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Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2019-17228 Filed 8-12-19; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2018-0072; 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 XZL brand 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 lbs.) and Motorcycles*. MNA filed a noncompliance report dated May 21, 2018, and subsequently petitioned NHTSA on June 15, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

FOR FURTHER INFORMATION CONTACT: Abraham Diaz, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5310, facsimile (202) 366-3081.

SUPPLEMENTARY INFORMATION:

I. Overview

MNA has determined that certain Michelin brand tires do not fully comply with paragraph S6.4 of 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 lbs.) and Motorcycles* (49 CFR 571.119). MNA filed a noncompliance report dated May 21, 2018, pursuant to 49 CFR part 573,

Defects and Noncompliance Responsibility and Reports. MNA subsequently petitioned NHTSA on June 18, 2018, 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. 20118(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 6, 2018, in the **Federal Register** (83 FR 62951). 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-2018-0072."

II. Tires Involved

Approximately 752 Michelin XZL size 16.00R20 tires manufactured between January 19, 2018, and April 9, 2018, are potentially involved.

III. Noncompliance

MNA explains that the noncompliance was due to a mold error which left the subject tires with fewer than the required number of treadwear indicators specified in paragraph S6.4 of FMVSS No. 119. Specifically, the tires were manufactured with 4 rows of treadwear indicators instead of the required minimum of 6 treadwear indicators.

IV. Rule Requirements

Paragraph S6.4 of FMVSS No. 119, includes the requirements relevant to this petition:

- Each tire shall have at least six treadwear indicators spaced approximately equally around the circumference of the tire that enable a person inspecting the tire to determine visually whether the tire has worn to a tread depth of 1.6 mm (one-sixteenth of an inch). Tires with a rim diameter code of 12 or smaller shall have at least three such treadwear indicators. Motorcycle tires shall have at least three such indicators which permit visual determination that the tire has worn to a tread depth of 0.8 mm (one-thirty-second of an inch).

V. Summary of Petition

MNA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following arguments:

1. **Functionality:** Truck tires normally have 6 treadwear indicators spaced equally around the circumference of the tire. The function of these indicators is to enable a person inspecting the tire to determine visually whether the tire has worn to a tread depth of 1.6 mm (1/16 in). In the case where tires have 6 treadwear indicators spaced equally around the tire, the indicators would appear at 60 degree intervals around the circumference of the tread. In the case of the subject tires, the 4 treadwear indicators are equally spaced; thus, appearing at 90 degree intervals around the circumference of the tread area of the tire. When normally loaded, approximately 10 percent of the tread band is in contact with the road surface. In most truck applications, the remaining 90 percent of the tread band is accessible for inspection. In the event that a vehicle is parked with one of the treadwear indicators positioned in the ground contact patch area, three other treadwear indicators would be accessible around the circumference of the tire.

In addition, MNA tires have a molded "Bib" symbol on the tread shoulder to indicate the location of the treadwear indicator. These molded symbols aid the person inspecting the tire to visually locate the treadwear indicator and determine if the tire has worn to the extent that the tread depth is 1.6 mm (1/16 in) or less.

2. **NHTSA's Prior Decisions:** NHTSA has previously granted Petitions for Determination of Inconsequential Noncompliance in similar cases related to 49 CFR 571.119 S6.4 treadwear indicators.

On August 19, 2014, NHTSA issued a Grant of Petition to Cooper Tire and Rubber Company with the following comments:

"NHTSA Analysis: The purpose for tire treadwear indicators is to serve as a means for a person to visually inspect a tire's tread depth and readily determine if a tire has worn to the extent that tread depth is 1.6 mm (one-sixteenth of an inch) or less.

Cooper stated that while the subject tires were molded with only five treadwear indicators that it believes that those indicators still provide ample coverage over the surface of the tire. NHTSA agrees with Cooper that in this case the subject noncompliance will have no significant effect on the safety of the vehicles on which the subject tires are mounted. The subject tires have five indicators; 4 indicators spaced at 60 degrees and one indicator spaced at 120 degrees. NHTSA believes that in this

case, the absence of a single indicator does not significantly affect a person's ability to visually inspect a tire and readily recognize when a significant portion of the tire's tread is worn to the point that a tire should be replaced."

In the Cooper decision, it is relevant to note:

(a) While the Cooper Mickey Thompson Baja MTZ tires had only one missing treadwear indicator, the maximum circumferential space between the two most distant treadwear indicators was 120 degrees. NHTSA determined that this confirmation of treadwear indicators does not significantly affect a person's ability to inspect a tire. In MNA's case, the maximum circumferential space between the two most distant treadwear indicators is less, at 90 degrees.

(b) The Cooper petition cites a Grant of Petition issued to Motor Bikes Imports, Inc. in 1987 which included a 49 CFR 571.119 S6.4 noncompliance related to motor bike tires with only 1 treadwear indicator. NHTSA's decision stated a "relatively small number of tires which remain in use nevertheless bear one treadwear indicator" concluding the existence of only a single treadwear indicator combined with the relatively low volume of tires in the market were inconsequential as they relate to motor vehicle safety.

3. *Product Performance & Monitoring:* MNA has no indication through our customer care network, fleet contacts or field engineers, of any issues related to monitoring and measuring of treadwear on the I6.00R20 XZL tires. The lack of two treadwear indicators on the tire was detected in the manufacturing process. We have no customer complaints or warranty claims related to the reduced number of treadwear indicators. The reduced number of treadwear indicators has no impact on product performance. Product performance and customer satisfaction of the subject tires is equivalent to tires produced with 6 treadwear indicators. The tires comply with all safety standards and tire marking requirements of 49 CFR 571.119.

MNA concluded by expressing the belief 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.

VI. NHTSA's Analysis

NHTSA has evaluated the merits of MNA's inconsequential noncompliance petition and has determined that this

particular noncompliance is inconsequential to motor vehicle safety. The agency believes that the purpose of the treadwear indicators is to serve as a means for a person to visually inspect and determine if a tire has worn to the extent of the tread depth, which is 1.6 mm (one-sixteenth of an inch) or less.

After review of the petition, NHTSA agrees with the petition that this noncompliance will have no significant impact on the safety of the vehicles on which the subject tires are mounted. The subject tires have four indicators spaced at 90 degrees around the circumference of the tread pattern of the tire. The absence of two indicators does not significantly affect the end user's ability to visually inspect a tire and recognize when the tire's tread has been worn to the point that it needs to be replaced.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA has decided that MNA has met its burden of persuasion that the FMVSS No. 119 noncompliance is inconsequential to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA is exempted from the obligation of providing notification of, and a 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 allows 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 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 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.

[FR Doc. 2019-17339 Filed 8-12-19; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2019-0149; PDA-40(R)]

Hazardous Materials: The State of Washington Crude Oil By Rail—Vapor Pressure Requirements

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice, and extension of comment period.

SUMMARY: PHMSA is extending the period for comments on the State of North Dakota and the State of Montana's application for an administrative determination as to whether Federal hazardous material transportation law preempts the State of Washington's rules relating to the volatility of crude oil received in the state.

DATES: Comments received on or before September 23, 2019, and rebuttal comments received on or before October 23, 2019, will be considered before an administrative determination is issued by PHMSA's Chief Counsel. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: All documents in this proceeding, including North Dakota and Montana's application and all comments received, may be reviewed in the Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. All documents in this proceeding are also available on the U.S. Government *Regulations.gov* website: <http://www.regulations.gov>.

Comments must refer to Docket No. PHMSA-2019-0149 and may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m.,