of the required minimum performance requirements. Based on the agency's review of BMW's technical analysis, we do not believe they have fully accounted for the complexities of real world driving in their proposed minimum perceivable performance. Additional factors must be accounted for in the determination of minimum performance, some include: Dirt buildup on the device, older driver's visual perception skills, a variety of ambient illumination and surrounding contrast scenes, and the continually changing viewing geometry between the reflex reflector and observer.

In consideration that the primary function of a rear reflex reflector is to reduce crashes by permitting early detection of unlighted preceding motor vehicles or those parked by the side of the road, NHTSA has concluded that BMW's assessment that 2.5 mcd/lux is a suitable ''required reflection coefficient,'' a value representing less than 1.7% of the FMVSS No. 108 required minimum values, is not compelling.

BMW did not provide any test reports detailing the performance of its noncompliant rear reflex reflectors; however, it did indicate that the worst measured values were 154, 120, and 91 mcd/lux at certain test points. These values are substantially below the minimum values required by FMVSS No. 108 (420, 280, and 140 mcd/lux) by 63%, 57%, and 35%, respectively. Based on these photometric performance failures, NHTSA believes that BMW's noncompliant reflex reflectors present a consequential risk to motor vehicle safety.

BMW also states that it had not received contacts from vehicle owners, or other road users, regarding this issue. Nor is it aware of any accidents or injuries that have occurred as a result of this issue. NHTSA does not consider the absence of complaints to show that a noncompliance is inconsequential to safety. Vehicle lighting functions as a signal to other motorists and pedestrians; if other motorists found the noncompliant lighting confusing, it is unlikely that those motorists would have been able to identify the subject vehicle and make a complaint to either NHTSA or BMW. Most importantly, the absence of a complaint does not mean there have not been any safety issues, nor does it mean that there will not be safety issues in the future.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that BMW has not met its burden of persuasion that the FMVSS No. 108 noncompliance is inconsequential to motor vehicle safety. Accordingly, BMW's petition is hereby denied and BMW is obligated to provide notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey M. Giuseppe,

Acting Associate Administrator, Enforcement.

[FR Doc. 2017–10743 Filed 5–24–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0092; Notice 2]

DRV, LLC, Denial of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Denial of Petition.

SUMMARY: DRV, LLC (DRV), a wholly owned subsidiary of Thor Industries, Inc., has determined that certain model year (MY) 2003–2016 DRV trailers do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* DRV filed a noncompliance report dated July 31, 2015, that was later revised on August 18, 2015. DRV also petitioned NHTSA on August 14, 2015, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

ADDRESSES: For further information on this decision contact Michael Cole, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5319, facsimile (202) 366–3081.

SUPPLEMENTARY INFORMATION:

I. Overview

DRV, LLC (DRV), a wholly owned subsidiary of Thor Industries, Inc., has determined that certain model year (MY) 2003–2016 DRV trailers do not fully comply with paragraph S8.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* DRV filed a noncompliance report dated July 31, 2015, that was later revised on August 18, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* DRV also petitioned NHTSA on August 14, 2015, pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule 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 to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on October 8, 2015, in the **Federal Register** (80 FR 60955). 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/.* Follow the online search instructions to locate docket number ''NHTSA–2015–0092.''

II. Trailers Involved

Affected are approximately 7,465 of the following trailers:

- MY 2003–2016 DRV Mobile Suites (Manufactured between April 22, 2003 and July 22, 2015)
- MY 2014–2015 DRV Traditions (Manufactured between April 1, 2013 and July 24, 2015)
- MY 2013–2016 DRV Estates (Manufactured between April 1, 2012 and July 24, 2015)
- MY 2006–2016 DRV Elite Suites (Manufactured April 1, 2005 and July 24, 2015)
- MY 2014–2016 DRV Full House (Manufactured April 1, 2013 and July 24, 2015)

III. Noncompliance

DRV explained the noncompliance as the location of the front side reflex reflectors on the subject trailers at approximately 8″ and 10″ above the maximum 60″ height-above-road surface required by paragraph S8.1 of FMVSS No. 108.

IV. Rule Text

Paragraph S8.1 of FMVSS No. 108 requires in pertinent part:

S8.1 *Reflex reflectors.*

. . .

S8.1.4 *Mounting Height.* See Tables I–a, I–b, I–c.

