

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Dates: Comment closing date:
December 9, 2010.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8.

Issued on: November 3, 2010.

Claude H. Harris,
Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0142; Notice 1]

Pirelli Tire LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

Pirelli Tire LLC (Pirelli)¹ has determined that approximately 30,881 Pirelli Pzero Nero M+S and Scorpion Zero Asimmetrico replacement tires produced between September 1, 2007, and February 26, 2009, do not fully comply with the tire labeling requirements of paragraphs S5.5 and S7.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. On March 12, 2010, Pirelli filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (*see* implementing rule at 49 CFR part 556), Pirelli petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Specifically, Pirelli submitted the original petition, dated March 12, 2010, and a supplement to the original petition dated April 12, 2010.

This notice of receipt of Pirelli's petition is published under 49 U.S.C. 30118 and 30120 and does not represent

any agency decision or other exercise of judgment concerning the merits of the petition.

Pirelli estimated that 30,881² Pirelli Pzero Nero M+S and Scorpion Zero Asimmetrico replacement tires produced between September 1, 2007, and February 26, 2009, in the tire sizes indicated in the following table have the subject noncompliance.

P245/45ZR17 95W, Pzero Nero M+S
P235/45ZR17 94W, Pzero Nero M+S
P235/40ZR18 91W, Pzero Nero M+S
P215/35ZR18 84W, Pzero Nero M+S
P215/35ZR19 85W, Pzero Nero M+S
265/35ZR22 102W Extra Load, Scorpion Zero Asimmetrico
295/30ZR22 103W Extra Load, Scorpion Zero Asimmetrico
305/35ZR23 111W Extra Load, Scorpion Zero Asimmetrico
265/45ZR20 108W Extra Load, Scorpion Zero Asimmetrico

Paragraphs S5.5 and S7.3 of FMVSS No. 139 require in pertinent part:

S5.5 *Tire markings.* Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in 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 S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches.

S5.5.1 *Tire identification number.* (a) *Tires manufactured before September 1, 2009.* Each tire must be labeled with the tire identification number required by 49 CFR part 574 on a sidewall of the tire. Except for retreaded tires, either the tire identification number or a partial tire identification number, containing all characters in the tire identification number, except for the date code and, at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire.

(b) *Tires manufactured on or after September 1, 2009.* Each tire must be labeled

² Pirelli's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Pirelli as replacement equipment manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for 30,881 of the affected tires. However, the agency cannot relieve Pirelli's 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 Pirelli recognized that the subject noncompliance existed. Those tires must be brought into conformance, exported, or destroyed.

with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire. Except for retreaded tires, either the tire identification number or a partial tire identification number, containing all characters in the tire identification number, except for the date code and, at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire. Except for retreaded tires, if a tire does not have an intended outboard sidewall, the tire must be labeled with the tire identification number required by 49 CFR part 574 on one sidewall and with either the tire identification number or a partial tire identification number, containing all characters in the tire identification number except for the date code and, at the discretion of the manufacturer, any optional code, on the other sidewall * * *

S7.3 *Tires manufactured on or after September 1, 2007.* Each tire must comply with S4, S5.5, S5.5.1, S5.5.2, S5.5.3, S5.5.4, S5.5.5, and S5.5.6 of this standard.

Pirelli described the noncompliance as the absence of either the complete or partial tire identification number (TIN) on the inner tire sidewall as required by paragraphs S5.5 and S7.3 of FMVSS No. 139.

Pirelli argues that because all of the affected tires have an asymmetric tread pattern, they can only be correctly installed with the intended outer sidewall facing the outside of the vehicle. Pirelli also points out that asymmetric tires represent a very small percentage of the overall tire market.

Pirelli explained that all of the affected tires are stenciled on the intended outside sidewall with the lettering OUTER in four different languages (English, French, German and Italian).

Pirelli further explained that the non-compliance was identified on February 26, 2010, during an inspection of mold branding at the plant that produced the subject tires. Pirelli then examined related production records in order to accurately identify the specific noncompliant tires. All molds are being modified or have been modified to ensure that the appropriate TIN information is contained on both sidewalls for future production.

Pirelli provided the following basis of why they believe the subject noncompliance is inconsequential to motor vehicle safety:

While the subject tires are noncompliant with paragraph S5.5 of FMVSS No. 139 for labeling, the noncompliance has an inconsequential effect on tire performance and motor vehicle safety because all of the affected tires meet or exceed all of the minimum performance requirements of FMVSS No. 139.

In addition, the Company mentioned the existence of certain factors that facilitates and encourages proper

¹ Pirelli Tire LLC is a manufacturer and importer of replacement equipment that is organized under the laws of the State of Georgia.

installation and thus provide accessibility and visibility of the full TIN on the outside sidewall:

Pirelli's internal policy allows dealers to sell these asymmetric tires only in pairs or in groups of four. As a result, these replacement tires are installed either on both sides of the rear axle or on all four locations. The odds of even one tire being mounted incorrectly are extremely remote, and the odds of two or four tires being mounted the wrong way are even more remote.

All subject tires are either Pzero Nero M+S or Scorpion Zero Asimmetrico. Both product families are ultra high performance tires; their asymmetric tread design is one of the main features sought by consumers for the following reasons: Precision handling in all conditions; full and compact external shoulder blocks for increased safety and dry handling performance; and inner shoulders designed to maximize traction with deeper and more regular cuts. These benefits are obtained only if the tires are mounted with the outer sidewall pointing to the outside of the vehicle. Having paid a substantial price to obtain these performance characteristics, the customers seek to ensure that their tires are installed correctly.

Pirelli's product literature and training procedures reinforce the message on proper mounting.

Pirelli provides extensive training to its authorized dealers, and that training focuses specifically on the need to mount asymmetric tires in the correct way.

A second TIN number (on the inboard side of the tire) is not necessary either to ensure traceability or to allow consumers to operate their vehicles safely.

Pirelli has not received a single complaint from any consumer, dealer, law enforcement agency, or other source that indicated any difficulty or problem in finding the full TIN, including the date code on its asymmetrical tires.

Pirelli collects and tracks data on warranty claims for all of tires, including the tires at issue here. The warranty data confirm that these tires have performed extremely well in the field. The number of claims is very small, and there have been no claims involving property damage.

In summation, for the reasons stated above, Pirelli believes that the described noncompliance concerning the tire labeling requirements of paragraphs S5.5 and S7.3 of FMVSS No. 139 is inconsequential and does not present a risk to motor vehicle safety. Thus, Pirelli requests that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted. In the supplement to its petition Pirelli additionally requested that if NHTSA decides that a complete exemption should not be granted, that at a minimum, NHTSA exempt the company from standard remedy requirements. Rather than replacing all

tires subject to any such recall, Pirelli suggests that it would instead issue recall notices to all end users who can be located. Pirelli then would have its dealers inspect the tires. If the tires are properly mounted, with the TINs facing the outside of the vehicle, the tires would be left on the vehicle. If any tires were found to be mounted with the outer sidewalls facing inward (which is extremely unlikely), the tires would be remounted in the appropriate way.

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.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. *By mail addressed to:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. *By hand delivery to:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. *Electronically:* by logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may

also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

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Claude H. Harris,
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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Agency Information Collection Activities: Submission for OMB Review; Joint Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the OCC, the Board, the FDIC, and the OTS (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it