

EXECUTIVE SECRETARIAT
RECEIVED-NHTSA

2019 DEC -6 P 3:14

ATTORNEYS AT LAW
WASHINGTON HARBOUR
3000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20007-5109
202.672.5300 TEL
202.672.5399 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE
202.672.5542
cgrigorian@foley.com EMAIL

CLIENT/MATTER NUMBER
120718-0101

December 5, 2019

Via FedEx

James C. Owens
Acting Administrator
National Highway Traffic Safety
Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Petition for Determination of Inconsequential Noncompliance:
Hankook Tire America Corp. -- NHTSA Recall No. 19T020

Dear Mr. Owens:

On behalf of Hankook Tire America Corp. ("Hankook"), I am submitting herewith three copies of a Petition for Determination of Inconsequential Noncompliance pursuant to the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. §§30118(d) and 30120(h), and 49 C.F.R. §§556.1-556.9. As set forth in the petition, Hankook requests an exemption from the notice and remedy requirements of 49 U.S.C. §§30118 and 30120 on the ground that the noncompliance to which this petition relates — tires marked with an inverted date code — is inconsequential to motor vehicle safety.

Please contact me if you have any questions or need additional information.

Sincerely,



Christopher H. Grigorian

CHG:krb
Enclosures

cc: Abraham Diaz - NHTSA OVSC (by Email)
Sarah Shiver – NHTSA RMD (by Email)

AUSTIN
BOSTON
CHICAGO
DALLAS
DENVER

DETROIT
HOUSTON
JACKSONVILLE
LOS ANGELES
MADISON

MEXICO CITY
MIAMI
MILWAUKEE
NEW YORK
ORLANDO

SACRAMENTO
SAN DIEGO
SAN FRANCISCO
SILICON VALLEY
TALLAHASSEE

TAMPA
WASHINGTON, D.C.
BRUSSELS
TOKYO

Hankook Tire America Corp.
Petition for Determination of Inconsequential Noncompliance
NHTSA No. 19T020

December 5, 2019

Hankook Tire America Corp. (Hankook) submits this Petition for Determination of Inconsequential Noncompliance pursuant to the National Traffic and Motor Vehicle Safety Act (Safety Act), 49 U.S.C. §§ 30118(d) and 30120(h) and 49 C.F.R. Part 556, for an exemption from the notice and remedy requirements of 49 U.S.C. §§ 30118 and 30120, on the ground that the noncompliance to which this petition relates is inconsequential to motor vehicle safety.

I. Background

Hankook Tire America Corp. (Hankook) is a New Jersey corporation with its office at 333 Commerce Street, Suite 600, Nashville, TN 37201. The subject tires were manufactured by Hankook's indirect subsidiary, Hankook Tire Manufacturing Tennessee, LP.

On November 13, 2019, Hankook determined that a population of 467 Hankook Ventus V2 Concept 2 tires manufactured between October 7, 2019 and October 12, 2019 do not comply with Federal motor vehicle safety standard (FMVSS) No. 139. *See* Exhibit 1 (Copy of the 573 Report). This matter has been assigned NHTSA Recall No. 19T020. Specifically, due to an incorrectly placed date-code plate in the tire mold, the date portion of the Tire Identification Number (TIN) on these tires was printed upside down, as shown in the photograph below:



Accordingly, the tires technically do not comply with FMVSS 139 S5.5.1(b) and the requirements of 49 CFR Part 574.

II. Discussion

Under the Safety Act, each FMVSS promulgated by the National Highway Traffic Safety Administration (NHTSA) must be “practicable, meet the need for motor vehicle safety, and be stated in objective terms.” 49 U.S.C. § 30111(a). The Safety Act defines “motor vehicle safety” as:

the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

49 U.S.C. § 30102(a)(9).

The Safety Act exempts manufacturers from the Safety Act’s notice and remedy requirements when NHTSA determines that a noncompliance is inconsequential as it relates to motor vehicle safety. *See* 49 U.S.C. §§ 30118(d) and 30120(h). Sections 30118(d) and 30120(h) demonstrate Congress’s acknowledgement that there are cases where a vehicle fails to meet the requirements of a safety standard, yet the impact on motor vehicle safety is so slight that an exemption from the notice and remedy requirements of the Safety Act is justified. As NHTSA has stated,

Neither the Safety Act nor Part 556 define the term “inconsequential.” Rather, the agency determines whether a particular noncompliance is inconsequential to motor vehicle safety based upon the specific facts before it in a particular petition. In some instances, NHTSA has determined that a manufacturer met its burden of demonstrating that a noncompliance is inconsequential to safety. For example, a label intended to provide safety advice to an owner or occupant may have a misspelled word, or it may be printed in the wrong format or the wrong type size. Where a manufacturer has shown that the discrepancy with the safety requirement is unlikely to lead to any misunderstanding, NHTSA has granted an inconsequentiality exemption, especially where other sources of correct information are available.

