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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0072; Notice 1]

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

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

**ACTION:** Receipt of petition.

**SUMMARY:** 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 report dated May 24, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Cooper then petitioned NHTSA under 49 CFR part 556 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 **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**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 be 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 Deliver: 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 am to 5 pm except Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <http://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

<http://www.regulations.gov>, including any personal information provided.

The petition, supporting materials, and all comments 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 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 documents 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 <http://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:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) and their implementing regulations 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 as it relates 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.

**II. Tires Involved:** Affected are 22,188 of the following tubeless radial tires manufactured between January 10, 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 + 2PLY 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 motor vehicle safety and is unlikely to have an adverse impact on motor vehicle safety.

In support of its petition, Cooper submitted the following information pertaining to the subject noncompliance:

- a) Cooper states that the mislabeled number of plies indicated on the sidewalls has no impact on the operational performance or durability of the subject tires or on the safety of vehicles on which those tires are mounted. Cooper states that while the subject tires do not indicate the correct number of plies in the tread on the outboard side, they meet all other performance requirements under the Federal Motor Vehicle Safety Standards. Cooper notes that the number of plies in the tread does not impact the

performance or operation of a tire and does not create a safety concern to either the operator of the vehicle on which the tires are mounted, or the safety of personnel in the tire repair, retread and recycle industry.

- b) Cooper also states that the subject tires were built as designed and meet or exceed all performance requirements and testing requirements specified under FMVSS No. 139. Cooper states that the subject tires completed all Cooper Tire internal compliance testing criteria, including passing shipping certification testing in January 2016. In addition, the 215/60R16, Mastercraft LRS Grand Touring, serial week 1116, passed all surveillance testing conducted in early March 2016.
- c) Cooper's states that the stamping deviation occurred as a result of an administrative error when incorrect information was entered into Cooper Tire's electronic specification system at the corporate level. That system communicates information to the mold management system which in turn generates the construction stamping pocket plate. The electronic specification system incorrectly listed the specific tire sizes and brands as two-ply, when the tires were actually designed with an HPL construction or as having a single ply in the tread. The incorrect

construction information was then engraved in the pocket plate and then installed in the affected molds.

d) Cooper states that it is not aware of any crashes, injuries, customer complaints, or field reports associated with the mislabeling.

Cooper states that the mislabeling has been corrected at the corporate level and the pocket plates of the molds have been replaced, therefore, no additional tires will be manufactured or sold with the noncompliance. Cooper also states that it has conducted training with tire engineers at the corporate level responsible for inputting information into the electronic specification system on the importance of the information they are submitting.

Cooper observed that NHTSA has previously granted inconsequential noncompliance petitions regarding noncompliances that are similar to the subject noncompliance.

Cooper 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.

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 tires that Cooper no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper 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)

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Jeffrey M. Giuseppe, Director  
Office of Vehicle Safety Compliance

**Billing Code:** 4910-59-P

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