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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0025; Notice 2]

Bridgestone Americas Tire Operations, LLC, Grant of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Grant of Petition

SUMMARY: Bridgestone Americas Tire Operations, LLC

(Bridgestone)¹, has determined that certain Firestone Transforce AT, size LT265/70R17, light truck replacement tires manufactured between November 20, 2011 and December 10, 2011, do not fully comply with paragraph §5.5(d) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Bridgestone has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*, dated January 9, 2012.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Bridgestone 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

¹ Bridgestone Americas Tire Operations, LLC is a Delaware corporation that manufactures and imports replacement equipment.

of receipt of the petition was published, with a 30-day public comment period, on April 4, 2012 in the Federal Register (77 FR 20482). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2012-0025."

CONTACT INFORMATION: For further information on this decision contact Mr. Jack Chern, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-0661, facsimile (202) 366-7002.

TIRES INVOLVED: Affected are approximately 467 Firestone brand Transforce AT, size LT265/70R17, light truck replacement tires manufactured between November 20, 2011 and December 10, 2011, at the Bridgestone Canada, Inc., plant located in Uoliette, Quebec, Canada and imported into the United States by Bridgestone.

SUMMARY OF BRIDGESTONE'S ANALYSIS AND ARGUMENTS: Bridgestone explains that the noncompliance is that the sidewall marking on the intended outboard sidewall of the subject tires describes the maximum load in kilograms incorrectly. Specifically, the tires in question were inadvertently marked with a maximum load of 1350 kg. The labeling should have read 1320 kg.

Bridgestone stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. While the noncompliant tires are mislabeled; the tires do in fact have the correct marking for the maximum load in pounds on the intended outboard sidewall, and the maximum load marking in both pounds and kg is correct on the intended inboard sidewall. The tires also meet or exceed all other applicable FMVSS.
2. The subject mismarking is inconsequential as it relates to motor vehicle safety and is unlikely to have an adverse impact on motor vehicle safety since the actual performance of the subject tires will not be affected by the mismarking. Bridgestone supports this belief by stating that the tires met the performance requirements of FMVSS No. 139 for endurance and high speed when tested at the 1350 kg load.

Bridgestone also points out its belief that NHTSA has previously granted similar petitions for non-compliances in sidewall marking.

Bridgestone has additionally informed NHTSA that it has corrected the noncompliance so that all future production tires will comply with FMVSS No. 139.

In summation, Bridgestone 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 should be granted.

REQUIREMENT BACKGROUND:

§5.5 Tire markings. Except as specified in paragraphs (a) through (i) of §5.5, each tire must be marked on each sidewall with the information specified in §5.5(a) through (d) and on one sidewall with the information specified in §5.5(e) through (i) according to the phase-in schedule specified in §7 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...

(d) The maximum load rating and for LT tires, the letter designating the tire load range;...

NHTSA'S ANALYSIS AND DECISION: NHTSA believes the true measure of inconsequentiality with respect to the noncompliance with FMVSS No. 139 paragraph §5.5(d), is whether a consumer and/or

retailer who relied on the incorrect information could experience a safety problem.

In the case of this noncompliance, the subject tires are primarily sold in the domestic replacement market, where the load in pounds would be the predominant consumer unit of measurement. Thus, making the rated maximum load value marked in English units and overstated in metric unit's inconsequential to motor vehicle safety.

NHTSA has conducted a series of focus groups as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. A few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure. Since FMVSS No. 139 applies to tires sold in the U.S., and since consumers in the U.S. overwhelmingly rely on units of English measure for loading information, the safety issue associated with overloading tires as a result of the noncompliance is very small.

NHTSA has reviewed and accepts Bridgestone's analyses that the noncompliance is inconsequential to motor vehicle safety. Bridgestone has provided sufficient documentation that the sidewall mismarkings do comply with all other safety performance requirements of the standard, except the sidewall mismarking.

In consideration of the foregoing, NHTSA has determined that Bridgestone has met its burden of persuasion that the

subject FMVSS No. 139 sidewall marking noncompliance in the tires identified in Bridgestone's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, Bridgestone's petition is granted and Bridgestone is exempted from the obligation of providing notification of, and a remedy for, that 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 approximately 467 tires that Bridgestone no longer controlled at the time that it determined that a noncompliance existed in the subject tires. However, the granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Bridgestone 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)

ISSUED ON: June 5, 2013

Claude H. Harris, Director
Office of Vehicle Safety Compliance

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