

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 the application was published, with a 30-day comment period, on October 7, 2002, in the **Federal Register** (67 FR 62522). NHTSA received no comment on this application.

FMVSS No. 109 (S4.3.2) requires that each tire be labeled with the name of the manufacturer, or the brand name and number assigned to the manufacturer in the manner specified in part 574 (S574.6, Identification mark).

Cooper's Texarkana, Arkansas, tire manufacturing facility had one mold involved in production during the twelfth and thirteenth production weeks of 2002, in which the identification mark was incorrectly stated. The subject tires were molded "DOT VT." The correct identification mark for the

Texarkana, Arkansas, plant identification code should have been "DOT UT." The incorrect identification mark was removed from the mold and the correct plant identification code inserted.

Cooper supports its application for inconsequential noncompliance by stating that all of the subject tires meet all requirements of FMVSS No. 109, except the for the correct manufacturer's assigned identification mark. The purpose of NHTSA's tire identification mark is to identify a tire so that, if necessary, the appropriate action can be taken in the interest of public safety—such as, a safety recall notice.

The agency believes that in the case of a tire labeling noncompliance, the true measure of its inconsequentiality to motor vehicle safety is whether the mislabeling would affect the manufacturer's ability to locate them, if the tires were to be recalled for a performance-related noncompliance or safety-related defect. Cooper can identify the involved tires with the incorrect manufacturer's assigned

identification mark of "VT." The tires have a unique DOT identification that would permit Cooper to notify the purchasers of these tires, if registered, should they be recalled for safety reasons. The involved tires produced from this mold during the aforementioned production period comply with all other requirements of 49 CFR 571.109.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety. Accordingly, its application is granted and the applicant is exempted from providing the notification of the noncompliance as required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

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Roger A. Saul,

Acting Associate Administrator for Rulemaking.

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