



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0073; 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 VanContact A/S tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. CTA filed an original noncompliance report dated September 10, 2021, and subsequently petitioned NHTSA on September 30, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of CTA’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 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, S.E., 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, S.E., 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](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](https://www.regulations.gov/) by following the online instructions for accessing the docket. 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).

**FOR FURTHER INFORMATION CONTACT:** Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655-0547.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:**

CTA has determined that certain Continental VanContact A/S tires do not fully comply with the requirements of paragraph S5.5(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). CTA filed a noncompliance report dated September 10, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. CTA subsequently petitioned NHTSA on September 30, 2021, 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*.

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 419 Continental VanContact A/S tires, size LT 245/70R17 119/116 Q, manufactured between May 31, 2020, and May 22, 2021, are potentially involved.

**III. Noncompliance:**

CTA explains that the noncompliance is that the tire size designation on both sidewalls of the subject tires, is missing the tire size prefix "LT" and, therefore, does not fully comply with paragraph S5.5(b) of FMVSS No. 139. Specifically, the tire size on the subject tires' sidewalls read "245/70R17 119/116 Q," however, they should read "LT 245/70R17 119/116 Q."

**IV. Rule Requirements:**

Paragraph S5.5(b) of FMVSS No. 139 includes the requirements relevant to this petition. Each tire must be marked on each sidewall with the tire size designation as listed in the documents and publications specified in S4.1.1 of the standard.

#### **V. Summary of CTA's Petition:**

The following views and arguments presented in this section, "V. Summary of CTA's Petition," are the views and arguments provided by CTA. They have not been evaluated by the Agency and do not reflect the views of the Agency. CTA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, CTA submits the following reasoning:

CTA says that other than the missing tire size designation marking on both sidewalls, the subject tires contain all other required markings and meet the performance requirements of FMVSS No. 139.

CTA states its belief that the missing markings do not impact the operational safety of the tires. CTA adds that the subject tire sidewalls contain the correct markings for the Load Index and load capacities for single and dual fitments and that "there is no higher load tire specified for size 245/70R17 in the [Tire and Rim Association] yearbook or the European Tyre and Rim Technical Organization, thus the tires could not mistakenly be placed in an overloaded application."

CTA contends that the granting of a petition submitted by Michelin North America Incorporated describes a similar noncompliance to the one affecting the subject tires and therefore, supports the granting of its petition. *See* Michelin North America, Incorporated, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 30963 (May 23, 2013).

CTA also says that the subject tires were installed on "pre-serial production vehicles" that were not sold to end consumers or released into the replacement tire market. Additionally, CTA says that all remaining CTA inventory will be destroyed and that "no additional tires will be manufactured or sold with the noncompliance."

CTA concludes 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 response to email correspondence from NHTSA on November 7, 2022, CTA clarified that Rivian owned, controlled, and operated the subject vehicles and the tires were sent to Toyota Arizona Proving Grounds for Prototype vehicle testing.

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)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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