. . .

TABLE I–b—REQUIRED LAMPS AND REFLECTIVE DEVICES

Lighting device	Number and color	Mounting location	Mounting height	Device activation
ALL TRAILERS				
* *	*	* *	*	*
Reflex Reflectors. A trailer equipped with a conspicuity treatment in conformance with S8.2 of this standard need not be equipped with reflex reflectors if the conspicuity material is placed at the locations of the required reflex reflectors.	2 Amber. None required on trailers less than 1829 mm [6 ft] in overall length including the trailer tongue.	On each side as far to the front as practicable exclusive of the trailer tongue.	Not less than 15 inches, nor more than 60 inches.	Not applicable.
* *	*	* *	*	*

V. Summary of DRV's Arguments

DRV stated its belief that the subject noncompliance is inconsequential to motor vehicle safety because a reflex reflector is present as required by FMVSS No. 108 but the reflector is located approximately 8″ to 10″ above the maximum allowable height for such reflectors.

DRV also stated that it has received no complaints, and does not know of any accidents that have occurred, due to the reflectors being in the non-compliant position.

In summation, DRV believes that the described noncompliance of the subject trailers is inconsequential to motor vehicle safety. DRV asks NHTSA to grant a petition to exempt DRV from providing notification of a noncompliance recall as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120.

NHTSA Decision

NHTSA's Analysis: After review of DRV's petition, NHTSA has determined that the petitioner has not met the burden of persuasion that the noncompliance is inconsequential to safety. DRV failed to provide any data supporting its conclusion that the noncompliance is inconsequential and, except for stating it had not received any complaints about the location of the reflectors, did not address any of the potential safety risks associated with the noncompliance.

For the purposes of FMVSS No. 108, the primary function of a reflex reflector is to prevent crashes by permitting early detection of an unlighted motor vehicle at an intersection or when parked on or by the side of the road. Because reflex reflectors are not independent light sources, their performance is wholly reliant upon the amount of illumination they receive from vehicle headlamps. Ideally, a reflex reflector would achieve its highest performance when the reflex reflector is mounted at the height of another vehicle's lower beam ''hot spot.'' Due to the significant range of permissible mounting heights for headlamps (between 22 and 54 inches), achieving such ideal performance is impractical. FMVSS No. 108, which establishes minimum performance standards for reflex reflectors, specifies a range of acceptable reflector mounting heights (not less than 15 inches or more than 60 inches) to ensure that reflex reflectors are exposed to enough illumination to be effective. The standard also provides allowances in the fore and aft location of reflex reflectors (*e.g.,* as far to the front as practicable). This flexibility provides vehicle manufacturers with sufficient flexibility in mounting locations to ensure that the mounting height remains in the appropriate range to ensure adequate reflex reflector performance relative to headlamps that would illuminate them.

DRV also states that it was not aware of any complaints or accidents that occurred due to the positioning of the reflex reflector. In NHTSA's view, the absence of complaints does not provide persuasive evidence demonstrating a lack of a safety issue here, nor does it mean that there will not be safety issues in the future. As such, NHTSA does not consider this to be a determining factor that DRV's noncompliance is inconsequential to motor vehicle safety.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that DRV has not met its burden of persuasion in support of the claim that the FMVSS No. 108 noncompliance in the subject trailers is inconsequential to motor vehicle safety. DRV has not presented any data indicating that the performance of a reflex reflector mounted at a height of 68 to 70 inches above the ground provides a level of safety performance equivalent to that of a reflector mounted within the range of heights specified by FMVSS No. 108. Accordingly, DRV's petition is hereby denied and DRV is obligated to provide notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Acting Associate Administrator, Enforcement.

[FR Doc. 2017–10744 Filed 5–24–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0103; Notice 2]

Michelin North America, Inc., Mootness of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Mootness of Petition.

SUMMARY: Michelin North America, Inc. (MNA), has determined that certain Michelin heavy truck tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More than 4,536 kilograms (10,000 pounds) and Motorcycles.* MNA filed a noncompliance report dated September 18, 2015. MNA then petitioned NHTSA on October 1, 2015, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

FOR FURTHER INFORMATION CONTACT: 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

Michelin North America, Inc. (MNA), has determined that certain Michelin heavy truck tires do not fully comply with paragraphs S6.5(a) and (j) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of*