



December 14, 2018

By Federal Express

Heidi King
Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Petition for Determination of Inconsequential Noncompliance:
Pirelli Tire LLC

Dear Ms. King:

Pirelli Tire LLC is submitting the enclosed Petition for Determination of Inconsequential Noncompliance pursuant to the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. §§30118(d) and 30120(h), and 49 C.F.R. §§556.1-556.9. As discussed in the petition, Pirelli requests an exemption from the notice and remedy requirements of 49 U.S.C. §§30118 and 30120 on the grounds that the noncompliance to which this petition relates — tires marked with the incorrect number of plies — is inconsequential to motor vehicle safety.

Please contact me if you have any questions or need additional information.

Sincerely,
David Ortoli

Enclosures

cc: Sarah Shiver, NHTSA RMD (Via Email)
George Stevens, NHTSA OVSC (Via Email)

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EXECUTIVE SECRETARIAT
2018 DEC 17 P 12: 06

Pirelli Tire LLC
Petition for Determination of Inconsequential Noncompliance

December 14, 2018

Pirelli Tire LLC submits this Petition for Determination of Inconsequential Noncompliance pursuant to the National Traffic and Motor Vehicle Safety Act (Safety Act), 49 U.S.C. §§ 30118(d) and 30120(h) and 49 C.F.R. §§ 556.1-556.9 for an exemption from the notice and remedy requirements of 49 U.S.C. §§ 30118 and 30120, on the grounds that the noncompliance to which this petition relates is inconsequential as it relates to motor vehicle safety.

I. Background

As described in Pirelli's Part 573 noncompliance report, on November 7, 2018, while reviewing specifications for a China Compulsory Certification, the R&D team at Pirelli's Silao, Mexico plant observed that the molds for the 265/45R21 Pirelli P Zero tires were marked as having a 1-ply sidewall, while the team believed that the tires had a 2-ply sidewall. Also, the team suspected that marking of the sidewall material may have been incorrect. These observations prompted the team to review the available specifications and inspect several tires to determine the actual situation. The issue was reported to representatives of Pirelli's quality team.

Pirelli's quality team investigated the issue to evaluate the potential implications under applicable safety standards and to determine where potentially affected tires were shipped, including: (i) the extent to which these tires left Pirelli's possession and (ii) the markets they were shipped to. It was determined that 28 tires were shipped to customers in the United States. The results of the investigation were shared with Pirelli management and it was determined that the subject tires do not comply with FMVSS 139, S5.5(e) and (f). Specifically, the tires are marked as follows:

Tread: 2 POLYESTER 2 STEEL 1 POLYAMIDE; Sidewall: 1 POLYAMIDE
instead of

Tread: 2 POLYESTER 2 STEEL 1 POLYAMIDE; Sidewall: 2 POLYESTER

The subject tires comply with the performance requirements and all other marking requirements of FMVSS 139. All tires in the Pirelli warehouses in both the United States and Mexico were blocked from shipment at that time.

Pirelli submitted a Part 573 noncompliance report on November 19, 2018. See NHTSA Recall No. 18T015. (A copy of Pirelli's Part 573 report is attached as Exhibit 1.) The tire construction information for this tire 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.

II. Discussion

Under the Safety Act, each Federal motor vehicle safety standard promulgated by the National Highway Traffic Safety Administration (NHTSA) must be "practicable, meet the need for motor vehicle safety, and be stated in objective terms." 49 U.S.C. §30111(a). The Safety Act defines "motor vehicle safety" as:

the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

49 U.S.C. §30102(a)(8) (emphasis added).

The Safety Act exempts manufacturers from the Safety Act's notice and remedy requirements when the Secretary of Transportation determines that a defect or noncompliance is inconsequential as it relates to motor vehicle safety. *See* 49 U.S.C. §§ 30118(d) and 30120(h). These provisions demonstrate Congress's acknowledgement that there are cases where a vehicle or equipment does not comply with a safety standard, yet the impact on motor vehicle safety is so slight that an exemption from the notice and remedy requirements of the Safety Act is justified. NHTSA has stated that the relevant consideration in evaluating an inconsequentiality petition is "whether an occupant who is affected by the noncompliance is likely to be exposed to a significantly greater risk than an occupant in a compliant vehicle." 69 Fed. Reg. 19897, 19900 (April 14, 2004).