BMW of North America, LLC; Jaguar Land Rover North America, LLC; and Autoliv, Inc.; Decisions of Petitions for Inconsequential Noncompliance, 84 Fed. Reg. 19994, 19997 (May 7, 2019) (citing *General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance*, 81 Fed. Reg. 92963 (Dec. 20, 2016)). *See also* 69 Fed. Reg. 19897, 19900 (Apr. 14, 2004) (stating that the relevant consideration in evaluating an inconsequentiality petition is “whether an occupant who is affected by the noncompliance is likely to be exposed to a significantly greater risk than an occupant in a compliant vehicle”).

The noncompliance involves new pneumatic radial tires used on passenger vehicles. Such tires must comply with the labeling and performance requirements of FMVSS 139, which specifies that “each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire.” FMVSS 139 S5.5.1(b). Part 574.5(a) states that “[e]ach new tire manufacturer must conspicuously label on one sidewall of each tire it manufactures . . . a TIN [tire identification number] consisting of 13 symbols and containing the information set forth in paragraphs (b)(1) through (b)(3) of this section.” Subparagraph (b)(3) requires a date code “consisting of four numerical symbols . . . [that] must identify the week and year of manufacture.” 574.5(b)(3).

The purpose of the labeling requirements in Part 574 is to “facilitate notification to purchasers of defective or nonconforming tires.” Part 574.2. The date code portion of the TIN is required so that purchasers can identify the week and year of the tire’s manufacture in the event the tire is subject to a safety recall.

Here, the date-code characters reflect the correct week and year of the tires’ manufacture, but the date code is technically out of compliance because the characters are inverted. Despite the inversion, the date code meets the character height requirements of Part 574 and is readily identifiable, permitting tire owners to easily determine the week and year of manufacture.

NHTSA has previously granted a petition for inconsequential noncompliance for a similar issue. In granting a petition from Cooper Tire & Rubber Company, the Agency explained:

The agency believes that in the case of a tire labeling noncompliance, one measure of its inconsequentiality to motor vehicle safety is whether the mislabeling would affect the manufacturer's or consumer's ability to identify the mislabeled tires properly, should the tires be recalled for performance related noncompliance. In this case, the nature of the labeling error does not prevent the correct identification of the affected tires. 49 CFR 574.5 requires the date code portion of the tire identification number to be placed in the last or correct position. In Cooper’s case it is in the right-most position, however, the manufacturer date code is upside down. Because the label is located on the tire sidewall, it is not likely to be misidentified. A reader will be able to read the date code, by spinning the tire, and therefore inverting the date code will allow it to easily be read.

81 Fed. Reg. 43708 (Jul. 5, 2016). As with the Cooper tires, the date code on the subject tires is located on the sidewall, is not likely to be misidentified, and a reader will be able to read and understand the date code. The subject tires otherwise meet the marking and performance requirements of FMVSS 139. Hankook is not aware of any warranty claims, field reports, customer complaints, legal claims, or any incidents or injuries related to the subject noncompliance.

III. Conclusion

The labeling noncompliance at issue here is inconsequential to motor vehicle safety: the relevant information remains readily identifiable, the Agency has granted a similar petition in the past, the subject tires otherwise meet the marking and performance requirements of FMVSS 139, and Hankook is not aware of any complaints, claims or incidents related to the subject noncompliance. Accordingly, Hankook respectfully requests that NHTSA exempt Hankook from the notice and remedy requirements of the Safety Act.

Respectfully submitted,

Hankook Tire America Corp.

Encl. (Exhibit 1: Part 573 Report – 19T020)

EXHIBIT 1



Hankook Tire America Corp.

Tire Report

Transaction ID: 19-0011145-23613-10 (Original Report)

Required fields indicated with *

Your report has been submitted. Your Transaction No. is 19-0011145-23613-10.

Manufacturer: Hankook Tire America Corp.

333 Commerce St., Suite 600
Nashville TN 37201

Chris Grigorian Outside Counsel For
202-672-5542,

This is a Safety Defect Report. Filing a petition pursuant to [49 CFR 556](#)

Tire Information

Hankook Ventus V2 Concept 2 235/45R17V XL H457

- * **Tire Brand:** Hankook
- * **Tire Line:** Ventus V2 Concept 2
- * **Tire Size:** 235/45R17V XL H457

Descriptive Information:

The population consists of tires produced during the defined production period when the date code plate was incorrectly installed, as determined through examination of the molds and manufacturing records.

Production Dates Begin: 10/07/2019
 End: 10/12/2019

Tire Identification Number (TIN)

* Plant ID code:	* Size code:	Optional code:	* Beg. Date Code:	* End. Date Code:	
K7	YEH1	4019	4019		00T

Number potentially involved: 467

Estimated percentage of involved with defect: 100%

Defect / Noncompliance Description

For this Defect/Noncompliance:

* Describe the defect or noncompliance:

Due to a manufacturing error, the date portion of the Tire Identification Number (TIN) on the subject tires was printed upside down.

If a noncompliance, provide the applicable FMVSS:

139 - New pneumatic radial tires for light vehicles

If applicable, provide any further FMVSS affected:

574 - Tire Identification & Recordkeeping

Describe the cause:

Due to human error during manufacture, the DOT date code plate was incorrectly placed in the mold.

