

requirements for stall speed. This alternate means of compliance allows the Rollanden-Schneider Flugzeugbau GmbH Model LS-8 glider to be type certificated with a higher stalling speed because the Model LS-8 has compensating features.

**Discussion:** On July 9, 2001, an alternate means of compliance, Finding No. ACE-01-05, was issued for the Model LS-8 glider. We have determined that this same alternate means would be usable by other glider manufacturers following adequate FAA review. Therefore, we are making this alternate means available to all glider manufacturers for their use.

**ADDRESSES:** Copies of alternate means of compliance Finding No. ACE-01-05, may be requested from the following: Small Airplane Directorate, Standards Office (ACE-110), Aircraft Certification Office, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, MO 64106. The alternate means of compliance is also available on the Internet at the following address <http://www.faa.gov/avr/air/ace/acehome.htm>.

**FOR FURTHER INFORMATION CONTACT:** Lowell Foster, Federal Aviation Administration, Small Airplane Directorate, ACE-111, Room 301, 901 Locust, Kansas City, Missouri 64106; telephone (816) 329-4125; fax 816-329-3047; e-mail: Lowell.Foster@faa.gov.

Issued in Kansas City, Missouri, on July 30, 2001.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2000-8461; Notice 2]

#### Continental General Tire, Inc., Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Continental General Tire, Inc., (Continental) has determined that approximately 3,187 P255/70R16 Ameri\*660 AS passenger car tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Continental petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and filed an appropriate report

pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Notice of receipt of the application was published, with a 30-day comment period, on December 15, 2000, in the **Federal Register** (65 FR 78530). NHTSA received two comments on this application, one from General Motors (GM) and one from Advocates for Highway and Auto Safety (Advocates).

FMVSS No. 109, paragraph S4.3 (e), requires that each tire shall have permanently molded into or onto both sidewalls the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different. According to Continental, the noncompliance relates to a specific mold, number 33460, which ran for the production period of June 14, 2000 through July 29, 2000 with an incorrect side plate on the bottom or inboard sidewall. This side plate was not changed from a previous production run in which the tire construction was different. The stamping at the rim line read: Tread 6 plies: 2 Steel + 2 Polyester + 2 Nylon. It should have read: Tread: 4 Plies: 2 Steel + 2 Polyester.

The P255/70R16 General Ameri\*660 AS primarily is supplied to General Motors (GM) for original equipment pickup truck application. According to Continental, 1,550 of the 3,187 tires manufactured with this noncompliance were not released, 1,555 were provided to GM for original equipment on pickup trucks, and 82 tires were sold as replacements.

Continental stated in its petition that all molded labeling items on the letter white (LW), outboard sidewall, including the tire construction information, are correct. The incorrect tire construction information would be on the bottom or inboard (non-customer) sidewall. Continental believes that no unsafe conditions would result from the noncompliance.

GM supported granting the petition, stating that it understood that approximately 1,555 of the 3,187 tires manufactured with this noncompliance were shipped to it for installation on pickup trucks. GM repeated the assertion by Continental that the tires would be mounted on the vehicles with the LW or customer side mounted outboard and would likely maintain in that configuration through the life of the tire. GM also stated that all the labeling information required by FMVSS No. 109 is correctly marked on the LW side of the tires.

Advocates commented that, as a result of the events in the summer of 2000 involving tire failure and sport utility vehicles, the agency must view all applications for inconsequential

noncompliance regarding incorrect tire labeling with increased scrutiny.

