor vehicles, manufactured between May 31, 2016, and January 11, 2017, are potentially involved.

**III. Noncompliance:** PCNA explains that the noncompliance is that the telltales used for Brake Warning, Park Brake Warning and Antilock Braking System (ABS) failure warnings are displayed using International Organization for Standardization (ISO) symbols instead of the words "Brake" and "ABS" as required by paragraph