

Reports.” Notice of receipt of a petition was published, with a 30-day comment period, on July 27, 2005, in the **Federal Register** (70 FR 43507). NHTSA received no comments.

Affected are a total of approximately 430 tires produced on May 24, 2005. One requirement of S6.5 of FMVSS No. 119, tire markings, is that the tire identification shall comply with 49 CFR part 574, “Tire Identification and Recordkeeping,” which includes the marking requirements of 574.5(b) DOT size code, and 574.5(c) DOT tire type. The subject tires are incorrectly marked for both size code and tire type. The markings read “A3 3T 1WP XXXX” when they should read “A3 55 1N1 XXXX.”

Continental Tire explained:

[T]he curing mold used in the production of the tires was being serviced. During the service, the interchangeable plugs that contain the DOT size and type information came out of the mold. The individual replacing the plugs inserted plugs engraved with the incorrect information. The noncompliance was discovered after 430 tires had been cured in this mold.

Continental Tire believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Continental Tire stated that “[a]ll other sidewall identification markings and safety information are correct, referring to recognizable size markings and load carrying capacities. A consumer or dealer examining the DOT Code could still determine the correct manufacturing plant and correct manufacturing date.”

NHTSA agrees with Continental that the noncompliance is inconsequential to motor vehicle safety. As Continental points out, the tires do have markings which provide the correct size and load carrying capacities, and the correct manufacturing plant and date can be determined. Therefore, there should be no confusion by the user of this information, and Continental should be able to identify the tires in the event of recall. Continental has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Continental’s petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

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**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2005–21926; Notice 2]

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

Cooper Tire & Rubber Company (Cooper) has determined that the markings on certain tires that it produced in 2004 and 2005 do not comply with S4.3(a) of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, “New pneumatic tires.” Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper 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.” Notice of receipt of a petition was published, with a 30-day comment period, on July 29, 2005 in the **Federal Register** (70 FR 43934). NHTSA received no comments.

Affected are a total of approximately 2,606 Cooper Discoverer AST II tires in the 265/70R16 size, produced between October 10, 2004 and April 16, 2005. S4.3, Labeling requirements, requires compliance with 49 CFR 574.5, “Tire Identification and Record Keeping, Tire Identification Requirements.” The size designation required by Part 574.5 was incorrectly marked on the subject tires, which were molded with the letters “TY” as the second grouping of symbols in the tire identification number. The correct stamping should have been “C2.”

Cooper believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Cooper states that the purpose of the tire identification number marking requirements is to facilitate the ability of the tire manufacturer to identify the tires in the event of a recall. Cooper asserts that the incorrect size designation in this case does not affect the ability to identify defective or nonconforming tires. Cooper points out that the tire size is correctly stamped on the sidewalls of the subject tires, and states that the tires comply with all

other requirements of FMVSS No. 109 and 49 CFR 574.5.

NHTSA agrees with Cooper that the noncompliance is inconsequential to motor vehicle safety. As Cooper points out, the tires do have sidewall markings which provide the correct size for the user of this information. In addition, the incorrect marking does not affect the ability to identify the tires in the event of recall. Cooper has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper’s petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

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**Ronald L. Medford,**

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2005–21930; Notice 2]

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

Cooper Tire & Rubber Company (Cooper) has determined that certain tires it produced in 2005 do not comply with S4.3(e) of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, “New pneumatic tires.” Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper 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.” Notice of receipt of a petition was published, with a 30-day comment period, on July 29, 2005 in the **Federal Register** (70 FR 43934). NHTSA received no comments.

Cooper produced approximately 3,070 Cooper brand tires during the period from January 30, 2005 through May 21, 2005 that do not comply with FMVSS No. 109, S4.3(e). S4.3(e) of FMVSS No. 109 requires that “each tire shall have permanently molded into or onto both

sidewalls \* \* \* (e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different." The noncompliant tires were marked "tread 1 ply nylon + 2 ply steel + 1 ply polyester; sidewall 2 ply polyester." The correct marking should read "tread 1 ply nylon, 2 ply steel + 2 ply polyester; sidewall 2 ply polyester."

Cooper believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Cooper states that "the incorrect number of tread plies on each tire does not present a safety-related defect. The subject tires, in fact, have 2 polyester tread plies." Cooper states that the tires comply with all other requirements of FMVSS No. 109.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106-414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222).

The agency received more than 20 comments on the tire labeling information required by 49 CFR Sections 571.109 and 119, Part 567, Part 574, and Part 575. In addition, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have concluded that it is likely that few consumers have been influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.

Therefore, the agency agrees with Cooper's statement that the incorrect markings in this case do not present a serious safety concern.<sup>1</sup> There is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor

<sup>1</sup> This decision is limited to its specific facts. As some commenters on the ANPRM noted, the existence of steel in a tire's sidewall can be relevant to the manner in which it should be repaired or retreaded.

vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in the tire. In addition, the tires are certified to meet all the performance requirements of FMVSS No. 109 and all other informational markings as required by FMVSS No. 109 are present. Cooper has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

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**Ronald L. Medford,**

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2005-21929; Notice 2]

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

Cooper Tire & Rubber Company (Cooper) has determined that certain tires it manufactured during 2004 and 2005 do not comply with S6.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, "New pneumatic tires for vehicles other than passenger cars." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper 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." Notice of receipt of a petition was published, with a 30-day comment period, on July 29, 2005 in the **Federal Register** (70 FR 43935). NHTSA received no comments.

Cooper produced approximately 195 Power King brand tires during the period from May 15, 2005 through May 21, 2005 that do not comply with FMVSS No. 119, S6.5(f). S6.5(f) of FMVSS No. 119 requires that each tire shall be marked with "[t]he actual number of plies \* \* \* in the sidewall and, if different, in the tread area." The

noncompliant tires were marked "tread 2 ply steel + 2 ply polyester; sidewall 2 ply polyester." The correct marking should read "tread 1 ply nylon, 2 ply steel + 2 ply polyester; sidewall 2 ply polyester."

Cooper believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Cooper states that "the incorrect number of tread plies on each tire does not present a safety-related defect. In addition to having the number of tread plies marked on the sidewall, the subject tires have an additional nylon tread ply." Cooper states that the tires comply with all other requirements of FMVSS No. 119.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106-414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222).

The agency received more than 20 comments on the tire labeling information required by 49 CFR Sections 571.109 and 119, Part 567, Part 574, and Part 575. In addition, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have concluded that it is likely that few consumers have been influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.

Therefore, the agency agrees with Cooper's statement that the incorrect markings in this case do not present a serious safety concern.<sup>1</sup> There is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. 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

<sup>1</sup> This decision is limited to its specific facts. As some commenters on the ANPRM noted, the existence of steel in a tire's sidewall can be relevant to the manner in which it should be repaired or retreaded.