In the context of tires specifically, the agency has similarly stated 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 Fed. Reg. 36668 (July 30, 2018) (granting petition for determination of inconsequential noncompliance with respect to Continental tires marked with the incorrect number of tread plies).

We believe the labeling noncompliance at issue here is inconsequential to motor vehicle safety. The subject Pirelli tires were manufactured as designed and meet or exceed all applicable FMVSS 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 retreading and recycling personnel.

NHTSA has previously granted petitions involving similar noncompliance. In a recent notice, the agency explained:

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 performance capabilities of various tires.

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.

See 81 *Fed. Reg.* 17764, 17765 (March 30, 2016).

NHTSA also granted similar petitions involving tires manufactured by Cooper Tire and Goodyear (Dunlop). See 74 *Fed. Reg.* 10804 (March 12, 2009) (granting 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 Polyester"); 82 *Fed. Reg.* 17075 (April 7, 2017) (granting 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"); 83 *Fed. Reg.* 13002 (March 26, 2018) (granting 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").

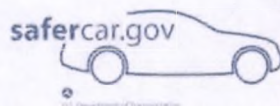
Pirelli is not aware of any warranty claims, field reports, customer complaints, legal claims, or any incidents or injuries related to the subject condition.

III. Conclusion

For the foregoing reasons, Pirelli believes the noncompliance is inconsequential to motor vehicle safety and respectfully requests that NHTSA exempt Pirelli from the notice and remedy requirements of the Safety Act.

Respectfully submitted,

Pirelli Tire LLC



Pirelli Tire LLC

Tire Report

Transaction ID: 18-001035-21533-10 ()

Required fields indicated with *

Manufacturer: Pirelli Tire LLC

100 Pirelli Drive
Rome GA 30161David Ortoli
203-679-0527,* Are you reporting a ☐ Safety Defect ☒ Non-Compliance☒ Please select this box if you intend to file a petition pursuant to [49 CFR 556](#).

Tire Information

Product:

Pirelli P Zero 265/45R21 104W

* Tire Brand: Pirelli

* Tire Line: P Zero

* Tire Size: 265/45R21 104W

Production Dates: * Begin: 07/10/2018
(mm/dd/yyyy) * End: 08/08/2018

* Descriptive Information to include:

-The basis for how the recall population was determined and
-How the recalled products differ from products that were not included in the recall
-Identify the number of affected products related to this specific make/model/model year combination, where available:
Replacement market radial tires for light duty vehicles

Remaining Characters: 1945

Tire Identification Number (TIN)

* Plant ID code:

UN

* Size code:

HJ

Optional code:

Y247

* Begin M Code:

2818

* End M Code:

3218

Number potentially involved: 28

Estimated percentage of involved with defect: 100 %

Defect / Noncompliance Description

For this Defect/Noncompliance:

* Describe the defect or noncompliance:

During production, the subject tires were labeled with the incorrect number of sidewall plies and sidewall ply material.
Specifically the tires were labeled:

Remaining Characters: 1504

If a noncompliance, provide the applicable FMVSS:

139 - New pneumatic radial tires for light vehicles

If applicable, provide any further FMVSS affected:

-Select-

Describe the cause:

Due to human error, incorrect tire construction information was entered into the centralized R&D system that creates the drawings used in manufacturing tire molds.

