

its reports because that data would relay to consumers and to Congress a more accurate reflection of today's driving conditions and the in-use fuel economy.

Agency's Analysis

Under 49 U.S.C. 32904 and 32908, EPA is statutorily responsible for conducting fuel economy testing and calculating vehicle fuel economy, determining manufacturers' CAFE performances, and developing fuel economy data to be provided to consumers. Therefore, NHTSA simply does not have the statutory authority to grant the relief sought by the Bluewater petition. EPA is currently reviewing the petition and will address these issues separately.

After analyzing Bluewater's petition, the agency has concluded that it should not change the information it presents in its annual report on the CAFE program. NHTSA is statutorily required to base its CAFE calculations on the data supplied by EPA, resulting from these test procedures. Given that a primary purpose of the annual report is to provide information on the status of manufacturers' compliance with the CAFE standards, we believe that presenting the CAFE values as they are calculated for compliance purposes is the appropriate manner in which to present fuel economy data in the annual report. The report is not intended for consumer information purposes, and the agency is no longer required to submit the report to Congress. Finally, we note the agency's most recent update of the report includes a discussion that thoroughly explains the differences between EPA fuel economy values, on-road values, and the CAFE compliance values.

In light of the above considerations, the agency has reviewed the petition and concluded that it should not be granted. Accordingly, we deny Bluewater's petition. We note that this denial does not affect EPA's response to the petition.

Issued on: October 8, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03-25959 Filed 10-10-03; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003-16114; Notice 1]

Michelin North America, Inc., Receipt of Application for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (MNA) has determined that approximately 31,266 Michelin Pilot Sport/Alpin tires have been imported into the United States with sidewall markings that did not meet the labeling requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 109 "*New Pneumatic Tires*."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), MNA has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." A copy of the petition may be found in this docket.

This notice of receipt of an application 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 application.

The affected tires whose sidewalls labeling includes a maximum psi inflation pressure marking which rounds from the metric value to the nearest whole number (in this case down), rather than rounding up to the next higher whole number as specified by FMVSS No. 109 S4.3.4 (a). The tires in question meet or exceed all other requirements of FMVSS 109. The regulations applicable to 340 kPa tires require that the psi units be rounded "to the next higher whole number" even when the nearest whole number, and most accurate rounding, would require rounding down than up. The correct maximum inflation pressure required by FMVSS No. 109 for these tires is: "340 kPa (50 psi)." The noncompliant tires were incorrectly marked: "340 kPa (49 psi)." The actual conversion of 340 kPa to psi units yields 49.35 psi before rounding to whole numbers (340 kPa divided by a conversion factor of 6.895 equals 49.35 psi).

MNA states that this noncompliance will have no impact on either the performance of the tire on a motor vehicle, or on motor vehicle safety itself. MNA argues that the National Highway Traffic Safety Administration (NHTSA) has recently studied the impact of tire labeling information on safety in the context of its rulemaking efforts under the Transportation Recall Enhancement,

Accountability and Documentation (TREAD) Act. This analysis found that sidewall maximum inflation pressure labeling is poorly understood by the general public, and indicated that those consumers that are aware of sidewall maximum inflation pressure labeling commonly misuse this information. A number of commenters on both the Advanced Notice of Proposed Rulemaking and the Notice of Proposed Rulemaking for Tire labeling recommended that the maximum inflation pressure labeling be removed from the sidewall because of its limited safety value and its propensity to confuse consumers. NHTSA ultimately decided to retain maximum inflation pressure labeling requirements as an aid in preventing over-inflation. The mislabeling issue in this case will in no way contribute to the risk of over-inflation because the value actually marked is lower than the value required by the regulations.

Also, MNA believes that, this mislabeling is clearly inconsequential with respect to safety for all of the following stated reasons: (1) The noncompliance is one solely of rounding to the nearest whole number and labeling; (2) The actual labeling is one psi less than that required by the regulation; (3) Rounding 49.35 psi to 49 psi, the nearest whole number, is more accurate in this case than rounding to the next higher whole number (50) as required by the regulations; (4) All performance requirements of FMVSS No. 109 are met or exceeded; (5) These tires are marked with the correct metric maximum inflation pressure (as allowed by FMVSS No. 109 and as shown on pages 1-32 of the 2003 Tire and Rim Association yearbook); (6) Use of the sidewall label as a source of information for the maximum inflation pressure will not increase the risk of over-inflation of the tire because the actual value is lower than both the actual maximum inflation pressure (by 0.35 psi) and lower than the 50 psi value required for these tires by the regulations; (7) Incorrect use of the sidewall label maximum inflation pressure as a source of information for the recommended inflation pressure will not result in an overloading of the tires or reduce the load capacity of the tires because the 49 psi conversion still remains 8 psi greater than that required to carry the maximum load for these tires. In fact, 340 kPa (50psi) is the higher of two alternative choices for the maximum inflation pressure provided for this tire's load rating per The Tire and Rim Association yearbook. Consequently, MNA believes that the foregoing noncompliance will have an