



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0010; Notice 1]

Sumitomo Rubber USA, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Sumitomo Rubber USA, LLC (SRUSA), has determined that certain Sumitomo Kelly brand commercial truck tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds) and Motorcycles*. SRUSA filed a noncompliance report dated January 3, 2017. SRUSA also petitioned NHTSA on January 31, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

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 in the title of this notice and submitted by any of the following methods:

- 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 Delivery: 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 <https://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 comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to

<https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the Federal Register pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: Sumitomo Rubber USA, LLC (SRUSA), has determined that certain Sumitomo Kelly brand commercial truck tires do not fully comply with S6.5 of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *New Pneumatic Tires for Motor Vehicles with a*

GVWR of more than 4,536 kilograms (10,000 pounds) and Motorcycles. SRUSA filed a noncompliance report dated January 3, 2017, and amended on January 25, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. SRUSA also petitioned NHTSA on January 31, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, 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.

This notice of receipt of SRUSA'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 138 Sumitomo Kelly KDA size 11R22.5 commercial truck tires manufactured between December 4, 2016, and December 17, 2016.

III. Noncompliance: SRUSA explains that the noncompliance is that the required markings on the sidewall of the subject tires were inadvertently omitted and therefore do not comply with paragraph S6.5 of FMVSS No. 119.

IV. Rule Text: Paragraph S6.5 of FMVSS No. 119 states 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. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire...

V. Summary of SRUSA's Petition: SRUSA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, SRUSA submitted the following reasoning:

SRUSA submits that the condition described above is inconsequential as it relates to motor vehicle safety. The tires were manufactured as designed and meet or exceed all performance requirements of applicable Federal motor vehicle safety standards. All of the subject tires are marked with the correct information; however, the information appears only on one sidewall. Therefore, the noncompliant condition does not affect motor vehicle safety because the required information is still visible and available to the consumer on one sidewall of the tire. Additionally, SRUSA is not aware of any customer complaints related to this condition. The affected tire mold was immediately corrected and no additional tires were or will be manufactured with this noncompliance.

NHTSA previously granted petitions for similar noncompliance conditions related to tire information on tires

because of surveys that show most consumers do not base tire purchases on tire information found on the tire sidewall. Moreover, the absence of the markings on one sidewall has no impact on the operational performance of the tires at issue or on the safety of the vehicles on which these tires may be mounted.

SRUSA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted 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.

In a supplemental e-mail dated February 24, 2017, SRUSA stated that the subject tires are not Asymmetric tires and is not labeled as "OUTERSIDE" or "OUTER." SRUSA also stated that there is no specific outboard or inner sidewall, thus, the tires may be mounted either way.

To view SRUSA's petition, analyses, and any supplemental documentation in its entirety you can visit <https://www.regulations.gov> by following the online instructions for accessing the dockets and by using the docket ID number for this petition show in the heading of this notice.

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 SRUSA 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 SRUSA 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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