



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2023-0004; Notice 2]

Michelin North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: Michelin North America, Inc. (MNA) has determined that certain Michelin X Works D tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More Than 4,536 kilograms (10,000) pounds, Speciality Tires, and Tires for Motorcycles*. MNA filed a noncompliance report dated December 16, 2022, and January 11, 2023, and subsequently petitioned NHTSA on January 10, 2023, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of MNA's petition.

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

I. Overview: MNA determined that certain Michelin X Works D tires do not fully comply with paragraph S6.5(d) of FMVSS No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More Than 4,536 kilograms (10,000) pounds, Speciality Tires, and Tires for Motorcycles* (49 CFR 571.119).

MNA filed a noncompliance report dated December 16, 2022, and amended the report on January 11, 2023, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA petitioned NHTSA on January 10, 2023, 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 MNA's petition was published with a 30-day public comment period, on March 29, 2024, in the **Federal Register** (89 FR 22228). 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-2023-0004."

II. Tires Involved: Approximately 14,047 Michelin X Works D tires, manufactured between January 1, 2021, and September 14, 2022, were reported by the manufacturer.

III. Rule Requirements: Paragraph S6.5(d) of FMVSS No. 119, includes the requirements relevant to this petition. Except as specified in paragraph S6.5, each tire must be marked on each sidewall with the information specified in paragraphs (a) through (j) of paragraph S6.5.

IV. Noncompliance: MNA explains that the noncompliance is that the maximum dual load in pounds is incorrectly marked on both sides of the tire and therefore does not comply with paragraph S6.5 (d) of FMVSS No. 119. Specifically, the tires state the maximum dual load as 5,590 pounds at 120 psi, when they should state 6,005 pounds at 120 psi.

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

MNA explains that the subject noncompliance was detected during a review of markings for this tire line. MNA says that the mold drawings were corrected for future production upon detection of the subject noncompliance. MNA's investigation of the affected tires concluded that all tires produced with the marking error had entered the market.

First, MNA states that the subject tires were designed and manufactured in accordance with Tire and Rim Association standards, which specify a single max load of 3,000 kg (6,610 lbs) and a dual max load of 2,725 kg (6,005 lbs), both at an inflation pressure of 830 kPa (120 psi). Further, MNA asserts that the subject tires fully comply with all applicable FMVSS tire safety performance standards. MNA highlights that paragraph S7.2(a) of FMVSS No. 119 provides that endurance testing is conducted at the maximum single load value when the tire is marked with both single and dual maximum loads. MNA notes that the correct single load values in kilograms and pounds are marked on the tire. Further, MNA states that except for the max dual load marking in pounds on both sides of the tire, the affected tires correctly display all other required regulatory markings, including load range H corresponding to the designed maximum single load of 3,000 kilograms or 6,610 pounds, the maximum dual load of 2,725 kilograms, as well as the correct inflation pressure of 830 kPa or 120 psi.

MNA explains that these markings provide both dealers and fleets with the necessary information to enable proper selection and application of the tires. MNA says that if a dealer or fleet were to follow the erroneous maximum dual load in pounds marked on the subject tires, the resulting tire loading would be 55 pounds below the designed maximum dual load of this tire.

MNA states that it has taken corrective measures in production and all tires currently being produced have the correct marking.

MNA refers to the following NHTSA petition decisions that it contends are similar to the subject noncompliance:

- Michelin North America, Inc., docket number NHTSA-2006-25891, granted 22 December 2006.
- Goodyear Tire and Rubber Company, docket number NHTSA-2005-21269, granted 18 July 2005.

MNA 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 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 the inconsequential noncompliance petition submitted by Michelin and agrees to grant 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 based on the following:

The tires that are the subject of this petition are designed and manufactured to have a higher maximum load than the erroneous value in pounds that is marked on the sidewall for a dual configuration. Because of this, consumers who follow those marked load values in pounds will not be in danger of overloading the tires. NHTSA has no basis to believe that the tires are not compliant with all other requirements of FMVSS No. 119.

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").

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that MNA has met its burden of persuasion that the subject FMVSS No. 119 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA 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 MNA 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 MNA 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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