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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0153; Notice 2]

Continental Tire North America, LLC, Mootness of
Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of Petition Mootness

SUMMARY: Continental Tire North America, LLC¹, (Continental), has determined that certain passenger car replacement tires manufactured in 2009, do not fully comply with paragraph S5.5(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Continental has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* (dated August 10, 2010).

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Continental 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.

¹ Continental Tire North America, LLC. (Continental) is a replacement equipment manufacturer and importer that is incorporated in the state of Ohio.

Notice of receipt of Continental's petition was published, with a 30-day public comment period, on November 29, 2010, in the Federal Register (75 FR 73159). 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-2010-0153."

CONTACT INFORMATION: 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.

SUMMARY OF CONTINENTAL'S PETITION: Affected are approximately 17,121 size 235/45ZR17 94W Continental brand Extremecontact DWS model passenger car tires manufactured from March 2009 to October 2009 at Continental's plant located in Camaçari- BA, Brasil. A total of approximately 16,245 of these tires have been delivered to Continental's customers in the United States.

Continental explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the reference side of the tires incorrectly identifies the tire size code as "658R 3VR" when in fact it should be identified as "658P 3VR" in the tread area of the tires as required by paragraph S5.5(b).

Continental also explains that while the noncompliant tires are mislabeled, all of the tires included in this petition meet

or exceed the performance requirements of FMVSS No. 139. Continental argues that this noncompliance is inconsequential to motor vehicle safety because the noncompliant sidewall marking does not create an unsafe condition and all other labeling requirements have been met.

Continental points out that NHTSA has previously granted similar petitions for non-compliances in sidewall marking.

Continental additionally states that it has corrected the affected tire molds and all future production will have the correct material shown on the sidewall.

In summation, Continental believes that the described noncompliance of its tires to meet the requirements of FMVSS No. 139 is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, and should be granted.

NHTSA DECISION:

Inconsequential noncompliance petitions filed under 49 CFR Part 556 only apply to situations where there is a noncompliance with a Federal motor vehicle safety standard (FMVSS). In its petition, Continental stated that the tires in question have two different tire size codes, one on each sidewall. In discussions with NHTSA, subsequent to the notification of petition receipt,

Continental explained that it has designated both of the size codes for this tire model to have the same meaning and that either the full TIN or the partial TIN uniquely identifies these tires. Based on this, NHTSA has determined that the alleged tire sidewall labeling noncompliance described in the subject petition is not a noncompliance with FMVSS No. 139 or any other applicable FMVSS. Therefore, this petition is moot and no further action on the petition is warranted.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8)

Issued on: October 17, 2012

Claude H. Harris, Director
Office of Vehicle Safety Compliance

Billing Code: 4910-59-P

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