



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2024-0049; 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 TEX T195/65R22 T-type spare tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 109, *New Pneumatic Tires for Vehicles Manufactured from 1949 to 1975, Bias Ply Tires, and T-Type Spare Tires*. MNA filed a noncompliance report dated May 1, 2024, and subsequently petitioned NHTSA (the “Agency”) on May 29, 2024, 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, Office of Vehicle Safety Compliance, (325) 655-0547.

SUPPLEMENTARY INFORMATION:

I. Overview: MNA determined that certain Michelin Tex T195/65R22 do not fully comply with paragraph S4.3(b) of FMVSS No. 109, *New Pneumatic Tires for Vehicles Manufactured from 1949 To 1975, Bias Ply Tires, and T-Type Spare Tires* (49 CFR 571.109).

MNA filed a noncompliance report dated May 1, 2024, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA petitioned NHTSA on May 29, 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 MNA's petition was published with a 30-day public comment period, on December 13, 2024, in the **Federal Register** (89 FR 101093). 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-2024-0049."

II. Tires Involved: Approximately 532 Michelin TEX T195/65R22 T-type spare tires, manufactured between September 26, 2023, and March 6, 2024, were reported by the manufacturer.

III. Rule Requirements: Paragraph S4.3(b) of FMVSS No. 109 includes the requirements relevant to this petition. This requirement specifies, among other things, that each tire must have the maximum permissible inflation pressure permanently molded onto or into both tire sidewalls. In addition, for T-type spare tires with a maximum inflation pressure of 420 kPa (60 psi), an additional marking that states "Inflate to 420 kPa (60 psi)" is required on both sidewalls in a prominent location with a large font size. In total, the subject tires are required to have the maximum inflation pressure marked in four different locations.

IV. Noncompliance: MNA explains that the subject tires incorrectly state the maximum permissible inflation pressure in one location on each sidewall and, therefore, do not comply with paragraph S4.3(b) of FMVSS No. 109. Specifically, the tire markings show an incorrect pressure of 350 kPa (51 psi), instead of the correct 420 kPa (60 psi) in one location of the two required locations on each sidewall.

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 the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

MNA explains that the noncompliance was discovered when Indian authorities detected a marking error during a certification inspection and alerted Michelin Europe. European Original Equipment Quality then notified North American Original Equipment Quality that some Range Rovers equipped with the affected spare tires may have been shipped to the US. An investigation was initiated to determine if the affected product had entered the US market. MNA blocked 506 affected tires at the Nyiregyhaza, Hungary manufacturing facility and confirmed that 532 tires were sold into the US market as OEM spares. Upon detecting the subject noncompliance, MNA reports that production of the affected tires was suspended within 24 hours and molds with corrected markings were put into production on March 25, 2024.

MNA explains that the incorrect maximum permissible inflation pressure marking is inconsistent with the correct sidewall marking: “Inflate to 420 kPa (60 psi)” required by paragraph S4.3.5 of FMVSS No. 109, which is present and correctly marked in two locations on the tire. MNA states that although the subject tires were marked with two different inflation pressures, testing confirmed that they fully comply with all applicable FMVSS tire safety performance standards, including endurance, high speed performance, bead unseating, and tire strength. FMVSS No. 109 performance testing was conducted and confirmed that the subject tires passed under the specified conditions for both of the maximum inflation pressures marked on the tires: 350 kPa (51 psi) and 420 kPa (60 psi).

MNA believes that several factors improve the likelihood of the subject tires being used at the correct inflation pressure. First, tires are inflated to the correct pressure at the wheel mounting facility, eliminating the need for dealers to determine which pressure to follow. Additionally, when end users perform the recommended monthly pressure check, the most prominent spare tire sidewall marking required by paragraph S4.5 of FMVSS No. 109, specifies 420 kPa (60 psi) for the spare tire. Furthermore, the placard on the vehicle specifies 420 kPa (60 psi). MNA argues that the subject spare tire has been confirmed to be safe at both inflation

pressures, and therefore it remains safe even if the customer adjusts the pressure to the lower value stated on the tire.

VI. NHTSA's Analysis: The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in an FMVSS is substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.¹ Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

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.² 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.³ 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.

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected also do not justify granting an inconsequentiality petition.⁴ Similarly, mere assertions

¹ Cf. *Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

² 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).

³ 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”).

⁴ See *Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance*, 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential*

that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance are unpersuasive. The percentage of potential occupants that could be adversely affected by a noncompliance is not relevant to whether the noncompliance poses an inconsequential risk to safety. Rather, NHTSA focuses on the consequence to an occupant who is exposed to the consequence of that noncompliance.⁵ The Safety Act is preventive, and manufacturers cannot and should not wait for deaths or injuries to occur in their vehicles before they carry out a recall.⁶ Indeed, the very purpose of a recall is to protect individuals from risk.⁷

NHTSA has evaluated the merits of the petition submitted by MNA and is granting MNA's request for relief from notification and remedy based on the following:

1. Based on its review of the information MNA submitted, NHTSA has no basis to believe that the tires do not meet the performance and labeling requirements of FMVSS No. 109 at both inflation pressures, except for the incorrect inflation pressure marking. Additionally, in conjunction with the rationale listed below, because the subject tires are temporary use spare tires, we would anticipate that meeting the endurance and high-speed test requirements of FMVSS No. 109 in the underinflated condition would ensure a level of safety needed to travel short distances and durations under which the drivers would be using the subject tires in order to reach a service station safely.

2. All the affected tires were original equipment on the Range Rover Sport L461 sold between 11/04/2023 and 04/23/2024. The risk of incorrect vehicle application is minimized because none of the tires were delivered to the replacement market for sale directly to consumers. Further, the reduced load carrying capacity of the tire at 350 kPa

Noncompliance, 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

⁵ See *Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance*, 64 FR 29408, 29409 (June 1, 1999).

⁶ See, e.g., *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977).

⁷ *Id.*

(51 psi) is still sufficient to support the load of the vehicle on which they were sold, even when mounted on the more severe rear axle and loaded to the vehicle's maximum load or gross vehicle weight rating (GVWR).

3. The large, prominent inflation pressure marking required by FMVSS No. 109 is present and has the correct marking, and the inflation pressure listed on the certification label is correct.

4. While NHTSA's confidence in consumers making sensible choices is not unbridled, we note that in instances where owners perceive the inconsistent markings on the tires, the correct inflation pressure is both more prominent on the tires themselves and also available on the vehicle placard.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that MNA has met its burden of persuasion that the subject FMVSS No. 109 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.

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. 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)

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Director, Office of Vehicle Safety Compliance.

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