

is in the correct position, however, the date code is upside down or inverted vertically. The Agency believes that despite the error, the date code is still clearly legible, will not be misunderstood, and may be oriented correctly by rotating or spinning the tire.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Hankook has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Hankook's petition is hereby granted and Hankook is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance 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 tires that Hankook no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Hankook 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)

Otto G. Matheke III,
Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0092; Notice 2]

Michelin 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: Michelin North America, Inc. (MNA) has determined that certain Michelin CrossClimate SUV replacement tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. MNA filed a noncompliance report dated July 31, 2020, and subsequently petitioned NHTSA on August 21, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of MNA's petition.

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655-0547.

SUPPLEMENTARY INFORMATION:

I. Overview

MNA has determined that certain Michelin CrossClimate SUV replacement tires do not fully comply with the requirements of paragraphs S5.5(e) and (f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated July 31, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA subsequently petitioned NHTSA on August 21, 2020, 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, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of MNA's petition was published with a 30-day public comment period, on September 13, 2021, in the **Federal Register** (86 FR 50949). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2020-0092."

II. Tires Involved

Approximately 884 Michelin CrossClimate SUV replacement tires, size 235/55R17 99V, manufactured between October 20, 2019, and November 30, 2019, are potentially involved.

III. Noncompliance

MNA explains that the noncompliance is due to a mold error and that as a result, the number of tread plies indicated on the sidewall of the

subject tires does not match the actual number of plies in the tire construction as required by paragraphs S5.5(e) and (f) of FMVSS No. 139. Specifically, the tires were marked "Tread Plies: 2 Polyester + 2 Steel + 1 Polyamide; Sidewall: 2 Polyester" when they should have been marked "Tread Plies: 1 Polyester + 2 Steel + 1 Polyamide; Sidewall: 1 Polyester."

IV. Rule Requirements

Paragraphs S5.5(e) and (f) of FMVSS No. 139 include the requirements relevant to this petition. Each tire must be marked on each sidewall with the information specified in paragraphs S5.5(a) through (d) and on one sidewall with the information specified in paragraphs S5.5(e) through (i) according to the phase-in schedule specified in paragraph S7 of FMVSS No. 139. Specifically, each tire should be marked with the generic name of each cord material used in the plies (both sidewall and tread area) of the tire and the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

V. Summary of MNA's Petition

The following views and arguments presented in this section, "V. Summary of MNA's Petition," are the views and arguments provided by MNA and do not reflect the views of the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following reasoning:

1. Operational Safety

a. Tire performance—MNA says that the subject tires have been designed as a single ply construction. The mismarked tires have been manufactured according to the design specification. These tires fully comply with MNA performance requirements as well as with all applicable FMVSS tire safety performance standards and related requirements.

b. Tire application—MNA claims that the mismarked ply information has no direct impact on tire application. The tires are properly marked with all other FMVSS required information including the tire size designation, maximum load, and maximum inflation pressure. These markings provide both dealers and consumers with the necessary information to ensure proper selection and application of the tires.

c. Tire repair and retread—MNA also says that concerns related to the safety of tire repair and retread personnel have been previously raised for filings

involving steel carcass ply tires. The CrossClimate SUV is a passenger car, sport utility, and light truck tire line with a polyester carcass. The tire is not intended for retreading. The concern for service personnel related to steel carcass construction is not relevant for this tire line.

2. Corrective Measures

a. Upon identification of the mismarking, MNA instituted a block on the affected SKU. A total of 782 tires were captured and retained in MNA inventory. These tires will be repaired to display the correct single ply marking, or they will be scrapped.

b. The tire specification drawing has been corrected and the mold plate has been updated to show the correct single ply marking. All tires currently being produced have the correct marking.

3. Prior NHTSA Decisions

MNA states that NHTSA has concluded in other petitions related to the number of plies marking that this type of noncompliance is inconsequential to safety. Examples of prior decisions include:

- Sumitomo Rubber Industries, Ltd., 83 FR 13002 (March 26, 2018)
- Continental Tire the Americas, LLC, 83 FR 36668 (July 30, 2018)
- Cooper Tire & Rubber Company, 82 FR 17075 (April 7, 2017)
- Hankook Tire America Corp., 79 FR 30688 (May 28, 2014)
- Bridgestone Americas Tire Operations, LLC, 78 FR 47049 (August 2, 2013)

MNA concludes by contending 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, be granted.

VII. NHTSA's Analysis

NHTSA has evaluated the merits of MNA's petition and agrees that, based on the facts presented, the subject noncompliance is inconsequential to motor vehicle safety. The Agency considered the following prior to making this determination:

1. *Operational Safety & Performance:* NHTSA agrees that the subject noncompliance has no effect on the operational safety of vehicles. Michelin stated that the affected tires meet all the applicable FMVSS performance requirements as well as Michelin's own internal testing requirements.

2. *Tire Identification and Traceability:* The tires have the required information

per 49 CFR 574.5 to ensure that the tires may be properly registered for the purposes of a safety recall. The TIN is both legible and easily discernible.

3. *Downstream Operations:* The Agency must also consider other interested parties besides the manufacturer and end-user. Downstream entities involved in tire repair, retreading, and recycling operations require certain information to determine if tires may be safely used in their operations. The existence of steel in a tire's sidewall and tread can be relevant to the manner in which it should be repaired or retreaded. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. The Agency believes the noncompliance of the subject tires will have no measurable effect on the safety of the tire retread, repair, and recycling industries since the tire sidewalls are marked correctly for the number of steel plies.

4. *Public & Consumer Groups Feedback:* The Agency has concluded, based on previous feedback, that the tire construction information (number of plies and cord material in the sidewall and tread plies) influences very few consumers when they are deciding to buy a motor vehicle or replacement tires. This conclusion is based on comments submitted to the docket for 2 separate Advance Notice of Proposed Rulemaking documents that were published in the **Federal Register** on December 1, 2000, (65 FR 75222) and December 19, 2018, (84 FR 69698).

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA finds that MNA has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance 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 tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, the

granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA 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)

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Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

DOT's Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act

ACTION: Notice of availability.

SUMMARY: Section 70913(a) of the Infrastructure Investment and Jobs Act requires that the head of each Federal agency shall submit to the Office of Management and Budget and to Congress a report that identifies each Federal financial assistance program for infrastructure administered by the Federal agency, and that that report be published in the **Federal Register**. The Department of Transportation is issuing this notice to make the public aware of the availability of that report on its website.

FOR FURTHER INFORMATION CONTACT:

Darren Timothy at darren.timothy@dot.gov or at 202-366-4051.

SUPPLEMENTARY INFORMATION:

Background: The Bipartisan Infrastructure Law (known officially as the Infrastructure Investment and Jobs Act), signed by President Biden on November 15, 2021, includes the Build America, Buy America Act (BABA), which requires each agency to submit to OMB and Congress a report within 60 days of enactment that lists all Federal financial assistance programs for infrastructure administered by the agency and that identifies the programs that are "deficient," as defined in the Act.

DOT's report was developed in accordance with the requirements found in section 70913 of the BABA and OMB guidance issued on December 20, 2021. It provides a listing of the Federal financial assistance programs for