* Describe the safety risk:

Hankook believes this noncompliance is inconsequential to motor vehicle safety and intends to submit an inconsequentiality petition in accordance with 49 CFR Part 556.

Identify any warning which can precede or occur:

This error can be identified by visual inspection.

This Recall affects all vehicles.

If applicable, identify the manufacturer of the defective or noncompliant component. If the manufacturer of the component is unknown, provide the information for the company that supplied the subject component.

Component manufacturer

Company Information

Company Name:

Country:

Address 1:

Address 2:

City:

State:

Company Contact Information

First Name:

Last Name:

Position:

Email:

Phone:

Zip/Postal Code:

Purchaser Information

Chronology of Defect / Noncompliance Determination

Provide the chronology of events leading up to the defect decision or test data for the noncompliance decision.:

November 11, 2019: Hankook received a customer claim regarding incorrect DOT date code orientation on a subject tire. November 12, 2019: An examination of molds and manufacturing records indicated that 201 - 467 tires were possibly affected by this issue. November 13, 2019: Based upon this review, Hankook determined that the subject tires do not comply with FMVSS 139 and 49 CFR Part 574.

Identify the Remedy

Describe the defect/noncompliance remedy program, including the manufacturer's plan for reimbursement.

Hankook intends to submit a petition for determination of inconsequential noncompliance in accordance with 49 CFR Part 556.

Describe what distinguishes the remedy component from the recalled component.

Hankook intends to submit a petition for determination of inconsequential noncompliance in accordance with 49 CFR Part 556.

Identify and describe how and when the recall condition was corrected in production.

Tires produced after 10/12/2019 were marked with a correctly oriented date code.

Identify the Recall Schedule

Describe the recall schedule for notifications.:

Not applicable, pending resolution of Hankook's Part 556 inconsequentiality petition.

Planned Dealer Notification Begin Date:

Planned Dealer Notification End Date:

Planned Owner Notification Begin Date:

Planned Owner Notification End Date:

Manufacturer's identification code for this recall (if applicable):

Please be reminded that owner notification letters must be mailed no more than 60 days from submission of this report.

Manufacturer Comments to NHTSA Staff

Document Upload

There are 0 documents associated with this report.

Part 573 Safety Recall Report

19T-020

Manufacturer Name : Hankook Tire America Corp.

Submission Date : NOV 19, 2019

NHTSA Recall No. : 19T-020

Manufacturer Recall No. : NR



Manufacturer Information :

Manufacturer Name : Hankook Tire America Corp.

Address : 333 Commerce St., Suite 600

Nashville TN 37201

Company phone : 1-800-426-5665

Population :

Number of potentially involved : 467

Estimated percentage with defect : 100 %

Tire Information :

Tire Brand 1 : Hankook

Tire Line : Ventus V2 Concept 2

Tire Size : 235/45R17V XL H457

Descriptive Information : The population consists of tires produced during the defined production period when the date code plate was incorrectly installed, as determined through examination of the molds and manufacturing records.

Production Dates : OCT 07, 2019 - OCT 12, 2019

TIN (Tire Identification Number)

Plant ID	Size code	Optional Code	Begin M Code	End M Code
00T	K7	YEH1	4019	4019

Description of Defect :

Description of the Defect : Due to a manufacturing error, the date portion of the Tire Identification Number (TIN) on the subject tires was printed upside down.

FMVSS 1 : 139 - New pneumatic radial tires for light vehicles

FMVSS 2 : 574 - Tire Identification & Recordkeeping

Description of the Safety Risk : Hankook believes this noncompliance is inconsequential to motor vehicle safety and intends to submit an inconsequentiality petition in accordance with 49 CFR Part 556.

Description of the Cause : Due to human error during manufacture, the DOT date code plate was incorrectly placed in the mold.

Identification of Any Warning that can Occur : This error can be identified by visual inspection.

Supplier Identification :**Component Manufacturer**

Name : NR

Address : NR

NR

Country : NR

Chronology :

November 11, 2019: Hankook received a customer claim regarding incorrect DOT date code orientation on a subject tire.

November 12, 2019: An examination of molds and manufacturing records indicated that 201 - 467 tires were possibly affected by this issue.

November 13, 2019: Based upon this review, Hankook determined that the subject tires do not comply with FMVSS 139 and 49 CFR Part 574.

Description of Remedy :

Description of Remedy Program : Hankook intends to submit a petition for determination of inconsequential noncompliance in accordance with 49 CFR Part 556.

How Remedy Component Differs from Recalled Component : Hankook intends to submit a petition for determination of inconsequential noncompliance in accordance with 49 CFR Part 556.

Identify How/When Recall Condition was Corrected in Production : Tires produced after 10/12/2019 were marked with a correctly oriented date code.

Recall Schedule :

Description of Recall Schedule : Not applicable, pending resolution of Hankook's Part 556 inconsequentiality petition.

Planned Dealer Notification Date : NR - NR

Planned Owner Notification Date : NR - NR

Purchaser Information :

The following manufacturers purchased this defective/noncompliant equipment for possible use or installation in new motor vehicles or new items of motor vehicle equipment:

Name : NR

Address : NR

NR

Country : NR

Company Phone : NR

* NR - Not Reported