



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0040; Notice 1]

**Continental Tire the Americas, 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: Continental Tire the Americas, LLC (CTA), has determined that certain Continental brand tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. CTA filed a noncompliance report dated March 31, 2017. CTA also petitioned NHTSA on April 27, 2017, and amended it on June 28, 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 be 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: Continental Tire the Americas, LLC (CTA), has determined that certain Continental brand tires do not fully comply with paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles*. CTA filed a

noncompliance report dated March 31, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. CTA also petitioned NHTSA on April 27, 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 CTA'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: Approximately 111,500 of the following Continental brand tires, manufactured between August 3, 2014, and March 25, 2017, are potentially involved:

- XL Continental Cross Contact UHP size 255/55R18 109Y
- Barum Brillantis 2 size 175/70R13 82T
- Continental ContiTrac size P225/70R15 100S
- XL General Grabber UHP size 275/55R20 117V
- Continental ExtremeContact DWS size 285/30ZR20 99W XL
- Continental CrossContact LX20 size 245/55R19 103S
- XL Continental CrossContact LX20 size 285/45R 114H
- General Altimax RT43 size 215/45R17 87V

III. Noncompliance: CTA states that the noncompliance is due to a mold error, and that as a result, the number of tread plies indicated on the sidewall of the subject tires do not match the actual number of plies in the tire construction, as required by paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139. Specifically, below is a list of the subject tires with the labeling as marked (Marked) and how the sidewall should have been marked (Actual):

- XL Continental Cross Contact UHP size 255/55R18 109Y
 - Marked: "PLIES: TREAD: 2 RAYON + 2 STEEL + 2 POLYAMIDE"
 - Actual: "PLIES: TREAD: 2 RAYON + 2 STEEL + 1 POLYAMIDE"

- Barum Brillantis 2 size 175/70R13 82T
 - Marked: "TREAD 4 PLIES: 1 POLYESTER + 2 STEEL + 1 POLYAMIDE"
 - Actual: "TREAD 5 PLIES: 1 POLYESTER + 2 STEEL + 2 POLYAMIDE"

- Continental ContiTrac size P225/70R15 100S
 - Marked: "TREAD 4 PLIES: 2 POLYESTER + 2 STEEL"
 - Actual: "TREAD 5 PLIES: 2 POLYESTER + 2 STEEL + 1 POLYAMIDE"

- XL General Grabber UHP size 275/55R20 117V
 - Marked: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 2 POLYAMIDE SIDEWALL: 2 POLYESTER"

- Actual: "PLIES: TREAD: 2 RAYON + 2 STEEL + 2 POLYAMIDE
SIDEWALL: 2 RAYON"
- Continental ExtremeContact DWS size 285/30ZR20 99W
 - Marked: "PLIES: TREAD: 1 RAYON + 2 STEEL + 2 POLYAMIDE"
 - Actual: "PLIES: TREAD: 2 RAYON + 2 STEEL + 1 POLYAMIDE"
- Continental CrossContact LX20 size 245/55R19 103S
 - Marked: "PLIES: TREAD: 1 POLYESTER + 2 STEEL + 2
POLYAMIDE"
 - Actual: "PLIES: TREAD: 1 POLYESTER + 2 STEEL + 1
POLYAMIDE"
- XL Continental CrossContact LX20 size 285/45R22 114H
 - Marked: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 2
POLYAMIDE"
 - Actual: "PLIES: TREAD: 1 POLYESTER + 2 STEEL + 2
POLYAMIDE"
- General Altimax RT43 size 215/45R17 87V
 - Marked: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 1
POLYAMIDE"
 - Actual: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 2
POLYAMIDE"

IV. Rule Text: Paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139 require in pertinent part:

S5.5 *Tire Markings*. Except as specified in paragraph (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...

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;

(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 Petition: CTA 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, CTA submitted the following reasoning:

- a) The tires covered by this petition are labeled with incorrect information regarding the number of tread plies and in two cases, the incorrect and/or missing ply material. However, this mislabeling has no impact on the operational performance of these tires or on the safety of vehicles on which these tires are mounted. The subject tires meet or exceed all of the performance requirements specified by FMVSS No. 139.

- b) NHTSA has concluded in response to numerous other petitions that this type of noncompliance is inconsequential to safety.
- c) Continental cited three petitions¹ that NHTSA has previously granted and noted that on several occasions NHTSA has stated:
- “In the agency’s judgment, 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 ply material in a tire.”
- d) All tires covered by this petition meet or exceed the performance requirements of FMVSS No. 139, as well as the other labeling requirements of the standard.
- e) CTA is not aware of any crashes, injuries, customer complaints, or field reports associated with the mislabeling.
- f) CTA has quarantined all existing inventory of these tires that contain the noncompliant tire sidewall labeling.

¹ Cooper Tire & Rubber Company, 82 FR 17075 (April 7, 2017); Nitto Tire USA, Inc., 81FR 17764 (April 30, 2016); Hankook Tire America Corp., 79 FR 30688 (May 28, 2014); Bridgestone 78 FR 47049 (August 2, 2013)

g) CTA has corrected the molds at the manufacturing plant, so no additional tires will be manufactured with the noncompliance.

CTA 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.

To view CTA's petition analyses and test data 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 shown 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 CTA 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 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 M. Giuseppe,

Director,

Office of Vehicle Safety Compliance.

Billing Code 4910-59-P

[FR Doc. 2017-20908 Filed: 9/28/2017 8:45 am; Publication Date: 9/29/2017]