



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0007; Notice 1]

Pirelli Tire, 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: Pirelli Tire, LLC (Pirelli), has determined that certain Pirelli P Zero replacement tires do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Pirelli filed a noncompliance report dated November 19, 2018, and subsequently petitioned NHTSA on December 14, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Pirelli's petition.

DATES: Send comments on or before **[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 may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the 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 the 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 for 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: Pirelli has determined that certain Pirelli P Zero replacement tires do not fully comply with paragraphs S5.5(e) and (f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). Pirelli filed a noncompliance report dated November 19, 2018, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on December 14, 2018, for an exemption from the notification and remedy requirement 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*.

This notice of receipt of Pirelli'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. Equipment Involved: Approximately 28 Pirelli P Zero replacement tires, size 265/45R21 104W, manufactured between July 10, 2018, and August 08, 2018, are potentially involved.

III. Noncompliance: Pirelli explains 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 does not match the actual number of plies in the tire construction as required by paragraphs S5.5(e) and (f) of FMVSS No. 139. Specifically, the tires were marked "Tread: 2 Polyester 2 Steel 1 Polyamide;

Sidewall: 1 Polyamide” when they should have been marked “Tread: 2 Polyester 2 Steel 1 Polyamide; Sidewall: 2 Polyester.”

IV. Rule Requirements: Paragraphs S5.5(e) and (f) of FMVSS No. 139 provide the requirements relevant to this petition. Each tire must be marked on each sidewall with the information specified in paragraphs 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 paragraph S7 of FMVSS No. 139. Specifically, each tire should be marked with the generic name of each cord material used in the plies (both sidewall and tread area) of the tire and the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

V. Summary of Petition: Pirelli 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, Pirelli submitted the following reasoning:

1. The subject tires comply with the performance requirements and all other marking requirements of FMVSS No. 139.
2. The tire construction information for the subject tires have been corrected in Pirelli’s centralized R&D system that creates the drawings used in manufacturing the tire molds. Pirelli is in the process of correcting the subject molds before they are used for future production.
3. Pirelli cited the agency as saying that it “believes that one measure of inconsequentiality to motor vehicle safety, in this case, is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered and is a measure of inconsequentiality.” *See* 83

- FR 36668 (July 30, 2018) (Grant of petition for determination of inconsequential noncompliance for Continental tires, for tire marked with the incorrect number of tread plies).
4. Pirelli stated that the subject Pirelli tires were manufactured as designed and meet or exceed all applicable FMVSS No. 139 performance standards. Furthermore, all of the sidewall markings related to tire service (load capacity, corresponding inflation pressure, etc.) are correct and the tires correctly show that they contain tread plies. Pirelli does not believe the mislabeling of these tires presents a safety concern for consumers or for the retreading and recycling personnel.
 5. Pirelli says that NHTSA has granted similar petitions involving tires manufactured by Cooper Tire and Goodyear (Dunlop). *See* 74 FR 10804 (March 12, 2009), grant of petition submitted by Goodyear where tires were marked "Tread 3 Polyester + 2 Steel," whereas the correct marking should have been "Tread 2 Polyester + 2 Steel + 2 Polyamide;." *See* 82 FR 17075 (April 7, 2017) grant of petition submitted by Cooper Tire & Rubber Company where tires were marked "TREAD 1 PLY NYLON + 2 PLY STEEL + 2 PLY POLYESTER," whereas the correct marking should have been "TREAD 1 PLY NYLON + 2 PLY STEEL + 1 PLY POLYESTER." *See* 83 FR 13002 (March 26, 2018), grant of petition submitted by Sumitomo Rubber Industries Ltd. where tires were marked "TREAD 5 PLIES STEEL" whereas the correct marking should have been "TREAD 4 PLIES STEEL."
 6. Pirelli is not aware of any warranty claims, field reports, customer complaints, legal claims, or any incidents or injuries related to the subject condition.

Pirelli expressed 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.

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 equipment that Pirelli 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 equipment under their control after Pirelli 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)

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