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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0015; Notice 2]

Continental Tire the Americas, LLC, Grant of Petition for
Decision of Inconsequential Noncompliance

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

ACTION: Grant of Petition

SUMMARY: Continental Tire the Americas, LLC, (CTA), has determined that certain Continental replacement passenger car tires do not fully comply with paragraph S5.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. CTA has filed an appropriate report dated January 7, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

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

SUPPLEMENTARY INFORMATION:

I. CTA's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), CTA 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.

Notice of receipt of the CTA's petition was published, with a 30-day public comment period, on April 16, 2015 in the Federal Register (80 FR 20570). 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-2015-0015."

II. Tires Involved: Affected are approximately 116,500 Continental ExtremeContact DWS size 225/45R17 91W, Continental ExtremeContact DW size 225/45R17 91W and General G-Max AS-03 size 225/45R17 91W passenger car tires.

III. Noncompliance: CTA explains that the noncompliance is that due to mold labeling errors, the sidewall markings on the subject tires do not correctly describe the actual number of plies in the tread area of the tires as required by paragraph S5.5(f) of FMVSS No. 139. Specifically, the Continental ExtremeContact DWS size 225/45R17 91W tires were manufactured with "Tread 4 Plies: 1 Polyester + 2 Steel + 1 Polyamide." The correct labeling and stamping should have been "Tread 5 Plies: 1

Polyester + 2 Steel + 2 Polyamide." The Continental ExtremeContact DW size 225/45R17 91W tires were manufactured with "Tread 4 Plies: 1 Polyester + 2 Steel + 1 Polyamide." The correct labeling and stamping should have been "Tread 5 Plies: 1 Polyester + 2 Steel + 2 Polyamide." The General G-Max AS-03 size 225/45R17 91W tires were manufactured with "Plies: Tread: 1 Polyester + 2 Steel + 1 Polyamide." The correct labeling and stamping should have been "Plies: Tread: 1 Polyester + 2 Steel + 2 Polyamide."

IV. Rule Text: Paragraph S5.5 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...

(f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different;

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

A) CTA believes that the mislabeling of the number of plies on the subject tires has no impact on the operational performance of the subject tires or on the safety of vehicles on which these tires are to be

mounted. CTA states that the subject tires also meet or exceed all of the performance requirements specified by FMVSS No. 139.

- B) CTA states that they are unaware of any accidents or injuries that have occurred as a result of this noncompliance.
- C) CTA states that NHTSA has previously granted similar petitions for Inconsequential Noncompliances in the past.

CTA has additionally informed NHTSA that it has corrected the subject noncompliance.

In summation, CTA believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt CTA 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's Decision:

NHTSA's Analysis of CTA's Arguments: The agency agrees with CTA that the noncompliance is inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliance on the operational safety of the vehicles on which these tires are mounted. The

safety of people working in the tire retread, repair and recycling industries must also be considered.

Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material to the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgement, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in a tire.

The agency believes the noncompliance will have no measureable effect on the safety of tire retread, repair and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, since the tire sidewall is marked correctly for the number of steel plies, this potential safety concern does not exist.

NHTSA's Decision: In consideration of the foregoing, NHTSA has decided that CTA has met its burden of persuasion that the

noncompliance described is inconsequential to motor vehicle safety. Accordingly, CTA's petition is hereby granted and CTA is exempted from the obligation of providing notification of, and remedy for the subject noncompliance.

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 only applies to the subject tires that CTA no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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 CTA 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 Giuseppe, Director,
Office of Vehicle Safety Compliance.

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