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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0113; Notice 1]

Nitto Tire U.S.A., Inc., Receipt of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: Nitto Tire U.S.A., Inc. (Nitto), has determined that certain Nitto NT05 passenger car tires manufactured between December 14, 2014 and August 1, 2015, do not fully comply with paragraph S5.5(e) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Nitto filed a report¹ pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and submitted by any of the following methods:

¹ Originally dated September 15, 2015 under the name of its parent company Toyo Tire Holdings of Americas Inc., and refiled under its own name on November 5, 2015)

- Mail: Send comments by mail addressed to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590. The Docket
Section is open on weekdays from 10 am to 5 pm except
Federal Holidays.
- Electronically: Submit comments electronically by:
logging onto the Federal Docket Management System
(FDMS) website at <http://www.regulations.gov/>. Follow
the online instructions for submitting comments.
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will

be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Nitto submitted a petition 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.

This notice of receipt of Nitto's petition 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 petition.

II. Tires Involved: Affected are approximately 1,059 Nitto NT05 size 295/35ZR18 99W passenger car tires manufactured between December 14, 2014 and August 1, 2015.

III. Noncompliance: Nitto explains that the noncompliance is that the sidewall markings on the subject tires do not include the correct generic name for the plies in the tread and sidewall area of the tires as required by paragraph S5.5(e) of FMVSS No. 139. Specifically, the subject tires are marked with "Tread 2 Steel 2 Rayon 1 Nylon; Sidewall 3 Rayon." The correct marking should be "Tread 2 Steel 2 Polyester 1 Nylon; Sidewall 3 Polyester."

IV. Rule Text: Paragraph S5.5(e) of FMVSS No. 139 requires 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. ...

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

V. Summary of Nitto's Analyses: Nitto stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

- (1) Nitto believes that in the Safety Act Congress acknowledged that there are cases where a vehicle or equipment may fail to comply with a safety standard, but that the impact on motor vehicle safety is so slight that an exemption from the notice and remedy requirements of the Safety Act is justified.
- (2) Nitto states that the subject tires meet all other performance and regulatory requirements of FMVSS No. 139.
- (3) Nitto has not received any complaints, claims, or warranty adjustments related to this noncompliance.
- (4) Nitto believes that NHTSA has previously granted inconsequential noncompliance petitions for noncompliances that it believes are similar to the subject noncompliance.

Nitto has additionally informed NHTSA that it has corrected the noncompliance so that future production of the subject tires will comply with all applicable labeling requirements of FMVSS No. 139.

In summation, Nitto believes that the described noncompliance of the subject tires is inconsequential to motor

vehicle safety, and that its petition, to exempt Nitto 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.

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, any decision on this petition only applies to the subject tires that Nitto no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment 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 Nitto 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)

Jeffrey M. Giuseppe, Director
Office of Vehicle Safety Compliance

Billing Code: 4910-59-P

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