



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0027; 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 Cooper Mastercraft Courser HSX Tour brand tubeless radial tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Cooper filed a noncompliance report dated April 12, 2017. Cooper also petitioned NHTSA on April 12, 2017, 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 Cooper Mastercraft Courser HSX Tour

brand tubeless radial tires do not fully comply with paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Cooper filed a noncompliance report dated April 12, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Cooper also petitioned NHTSA on April 12, 2017, 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.

Notice of receipt of the petition was published in the Federal Register (82 FR 25909) with a 30-day public comment period, on June 5, 2017. No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2017-0027."

II. Tires Involved: Approximately 484 Cooper Mastercraft Courser HSX Tour brand tubeless radial tires, size 275/55R20, manufactured between March 6, 2017, and March 15, 2017, are potentially involved.

III. Noncompliance: Cooper explains that the noncompliance is that the inboard sidewalls of the subject tires are labeled with an incorrect manufacturer's identification mark, and therefore

do not fully meet all applicable requirements of paragraph S5.5.1(b) of FMVSS No. 139. Specially, the tires are labeled with the manufacturer's identification mark "UP" instead of "UT."

IV. Rule Text: Paragraph S5.5.1 of FMVSS No. 139 states, in pertinent part:

S5.5.1 *Tire Identification Number.*

...

(b) *Tires manufactured on or after September 1, 2009.* Each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire. Except for retreaded tires, either the tire identification number or a partial tire identification number, containing all characters in the tire identification number, except for the date code and, at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire. Except for retreaded tires, if a tire does not have an intended outboard sidewall, the tire must be labeled with the tire identification number required by 49 CFR part 574 on one sidewall and with either the tire identification number or a partial tire identification number, containing all characters in the tire identification number except for the date code and, at the discretion of the manufacturer, any optional code, on the other side wall.

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.

In support of its petition, Cooper submitted the following reasoning:

- a) While the 484 tires in the subject population contain an improper plant code on the inboard side of the tire, they are in all other respects properly labeled and meet all performance requirements under the Federal Motor Vehicle Safety Standards. Plant code identification has no bearing on 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) Tire registration and traceability could be a concern in some instances where there are plant code errors; however, in this instance, the incorrect plant code is still tied to a Cooper Tire manufacturing facility. Consumers will be able to accurately identify the responsible manufacturer and there will be no issues with registering the tires. Cooper Tire has modified its internal registration systems to allow for the proper registration of the affected tires. Cooper Tire accepts tire registration in a number of ways including electronically via the company's website. Cooper Tire's online database has been modified to accept registrations from consumers which include an incorrectly listed UP plant code when the other identifying information (brand, serial week) are accurately reported. Cooper Tire also accepts hard copy tire registration cards, which it

processes manually. As long as the remaining identifying information (brand, serial and week) are listed accurately on the registration card, Cooper Tire will process the registration. All internal personnel responsible for manual processing of tire registration cards have been made aware of the plant code error and have been trained on how to accurately process and register tires with the incorrect plant code information. Lastly, Cooper Tire receives some registration cards through Computerized Information and Management Services, Inc. ("CIMS"), a third-party vendor that collects and provides tire registration cards to a number of manufacturers, including Cooper Tire. CIMS has been made aware of the plant code error. CIMS has informed Cooper Tire that they will provide all registration cards to Cooper Tire that have a Cooper Tire plant code listed.

- c) In the event Cooper Tire has to conduct a safety related recall in connection with the 484 subject tires, Cooper Tire will include TINs UT Y1 FXJ 1017 to 1117 and UP Y1 FXJ 1017 to 1117 in its recall universe, so that there will be no issues with regard to identifying the recall population. Should Cooper Tire receive any affected tires in its service facilities for adjustments, the service technician will record the proper TIN number to accurately record the data.

d) Cooper Tire has taken steps over the last year to add additional checks in its processes to prevent TIN errors. One of those checks includes implementing software that only allows for the plant to choose the plant code from a drop down menu that includes only its specific plant code. In this instance, however, the molds were transferred from one Cooper Tire facility (Findlay) to another (Texarkana). The Texarkana employee responsible for preparing the mold for use in the Texarkana facility only modified the mold on one side and the error went undetected. The mold containing the error was in production from March 6th through March 15th and when the error was detected on March 30th, the plug error was corrected in the mold to prevent future issues. Responsible Cooper Tire personnel will receive additional training on these processes.

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'S DECISION:

NHTSA'S Analysis: NHTSA has reviewed Cooper's analyses that the subject noncompliance is inconsequential to motor vehicle

safety. Specifically, the outboard sidewall of the subject tires are labeled correctly with the tire manufacturer's identification mark, and therefore do not have a risk related to safety in the event of a recall.

The agency believes that one measure of inconsequentiality to motor vehicle safety is that there is no effect of the noncompliance on the operational safety of the vehicles on which these tires are mounted. Cooper certified and stated that the subject tires meet and/or exceed all performance requirements and all other labeling markings required by FMVSS No. 139, and therefore NHTSA has no reason to believe that there are any operational safety issues for these tires.

The agency also believes it is necessary that consumers be able to readily identify the tire manufacturer for safety reasons. Cooper explained that while the tire identification number (TIN) on the inboard sidewall of the subject tires is marked with the incorrect manufacturer's identification mark (known in the industry as "plant code") "UP," instead of the correct code "UT", the information which identifies the correct manufacturer's identification mark, is properly marked on the outboard sidewall. These tires can also be identified by the Cooper brand name and by the tire size marked on the sidewall of the subject tires.

NHTSA recognizes that Cooper took steps to prevent the possibility that customers would not be able to register their tires because those tires have the incorrect manufacturer's identification mark on them. Cooper worked with CIMS (Computerized Information and Management Services), Inc., to ensure that the electronic registration database could accept the registration regardless of the incorrect code and ensured internal Cooper personnel are trained to manually enter the incorrect codes as well.

Furthermore, Cooper informed the agency that in an effort to prevent reoccurrence of this noncompliance, they have implemented a change to their support software. Specifically, the selection of the plant code is no longer manual, but rather selected from a drop down menu with only one choice "UT." NHTSA feels that this is important to ensure this noncompliance is corrected on all of Cooper's future production tires since the cumulative effect of recurring noncompliances could result in a safety problem.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Cooper has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is hereby granted and Cooper is consequently exempted from the obligation of providing notification of, and a free

remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

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, this decision only applies to the subject tires that Cooper no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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)

Jeffrey M. Giuseppe,

Associate Administrator for Enforcement

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