



## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2018-0082; Notice 2]**

### **Yokohama Tire Corporation, Grant of Petition for Decision of Inconsequential Noncompliance**

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

**ACTION:** Grant of petition.

**SUMMARY:** Yokohama Tire Corporation (YTC) has determined that certain Yokohama RY023 brand replacement commercial 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 lbs) and Motorcycles*. YTC filed a noncompliance report dated July 12, 2018. YTC subsequently petitioned NHTSA on July 31, 2018, and submitted a supplemental petition on February 6, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of YTC's petition.

**FOR FURTHER INFORMATION CONTACT:** Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5310, facsimile (202) 366-3081.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Overview:**

YTC has determined that certain Yokohama brand RY023 replacement commercial tires do not fully comply with paragraph S6.5(d) and (j) of 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 lbs) and Motorcycles* (49 CFR 571.119). YTC filed a noncompliance report dated July 12, 2018, pursuant to 49 CFR part 573, *Defects and Noncompliance Responsibility and Reports*. YTC subsequently petitioned NHTSA on July 31, 2018, and submitted a supplemental petition on February 6, 2019, 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, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of YTC's petition was published with a 30-day public comment period, on June 21, 2019, in the **Federal Register** (84 FR 29280). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2018-0082."

**II. Tires Involved:** Approximately 4,704 Yokohama RY023 size 11R22.5 16(LR H) 146/143L commercial tires, manufactured between February 2, 2018, and May 17, 2018, are potentially involved.

**III. Noncompliance:** YTC explains that the noncompliance was due to a mold error in which one sidewall, the serial sidewall, of subject tires incorrectly state the ply rating, load range and load capacity as required by paragraph S6.5 (d) and (j) of FMVSS No. 119.

Specifically, the tires were marked:

14 PR LOAD RANGE G

MAX. LOAD SINGLE 2800 kg (6175 lbs) at 720 kPa (105psi) COLD

MAX. LOAD DUAL 2650 kg (5840 lbs) at 720 kPa (105 psi) COLD

When they should have been marked:

16 PR LOAD RANGE H

MAX. LOAD SINGLE 3000 kg (6610 lbs) at 830 kPa (120 psi) COLD

MAX. LOAD DUAL 2725 kg (6005 lbs) at 830 kPa (120 psi) COLD

**IV. Rule Requirements:** Paragraph S6.5(d) and (j) of FMVSS No. 119, includes the requirements relevant to this petition:

- Except as specified in paragraph S6.5, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of paragraph S6.5.
- 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 for only for single load): Max load single \_\_\_\_kg (\_\_\_\_lb) at \_\_\_\_kPa (\_\_\_\_psi) cold.

- Markings must contain the letter designating the tire load range.

**V. Summary of Petition:** YTC 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, YTC submitted the following arguments:

1. This Petition concerns Yokohama 11R22.5 16PR RY023 commercial truck and bus replacement tires whose branding information incorrectly states the ply rating, load range and load capacity on one side (serial side) only, while the branding information on the

other side (opposite serial side) is correct for the subject tires. Because of this mold branding error, these tires are not in compliance with the tire labeling requirement found in 49 CFR §571.119 S6.5(d) and (j), even though all of these tires were manufactured with the correct ply rating and load range.

2. YTC implemented verification countermeasures to prevent any recurrence of any incorrect tire markings. Further investigation determined that the suspect period ended when the incorrect mold had been removed from production on May 17, 2018, in the 19th production week of 2018. The 764 tires in containment will be repaired before they are sold.
3. Significantly, these tires were manufactured as designed and meet or exceed all applicable Federal motor vehicle safety performance standards. While the sidewall markings are correct on the opposite serial side, the sidewall markings on the serial side understate the construction and capacity of the subject tires. The misbranding of these tires is not a safety concern and also has no impact on the retreading, repairing and recycling industries. The affected tire mold has already been corrected and all future production will have the correct material shown on the sidewall.
4. NHTSA has studied the impact of tire labeling information on safety in the context of its rulemaking efforts under the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act. YTC stated that NHTSA's analysis concluded that tire construction information on a tire's sidewall is not relied upon by dealers and consumers in the selling or purchasing of tires and has an inconsequential impact on motor vehicle safety. In addition, YTC cited the following petitions that the agency has previously granted for similar noncompliances: *See* Sumitomo Rubber Industries, Grant of Petition

for Decision of Inconsequential Noncompliance, 83 FR 13002 (March 26, 2018) and Goodyear Tire & Rubber Co., Grant of Petition for Decision for Inconsequential Noncompliance, 82 FR 18210 (April 17, 2017).

The Agency has studied the implications of tire labeling information on motor vehicle safety during the rulemaking process for the TREAD Act and the merits for a decision regarding the subject inconsequential noncompliance petition aligns with previous inconsequential petitions with similar noncompliances the agency has granted and as cited by YTC.

YTC 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.

YTC's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

**VI. NHTSA's Analysis:** The purpose of the label stating the tire's load carrying capabilities as described in section S6.5(d), and the load range marking letter required by paragraph S6.5(j), is to inform tire purchasers and end-users about the load capacity of the tire. In the case of the subject tires, YTC explained that the information the load range letter is meant to convey understates the construction and capacity of the subject tire RY023 model and size 11R22.5. Specifically, the tires were marked with the load range "G" when in fact the correct load range is "H." Because the tires were designed for the higher load capacity, "H" at 3000 kg for single load and 2725 kg for dual load, if a consumer followed the load range "G" as marked, indicating the

tire was capable of withstanding a 2800 kg for single load and 2650 kg for dual load, they would be using the tire in a load-carrying capacity lower than the actual load-carrying capacity of the subject tires. On February 25, 2013, a similar petition for inconsequential noncompliance on was granted to Guizhou tyres with respect of a mismarking of a tire load range, in which was incorrectly marked as “F” when they should be tire load range “G” (see 78 FR 12828).

Because these subject tires have a greater load carrying capability than the marking load range “G” indicates, there is no risk of these tires being overloaded and thus, no risk to safety based on the incorrect label.

**VII. NHTSA’s Decision:** In consideration of the foregoing, NHTSA finds that YTC has met its burden of persuasion that the subject FMVSS No. 119 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, YTC’s petition is hereby granted and YTC 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, any decision on this petition only applies to the subject tires that YTC no longer controlled at the time it determined that the noncompliance existed. However, any decision on 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 YTC 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)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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