Advocates further stated that the agency must consider whether these incorrect markings are relied upon by tire dealers or customers in the selling or purchasing of the tires. Additionally, according to Advocates, aftermarket tires may be mounted on rims with the LW side inboard exposing the incorrect tire construction information, which is a potential source of confusion.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act of November 2000 required, among other things, that the agency initiate rulemaking to improve tire label information. In response to section 11 of the TREAD Act, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222). The ANPRM sought comments on the tire labeling information required by 49 CFR 571.109 and part 119, part 567, part 574, and part 575. The agency received more than 20 comments. Most of the comments were from motor vehicle and tire manufacturers, although several private citizens and consumer interest organizations responded to the ANPRM. With regard to the tire construction labeling requirements of FMVSS 109, S4.3 (d) and (e), most comments indicated that the information was of little or no safety value to consumers. However, the tire construction information is valuable to the tire retread, repair, and recycling industries, according to several trade groups representing tire manufacturing. The International Tire and Rubber Association, Inc. (ITRA) indicated that the tire construction information is used by tire technicians to determine the steel content of a tire and to select proper retread, repair, and recycling procedures.

In addition to the written comments solicited by the ANPRM, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire information beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we concur that it is likely that few consumers are influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) when making a motor vehicle or tire purchase decision.

Actions by the agency since November 2000, in response to Congressional requirements, have addressed most of the concerns raised by Advocates in its docket submission. As previously stated, written comments to the ANPRM on tire labeling issues indicated that the tire construction information molded onto the tire is of little safety value to the general public since most consumers do not understand tire construction technology. Additionally, few consumers use the tire construction information as input to tire or vehicle purchasing decisions, according to the results of focus group surveys sponsored by the agency. However, the tire repair, retread, and recycling industries use the tire construction information and the agency is considering retaining all the current labeling requirements of FMVSS No. 109 in some form.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the 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. The tires have been chosen by GM as original equipment, suited for pickup trucks. Further, the tires are certified to meeting all the performance requirements of FMVSS No. 109. The agency agrees with GM's statement indicating that, in customer use, the LW or outboard side or the tire would likely stay in the original configuration through the life of the tire. Although tire construction affects tire strength and durability, neither the agency nor the tire industry provides information relating the strength and durability of a tire to the number and types of plies in the tread and sidewall. The agency believes the incorrect labeling of the tire construction information will have an inconsequential effect on consumer safety. The agency believes the safety of the GM pickup truck users and the users of these tires as replacements will not be adversely affected by the noncompliance because most consumers do not base tire purchases or vehicle operation parameters on tire construction information. The agency believes the noncompliance will have an inconsequential effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction is the primary safety concern of these industries, according to ITRA. In this case, the steel used in the construction of the tires is properly labeled.

In consideration of the foregoing, NHTSA has decided that the burden of

persuasion has been met and that the noncompliance is inconsequential to motor vehicle safety. Accordingly, Continental's application is granted and the applicant is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 3, 2001.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2001-10312; Notice 1]

#### Michelin North America, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Michelin North America, Inc., has determined that approximately 173,800 205/55R16 Michelin Energy MXV4+ tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires." FMVSS No. 109 requires that each tire shall have permanently molded into or onto both sidewalls the generic name of each cord material used in the plies of the tire. (S4.3(d)).

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Michelin has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

This notice of receipt of an application 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 application.

During the period of the 4th week of 2000 through the 9th week of 2001, the subject tires were produced and cured with erroneous marking. Instead of the required marking of the cord material of: Polyester, the tires were marked: Rayon. Of the total, approximately 162,500 tires may have been delivered to customers. The remaining tires have been identified in Michelin's warehouse.

Michelin states that all performance requirements of FMVSS 109 were met or exceeded and that this noncompliance

is inconsequential as it relates to motor vehicle safety.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: (30 days after Publication Date).

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 6, 2001.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

[Docket No. RSPA-01-10293 (PDA-28(R))]

#### Application by the Town of Smithtown, NY for a Preemption Determination as to Ordinance on Transportation of Liquefied Natural Gas

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Public Notice and Invitation to comment.

**SUMMARY:** Interested parties are invited to submit comments on an application by the Town of Smithtown, New York for an administrative determination whether Federal hazardous material transportation law preempts certain sections of the Town Code that require a permit for any motor vehicle used to deliver liquefied petroleum gas (LPG) within the Town and a "certificate of fitness" for any person who delivers LPG.

**DATES:** Comments received on or before September 24, 2001, and rebuttal comments received on or before November 7, 2001, will be considered before issuance of an administrative