

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration**

[Docket No. NHTSA–2019–0007; Notice 2]

**Pirelli Tire, LLC, Grant of Petition for Decision of Inconsequential Noncompliance**

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

**ACTION:** Grant of petition.

**SUMMARY:** Pirelli Tire, LLC (Pirelli), has determined that certain Pirelli P Zero replacement tires do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Pirelli filed a noncompliance report dated November 19, 2018, and subsequently petitioned NHTSA on December 14, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of Pirelli's petition.

**FOR FURTHER INFORMATION CONTACT:** Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5310, facsimile (202) 366–5930.

**SUPPLEMENTARY INFORMATION:****I. Overview**

Pirelli has determined that certain Pirelli P Zero replacement tires do not fully comply with paragraphs S5.5(e) and (f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). Pirelli filed a noncompliance report dated November 19, 2018, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on December 14, 2018, for an exemption from the notification and remedy requirement 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 Pirelli's petition was published, with a 30-day public comment period on August 28, 2019, in the **Federal Register** (84 FR 45208). 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–2019–0007.”

**II. Equipment Involved**

Approximately 28 Pirelli P Zero replacement tires, size 265/45R21 104W, manufactured between July 10, 2018, and August 08, 2018, are potentially involved.

**III. Noncompliance**

Pirelli 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 paragraphs S5.5(e) and (f) of FMVSS No. 139. Specifically, the tires were marked “Tread: 2 Polyester 2 Steel 1 Polyamide; Sidewall: 1 Polyamide” when they should have been marked “Tread: 2 Polyester 2 Steel 1 Polyamide; Sidewall: 2 Polyester.”

**IV. Rule Requirements**

Paragraphs S5.5(e) and (f) of FMVSS No. 139 provide the requirements relevant to this petition. Each tire must be marked on each sidewall with the information specified in paragraphs S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in paragraph S7 of FMVSS No. 139. Specifically, each tire should be marked with the generic name of each cord material used in the plies (both sidewall and tread area) of the tire and the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

**V. Summary of Petition**

Pirelli 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, Pirelli submitted the following reasoning:

1. The subject tires comply with the performance requirements and all other marking requirements of FMVSS No. 139.

2. The tire construction information for the subject tires has been corrected in Pirelli's centralized R&D system that creates the drawings used in manufacturing the tire molds. Pirelli is in the process of correcting the subject molds before they are used for future production.

3. Pirelli cited the Agency as saying that it “believes that one measure of inconsequentiality to motor vehicle safety, in this case, is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of

people working in the tire retread, repair, and recycling industries must also be considered and is a measure of inconsequentiality.” See 83 FR 36668 (July 30, 2018) (Grant of petition for determination of inconsequential noncompliance for Continental tires, for tires marked with the incorrect number of tread plies.

4. Pirelli stated that the subject tires were manufactured as designed and meet or exceed all applicable FMVSS No. 139 performance standards. Furthermore, all of the sidewall markings related to tire service (load capacity, corresponding inflation pressure, etc.) are correct and the tires correctly show that they contain tread plies. Pirelli does not believe the mislabeling of these tires presents a safety concern for consumers or for the retreading and recycling personnel.

5. Pirelli says that NHTSA has granted similar petitions involving tires manufactured by Cooper Tire and Goodyear (Dunlop). See 74 FR 10804 (March 12, 2009), grant of petition submitted by Goodyear where tires were marked “Tread 3 Polyester + 2 Steel,” whereas the correct marking should have been “Tread 2 Polyester + 2 Steel + 2 Polyamide;” 82 FR 17075 (April 7, 2017). See 82 FR 17075 (April 7, 2017) grant of petition submitted by Cooper Tire & Rubber Company where tires were marked “TREAD 1 PLY NYLON + 2 PLY STEEL + 2 PLY POLYESTER,” whereas the correct marking should have been “TREAD 1 PLY NYLON + 2 PLY STEEL + 1 PLY POLYESTER.” See 83 FR 13002 (March 26, 2018), grant of petition submitted by Sumitomo Rubber Industries Ltd. where tires were marked “TREAD 5 PLIES STEEL” whereas the correct marking should have been “TREAD 4 PLIES STEEL.”

6. Pirelli is not aware of any warranty claims, field reports, customer complaints, legal claims, or any incidents or injuries related to the subject condition.

**VI. NHTSA's Analysis**

NHTSA has evaluated the merits of the inconsequential noncompliance petition submitted by Pirelli and agrees that this particular noncompliance is inconsequential to motor vehicle safety. NHTSA believes that the true measure of inconsequentiality to motor vehicle safety, in this case, is that there is no effect of the noncompliances on the operational safety of vehicles on which these tires are mounted.

Although tire construction affects the strength and durability, neither the Agency nor the tire industry provides information relating tire strength and durability to the ply cord material in the

tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess the performance capabilities of various tires.

The Agency also believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, because the sidewall marking indicates that some steel plies exist in the tire tread, this potential safety concern does not exist.

In the Agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the ply material in a tire.

**VII. NHTSA's Decision**

In consideration of the foregoing, NHTSA finds that Pirelli has met its burden of persuasion that the FMVSS No. 139 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, Pirelli's petition is hereby granted and Pirelli is exempted from the obligation of providing notification of, and a remedy for, the 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 equipment that Pirelli 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 equipment under their control after Pirelli 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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**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**Hazardous Materials: Notice of Actions on Special Permits**

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

**ACTION:** Notice of actions on special permit applications.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special

permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

**DATES:** Comments must be received on or before April 9, 2020.

**ADDRESSES:** Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FURTHER INFORMATION CONTACT:** Donald Burger, Chief, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

**SUPPLEMENTARY INFORMATION:** Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 28, 2020.

**Donald P. Burger,**  
*Chief, General Approvals and Permits Branch.*

**SPECIAL PERMITS DATA—GRANTED**

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
15279-M .....	University of Colorado At Boulder, Ehs.	172.301(a), 172.301(b), 172.301(c), 173.199(a)(3), 173.199(a)(4), 173.199(a)(5), 178.609.	To modify the special permit to authorize new destinations due to lab increasing in size and moving.
16011-M .....	Americase, LLC .....	172.200, 172.300, 172.500, 172.400, 172.600, 172.700(a), 173.185(c), 173.185(f).	To modify the special permit to authorize an additional package.
16061-M .....	Battery Solutions, LLC ..	172.200, 172.300, 172.400, 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3).	To modify the special permit to authorize additional Class 8 and 9 hazmat, to remove the UN packaging code from the permit, to clarify the term operator and to increase the maximum gross mass of CellBlockEX material per package to 400kg.
20352-M .....	Schlumberger Technology Corp.	173.301(f), 173.302(a), 173.304(a), 173.304(d), 178.36(f).	To modify the special permit to authorize a thinner cylinder wall thickness of the cylinder.
20549-M .....	Cellblock Fcs, LLC .....	172.400, 172.700(a), 172.102(c)(1), 172.200, 172.300.	To modify the special permit to authorize rail as an approved mode of transport.
20710-M .....	Kerr Corporation .....	173.4a(c)(2), 173.4a(e)(2) .....	To modify the special permit to authorize an alternative package marking (QR Code) in lieu of requiring a copy of the special permit to accompany each shipment.