

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

In summation, Goodyear states that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

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 ply material 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.

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Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2009-0005; Notice 2]

Michelin North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (Michelin), has determined that certain passenger car tires manufactured between September 18, 2008, and October 10, 2008, did not fully comply with paragraphs S5.5(e) and S5.5(f) of Federal Motor Vehicle Safety Standards (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Michelin has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Michelin has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on February 19, 2009, in the **Federal Register** (74 FR 7738). 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-2009-0005."

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 2,240 size P195/60R15 (87T) Michelin Harmony brand passenger car tires manufactured between September 18, 2008, and October 10, 2008, at Michelin's plant located in Pictou, Canada. Approximately 1,590 of these tires have been delivered to Michelin's customers.

The remaining tires (approximately 650) are being held in Michelin's possession until they can be correctly relabeled.

Paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139 require in pertinent part:

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* * *

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;* * *

(f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different * * *

Michelin explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the reference side of the tires incorrectly describes the number of plies in the tread area of the tires. Specifically, the tires in question were inadvertently manufactured with "Tread Plies: 2 Polyester + 2 polyamide + 2 steel; Sidewall plies: 2 polyester" marked on the intended outboard sidewall. The labeling should have been "Tread Plies: 2 Polyester + 1 polyamide + 2 steel; Sidewall plies: 2 polyester" (emphasis added). Michelin also explains that the marking on the other sidewall of the tires correctly describes the plies in the tread area of the tires.

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

Michelin argues that this noncompliance is inconsequential to motor vehicle safety because the noncompliant sidewall marking does not affect the strength of the tires and all other labeling requirements have been met.

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

Michelin also stated that it has corrected the problem that caused these

errors so that they will not be repeated in future production.

In summation, Michelin states that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

NHTSA Decision

The agency agrees with Michelin that the noncompliances are 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 noncompliances 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 ply material 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 Michelin has met its burden of persuasion that the subject FMVSS No. 139 labeling noncompliances are inconsequential to motor vehicle safety. Accordingly, Michelin'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: April 1, 2010.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-2005-23112]

Motorcyclist Advisory Council to the Federal Highway Administration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of meeting of advisory committee.

SUMMARY: This document announces the eighth meeting of the Motorcyclist Advisory Council to the Federal Highway Administration (MAC-FHWA). The purpose of this meeting is to advise the Secretary of Transportation, through the Administrator of the FHWA, on infrastructure issues of concern to motorcyclists, including: (1) Barrier design; (2) road design, construction, and maintenance practices; and (3) the architecture and implementation of intelligent transportation system technologies, pursuant to section 1914 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

DATES: The eighth meeting of the MAC-FHWA is scheduled for May 13 from 9 a.m. until 5 p.m. This meeting will be the final meeting of the MAC-FHWA under the SAFETEA-LU Authorization.

ADDRESSES: The eighth MAC-FHWA meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Griffith, the Designated Federal Official, Office of Safety, (202) 366-2288, mike.griffith@dot.gov, or Mr. Keith D. Williams, Office of Safety, (202) 366-9212, keith.williams@dot.gov, FHWA, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION

Background

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144). Section 1914 of SAFETEA-LU mandates the establishment of the Motorcyclist Advisory Council as follows: "The Secretary, acting through the Administrator of the Federal Highway

Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

- (1) Barrier design;
- (2) Road design, construction, and maintenance practices; and
- (3) The architecture and implementation of intelligent transportation system technologies."

In addition, section 1914 specifies the membership of the council: "The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

- (1) At least—
 - (A) One member recommended by a national motorcyclist association;
 - (B) One member recommended by a national motorcycle rider's foundation;
 - (C) One representative of the National Association of State Motorcycle Safety Administrators;
 - (D) Two members of State motorcyclists' organizations;
 - (E) One member recommended by a national organization that represents the builders of highway infrastructure;
 - (F) One member recommended by a national association that represents the traffic safety systems industry; and
 - (G) One member of a national safety organization; and
- (2) At least one, and not more than two, motorcyclists who are traffic system design engineers or State transportation department officials."

To carry out this requirement, the FHWA published a notice of intent to form an advisory committee in the **Federal Register** on December 23, 2005 (70 FR 76353). This notice, consistent with the requirements of the Federal Advisory Committee Act, announced the establishment of the Council and invited comments and nominations for membership. The MAC-FHWA was officially chartered for a 2-year period on July 31, 2006, and was extended by act of the Secretary for an additional 2-year term. That extension expires on July 31, 2010. The FHWA announced the ten members selected to the Council in the **Federal Register** on October 5, 2006 (71 FR 58903). An electronic copy of this document and the previous **Federal Register** notices associated with the MAC-FHWA can be downloaded through the Federal eRulemaking Portal at: <http://www.regulations.gov> and the Office of the Federal Register's home