

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

[Docket No. NHTSA–2016–0128; Notice 1]

**Harley-Davidson Motor Company, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance**

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

**ACTION:** Receipt of petition.

**SUMMARY:** Harley-Davidson Motor Company, Inc. (Harley-Davidson), has determined that certain model year (MY) 2016–2017 Harley-Davidson XL 1200XC Roadster motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds)*. Harley-Davidson filed a noncompliance information report dated November 4, 2016. Harley-Davidson also petitioned NHTSA on November 28, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**DATES:** The closing date for comments on the petition is May 8, 2017.

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

- *Mail:* Send comments 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.

- *Hand Delivery:* Deliver comments by hand 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 a.m. to 5 p.m. except Federal Holidays.

- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) Web site at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (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 comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov/> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

**SUPPLEMENTARY INFORMATION:**

*I. Overview:* Harley-Davidson Motor Company, Inc. (Harley-Davidson), has determined that certain model year (MY) 2016–2017 Harley-Davidson XL 1200XC Roadster motorcycles do not fully comply with paragraph S5.3.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds)*. Harley-Davidson filed a report dated November 4, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Harley-Davidson also petitioned NHTSA on November 28, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of Harley-Davidson'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.

*II. Vehicles Involved:* Approximately 2,352 MY 2016–2017 Harley-Davidson XL 1200XC Roadster motorcycles manufactured between March 8, 2016 and August 23, 2016 are potentially involved.

*III. Noncompliance:* Harley-Davidson explains that the noncompliance is that the certification label on the subject vehicles incorrectly identifies the rear wheel rim size as 18 x 4.50 instead of 18 x 4.25, and therefore does not meet the requirements of paragraph S5.3.2 of FMVSS No. 120.

*IV. Rule Text:* paragraph 5.3 of FMVSS No. 120 states:

Each vehicle shall show the information specified in S5.3.1. and S5.3.2 . . . in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the format set forth following this paragraph. This information shall appear either:

(a) After each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter; or at the option of the manufacturer,

(b) On the tire information label affixed to the vehicle in the manner, location, and form described in § 567.4(b) through (f) of this chapter as appropriate of each GVWR–GAWR combination listed on the certification label.

Paragraph S5.3.2 of FMVSS No. 120 states:

S5.3.2 Rims. The size designation and, if applicable, the type designation of Rims (not necessarily those on the vehicle) appropriate for those tires.

*V. Summary of Harley-Davidson's Petition:* Harley-Davidson 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, Harley-Davidson submitted the following reasoning:

1. Harley-Davidson believes this labeling noncompliance is inconsequential to motor vehicle safety because consumers have the following sources to reliably identify the correct tire and rim combination:

a. The correct tire size is listed on the sidewall of the tire originally installed on the rim;

b. The correct tire, including tire size, is listed in the Owner's Manual;

c. The correct wheel size is shown in the Original Equipment & Recommended Replacement Tires table in the Harley-Davidson Genuine Motor Parts and Accessories catalog; and

d. The correct wheel size is imprinted in the wheel.

Harley-Davidson believes these sources, particularly the tire size information listed on the rear tire's sidewall, are the most likely places for consumers to look when replacing tires and rims.

2. Harley-Davidson states that NHTSA has granted petitions for inconsequential noncompliance for similar labeling errors regarding the rim size or the omission of the rim size. (Please see Harley-Davidson's petition for a complete list of referenced petitions.)

In these cases Harley-Davidson stated that the agency reasoned that consumers were unlikely to mismatch tires and rims because "the rim size information can be found in the vehicle's owner's manual or on the rim itself, and the tire size information is available from multiple sources including the owner's manual, the sidewalls of the tires on the vehicle and on the tire placard or information label located on the door or door opening. The rim size can be derived using this tire information.

3. The incorrect rim size on the subject motorcycles' certification label is unlikely to expose operators to a significantly greater risk than an operator riding a compliant motorcycle. Operators have several reliable sources to assist them in correctly matching the rims and tires.

4. Lastly, Harley-Davidson is not aware of any warranty claims, field reports, customer complaints, legal claims, or any incidents or injuries related to the subject condition.

Harley-Davidson concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

To view Harley-Davidson's petition analyses in its entirety you can visit <https://www.regulations.gov> by following the online instructions for accessing the dockets and by using the docket ID number for this petition shown in the heading of this notice.

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, any decision on this petition only applies to the subject motorcycles that Harley-Davidson no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Harley-Davidson 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.

**Jeffrey M. Giuseppe,**  
*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2017-06958 Filed 4-6-17; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0072; Notice 2]

#### Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Grant of petition.

**SUMMARY:** Cooper Tire & Rubber Company (Cooper), has determined that certain Mastercraft and Big O tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Cooper filed a defect report dated May 24, 2016, and amended it on June 1, 2016. Cooper also petitioned NHTSA on June 21, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**ADDRESSES:** For further information on this decision 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:* Cooper Tire & Rubber Company (Cooper), has determined that certain Mastercraft and Big O tires do not fully comply with paragraph S5.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Cooper filed a defect report

dated May 24, 2016, and amended it on June 1, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Cooper also petitioned NHTSA on June 21, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and their implementing regulations at 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on August 3, 2016 in the **Federal Register** (81 FR 51267). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2016-0072."

*II. Tires Involved:* Affected are 22,188 of the following tubeless radial tires manufactured between February 14, 2016, and April 30, 2016:

- Mastercraft LSR Grand Touring size 215/60R16
- Mastercraft LSR Grand Touring size 225/60R16
- Big O Legacy Tour Plus size 215/60R16
- Big O Legacy Tour Plus size 225/60R16

*III. Noncompliance:* Cooper explains that due to a mold error, 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. The tires are marked "TREAD 1 PLY NYLON + 2 PLY STEEL + 2 PLY POLYESTER" whereas the correct marking should be: "TREAD 1 PLY NYLON + 2 PLY STEEL + 1 PLY POLYESTER." As a consequence, these tires do not meet the requirements specified in paragraph S5.5(f) of FMVSS No. 139.

*IV. Rule Text:* Paragraph S5.5(f) of FMVSS No. 139 states, in pertinent part:

S5.5 *Tire Markings.* Except as specified in paragraph (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 . . .

(f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

*V. Summary of Cooper's Petition:* Cooper described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.