



June 21, 2022

VIA E-MAIL

Dr. Steven Cliff
Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
Washington D.C. 20590

Re: Petition for Inconsequential Noncompliance
Hercules Tire & Rubber Company
NHTSA Recall 22T008

Dear Dr. Cliff:

Pursuant to 49 U.S.C. § 30118(d) and 49 C.F.R. Part 556, please find a Petition for Inconsequential Noncompliance submitted by Hercules Tire & Rubber Company (“Hercules”) related to NHTSA Recall 22T008.

The subject of the noncompliance identified by Hercules relates to a discrepancy with the Tire Identification Number (“TIN”) marking on a small number of radial tires produced within a one-week period of time. For these tires, the date code for the week and year of manufacture that is molded onto the tires inadvertently transposed two digits and identifies a manufacture date in the future. Despite this condition, the noncompliance does not pose a risk to motor vehicle safety and Hercules requests that the agency grant this petition and relieve the company from the notice and remedy provisions of the Vehicle Safety Act.

As required under Part 556, Hercules is a Connecticut corporation located at 16380 East U.S. Route 224, Findlay, Ohio 45840.

1995 Tiffin Avenue, Suite 205 • Findlay, Ohio 45840 • Office: 419.425.6400 • Fax: 419.425.6404

www.herculestire.com

Should you have any questions or request further information, please contact me at RToms@ATD-US.com.

Sincerely,

DocuSigned by:

Robert Toms

656B5378DCD1407...

Robert C. Toms, IV

Director, Assistant General Counsel

Enclosures

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Background

On May 10, 2022, Hercules Tire & Rubber Co. (“Hercules”) submitted a Noncompliance Information Report pursuant to 49 U.S.C. § 30118(c) and 49 C.F.R. § 573.6 (the “573 Report”). In the 573 Report, Hercules described that it had determined a noncompliance existed with the date code portion of the Tire Identification Number (“TIN”), affecting a total of 555 Ironman iMove PT radial tires. A copy of the 573 Report is provided.

The requirements of NHTSA’s regulation governing the TIN is contained at 49 C.F.R. 574 and apply to specialty trailer tires via FMVSS 139, S5.5.1(b). With regard to the date code portion of the TIN, the regulation states, in relevant part, “the date code, consisting of four numerical symbols, is the final group. The date code must identify the week and year of manufacture.” 49 C.F.R. 574.5(b)(3).

For the tires affected by this issue, two digits in the date code portion of the TIN were inadvertently transposed. The correct week and year of manufacture should have been designated as “3321,” indicating the tires were manufactured in calendar week 33 of calendar year 2021. However, on the subject tires, the date code incorrectly states “3231.” A photo of the TIN and date code on the subject tires is provided below.



All other content within the TIN is accurate and the tires otherwise conform to the performance requirements applicable to specialty trailer tires. The date code discrepancy affects only one week of tire production, and the condition has been corrected in production.

Request for Determination of Inconsequential Noncompliance

Consumers Will Not Be Misled by the Transposed Digits in the Date Code

NHTSA has regularly granted requests for a determination of inconsequential noncompliance involving mislabeled or inaccurate TIN date codes upon finding that the labeling discrepancy will not confuse or mislead the consumer. Consistent with those prior decisions, despite the transposed digits in the date code, there is no increased risk to motor vehicle safety with the Hercules tires. On the subject tires, the date code is listed as “3231” when it should have listed “3321.” This date code translates to a year of production of 2031 which has not yet occurred and is so far into the future to be implausible.

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NHTSA's primary concern related to mislabeled or inaccurate TINs is the potential for adverse safety consequences due to consumers using aged tires that are beyond the manufacturer's recommended service life, regardless of the condition of the tire. *See Cooper Tire & Rubber Company*, 86 Fed. Reg. 47726 (August 26, 2021). However, in this instance, even following the guidance provided on NHTSA's website that in general, tires should be replaced within six to 10 years regardless of treadwear, a consumer following the date code that is listed on the subject tires is not exposed to an enhanced safety risk.¹ A consumer reviewing the date code portion of the TIN on the subject tires would decode a year of production as being either 1931 or 2031. In either instance, this outcome should cause a rational consumer to question the accuracy of the year of manufacture and would not provide a reasonable basis upon which a consumer could be misled into believing that the tire has a substantial service life ahead of it. The date code portion of the TIN cannot be confused with any other reasonably related date code as it suggests a date that is either decades in the past or nearly a decade in the future. As such, a consumer would not simply assume that the year code listed on the tire is in fact the correct date and be misled. In addition, because the year code of "31" is implausible, even if a dealer were to store the subject tires for several years before selling them, there is no risk of misleading the consumer about the age of the tire.

The facts here are akin to other situations involving discrepancies with the TIN where the agency concluded that there was no risk of misleading consumers with the misstated date code. *Bridgestone/Firestone, Inc., Grant of Petition*, 71 Fed. Reg. 4396 (January 26, 2006) (missing date code on TIN), *Bridgestone/Firestone, Inc., Grant of Petition*, 66 Fed. Reg. 45076 (August 27, 2001) (date code indicating manufacture date one year in the future). Given the span of time, a year of manufacture of "31" is not a plausible indicator of when the tire was produced and does not create a risk of a consumer using a tire beyond the recommended maximum service life.

Hercules is Able to Identify the Subject Tires and Notify Consumers in the Event of a Recall

NHTSA has similarly granted TIN labeling inconsequentiality petitions upon finding that the manufacturer had the ability to identify the affected tires in the event of a future product recall. "The purpose of the date code is to identify the tire so that, if necessary, the appropriate action can be taken in the interest of public safety – such as, a safety recall notice." *Bridgestone/Firestone Grant of Inconsequentiality Petition*, 64 Fed. Reg. 20,090 (May 28, 1999), *Cooper Tire & Rubber Co., Grant of Inconsequentiality Petition*, 68 Fed. Reg. 16,115 (April 2, 2003).

