

March 11, 2020

Via Hand Delivery and 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. 20T004

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 incorrect number of nylon plies in the tread — 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)

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DALLAS
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BRUSSELS
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Hankook Tire America Corp.
Petition for Determination of Inconsequential Noncompliance
NHTSA No. 20T004

March 11, 2020

Hankook Tire America Corp. (HTAC) 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. is a New Jersey corporation with its office at 333 Commerce Street, Suite 600, Nashville, TN 37201.

On February 11, 2020, HTAC determined that a population of 175 Hankook Dynapro MT2 MT2 LT215/85R16 tires marked with the wrong ply material information had been shipped to U.S. distributors. Specifically, the subject tires incorrectly listed the number of nylon plies (1 instead of 2). The tires were incorrectly marked as: TREAD 2 STEEL + 2 POLYESTER + 1 NYLON; SIDEWALL 2 POLYESTER. The tires should have been marked as: TREAD 2 STEEL + 2 POLYESTER + 2 NYLON; SIDEWALL 2 POLYESTER. Accordingly, these tires do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, S5.5(f). HTAC submitted a Part 573 Noncompliance Notification on February 18, 2020. *See* Exhibit 1 (Copy of 573 Noncompliance Report). This matter has been assigned NHTSA Recall No. 20T004.

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. NHTSA has explained that the “true measure of inconsequentiality to motor vehicle safety” for a tire labeling error is that the noncompliance has no effect on the operational safety of vehicles on which the tires are mounted. *Goodyear Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance*, 74 *Fed. Reg.* 10804, 10805 (Mar. 12, 2009). In evaluating the effect on motor vehicle safety, NHTSA looks to the “specific facts before it in a particular petition.” *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)).

For labeling and marking requirements, NHTSA looks to the underlying safety purpose of the labeling and what effect the reported noncompliance would have on consumers. “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.” 84 *Fed. Reg.* at 19997; *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”).

Noncompliance with FMVSS No. 139 S5.5(f)

The noncompliance involves new pneumatic radial tires used on passenger vehicles that incorrectly list the “actual number of plies in the sidewall, and the actual number of plies in the tread area.” *See* 49 CFR 571.139 (FMVSS No. 139) S5.5(f). The incorrect ply labeling information does not affect the operational safety of vehicles on which the tires are mounted. The tires meet or exceed the performance requirements of FMVSS No. 139, and they otherwise comply with the labeling and performance requirements of FMVSS No. 139. In addition, HTAC is not aware of any warranty claims, field reports, customer complaints, or any incidents, accidents, or injuries related to the subject condition.

NHTSA has granted numerous petitions for inconsequential noncompliance related to mislabeling the ply information. 78 *Fed. Reg.* 47049 (Aug. 2, 2013) (granting petition from Bridgestone Americas Tire Operations, LLC); 79 *Fed. Reg.* 17764 (May 28, 2014) (granting petition from HTAC); 81 *Fed. Reg.* 17764 (Mar. 30, 2016) (granting petition from Nitto Tire U.S.A.). In granting petitions related to incorrect ply information, the Agency has explained that, “[a]lthough tire construction affects the strength and durability of tires, 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 sidewall.” 83 *Fed. Reg.* 36668, 36669 (Jul. 30, 2018) (granting of petition from Continental tire).

Following passage of the Transportation Recall, Enhancement, Accountability, and Documentation (TREAD Act) (Pub. L. 106-414), NHTSA looked closely at the impact tire labeling had on users. After collecting comments to an Advanced Notice of Proposed Rulemaking and obtaining information from consumer focus groups, the Agency concluded that “it is likely that few consumers have been influenced by the tire construction information (number of plies and

cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.” See 70 *Fed. Reg.* 53712 (Sep. 9, 2005) (granting petition from Cooper Tire & Rubber Co. for mislabeling plies); see also 69 *Fed. Reg.* 52064 (Aug. 24, 2004) (granting petition from Michelin North America, Inc.). Based on these findings, NHTSA determined that “most consumers do not base tire purchases and vehicle operation parameters on the number of plies in the tire.” 69 *Fed. Reg.* 12196 (Mar. 15, 2004) (granting petition from HTAC).

In consideration of the impact on the tire retread, repair, and recycling industries, NHTSA has concluded that the “use of steel cord construction in the sidewall and tread is the primary safety concern of these industries,” and that this concern is not present when the tire is correctly marked with the number of steel plies. 75 *Fed. Reg.* 17828, 17829 (Apr. 7, 2010) (granting petition from Michelin North America, Inc.).

Based on these factors, NHTSA has routinely concluded that mislabeling the number of plies is inconsequential to vehicle safety. 72 *Fed. Reg.* 5494, 5495 (Feb. 6, 2007) (granting petition from Continental Tire North America); 74 *Fed. Reg.* 10804, 10805 (Mar. 12, 2009) (granting petition from Goodyear Tire & Rubber Co.); 78 *Fed. Reg.* 47050, 47051 (Aug. 2, 2013) (granting petition from Cooper Tire & Rubber Co.); 83 *Fed. Reg.* 13002, 13003 (Mar. 26, 2018) (granting petition from Sumitomo Rubber Industries, Ltd.).

HTAC believes the same reasoning applies to the subject tires. Mislabeling the number of nylon plies does not affect the operational safety of the vehicles. Further, the subject HTAC tires correctly label the number of steel plies, alleviating the safety concern for the tire retread, repair, and recycling industries.

