

Goodyear explains that the noncompliance is that the sidewall marking incorrectly identifies the number of plies in the tread of the tire. Specifically, the tires in question were inadvertently manufactured with "Tread 3 Polyester + 2 Steel" marked on the sidewall. The labeling should have been "Tread 2 Polyester + 2 Steel + 2 Polyester". (Emphasis added).

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

Goodyear makes the argument that the subject tires were manufactured with the correct number of plies in the tread and only the sidewall marking is incorrect.

Goodyear also contends that all of the markings related to tire service (load capacity, corresponding inflation pressure, etc.) are correct and that the mislabeling of these tires is inconsequential to motor vehicle safety because the tires meet or exceed all applicable Federal Motor Vehicle Safety performance standards.

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

Goodyear also stated that it will correct the problem that caused these errors so that they will not be repeated in future production.

#### 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 number of plies 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: March 4, 2009.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

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#### DEPARTMENT OF TRANSPORTATION

##### National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0087; Notice 2]

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

Michelin North America, Inc. (MNA), has determined that certain light vehicle tires that it manufactured during the period beginning September 22, 2007 through October 26, 2007 (DOT weeks 3707 and 4207), do not fully comply with paragraphs S5.5 & S5.5(c) of 49 CFR 571.139 Federal Motor Vehicle Safety Standard (FMVSS) No. 139 *New Pneumatic Radial Tires for Light Vehicles*. MNA has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*. Notice of receipt of a petition was published, with a 30-day comment period, on May 12, 2008, in the **Federal Register** (73 FR 27024). 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-2008-0087."

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 3,385 Michelin brand P235/55R17 98H MXV4 PLUS tires, produced September 22, 2007 through October 26, 2007 (DOT weeks 3707 and 4207). Paragraphs S5.5 & S5.5(c) of 49 CFR 571.139 require in pertinent part that:

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.

S5.5(c) The maximum permissible inflation pressure, subject to the limitations of S5.5.4 through S5.5.6 of this standard.

MNA explained that the subject tires were manufactured with an incorrect maximum pressure value (350kPa (51 PSI)) marked on the outboard (reference) sidewall while the correct maximum pressure value (300 kPa (44 PSI)) was marked on the inboard sidewall. MNA expressed its belief that both maximum pressure values marked on the tires are acceptable choices for this tire. MNA also believes that the noncompliance exists because two maximum pressure values have been applied to the same tire.

MNA defends its belief that the noncompliance is inconsequential to motor vehicle safety by stating the following reasons:

(1) Performance requirements—The subject tires meet or exceed all of the minimum performance requirements of FMVSS No. 139.

(2) Maximum Pressure Value—Paragraph S5.5.4 of FMVSS No. 139 limits the choices for the allowed maximum inflation pressure to 240, 280, 290, 300, 330, 340, 350, or 390 kPa

depending on the load version of the tire. The Tire & Rim Association (T&RA) standard "P. 1–34" specifies pressure level options for the maximum permissible inflation pressure marking for a corresponding load version and its maximum tire load. The choice of the maximum inflation pressure level then becomes the choice of the tire manufacturer, as long as it is in compliance with the established values under FMVSS No. 139 paragraph S5.5.4. For the subject P235/55R17 standard load tire, both maximum inflation pressure values (350 kPa and 300 kPa) are acceptable choices.

(3) Maximum Pressure Marking—Paragraphs S5.5 and S5.5(c) of FMVSS No. 139 both specify that each tire must be marked on each sidewall with the maximum permissible inflation pressure. The manufacturer's selected inflation pressure value must be marked on both sidewalls of the tire in kPa, followed by the appropriate PSI value (FMVSS No. 139 paragraph S5.5.4(a)) in parentheses. Since only one selection is allowed, the same value is required on both sidewalls. Therefore, the noncompliance lies only in the fact that both values have been applied to the same tire.

(4) Strength—Each standard load tire has a specified tire strength requirement. This requirement is defined in FMVSS No. 139 paragraph S6.5 (and FMVSS No. 109 paragraph S5.3) and must be met whether the selected maximum permissible pressure marking value is 240 kPa (35 PSI), 300 kPa (44 PSI), or 350 kPa (51 PSI). The Michelin P235/55 R17 98H MXV4 PLUS tire meets this requirement. The 350 kPa (51 PSI) maximum inflation pressure marking therefore has no impact on the tire's performance.

(5) Overloading—The use of either of the maximum inflation pressures displayed on the subject tire sidewalls as the source of information for the recommended inflation pressure will not result in an overloading of the tires nor reduce the load carrying capacity of the tires since both values are above the recommended inflation pressure (240 kPa (35 PSI)) for the tire's maximum load rating.

(6) Tire labeling—Maximum permissible inflation pressure labeling on tire sidewalls is poorly understood by the general public and it should be removed from tire sidewalls because it has limited safety value and may confuse customers about the proper source for the recommended inflation pressure.

MNA also states that it has corrected the problem that caused these errors so

that they will not be repeated in future production.

MNA requested that NHTSA consider its petition and grant an exemption from the notification and 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

Subsequent to the submission of its petition, MNA explained to NHTSA that although it had assigned a maximum sidewall marking pressure of 300 kPa (44 PSI) to the tires, the tires were manufactured to withstand and to safely accommodate a maximum pressure of 350 kPa (51 PSI). MNA also explained that a "common green" is a universal tire subassembly that is manufactured in high volume and used as a core around which similar size tires having different nonstructural properties are assembled. The "common green" includes the major structural elements of a tire. The "common green" for the subject tire was actually manufactured to performance specifications that require the tire to be able to withstand a maximum pressure of 350 kPa (51 PSI). MNA further explained that the decision to mark the lower pressure on the tire was based on marketing reasons, not safety concern. NHTSA does not contest that, as MNA argues, it is a common practice that a tire may be marked with a maximum pressure that is lower than its capacity.

Since the load that is marked on both sides of the tire (i.e., 750 KG (1653 lb)) is correct; the recommended inflation pressure (240 kPa (35 PSI)) is well below both the correct tire pressure of 300 kPa (44 PSI), and the incorrectly labeled tire pressure of 350 kPa (51 PSI); and, in any event, the tire was manufactured to safely accommodate a pressure of 350 kPa (51 PSI), the tire cannot be inadvertently overloaded.

NHTSA agrees that the noncompliance is inconsequential to motor vehicle safety. The mislabeling does not cause any safety problems, such as increasing the probability of tire failure, if the tires were inflated to 350 kPa under a load of 750kg, and it is not likely to result in unsafe use of the tires.

In consideration of the foregoing, NHTSA has decided that MNA has met its burden of persuasion that the subject FMVSS No. 139 labeling noncompliance is inconsequential to motor vehicle safety. Accordingly, MNA'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: March 5, 2009.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[Revenue Procedure 2009–14]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2009–14, Pre-filing Agreement Program.

**DATES:** Written comments should be received on or before May 11, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Carolyn N. Brown at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at [Carolyn.N.Brown@irs.gov](mailto:Carolyn.N.Brown@irs.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations.

**OMB Number:** 1545–1684.

**Regulation Project Number:** Revenue Procedure 2009–14.

**Abstract:** Revenue Procedure 2009–14 describes a program under which certain large business taxpayers may request examination and resolution of specific issues relating to tax returns. The resolution of such issues under the program will be memorialized by a type