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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0028; Notice 2]

Tireco, Inc., Ruling on Petition for  
Decision of Inconsequential Noncompliance

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

**ACTION:** Ruling on Petition.

**SUMMARY:** Tireco, Inc. (Tireco) determined that certain Milestar brand medium truck tires do not comply with paragraph S6.5(j), and in some cases also paragraph S6.5(d), of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Vehicles with a GVWR of More Than 4,536 Kilograms (10,000 Pounds) and Motorcycles*. Tireco filed a report dated February 5, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Tireco then petitioned NHTSA under 49 CFR part 556 for a decision that the subject noncompliance is inconsequential to motor vehicle safety. NHTSA has decided to deny Tireco's petition in part and grant it in part.

**ADDRESSES:** For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5310, facsimile (202) 366-5930.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Tireco 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. In a letter dated May 7, 2015, Tireco also submitted a supplement to its petition.

Notice of receipt of the Tireco's petition was published by NHTSA in the Federal Register on June 24, 2015 (80 FR 36406) with a 30-day public comment period. 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-2015-0028."

**II. Replacement Tires Involved:** Affected are approximately 31,316 Milestar brand medium truck tires that were imported by Tireco and manufactured by Shandong Wanda Boto Tyre Co., LTD. in China between June 3, 2013 and January 25, 2015. Refer to Tireco's 49 CFR part 573 report in docket NHTSA-2015-0028 for detailed descriptions of the affected tires.

**III. Noncompliance:** Tireco states that the subject tires do not comply with paragraph S6.5(j) of FMVSS No. 119 because the affected tires are either not marked with the tire's load range

letter, or incorrectly marked with the letter "J" instead of the letter "L" to designate the tire's load range. In addition, some of the affected tires also do not comply with paragraph S6.5(d) of FMVSS No. 119 because, the maximum load ratings and pressures specified on the sidewalls for both single and dual applications are both identified as "DUAL." The first rating should have been identified as "SINGLE."

**IV. Rule Text:** Paragraph S6.5 of FMVSS No. 119 requires in pertinent part:

S6.5 Tire markings. Except as specified in this paragraph, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of this section. ...

- (d) The maximum load rating and corresponding inflation pressure of the tire, shown as follows:

(Mark on tires rated for single and dual load): Max load single \_\_kg (\_\_lb) at \_\_kPa (\_\_psi) cold. Max load dual \_\_kg (\_\_lb) at \_\_kPa (\_\_psi) cold.

(Mark on tires rated only for single load): Max load \_\_kg (\_\_lb) at \_\_kPa (\_\_psi) cold. ...

- (j) The letter designating the tire load range.

**V. Summary of Tireco's Analyses:** Tireco believes that the absence of the load range marking on some of the subject tires causes little or no risk of overloading of the tires by an end-user because the tires are marked with the correct number of plies, the correct load index and the correct maximum load

values, which Tireco believes provide equivalent information. Tireco also states that it has found one previous inconsequential noncompliance petition (see 79 FR 78562; December 30, 2014) in which the agency addressed the issue of a missing load range marking and believes that the agency should apply the same rationale in the case of its petition.

In the case of the MILESTAR BS628 315/80R22.5 L/20 tires marked with the incorrect load range letter "J," Tireco believes there is no safety consequence since the tires actually were designed and manufactured to be stronger than load range "J" tires by constructing them with two extra plies than typical load range "J" tires would have. Thus, there is no risk that the incorrect marking would lead to overloading by an end-user. Moreover, the paper label attached to each of the tires, which must remain attached until the time of sale, contains the correct load range information, so Tireco believes there is little, if any, possibility that a purchaser will be misled.

In the case of the MILESTAR BS623 225/70R19.5 G/14 tires that can be used in single or dual configuration, Tireco states the following:

1. Tireco believes the fact that both of the ratings were labeled as applicable to "DUAL" applications cannot realistically create a safety problem. Particularly since the tires are correctly marked with the correct maximum load

capacity and inflation pressure in accordance with The Tire and Rim Association 2014 Year Book. Tireco also believes that any prospective purchaser of these tires, any operator of a truck equipped with these tires, and any tire retailer would immediately recognize that the first rating, "1800Kg (3970LBS) AT 760 KPa (110 PSI) COLD," applies to the "single" configuration, and the second rating, "1700Kg (3750LBS) AT 760 kPa (110 PSI) COLD," applies to the "dual" configuration. Such persons are fully aware that for all medium truck tires designed to be used in both single and dual configurations, the maximum load and corresponding pressure applicable to the single configuration is listed above the information applicable to the dual configuration. Such persons also would be aware that there could be no valid reason to have two different maximum loads for the dual configuration, and thus would immediately understand that the first load rating was meant to apply when the tire was utilized in a single configuration. Moreover, since the applicable inflation pressure is the same for both configurations, there is no risk that the mismarking would cause an operator to improperly inflate any of the tires.

