

**NHTSA Decision:** The agency agrees with Bridgestone that the noncompliance is inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered.

Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings to assess performance capabilities of various tires. In the agency's judgment, the incorrect labeling of the tire construction information in this case will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in a tire.

The agency also believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, since the tires are marked correctly with respect to steel ply content, this potential safety concern does not exist.

In consideration of the foregoing, NHTSA has decided that Bridgestone has met its burden of persuasion that the FMVSS No. 139 noncompliance and is inconsequential to motor vehicle safety. Accordingly, Bridgestone's petition is hereby granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, that 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 approximately 97 tires that Bridgestone no longer

controlled at the time that it determined that a noncompliance existed in the subject tires. However, the granting of this petition does not relieve tire 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 Bridgestone 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)

Issued on: July 25, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013-18576 Filed 8-1-13; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0109; Notice 2]

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

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

**ACTION:** Grant of petition.

**SUMMARY:** Cooper Tire & Rubber Company (Cooper) <sup>1</sup> has determined that certain Cooper brand replacement 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) and the rule implementing those provisions at 49 CFR Part 556, Cooper has petitioned 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 February 11, 2013 in the **Federal Register** (78 FR 9775.) 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/>. Then

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

follow the online search instructions to locate docket number "NHTSA-2012-0109."

**CONTACT INFORMATION:** For further information on this decision contact Mr. Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5310, facsimile (202) 366-7002.

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

**Rule Text:** Section S5.5 of FMVSS No. 139 specifically states:

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.

(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 Analyses:** 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 2 PLY POLYESTER."

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 the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt Cooper 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.

**NHTSA Decision:** The agency agrees with Cooper that the noncompliance is inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered.

Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings to assess performance capabilities of various tires. 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 operation parameters on the number of plies in a tire.

The agency also believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, since the tires are marked correctly with respect to steel ply content, this potential safety concern does not exist.

In consideration of the foregoing, NHTSA has decided that Cooper has met its burden of persuasion that the FMVSS No. 139 noncompliance in the tires identified in Cooper's Noncompliance Information Report 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, that 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 approximately 1,080 tires that Cooper no longer controlled at the time that it determined that a noncompliance existed in the subject tires. However, the granting of this petition does not relieve tire 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)

Issued on: July 25, 2013.

**Claude H. Harris,**  
Director, Office of Vehicle Safety Compliance.  
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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35742]

#### Clarkdale Arizona Central Railroad, L.C.—Trackage Rights Exemption— Drake Cement, LLC

Drake Cement, LLC (Drake), pursuant to a written Trackage Rights Agreement (Agreement) dated May 11, 2012, has agreed to grant overhead trackage rights to Clarkdale Arizona Central Railroad, L.C. (CACR) over Drake's Track Nos. 3907, 3924, 3921 and 3904 located between milepost 0 + 15 feet and milepost 0 + 3000 feet, in Drake, Ariz., a distance of 2,985 feet in length.<sup>1</sup> The Agreement also grants CACR the right to operate over Drake's Track Nos. 3922 and 3923 to provide switching operations for Drake. Both Drake and CACR are Class III rail carriers.

The transaction is scheduled to be consummated on or after August 16, 2013, the effective date of the exemption (30 days after the exemption was filed).

<sup>1</sup> A redacted trackage rights agreement between Drake and CACR was filed with the notice of exemption. An unredacted version was filed under seal along with a motion for protective order, which will be addressed in a separate decision.

Although Drake owns the above tracks, CACR states that the BNSF Railway Company (BNSF) retains an operating easement over the 2,985 feet of trackage. The purpose of the transaction is to permit CACR to interchange traffic with BNSF and to provide switching operations for Drake.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by August 9, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35742, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Ball Janik LLP, Suite 225, 655 Fifteenth Street NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at "[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV)."

Decided: July 30, 2013.

By the Board, Rachel D. Campbell,  
Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2013-18679 Filed 8-1-13; 8:45 am]  
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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Forms 943, 943-PR, 943-A, and 943A-PR

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed