

April 2, 2021

Via E-mail and FedEx

Steven Cliff
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Petition for Determination of Inconsequential Noncompliance
Toyo Tire Holdings of Americas Inc. – NHTSA No. 21T005

Dear Mr. Cliff:

On behalf of Toyo Tire Holdings of Americas Inc. (Toyo), I am submitting herewith three copies of a 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 set forth in the petition, Toyo requests an exemption from the notice and remedy requirements of 49 U.S.C. §§30118 and 30120 on the ground that the noncompliance to which this petition relates — tires that were marked with an incorrect Load Range letter designation on the non-serialized sidewall — is inconsequential to motor vehicle safety.

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

Sincerely,



Christopher H. Grigorian

CHG:krb

Enclosures

cc: Abraham Diaz – NHTSA OVSC (by Email - Abraham.Diaz@dot.gov)
Choon Lee – NHTSA RMD (by Email – Choon.Lee@dot.gov)

Toyo Tire Holdings of Americas Inc.
Petition for Determination of Inconsequential Non-Compliance
NHTSA No. 21T005

April 5, 2021

Toyo Tire Holdings of Americas Inc. (“Toyo”), a corporation organized under California law with its principal business address at 5665 Plaza Drive, Suite 300, Cypress, California 90630, hereby petitions for an exemption from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (“Safety Act”), 49 U.S.C. §§30118(d) and 30120(h), in accordance with the provisions of 49 CFR Part 556, on the ground that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

Background

This petition pertains to 518 Toyo Open Country R/T passenger car tires, size 35X12.50R20LT 125Q, with DOT No. 73PXN880421 through 73PXN881021, manufactured in the company’s White, Georgia plant. On March 15, 2021, Toyo submitted a notice of noncompliance pursuant to 49 CFR Part 573 with respect to the subject tires. On April 2, 2021, Toyo submitted an amended notice. (See Exhibit 1 – Part 573 Report - Amendment 1.) As described in the noncompliance notification, these tires contain an incorrect load range letter on the non-serial sidewall. The non-serial sidewall was incorrectly marked as load range ‘E’. The serial sidewall was correctly marked as load range ‘F’.

Two versions of this tire are produced from the same mold. During production, the plate containing the load range letter was not changed on the non-serial sidewall when production was converted from the load range ‘E’ tire to the load range ‘F’ tire of this tire line. The tire should have been marked as load Range ‘F’ on both sidewalls.

Specifically, the non-serial sidewalls of the subject tires were marked:

LOAD RANGE E MAX.LOAD 1450 kg (3195 LBS) AT 450 kPa (65 PSI) COLD

When they should have been marked:

LOAD RANGE F MAX.LOAD 1650 kg (3640 LBS) AT 550 kPa (80 PSI) COLD

These tires therefore do not comply with FMVSS No. 119, S6.5(j), which requires that tires be marked on each sidewall with “the letter designating the tire load range.” Toyo believes this noncompliance is inconsequential as it relates to motor vehicle safety, as these tires have a higher

load carrying capacity than the incorrect marking indicates and, therefore, the marking will not cause an operator to overload the tires.

Finally, the affected tire mold was immediately corrected after this issue was discovered and all future production will have the correct load range letter shown on the non-serial sidewall.

Discussion

Under the Safety Act, each Federal Motor Vehicle Safety Standard promulgated by 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 follows:

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). The Safety Act exempts manufacturers from the Safety Act’s notice and remedy requirements when NHTSA determines that a noncompliance is inconsequential as it relates to motor vehicle safety. *See* 49 U.S.C. §§30118(d) and 30120(h). Thus, Congress acknowledged that there are cases where a vehicle or equipment may fail to comply with a safety standard, but 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 explained that the “true measure of inconsequentiality to motor vehicle safety” for a tire labeling error is that the noncompliance has no effect on the operational safety of vehicles on which the tires are mounted. *See* Goodyear Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance, 74 *Fed. Reg.* 10804 (Mar. 12, 2009). In evaluating the effect on motor vehicle safety, NHTSA looks to the “specific facts before it in a particular petition.” BMW of North America, LLC; Jaguar Land Rover North America, LLC; and Autoliv, Inc.; Decisions of Petitions for Inconsequential Noncompliance, 84 *Fed. Reg.* 19994, 19997 (May 7, 2019) (citing General Motors, LLC., Grant of Petition for Decision of Inconsequential Noncompliance, 81 *Fed. Reg.* 92963 (Dec. 20, 2016)). *See also* 69 *Fed. Reg.* 19897, 19900 (Apr. 14, 2004) (stating 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”). Guided by these principles, Toyo believes that this noncompliance is inconsequential to motor vehicle safety and an exemption is warranted in this case.

The affected tires meet or exceed all applicable performance requirements of FMVSS 119. The serial sidewalls are labeled correctly as Load Range F, while the non-serial sidewalls are mislabeled as Load Range E. For the 35X12.50R20LT tire size, Load Range E tires have a maximum

load carrying capacity of 1450 kg (3195 lbs.) at 450 kPa (65 PSI); Load Range F tires have a maximum load carrying capacity of 1650 kg (3640 lbs.) at 550 kPa (80 PSI). Thus, even if a consumer were to rely on the incorrect load range designation on the non-serial sidewall, there would be no associated risk of overloading.

NHTSA has previously granted inconsequentiality petitions for similar FMVSS noncompliances. For example, in granting a petition by Yokohama Tire Corporation, NHTSA stated:

The purpose of the label stating the tire's load carrying capabilities as described in section S6.5(d), and the load range marking letter required by paragraph S6.5(j), is to inform tire purchasers and end-users about the load capacity of the tire. In the case of the subject tires, YTC explained that the information the load range letter is meant to convey understates the construction and capacity of the subject tire RY023 model and size 11R22.5. Specifically, the tires were marked with the load range "G" when in fact the correct load range is "H." Because the tires were designed for the higher load capacity, "H" at 3000 kg for single load and 2725 kg for dual load, if a consumer followed the load range "G" as marked, indicating the tire was capable of withstanding a 2800 kg for single load and 2650 kg for dual load, they would be using the tire in a load-carrying capacity lower than the actual load-carrying capacity of the subject tires. On February 25, 2013, a similar petition for inconsequential noncompliance on was granted to Guizhou tyres with respect of a mismarking of a tire load range, in which was incorrectly marked as "F" when they should be tire load range "G" (see 78 FR 12828).

Because these subject tires have a greater load carrying capability than the marking load range "G" indicates, there is no risk of these tires being overloaded and thus, no risk to safety based on the incorrect label.

Yokohama Tire Corporation Grant of Petition for Decision of Inconsequential Compliance, 84 *Fed. Reg.* 64403 (Nov. 21, 2019). Similarly, in granting a petition by Tireco, NHTSA stated:

NHTSA also agrees with Tireco that the load range marking noncompliance in the subject tires is inconsequential to motor vehicle safety. In this case if a consumer followed the load range "J" designation as marked, they would interpret the labeled recommended load carrying capacity to be lower than the actual load carrying capacity. Since the labeled tire load range "J" is lower than the actual load range of the tire as manufactured, Tireco understated the load carrying capability of the tire. This Tireco tire, in effect, has more load carrying capability than the marking load range "J" indicates.

Tireco, Inc., Ruling on Petition for Decision of Inconsequential Noncompliance, 81 *Fed. Reg.* 58550, 58552 (Aug. 25, 2016). *See also* Guizhou Tyre Corporation; Grant of Petition for Decision of Inconsequential Noncompliance, 78 *Fed. Reg.* 12828 (Feb. 25, 2013) (sidewall incorrectly

marked load range F rather G “would not cause an unsafe condition, because the end-user would carry a lighter load than the load for which the tires are designed”).

These tires meet all other performance and regulatory requirements of FMVSS No. 119. Further, Toyo has not received any complaints, claims, or warranty adjustments related to this noncompliance.

* * *

For the foregoing reasons, Toyo respectfully submits that the load range letter marking error is inconsequential to motor vehicle safety. Accordingly, Toyo requests that it be granted an exemption from the notification and remedy requirements of the Safety Act.

If you have any questions or require additional information, please contact Chris Raglin, Sr. Manager, Technical Quality, at (678) 535-5113 or raglinc@toyotires.com. Thank you for your consideration of this petition.

Respectfully submitted,

Toyo Tire Holdings of Americas Inc.

Enclosure (Exhibit 1 - Part 573 Report – Amendment 1 (#21T005))

Exhibit 1



Toyo Tire Holdings of Americas, Inc.

Tire Report

NHTSA ID: 21T005 Transaction ID: 21-0015641-25733-11 (Amendment 1)
Required fields indicated with *

Your report has been submitted. Your Transaction No. is 21-0015641-25733-11.

Manufacturer: Toyo Tire Holdings of Americas, Inc.

 5665 Plaza Drive
 Cypress CA 90630

[Chris Raglin](#)
 6785355113,

 This is a Noncompliance Report. Filing a petition pursuant to [49 CFR 556](#)
Tire Information
TOYO Open Country R/T 35X12.50R20LT 125Q

- * **Tire Brand:** TOYO
- * **Tire Line:** Open Country R/T
- * **Tire Size:** 35X12.50R20LT 125Q

Production Dates Begin: 01/29/2021
 End: 03/08/2021

Descriptive Information:

This report involves a population of the subject Light Truck Tires, Toyo Part Number 351470, which were produced on a specific mold equipped with an incorrect load range plate on the non-serial sidewall. The affected production range was determined based upon an inspection of production records. The stated population of 1,529 tires is the total number of tires that were produced with the incorrect markings. Toyo is conducting a manual audit of its inventory to determine the number of tires that have left its possession or control. Upon completion of this audit, we will update the population as necessary. Update 4/2/2021: After a manual inventory audit, the population of the subject tires that left Toyo's control has been revised to 518.

Tire Identification Number (TIN)

* Plant ID code:	* Size code:	Optional code:	* Beg. Date Code:	* End. Date Code:	73
PX	N88	0421	1021		

Number potentially involved: 518 Estimated percentage of involved with defect: 100%
Defect / Noncompliance Description

For this Defect/Noncompliance:

*** Describe the defect or noncompliance:**

The subject tires contain an incorrect load range letter on the non-serial sidewall. The non-serial sidewall was incorrectly marked as load range 'E'. The serial sidewall was correctly marked as load range 'F'. Accordingly, these tires do not comply with FMVSS No 119, S6.5(j).

If a noncompliance, provide the applicable FMVSS:

119 - New pneumatic tires- other than passenger cars

If applicable, provide any further FMVSS affected:
Describe the cause:

During production, the plate containing the load range letter was not changed on the non-serial sidewall when production was converted from the load range 'E' tire to the load range 'F' tire of this tire line.

*** Describe the safety risk:**

Toyo believes this labeling noncompliance is inconsequential to motor vehicle safety and intends to submit a petition in accordance with 49 CFR Part 556.

Identify any warning which can precede or occur:

n/a

This Recall affects all vehicles.

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

Company Information

Company Name:**Country:****Address 1:****Address 2:**

Company Contact Information

First Name:**Last Name:****Position:****Email:**

City:
State:
Zip/Postal Code:

Phone:

Involved Components

If the defect or noncompliance involves a specific component(s), identify that component(s) below.

Purchaser Information

Chronology of Defect / Noncompliance Determination

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

The molds used to produce the subject tires are also used to produce a load range 'E' version of this tire model. On March 9th, 2021, Toyo Tires discovered during a routine mold cleaning that the non-serial sidewall plate used to produce the load range 'E' version of this tire was not changed over when production was switched to produce the load range 'F' version of the tire. Accordingly, the subject tires were inadvertently marked with an incorrect load range on the non-serial sidewall. Toyo Tires took immediate action to place a hold on all subject tires in inventory, correct the molds and conduct a review of production records to determine scope. An initial review of production and shipping records was completed on March 10th and revealed that a total of 1,529 tires were produced with the erroneous load range marking and that an as-yet undetermined number of these tires left Toyo's possession or control. Based on this information, on March 10th, Toyo Tires determined that these tires do not comply with FMVSS 119, S6.5(j). The exact quantity of tires shipped to customers will not be known until a manual audit of the warehouse inventory is completed. The affected population will be revised upon completion of this audit.

Identify the Remedy

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

Toyo intends to submit a petition for determination of inconsequential noncompliance in accordance with 49 CFR Part 556.

Describe what distinguishes the remedy component from the recalled component.

Compliant product contains the correct load range letter 'F' on both sidewalls.

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

Starting with week 1121, the correct plates were used in production

Identify the Recall Schedule

Describe the recall schedule for notifications.:

Not Applicable Pending Resolution of Toyo's Part 556 Inconsequentiality Petition.

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

Updated 4/2/2021 to revise the number of subject tires that left Toyo's control. This revision is based on a manual audit of warehouse inventories. The revised number of affected tires that left Toyo's control is 518.

Document Upload

There are 0 documents associated with this report.

Part 573 Safety Recall Report

21T-005

Manufacturer Name : Toyo Tire Holdings of Americas, Inc.

Submission Date : MAR 15, 2021

NHTSA Recall No. : 21T-005

Manufacturer Recall No. : NR



Manufacturer Information :

Manufacturer Name : Toyo Tire Holdings of Americas, Inc.

Address : 5665 Plaza Drive

Suite 200 Cypress CA 90630

Company phone : 562-431-6502

Population :

Number of potentially involved : 1,529

Estimated percentage with defect : 100 %

Tire Information :

Tire Brand 1 : TOYO

Tire Line : Open Country R/T

Tire Size : 35X12.50R20LT 125Q

Descriptive Information : This report involves a population of the subject Light Truck Tires, Toyo Part Number 351470, which were produced on a specific mold equipped with an incorrect load range plate on the non-serial sidewall. The affected production range was determined based upon an inspection of production records. The stated population of 1,529 tires is the total number of tires that were produced with the incorrect markings. Toyo is conducting a manual audit of its inventory to determine the number of tires that have left its possession or control. Upon completion of this audit, we will update the population as necessary.

Production Dates : JAN 29, 2021 - MAR 08, 2021

TIN (Tire Identification Number)

Plant ID	Size code	Optional Code	Begin M Code	End M Code
73	PX	N88	0421	1021

Description of Noncompliance :

Description of the Noncompliance : The subject tires contain an incorrect load range letter on the non-serial sidewall. The non-serial sidewall was incorrectly marked as load range 'E'. The serial sidewall was correctly marked as load range 'F'. Accordingly, these tires do not comply with FMVSS No 119, S6.5(j).

FMVSS 1 : 119 - New pneumatic tires- other than passenger cars

FMVSS 2 : NR

Description of the Safety Risk : Toyo believes this labeling noncompliance is inconsequential to motor vehicle safety and intends to submit a petition in accordance with 49 CFR Part 556.

Description of the Cause : During production, the plate containing the load range letter was not changed

on the non-serial sidewall when production was converted from the load range 'E' tire to the load range 'F' tire of this tire line.

Identification of Any Warning that can Occur : n/a

Involved Components :

Component Name : NR

Component Description : NR

Component Part Number : NR

Supplier Identification :

Component Manufacturer

Name : NR

Address : NR

NR

Country : NR

Chronology :

The molds used to produce the subject tires are also used to produce a load range 'E' version of this tire model. On March 9th, 2021, Toyo Tires discovered during a routine mold cleaning that the non-serial sidewall plate used to produce the load range 'E' version of this tire was not changed over when production was switched to produce the load range 'F' version of the tire. Accordingly, the subject tires were inadvertently marked with an incorrect load range on the non-serial sidewall. Toyo Tires took immediate action to place a hold on all subject tires in inventory, correct the molds and conduct a review of production records to determine scope. An initial review of production and shipping records was completed on March 10th and revealed that a total of 1,529 tires were produced with the erroneous load range marking and that an as-yet undetermined number of these tires left Toyo's possession or control.

Based on this information, on March 10th, Toyo Tires determined that these tires do not comply with FMVSS 119, S6.5(j). The exact quantity of tires shipped to customers will not be known until a manual audit of the warehouse inventory is completed. The affected population will be revised upon completion of this audit.

Description of Remedy :

Description of Remedy Program : Toyo intends to submit a petition for determination of inconsequential noncompliance in accordance with 49 CFR Part 556.

How Remedy Component Differs from Recalled Component : Compliant product contains the correct load range letter 'F' on both sidewalls.

Identify How/When Recall Condition was Corrected in Production : Starting with week 1121, the correct plates were used in production

Recall Schedule :

Description of Recall Schedule : Not Applicable Pending Resolution of Toyo's Part 556 Inconsequentiality Petition.

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