In this instance, Hercules has taken steps to ensure that the subject tires can be readily and accurately identified in the event of a product recall. The subject tires are documented in the company's internal database and given the implausible date code; they provide a unique

¹ <https://www.nhtsa.gov/equipment/tires>

identifier for these tires. Consumers attempting to register the subject tires on the Hercules website or via a product registration card are required to input the TIN located on the sidewall of the tire. Once the tires are registered, Hercules will continue to be able to isolate and identify the affected tires in its internal systems as having actually been produced in calendar week 33, calendar year 2021. Further, because the subject tires have a unique date code, they cannot be confused with any other TIN or batch of tires.

Hercules remains able to contact consumers in the event of a recall of the subject tires and, if necessary, any consumer communication could include the TIN as it is listed on the tire sidewall so that consumers could check the recall notification against the tire sidewall for verification purposes. *See Bridgestone/Firestone North America, LLC, Grant of Inconsequentiality Petition*, 71 Fed. Reg. 4396 (January 26, 2006) (granting petition where no date code was provided but manufacturer was able to notify affected consumers using the TIN with missing date code).

Conclusion

Based on the foregoing, Hercules requests that the agency grant this petition and relieve it from the notification and remedy provisions of the Vehicle Safety Act.

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Part 573 Safety Recall Report

22T-008

Manufacturer Name : Hercules Tire & Rubber Company**Submission Date :** MAY 10, 2022**NHTSA Recall No. :** 22T-008**Manufacturer Recall No. :** NR**Manufacturer Information :**

Manufacturer Name : Hercules Tire & Rubber Company

Address : 16380 EAST U.S. ROUTE 224

SUITE 200 FINDLAY OH 45840

Company phone : 419-425-6400

Population :

Number of potentially involved : 555

Estimated percentage with defect : 100 %

Tire Information :

Tire Brand 1 : Ironman

Tire Line : iMOVE PT

Tire Size : 205/55R16

Descriptive Information : The Ironman iMOVE PT radial tire with the size of 205/55R16

Production Dates : AUG 14, 2021 - AUG 20, 2021

TIN (Tire Identification Number)

| Plant ID | Size code | Optional Code | Begin M Code | End M Code |
|----------|-----------|---------------|--------------|------------|
| 14F | 0F | R11B | 3221 | 3221 |

Description of Noncompliance :

Description of the Noncompliance : The subject tires date code portion of the Tire Identification Number (TIN) incorrectly states the week and year of manufacture on the intended outboard side: correct week and year of manufacture is 3321 and the subject tires are incorrectly marked 3231 which indicates calendar week 32 in calendar year 2031.

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

FMVSS 2 : NR

Description of the Safety Risk : There is no safety risk because the two transposed digits in the date code provide a unique number that would not be confused with any other date code. Hercules will continue to be able to identify the tires in the event of a recall and notify consumers. Hercules intends to submit a petition for inconsequential noncompliance.

Description of the Cause : A slug was created which incorrectly transposed the 2-character week and the 2-character year.

Identification of Any Warning that can Occur : None

Involved Components :

Component Name : Ironman iMOVE PT

Component Description : Tire 205/55R16

Component Part Number : 98469

Supplier Identification :

Component Manufacturer

Name : COMPAÑÍA HULERA TORNEL, S.A. DE C.V

Address : Via Lopez Portillo 85, San Francisco Chi
Tultitlan, Estado de Mexico Foreign States 54940

Country : Mexico

Chronology :

On April 29, 2022, it was reported by a dealer that a date code imprinted on one of their tires contained a typographical error. A photograph of the subject tire was sent to Hercules which indicated that two of the numbers in the date code had apparently been transposed. Hercules initiated an investigation in which it was found that tires produced during week 33 of year 2021 had been molded with an incorrect date code of week 32 of year 2031. On May 10, 2022, Hercules determined that a noncompliance existed as to the tire date code. Because the noncompliance here is inconsequential to motor vehicle safety, Hercules intends to submit a petition for inconsequential noncompliance.

Description of Remedy :

Description of Remedy Program : Hercules will be submitting a Petition for Determination of Inconsequential Noncompliance under 49 C.F.R. 556.

How Remedy Component Differs from Recalled Component : If Hercules is required to conduct a recall campaign following the processing of its inconsequentiality petition, the remedy tires will contain a compliant date code portion of the TIN.

Identify How/When Recall Condition was Corrected in Production : According to the Fabricating Manufacturer, COMPAÑÍA HULERA TORNEL, S.A. DE C.V, the mold with the incorrect ordering of the serial week and year "3231" was removed from production at the beginning of the 34th week on August 20, 2021 at the completion of the prior week's production run.

Recall Schedule :

Description of Recall Schedule : NR

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

Part 573 Safety Recall Report

22T-008

Manufacturer Name : Hercules Tire & Rubber Company**Submission Date :** MAY 12, 2022**NHTSA Recall No. :** 22T-008**Manufacturer Recall No. :** NR**Manufacturer Information :**

Manufacturer Name : Hercules Tire & Rubber Company

Address : 16380 EAST U.S. ROUTE 224

SUITE 200 FINDLAY OH 45840

Company phone : 419-425-6400

Population :

Number of potentially involved : 555

Estimated percentage with defect : 100 %

Tire Information :

Tire Brand 1 : Ironman

Tire Line : iMOVE PT

Tire Size : 205/55R16

Descriptive Information : The Ironman iMOVE PT radial tire with the size of 205/55R16

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Recall Schedule :

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Name : NR

Address : NR

NR

Country : NR

Company Phone : NR

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