



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2024-2020; Notice 2]

Goodyear Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: Goodyear Tire & Rubber Company (Goodyear) has determined that certain
Goodyear 265/70R17 116T XL Wrangler Duratrac RT passenger tires do not fully comply with
Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for
Light Vehicles*. Goodyear filed a noncompliance report dated April 2, 2024, and subsequently
petitioned NHTSA (the “Agency”) on April 2, 2024, for a decision that the subject
noncompliance is inconsequential as it relates to motor vehicle safety. This document announces
the grant of Goodyear’s petition.

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA,
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SUPPLEMENTARY INFORMATION:

I. Overview: Goodyear determined that certain Goodyear Wrangler Duratrac RT tires do not
fully comply with paragraph S5.5 of FMVSS No. 139, *New Pneumatic Radial Tires for Light
Vehicles* (49 CFR 571.139).

Goodyear filed a noncompliance report dated April 2, 2024, pursuant to 49 CFR part 573,
Defect and Noncompliance Responsibility and Reports. Goodyear petitioned NHTSA on April
2, 2024, 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 Goodyear's petition was published with a 30-day public comment period, on August 26, 2024, in the **Federal Register** (89 FR 68494). 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-2024-0020."

II. Tires Involved: Approximately 3,758 Goodyear Wrangler Duratrac RT passenger tires, manufactured between July 16, 2023, and September 23, 2023, were reported by the manufacturer.

III. Rule Requirements: Paragraph S5.5(f) of FMVSS No. 139 includes the requirements relevant to this petition. Each tire must have one sidewall marked with the generic name of each cord material used in the plies (both sidewall and tread area) and indicate the actual number of plies in the sidewall, as well as the actual number of plies in the tread area.

IV. Noncompliance: Goodyear 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 paragraph S5.5(f) of FMVSS No. 139. Specifically, the subject tires were manufactured with 2-ply polyamide cords in the tread area but were incorrectly marked to indicate a 1-ply polyamide cord in the tread area.

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

Goodyear contends that the subject noncompliance is inconsequential to motor vehicle safety because the tires were manufactured according to design and meet or exceed all applicable

FMVSS performance standards. The sidewall markings for tire service, including load capacity and inflation pressure are accurate. Goodyear maintains that the labeling error does not impact safety, tire usage, or the repair and recycling industries. Further, Goodyear states that the affected tire mold has been corrected in production and future tires will correctly indicate the number of plies shown on the sidewalls.

Goodyear argues that NHTSA has previously granted petitions for similar noncompliances concerning tire construction information, based on surveys indicating that most consumers do not use tire construction information from the sidewall when purchasing tires.

Goodyear concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and 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.

VI. NHTSA's Analysis:

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.¹ In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.² Further, because each inconsequential noncompliance petition must be evaluated on its own facts and determinations are highly fact-dependent, NHTSA does not

¹ See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

² See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it “results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future”).

consider prior determinations as binding precedent. Petitioners are reminded that they have the burden of persuading NHTSA that the noncompliance is inconsequential to safety.

NHTSA has evaluated the merits of Goodyear's petition and is granting the petitioner's request for an exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120. The Agency considered the following prior to making this determination:

1. **Operational Safety & Performance:** NHTSA agrees that in this case, the incorrect number of polyamide tread plies labeled on the tire has no effect on the operational safety of vehicles when the affected tires meet the other performance and labeling requirements of FMVSS No. 139. Further, the agency has no basis to believe that the tires do not otherwise meet all of the performance and labeling requirements of FMVSS No. 139, except for the mismarking of the number of tread plies.
2. **Tire Identification and Traceability:** The tires have the required information per 49 CFR 574.5 to ensure that the tires may be properly registered for the purposes of a safety recall. The TIN is both legible and easily discernible.
3. **Downstream Operations:** The Agency must also consider other interested parties besides the manufacturer and end-user. Downstream entities involved in tire repair, retreading, and recycling operations require certain information to determine if tires may be safely used in their operations. The existence of steel in a tire's sidewall and tread can be relevant to the way it should be repaired or retreaded. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. While the subject tires contain steel plies, the number and location of steel plies is correctly marked on the subject tires, so the Agency does not believe the noncompliance which only concerns mismarking of polyamide plies will have a measurable effect on the safety of the tire retread, repair, and recycling industries.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Goodyear has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires

is inconsequential to motor vehicle safety. Accordingly, Goodyear's petition is hereby granted and Goodyear 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, this decision only applies to the subject tires that Goodyear 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 Goodyear 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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