

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97-028; