



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0072; Notice 2]

PT. Multistrada Arah Sarana Tbk, Denial of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Denial of petition.

SUMMARY: PT. Multistrada Arah Sarana, Tbk (MASA) has determined that certain Achilles, Corsa, Radar, and Milestar brand tires in various sizes do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*, and Part 574, *Tire Identification and Recordkeeping*. MASA filed a noncompliance report dated June 1, 2020, and subsequently petitioned NHTSA on June 25, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the denial of MASA's petition.

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), Jayton.Lindley@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Overview:

MASA has determined that certain Achilles, Corsa, Radar, and Milestar brand tires in various sizes do not fully comply with the requirements of paragraph S5.5.1 of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139) and 574.5 of Part 574, *Tire Identification and Recordkeeping* (49 CFR 574). MASA filed a noncompliance report dated June 1, 2020, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and*

Reports, and subsequently petitioned NHTSA on June 25, 2020, 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 MASA's petition was published with a 30-day public comment period, on February 26, 2021, in the **Federal Register** (86 FR 11823). 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-2020-0072."

II. Tires Involved:

This petition involves approximately 1,673,307 Achilles, Corsa, Radar, and Milestar brand tires in various sizes, manufactured between January 3, 2016, and March 14, 2020 (the subject tires):

- Achilles 868 All Seasons, ATR Sport 2, Desert Hawk H/T2, 122, ATR-K Sport, and Desert Hawk UHP;
- Corsa All Terrain XL and Highway Terrain;
- Radar Renegade H/T and Renegade A/T; and
- Milestar MS932XP, Patagonia M/T, and Grantland.

III. Noncompliance:

MASA explains that the noncompliance is that the third grouping of symbols in the tire identification numbers (TIN) on the subject tires exceeds the number of characters allowed and therefore does not fully comply with Part 574.5(g)(3) *Old TIN content requirement*, as required by S5.5.1 of FMVSS No. 139. Specifically, MASA used up to six symbols in the third grouping of symbols in the TIN, when this grouping should be no more than four symbols.

IV. Rule Requirements:

Paragraph S5.5.1 of FMVSS No. 139 and 49 Part 574.5(g)(3) includes the requirements relevant to this petition. Each tire must be labeled with the tire identification number required by 49 CFR Part 574 on the intended outboard sidewall of the tire. The third grouping of the TIN, “consisting of no more than four symbols, may be used at the option of the manufacturer or retreader as a descriptive code for the purpose of identifying significant characteristics of the tire.”

V. Summary of MASA’s Petition:

The following views and arguments presented in this section, “V. Summary of MASA’s Petition,” are the views and arguments provided by MASA and do not reflect the views of the agency.

In support of its petition, MASA submitted the following reasoning:

1. Operational Safety:

- a. MASA stated their belief that a “TIN marking noncompliance does not create any operational safety risk for the vehicle. The tires comply with applicable Federal Motor Vehicle Safety Standards performance requirements and all other applicable regulations.” MASA further stated that “a summary of production tire compliance audit testing will be provided to NHTSA separately from this filing.”
- b. “The incorrect TIN marking with additional characters in the optional code has no bearing on tire performance.”
- c. “The subject tires are properly marked with all other markings required under FMVSS 139 such as S5.5(c) maximum permissible inflation pressure and S5.5(d) maximum load rating. The necessary information is available on the sidewall of the tire to ensure proper application and usage.”
- d. “The subject tires contain the DOT symbol on both sidewalls indicating conformance to applicable Federal Motor Vehicle Safety Standards .”

2. Identification and Traceability:

- a. “All information required by 49 CFR 574.5 for the Tire Identification Number (plant code + size code + option code + date code) is present on the sidewall of the tire.”
- b. “For identification and traceability purposes, the key information of plant code and manufacturing date is present on the tire.”
- c. “The existence of extra characters in the optional code does not inhibit the ability of a tire distributor, the tire dealer or the consumer to register the tires.”
- d. “In the event that dealer/owner notifications are required the TIN, as molded on the subject tires, is sufficient to ensure proper communication and identification of the tires.”
- e. “To date, there is no record of a distributor, dealer, consumer, or other concerned party raising a question about tires with the extraneous characters..”
- f. “[I]dentification and traceability of the subject tires could be accomplished in the event of a need to conduct a dealer/owner notification. Production records link plant code, size code, and optional code with the manufacturing dates for all concerned brands and tire sizes.”

3. Proactive Measures

- a. “Internal communications to sales and customer service functions who may have contact with consumers, dealers and distributors associated with the concerned products.”
- b. “External communications with specific distributors and dealers associated with the concerned products.”
- c. “Confirmation that tires with extraneous TIN optional code characters can be properly registered on the Achilles Tire USA website.”

MASA concluded by expressing their belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition should be granted.

VI. NHTSA's Analysis:

In determining the 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

NHTSA is denying the petitioner's request for an exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 49 U.S.C. 30120. Even though there does not appear to be any performance or tracability-related issues associated with the subject noncompliance, tire registration is critical for notifying consumers in the event of a safety recall, and the noncompliance here with the TIN standards undermines that. Accordingly, MASA has not met its burden to demonstrate that the noncompliance is inconsequential.

Specifically, because of the noncompliance, MASA would be unable to directly contact consumers who are unable to register their tires in the event of a safety recall. MASA stated in its petition that the full TIN of the affected tires—even with the extraneous characters—may be registered on their Achilles Tire USA website. But when NHTSA attempted to register one of the subject tires, it was not possible to register a TIN with more than 13 characters. As the Achilles tire registration system is limited to accepting only a 13-character number, the subject

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”).

tires, which have 14-character TINs, cannot be registered. And even if consumers are/were later able to register their tires using 14-character TINs, consumers who attempted to register their tires beforehand (and were unable to do so) would be unlikely to make a repeat attempt so as to avail themselves of the benefit of registration going forward, absent a recall.

VII. NHTSA's Decision:

In consideration of the foregoing, NHTSA finds that MASA has not met its burden of persuasion that the FMVSS No. 139 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, MASA's petition is hereby denied and MASA is consequently obligated to provide notification of and free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Eileen Sullivan,

Associate Administrator for Enforcement.

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