2. Tireco states that when a tire is designed for use in both single and dual configurations, FMVSS No. 119 requires that compliance testing be conducted based on the higher, more punishing tire load. Accordingly, Tireco believes that the tires

will perform safely in both configurations. Tireco also believes that this principle was relied upon in grants of two similar petitions filed by Michelin North America, Inc. (See 71 FR 77092; December 22, 2006) and (69 FR 62512; October 26, 2004).

In addition, Tireco stated its belief that all of the tires covered by this petition meet or exceed the performance requirements of FMVSS No. 119, as well as the other labeling requirements of the standard.

Tireco is not aware of any crashes, injuries, customer complaints, or field reports associated with the subject mislabelings.

Tireco stated that, as soon as they became aware of the noncompliance, it immediately isolated the noncompliant inventory in Tireco's warehouses to prevent any additional sales. Tireco will bring all of the noncompliant tires into full compliance with the requirements of FMVSS No. 119, or else the tires will be scrapped. Tireco also stated that the fabricating manufacturer has corrected the molds at the manufacturing plant, such that no additional tires will be manufactured with the noncompliance.

In summation, Tireco believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety, and that its petition should be granted to exempt Tireco from providing recall notification of

noncompliance as required by 49 U.S.C. 30118 and from remedying the recall noncompliance as required by 49 U.S.C. 30120.

**NHTSA'S DECISION:**

*NHTSA Analysis:* The purpose for the load range marking letter required by FMVSS No. 119 S6.5(j) is to inform the tire purchaser and end user about the load carrying capabilities of the tire. In the case of the subject tires, Tireco states that the information the load range letter is meant to convey is contained on the tire because the tire is labeled with correct maximum load values, correct load index, and correct ply rating. For the MILESTAR brand tires: BS628 295/80R22.5, BS623 245/70R19.5, BD733 245/70R19.5, BA902 10.00R20, BD733 225/70R19.5, BS623 235/75R17.5, BS628 315/80R22.5, BS625 265/70R19.5, and BS623 215/75R17.5, Tireco states that the maximum load and maximum permissible inflation pressure markings conform with The Tire and Rim Association (TRA) and The European Tyre and Rim Technical Organisation (ETRTO) yearbooks.

NHTSA agrees that the missing load range letter is inconsequential to motor vehicle safety in this case because the information intended to be conveyed by the missing load range letter is contained in other markings on the tires, specifically: the maximum load and maximum permissible inflation pressure marked on the sidewall of the subject tires correctly correlates to the maximum loads and pressure listed by either the TRA or ETRTO yearbooks.

Tireco also submitted a supplemental letter for a group of tires branded MILESTAR BS628 315/80R22.5 L/20 and describes the noncompliance as not missing the tire load range letter, but rather

having an incorrect load range letter marked onto the tire sidewall. This group of tires was marked with the load range letter "J", while these tires should have been marked with the load range letter "L".

NHTSA also agrees with Tireco that the load range marking noncompliance in the subject tires is inconsequential to motor vehicle safety. In this case if a consumer followed the load range "J" designation as marked, they would interpret the labeled recommended load carrying capacity to be lower than the actual load carrying capacity. Since the labeled tire load range "J" is lower than the actual load range of the tire as manufactured, Tireco understated the load carrying capability of the tire. This Tireco tire, in effect, has more load carrying capability than the marking load range "J" indicates.

Tireco also identified an additional noncompliance affecting only the MILESTAR BS623 225/70R19.5 G/14 tires. This tire, in addition to the load range letter missing, was marked with the word "DUAL" instead of the word "SINGLE" followed by its maximum load rating marking of "1800 Kg (3970 LBS) AT 760 kPa (110 PSI) COLD", and Tireco contends that this marking does not create a safety problem. NHTSA disagrees for the following reasons:

1. The purpose of the word "SINGLE" marked on a tire, preceding the maximum load rating, is to ensure that purchasers and end users understand that the loads and pressures following the word "SINGLE" correspond to single tire configuration loading. The same serves for the word "DUAL". Marking the word "DUAL" in lieu of the word "SINGLE" creates a situation in which the driver or

end user of the vehicle may overload the tires. Specifically, the subject tires are incorrectly marked, "MAX LOAD DUAL 1800 Kg (3970 LBS) AT 760 KPa (110 PSI) COLD" instead of "MAX LOAD SINGLE 1800 Kg (3970 LBS) AT 760 KPa (110 PSI) COLD." This creates a scenario where a purchaser or end user could believe it is appropriate to load the tires in a dual configuration at the higher of the two marked dual loads. In this case, the correct dual load of the subject tires is "MAX LOAD DUAL 1700 Kg (3750 LBS) AT 760 Kpa (110 PSI) COLD" and the incorrect marking is "MAX LOAD DUAL 1800 Kg (3970 LBS) AT 760 KPa (110 PSI) COLD". The tires could be overloaded by 220 lbs per tire; in a dual configuration on a single axle the overloading factor is 4 thereby creating an overloading condition of 880 lbs per axle. Overloading these tires is a potential safety issue.

