

2. Associated with the designation "Extra Load" is a higher maximum load and a possible higher maximum inflation pressure. Each of the subject tires has been marked on both sidewalls with a maximum load of 560 kg (1235 lbs) which, under the ETRTO standard, corresponds to an Extra Load (or Reinforced) tire of the size 205/45ZR17 and load index of 88. The maximum inflation pressure marked beneath each maximum load is 340 kPa (50 psi), which is consistent with an Extra Load tire.

3. Per FMVSS No. 139 and ETRTO standards, the marking "Extra Load" alerts the installer to the fact that the subject tire has a higher load carrying capacity than the standard load tire of the same dimension. In the absence of the "Extra Load" mark, an installer could fit the subject tire to a vehicle which requires a standard load tire. But since the subject tire has the performance capacity of an Extra Load tire, the load requirement of the standard load fitment would be exceeded.

4. The subject tire is also a directional tire for which there is no intended outboard sidewall, that is, the preferred direction of rotation is marked on the sidewall, and when the subject tires are mounted on a vehicle, the left side tires on the vehicle will show the full DOT TIN and no Extra Load designation after the tire size. While this may cause some confusion for the operator, the marked maximum load capacity of 560 kg (1235 lbs) will be visible on the outboard facing sidewall of all four tires, and will confirm the same maximum load capacity of each fitted tire.

5. All other sidewall markings are consistent with the requirements of FMVSS No. 139 for a passenger category tire and the non-conformity of the subject tires has no impact on the load carrying capacity of the tire on a motor vehicle, nor on motor vehicle safety.

Michelin has additionally informed NHTSA that it has corrected future production and that all other tire labeling information is correct.

In summation, Michelin believes that the described noncompliance of its tires is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

#### Comments

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice

number cited at the beginning of this notice and be submitted by any of the following methods:

a. 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.

b. By hand delivery 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.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

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 your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to [http://www.regulations.gov](http://www.regulations.gov/), including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at [http://www.regulations.gov](http://www.regulations.gov/) by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

**DATES:** *Comment Closing Date:* March 13, 2013.

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

Issued On: February 1, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0109; Notice 1]

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

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of Petition.

**SUMMARY:** Cooper Tire & Rubber Company (Cooper),<sup>1</sup> has determined that certain Cooper brand tires manufactured between May 20, 2012 and June 16, 2012, do not fully comply with paragraph S5.5 of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Cooper has filed an appropriate report dated July 5, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), Cooper submitted a petition 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.

This notice of receipt of Cooper'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.

*Vehicles Involved:* Affected are approximately 1,080 size P225/70R14 El Dorado Legend GT brand standard load tires manufactured in Mexico by Cooper's affiliate, Corporación de Occidente S.A. de C.V., between May 20, 2012, and June 16, 2012.

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

<sup>1</sup> Cooper Tire & Rubber Company, is a manufacturer of replacement equipment and is registered under the laws of the state of Delaware.

defect or noncompliance. Therefore, these provisions only apply to the subject 1,080<sup>2</sup> tires that Cooper no longer controlled at the time it determined that the noncompliance existed.

**Noncompliance:** Cooper explains that the noncompliance is that, due to a mold labeling error. The sidewall marking on the tires incorrectly describes the actual number of plies in the tread area of the tires as required by paragraph S5.5(f).

Specifically, the tires in question were inadvertently manufactured with "TREAD 2 PLY STEEL + 2 PLY POLYESTER; SIDEWALL 2 PLY POLYESTER." The labeling should have been "TREAD 1 PLY NYLON + 2 PLY STEEL + 2 PLY POLYESTER; SIDEWALL ALL 2 PLY POLYESTER."

**Rule Text:** Paragraph S5.5 of FMVSS No. 139 requires in pertinent part:

S5.5 Tire markings. Except as specified in paragraphs (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. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches. \* \* \*

<sup>2</sup> Cooper's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Cooper as an equipment manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 1,080 affected tires. However, a decision on this petition will not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper notified them that the subject noncompliance existed.

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;

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

### Summary of Cooper's Analysis and Arguments

Cooper believes that while the noncompliant tires are mislabeled; the subject tires in fact have more tread plies than indicated and meet or exceed all performance requirements as required in part by FMVSS No. 139.

In addition, Cooper states that it has corrected the problem that caused the noncompliance so that it will not reoccur in future production.

In summation, Cooper believes that the described noncompliance of its tires is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

### Comments

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

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Issued On: February 1, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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