Remaining Characters: 1837

* Describe the safety risk:

Pirelli believes the risk to motor vehicle safety is inconsequential and intends to submit a petition for determination of inconsequential noncompliance under Part 556. Testing has shown that the tires meet all other aspects of the FMVSS 139

Remaining Characters: 1749

Identify any warning which can precede or occur:

N/A

Remaining Characters: 1997

☐ Check if this recall only affects products in certain geographic regions.

If applicable, identify the manufacturer of the defective or noncompliant component. If the manufacturer of the component is unknown, provide the information for the company that supplied the subject component.

☒ Component manufacturer ☐ Component manufacturer is unknown, information is for our supplier

Company Information

Company Name:

NR

Country:

-Select-

Address 1:

NR

Address 2:

City:

NR

State:

Company Contact Information

First Name:

Last Name:

Position:

Email:

Phone:

¹ Use for International Country Code.



-Select- 

Zip/Postal Code:

Purchaser Information

If applicable, identify every manufacturer that purchased the defective or noncompliance equipment for installation in new motor vehicles or new items of motor vehicle equipment.

Company Information

Company:
Country: -Select- 
Address 1:
Address 2:
City:
State: -Select- 
Zip/Postal Code:

Company Contact Information

First Name:
Last Name:
Position:
Email:
Phone: ¹

¹ Use for International Country Code.

Company	City	State	Contact	Email	Select
No data available in table					

Chronology of Defect / Noncompliance Determination

Provide the chronology of events leading up to the defect decision or test data for the noncompliance decision.:

November 7, 2018: While reviewing specifications for a China Compulsory Certification, the R&D team at Pirelli's Silao, Mexico plant observed that the subject tires were marked as having a 1-ply sidewall, while the team believed that the tires had a 2-ply sidewall. Also, the team suspected that marking of the sidewall material may have been incorrect. These observations prompted the team to review the available specifications and inspect several tires to determine the actual situation.

Remaining Characters: 930

Identify the Remedy

Describe the defect/noncompliance remedy program, including the manufacturer's plan for reimbursement.

Pirelli intends to submit a petition under 49 CFR Part 556 seeking an exemption from the notification and recall requirements of the Safety Act on the grounds that the noncompliance is inconsequential to motor vehicle safety.

Remaining Characters: 1775

Describe what distinguishes the remedy component from the recalled component.

-The name, description, and part number of the recalled component(s) must also be reported in this field.

The date code of the remedy tires will be later than the 3218 of the recalled tires.

The tire will be a 265/45R21 104W Pirelli P Zero, part number 2924700.

Remaining Characters: 1845

Identify and describe how and when the recall condition was corrected in production.

This production run ended on August 8, 2018. The subject molds are blocked from being used in future production until they are modified to show the correct tire construction information.

Remaining Characters: 1814

Identify the Recall Schedule

Describe the recall schedule for notifications.:

Pirelli intends to submit a petition under 49 CFR Part 556 seeking an exemption from the notification and recall requirements of the Safety Act on the grounds that the noncompliance is inconsequential to motor vehicle

Remaining Characters: 1705

Planned Dealer Notification Begin Date:

Planned Dealer Notification End Date:

Planned Owner Notification Begin Date:

Planned Owner Notification End Date:

Manufacturer's identification code for this recall (if applicable):

Please be reminded that owner notification letters must be mailed no more than 60 days from submission of this report.

Manufacturer Comments to NHTSA Staff

Remaining Characters: 2000

1200 New Jersey Avenue, SE, West Building Washington DC 20590 USA 1.888.327.4236 TTY 1.800.424.9153
This application works best in IE9 and above and recent versions of Firefox, Chrome and Safari

Part 573 Safety Recall Report

18T-015

Manufacturer Name : Pirelli Tire LLC

Submission Date : NOV 19, 2018

NHTSA Recall No. : 18T-015

Manufacturer Recall No. : NR



Manufacturer Information :

Manufacturer Name : Pirelli Tire LLC

Address : 100 Pirelli Drive

P.O. Box 700 Rome GA 30161

Company phone : 7063685800

Population :