2. Tireco cites a petition for inconsequential noncompliance filed by Michelin North America, Inc. (71 FR 77092; December 22, 2006), which was granted, and Tireco contends that the same ruling should apply to their petition. In Michelin's case the noncompliance was that the value of the load following the word "DUAL" was incorrectly marked. However, the load values following the word "DUAL" were within the safety factor range associated for similar radial truck tires of its size. Furthermore a safety factor could be computed since both "SINGLE" AND "DUAL" words were marked on the tire. In Tireco's case, the safety factor cannot be computed since the word "SINGLE" is not marked and information is not readily available to the end user or purchaser

of the tire as to which is the single load. Having marked the word "DUAL" in place of the word "SINGLE" eliminates the inclusion of a safety factor for a dual configuration. This results in a risk to safety.

3. Tireco also states that that when a tire is designed for use in both single and dual configurations, FMVSS No. 119 requires that compliance testing be done based on the higher, more punishing tire load. Tireco states that this indicates that the tires will therefore perform safely in both the single and dual configurations. Tireco states that this principal is states in two petitions filed by Michelin North America, Inc. that were granted by the agency. See 71 FR 77092 (Dec. 22, 2006); 69 FR 62512 (Oct. 26, 2004). Both petitions cited by Tireco involved tires for which the maximum load and tire pressure of the tire for the dual configuration was incorrect but the maximum load and tire pressure for the single configuration was correctly marked. In the 2006 petition, NHTSA granted the petition, in part, because the incorrect stated maximum load of the tire in the dual configuration was still the safety factor for use in that configuration for that tire. NHTSA does not believe the facts in the two Michelin petitions cited by Tireco support a grant of this petition. In the case of the noncompliant tires that are the subject of this petition, the load intended to be used in the single configuration is preceded by the word "DUAL." Therefore, the safety factor for the tires is eliminated in the as used condition, as the tires could be mistakenly loaded to the maximum

load for the single configuration when used in the dual configuration. This increases the risk to safety for the users of vehicles on which these tires are mounted.

4. Tireco also contends that any purchaser of the subject tires and any operator of a truck equipped with the tires would immediately recognize that the first rating "MAX LOAD DUAL 1800 Kg (3970 LBS) AT 760 Kpa (110 PSI) COLD" applies to the "SINGLE" configuration, and the second rating "MAX LOAD DUAL 1700 Kg (3750 LBS) AT 760 Kpa (110 PSI) COLD" applies to the "DUAL" configuration. Such persons are fully aware that for all medium truck tires designed to be used in both single and dual configurations, the maximum load and corresponding pressure applicable to the single configuration is listed above the information applicable to the dual configuration. NHTSA does not agree with Tireco's reasoning here since a tire purchaser or end user of the subject tires may not be fully aware that the first rating applies to single configuration loading unless the word "SINGLE" is marked on the sidewall. As wrongly marked with the word "DUAL," instead of the word "SINGLE," the possibility for confusion and associated safety compromise exists.
5. Additionally on March 15, 2016, Tireco submitted test data to NHTSA for review. This data consisted of endurance testing conducted by Shandong Wanda Boto Tyre Co., LTD. to support its basis that the tires are safe for use. This additional testing was performed at loads, speeds, and timing greater than the minimum requirements of FMVSS No. 119 with a duration of 121.6

hours of testing which is 74.6 hours beyond the minimum requirements. Yet the agency does not agree that the additional data is sufficient to support the overload condition in the dual configuration because the tires would be expected to operate for much longer than 121.6 hours in the field.

The subject tires as improperly marked indicate a maximum dual load rating capacity value above that designed for the tire. A tire loaded above its designed maximum load rating capacity creates a potential safety problem for the driver of that motor vehicle and others on the road.

For the reasons stated above, NHTSA does not believe that the "DUAL" marking noncompliance on the subject MILESTAR BS623 225/70R19.5 G/14 tires is inconsequential to motor vehicle safety.

*NHTSA Decision:* NHTSA has decided to deny Tireco's petition in part and grant it in part.

In the case of the subset of the subject tires that were marked "DUAL" instead of "SINGLE," Tireco has not met its burden of persuasion that the noncompliance with paragraph S6.5(d) of FMVSS No. 119 is inconsequential to motor vehicle safety. Accordingly, Tireco is obligated to provide notification of and a free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

In the cases of the described load range letter marking noncompliances, NHTSA has decided that Tireco has met its burden of persuasion that the noncompliances with paragraph S6.5(j) of FMVSS No. 119 are inconsequential to motor vehicle safety and that Tireco is therefore exempted from the obligation of providing notification of,

and a remedy for, the load range letter marking noncompliances 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 from only 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 applies only to the subject tires that Tireco 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 Tireco 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:** August 19, 2016

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Gregory K. Rea  
Associate Administrator  
for Enforcement

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