

panel failures related to the location of the doors. NHTSA agreed with IC that, in this case, the noncompliance did not compromise safety in terms of emergency exit capability in proportion to maximum occupant capacity, access to side emergency doors, visibility of the exits, or the ability of bus occupants to exit after an accident. NHTSA does not agree that granting this prior petition supports DTNA's arguments in this case. Here, the issue is occupant crash protection against structures within the vehicle.

The second petition, from New Flyer of America, Inc. (*See* 63 FR 32694), involved transit buses that had only one emergency exit on the right side of the bus instead of two, as required by FMVSS No. 217. In this case, these buses had 3.28 times the required exit area, with two emergency exit windows on the left side, one emergency exit window on the right side and two roof exits. Thus, the buses had the minimum number of emergency exits required by FMVSS No. 217. However, these exits were not distributed properly. Instead of a second emergency exit on the right side, these buses had an additional roof exit. The agency decided that the additional roof exit provided for an additional level of safety during a rollover event and granted the petition. Again, NHTSA does not agree that granting this prior petition supports granting DTNA's petition here, because occupant crash protection against structures within the vehicle was not at issue.

#### *D. Response to Public Comment Received*

In response to the comment received, NHTSA agrees with the commenter regarding rear surface seat back-only testing represents the industry norm, as the industry has moved away from metal bars on the seat back to be used by standees and the contactable surface of the front of the seat is generally constructed only of soft materials. NHTSA does not agree with the commenter that the head impact zones identified in the FMVSS No. 222 test procedure are relatively small areas and would make it challenging to do head impact testing, as such testing has been successfully completed by NHTSA contracted labs in past school bus compliance tests. NHTSA also agrees with the commenter that the HIC values are an important measurement for evaluating head impact protection in the head form force distribution requirements at S5.3.1.3 of FMVSS No. 222, but notes that the energy absorption requirements in S5.3.1.3 are also an important measurement to

determine how much energy a seat can absorb in an emergency event.

#### **VIII. NHTSA's Decision**

In the instant case, NHTSA has determined that it is unlikely given the bezels' size and location that the occupants for which the head protection requirements are intended to protect will impact the bezel, and the overall safety benefits of retaining seats with three-point seat belts in this application outweigh the safety risks of the actual noncompliance. In consideration of the foregoing, NHTSA finds that DTNA has met its burden of persuasion that the FMVSS No. 222 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, DTNA's petition is hereby granted and DTNA is exempted from the obligation of providing notification of, and a remedy for, the 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 vehicles that DTNA no longer controlled at the time it determined that the noncompliance existed. However, 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 DTNA 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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**BILLING CODE 4910-59-P**

#### **DEPARTMENT OF TRANSPORTATION**

##### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2023-0009]**

##### **Advisory Committee on Underride Protection; Notice of Public Meeting**

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) announces a meeting of the Advisory Committee on Underride Protection (ACUP). This notice announces the date, time, and location of the meeting, which will be open to the public. The purpose of the ACUP is to provide advice and recommendations to the Secretary of Transportation on safety regulations to reduce underride crashes and fatalities relating to underride crashes.

**DATES:** This meeting will be held on May 25, 2023, from 12:30 p.m. to 4:30 p.m. ET. Pre-registration is required to attend this online meeting. A link permitting access to the meeting will be distributed to registrants within 24 hours of the meeting start time.

**ADDRESSES:** The meeting will be held virtually via Zoom. Information and registration for the meeting will be available on the NHTSA website (<https://www.nhtsa.gov/events-and-public-meetings>) at least one week in advance of the meeting.

**FOR FURTHER INFORMATION CONTACT:** James Myers, U.S. Department of Transportation, Special Vehicles & Systems Division, 1200 New Jersey Avenue SE, Washington, DC 20590, [acup@dot.gov](mailto:acup@dot.gov) or (202) 493-0031.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The ACUP was established as a statutory committee pursuant to section 23011(d) of the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act, Public Law 117-58 (2021), and in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. app. 2. The purpose of the ACUP is to provide information, advice, and recommendations to the Secretary of Transportation on safety regulations to reduce underride crashes and fatalities relating to underride crashes.

The Committee duties include the following:

- a. Gathering information as necessary to discuss issues presented by the Designated Federal Officer.
- b. Deliberating on issues relevant to safety regulations related to underride crashes and fatalities from underride crashes.
- c. Providing written consensus advice to the Secretary on underride protection to reduce underride crashes and fatalities relating to underride crashes.

##### **II. Agenda**

At the meeting, the agenda will cover the following topics:

- Committee Purpose and Guidelines
- Committee Member Introductions
- Selection of the Committee Chair

### III. Public Participation

This meeting will be open to the public. We are committed to providing equal access to this meeting for all participants. Persons with disabilities in need of an accommodation should send a request to the individual in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than May 17, 2023.

Members of the public may also submit written materials, questions, and comments to the Committee in advance to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than May 17, 2023.

All advance submissions will be reviewed by the Designated Federal Officer. If approved, advance submissions shall be circulated to the ACUP representatives for review prior to the meeting. All advance submissions will become part of the official record of the meeting.

**Authority:** The Committee is established as a statutory committee under the authority of section 23011 of the Infrastructure Investment and Jobs Act, Public Law 117–58 (2021), and in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. app. 2.

Issued in Washington, DC, under authority delegated in 49 CFR 501.5.

**Sophie Shulman,**

*Deputy Administrator.*

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**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0102; Notice 1]

### Hercules Tire & Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** Hercules Tire & Rubber Company, (Hercules), has determined that certain Hercules Power ST2 radial trailer tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds)*. Hercules filed an original noncompliance report dated October 5, 2022. Hercules subsequently petitioned

NHTSA on October 21, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Hercules' petition.

**DATES:** Send comments on or before May 26, 2023.

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

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver comments by hand to the 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 a.m. to 5 p.m. except for Federal Holidays.

- **Electronically:** Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (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 comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to [https://www.regulations.gov](https://www.regulations.gov/), including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting

materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

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

### SUPPLEMENTARY INFORMATION:

**I. Overview:** Hercules determined that certain Hercules Power ST2 radial trailer tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds)*. Hercules filed an original noncompliance report dated October 5, 2022, pursuant to FMVSS 119, S6.5(b), *New pneumatic tires for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds)* (49 CFR 571.119). Hercules petitioned NHTSA on October 21, 2022, 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*.

This notice of receipt of Hercules' petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

**II. Tires Involved:** Approximately 700 Hercules Power ST2 radial trailer tires, size ST175/80R13, manufactured between October 4, 2021, and October 10, 2021, were reported by the manufacturer.

**III. Noncompliance:** Hercules explains that the noncompliance is that the date code portion of the Tire Identification Number (TIN) on the subject tires was inverted, and, therefore, do not comply with the requirements specified in paragraph S6.5(b) of FMVSS No. 119.

**IV. Rule Requirements:** Paragraph S6.5(b) of FMVSS No. 119 includes the requirements relevant to these petitions. S6.5(b) provides that the TIN must meet the requirements as stated in 49 CFR 574 and may be marked on only one sidewall. 49 CFR 574.5(a) requires, in relevant part, that each new tire