



This document is scheduled to be published in the Federal Register on 11/02/2016 and available online at <https://federalregister.gov/d/2016-26384>, and on FDsys.gov

Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0067; Notice 2]

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

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

ACTION: Grant of Petition.

SUMMARY: Michelin North America, Inc. (MNA), has determined that certain MNA tires do not fully comply with paragraph S5.5.1(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New pneumatic radial tires for light vehicles*. MNA filed a report dated May 5, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

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), MNA 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 as it relates to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period on August 3, 2016 in the **Federal Register** (81 FR 51266). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web page at: <http://www.regulations.gov/>. Then follow the online search instruction to locate docket number "NHTSA-2016-0067."

II. Tires Involved: Affected are approximately 186 MNA Uniroyal Tiger Paw AWP II size P215/70R15 97T passenger car tires that were manufactured between January 10, 2016 and January 13, 2016.

III. Noncompliance: MNA explains that two of the digits in the tire identification number (TIN) that identify the week and year of manufacture were inadvertently switched. This resulted in the tires, which were manufactured in the second week of 2016, being molded with a manufacturing date of "0126" rather than the correct marking of "0216," contrary to the requirements specified in paragraph S5.5.1 of FMVSS No. 139 and 49 CFR 574.5(g)(4).

IV. Rule Text: Paragraph S5.5.1 of FMVSS No. 139 requires in pertinent part:

S5.5.1 *Tire Identification Number.*

...

(b) *Tires manufactured on or after September 1, 2009.* Each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire.

49 CFR 574.5(g)(4) provides that the fourth grouping of symbols within the tire identification number shall "identify the week and year of manufacture." The regulation specifies that "[t]he first and second symbols of the date code must identify the week of the year," and "[t]he third and fourth symbols of the date code identify the last two digits of the year of manufacture." Applying these requirements, the subject tires, which were manufactured during week 2 of 2016, should display "0216" as the date code, but instead display "0126" as the date code.

V. Summary of MNA's Petition: MNA believes that this noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following information and analysis of the subject noncompliance:

1. MNA stated that although the date code is not correct, it specifies a date well into the future and thus offers a unique identification for the subject tires. Furthermore,

- the incorrect but unique coding has been recorded in MNA's records and can be used to identify the subject tires in the event of a future market action.
2. MNA also stated that there should be no risk of duplication of the TIN in the future since the current 2 digit plant code will be replaced with a 3 digit plant code by April 25, 2025, thus creating a new TIN sequence prior to week 1 of 2026 (the date inadvertently specified on the subject tires).
 3. MNA further noted that the incorrect date code does not compromise the ability to register the tire. Tire registration cards accept the date as marked (0126). Moreover, the Uniroyal tire registration Web page accepts the TIN with the date as described.
 4. MNA also stated that Michelin's consumer care team has been informed should there be any questions from a consumer or dealer.
 5. MNA concluded by noting that all other markings on the subject tires conform to the applicable regulations and meet all performance requirements of FMVSS No. 139.

In its part 573 Report, MNA stated that there is no imminent safety risk associated with the mismarking.

In summation, MNA believes that the described noncompliance is inconsequential as it relates to motor vehicle safety, and

that its petition, to exempt MNA from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA'S DECISION:

NHTSA's Analysis: The agency believes that in the case of a tire labeling noncompliance, one measure of its inconsequentiality to motor vehicle safety is whether the mislabeling would affect the manufacturer's or consumer's ability to identify the mislabeled tires properly, should the tires be recalled for performance related noncompliance.

After review of MNA's petition, NHTSA believes that the mislabeling of the date code would not create confusion with manufacturers or consumers should there be a recall since MNA has taken the following measures that would enable correct tire registration: 1) accepting registration cards for tires that have an incorrectly labeled date code, 2) accepting internet registration through their webpage for tires that have an incorrectly labeled date code, and 3) informing their consumer care team about how to address the mislabeling in response to customers' inquiries.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that MNA has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential

to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA is consequently exempted from the obligation of providing notification of, and a free 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 on this petition only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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 MNA 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

[FR Doc. 2016-26384 Filed: 11/1/2016 8:45 am; Publication Date: 11/2/2016]