III. Conclusion

The labeling noncompliance at issue here is inconsequential to motor vehicle safety. Most consumers do not base tire purchases or vehicle operation parameters on the number of plies in a tire. The subject tires otherwise meet the marking and performance requirements of FMVSS No. 139. HTAC is not aware of any complaints, claims or incidents related to the subject noncompliance. The Agency has granted numerous petitions involving similar labeling errors. Accordingly, HTAC respectfully requests that NHTSA exempt HTAC from the notice and remedy requirements of the Safety Act.

Respectfully submitted,

Hankook Tire America Corp.

Encl. (Exhibit 1: Part 573 Report – #20T004)

EXHIBIT 1



Hankook Tire America Corp.

Tire Report

NHTSA ID: 20T004 Transaction ID: 20-0011145-24236-10 (Original Report)

Required fields indicated with *

Manufacturer: Hankook Tire America Corp.

333 Commerce St., Suite 600
Nashville TN 37201

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

Tire Information

Hankook Dynapro MT2 LT215/85R16

- * **Tire Brand:** Hankook
- * **Tire Line:** Dynapro MT2
- * **Tire Size:** LT215/85R16

Descriptive Information:

The population was determined by reviewing production and shipping records and includes tires produced during production weeks during which the incorrect ply marking plate was used.

Production Dates Begin: 10/20/2019
End: 11/30/2019

Tire Identification Number (TIN)

* Plant ID code:	* Size code:	Optional code:	* Beg. Date Code:	* End. Date Code:	1T7
EB	UJHI	4219	4719		

Number potentially involved: 175 **Estimated percentage of involved with defect:** 100%

Defect / Noncompliance Description

For this Defect/Noncompliance:

*** Describe the defect or noncompliance:**

The subject tires were marked with the incorrect number of Nylon plies in the tread (1 instead of 2). The tires were incorrectly marked as: TREAD 2 STEEL + 2 POLYESTER + 1 NYLON; SIDEWALL 2 POLYESTER. The tires should have been marked as: TREAD 2 STEEL + 2 POLYESTER + 2 NYLON; SIDEWALL 2 POLYESTER. Accordingly, these tires do not comply with FMVSS No. 139, S5.5(f).

*** Describe the safety risk:**

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

Identify any warning which can precede or occur:

If a noncompliance, provide the applicable FMVSS:

139 - New pneumatic radial tires for light vehicles

If applicable, provide any further FMVSS affected:

Describe the cause:

Due to a production error, plates containing incorrect ply material information were used in the production of the subject tires.

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:

Zip/Postal Code:

Company Contact Information

First Name:

Last Name:

Position:

Email:

Phone:

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.:

On February 11, 2020, Hankook Tire America Corporation ("HTAC") discovered that 175 Dynapro MT2 LT215/85R16 tires produced from Oct. 20 2019 to Nov. 30 2019 marked with the wrong ply material information had been shipped to U.S. distributors. The subject tires were manufactured with two nylon plies in the tread, but, due to a production error, the sidewall marking incorrectly states they have one nylon ply. Based upon this information, on February 11, 2020, HTAC determined that these tires do not comply with FMVSS 139, S5.5(f).

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.

Compliant product contains the correct ply material information: TREAD 2 STEEL + 2 POLYESTER + 2 NYLON; SIDEWALL 2 POLYESTER.

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

Tires produced after DOT week 4719 are marked with the correct ply material information.

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

20T-004

Manufacturer Name : Hankook Tire America Corp.**Submission Date :** FEB 19, 2020**NHTSA Recall No. :** 20T-004**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 : 175

Estimated percentage with defect : 100 %

Tire Information :

Tire Brand 1 : Hankook

Tire Line : Dynapro MT2

Tire Size : LT215/85R16

Descriptive Information : The population was determined by reviewing production and shipping records and includes tires produced during production weeks during which the incorrect ply marking plate was used.

Production Dates : OCT 20, 2019 - NOV 30, 2019

TIN (Tire Identification Number)

Plant ID	Size code	Optional Code	Begin M Code	End M Code
1T7	EB	UJHI	4219	4719

Description of Noncompliance :

Description of the Noncompliance : The subject tires were marked with the incorrect number of Nylon plies in the tread (1 instead of 2). The tires were incorrectly marked as: TREAD 2 STEEL + 2 POLYESTER + 1 NYLON; SIDEWALL 2 POLYESTER. The tires should have been marked as: TREAD 2 STEEL + 2 POLYESTER + 2 NYLON; SIDEWALL 2 POLYESTER. Accordingly, these tires do not comply with FMVSS No. 139, S5.5 (f).

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

FMVSS 2 : NR

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

Description of the Cause : Due to a production error, plates containing incorrect ply material information were used in the production of the subject tires.

Identification of Any Warning NR
that can Occur :

Supplier Identification :

Component Manufacturer

Name : NR
Address : NR
NR
Country : NR

Chronology :

On February 11, 2020, Hankook Tire America Corporation ("HTAC") discovered that 175 Dynapro MT2 LT215/85R16 tires produced from Oct. 20 2019 to Nov. 30 2019 marked with the wrong ply material information had been shipped to U.S. distributors. The subject tires were manufactured with two nylon plies in the tread, but, due to a production error, the sidewall marking incorrectly states they have one nylon ply. Based upon this information, on February 11, 2020, HTAC determined that these tires do not comply with FMVSS 139, S5.5(f).

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 : Compliant product contains the correct ply material information: TREAD 2 STEEL + 2 POLYESTER + 2 NYLON; SIDEWALL 2 POLYESTER.

Identify How/When Recall Condition was Corrected in Production : Tires produced after DOT week 4719 are marked with the correct ply material information.

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