Number of potentially involved : 28

Estimated percentage with defect : 100 %

Tire Information :

Tire Brand 1 : Pirelli

Tire Line : P Zero

Tire Size : 265/45R21 104W

Descriptive Information : Replacement market radial tires for light duty vehicles

Production Dates : JUL 10, 2018 - AUG 08, 2018

TIN (Tire Identification Number)

Plant ID

UN

Size code

HJ

Optional Code

Y247

Begin M Code

2818

End M Code

3218

Description of Noncompliance :

Description of the Noncompliance : During production, the subject tires were labeled with the incorrect number of sidewall plies and sidewall ply material. Specifically the tires were labeled:
Tread: 2 POLYESTER 2 STEEL 1 POLYAMIDE Sidewall: 1 POLYAMIDE instead of
Tread: 2 POLYESTER 2 STEEL 1 POLYAMIDE Sidewall: 2 POLYESTER
Accordingly, these tires do not comply with FMVSS 139, S5.5(e) and (f), which require that the generic name and actual number of plies in the sidewall and tread areas be molded into at least one sidewall.

FMVSS 1 : 139 - New pneumatic radial tires for light vehicles

FMVSS 2 : NR

Description of the Safety Risk : Pirelli believes the risk to motor vehicle safety is inconsequential and intends to submit a petition for determination of inconsequential noncompliance under Part 556. Testing has shown that the tires meet all other aspects of the FMVSS 139 standard.

Description of the Cause : Due to human error, incorrect tire construction information was entered into

the centralized R&D system that creates the drawings used in manufacturing tire molds.

Identification of Any Warning that can Occur : N/A

Supplier Identification :

Component Manufacturer

Name : NR

Address : NR

Country : NR

Chronology :

November 7, 2018: While reviewing specifications for a China Compulsory Certification, the R&D team at Pirelli's Silao, Mexico plant observed that the subject tires were marked as having a 1-ply sidewall, while the team believed that the tires had a 2-ply sidewall. Also, the team suspected that marking of the sidewall material may have been incorrect. These observations prompted the team to review the available specifications and inspect several tires to determine the actual situation. The issue was reported to representatives of Pirelli's quality team.

November 7 - November 14, 2018: Pirelli's quality team investigated the issue to evaluate the potential implications under applicable safety standards and to determine where potentially affected tires were shipped, including (i) the extent to which these tires left Pirelli's possession and (ii) the markets they were shipped to.

November 16, 2018: The results of the investigation were shared with Pirelli management and it was determined that the subject tires do not comply with FMVSS 139, S5.5(e) and (f).

Description of Remedy :

Description of Remedy Program : Pirelli intends to submit a petition under 49 CFR Part 556 seeking an exemption from the notification and recall requirements of the Safety Act on the grounds that the noncompliance is inconsequential to motor vehicle safety.

How Remedy Component Differs from Recalled Component : The date code of the remedy tires will be later than the 3218 of the recalled tires.
The tire will be a 265/45R21 104W Pirelli P Zero, part number 2924700.

Identify How/When Recall Condition was Corrected in Production : This production run ended on August 8, 2018. The subject molds are blocked from being used in future production until they are modified to show the correct tire construction information.

Recall Schedule :

Description of Recall Schedule : Pirelli intends to submit a petition under 49 CFR Part 556 seeking an exemption from the notification and recall requirements of the Safety Act on the grounds that the noncompliance is inconsequential to motor vehicle safety. Accordingly, Pirelli is not providing a recall schedule at this time.

Planned Dealer Notification Date : NR - NR

Planned Owner Notification Date : NR - NR

Purchaser Information :

The following manufacturers purchased this defective/noncompliant equipment for possible use or installation in new motor vehicles or new items of motor vehicle equipment:

Name : NR

Address : NR

NR

Country : NR

Company Phone : NR

* NR - Not Reported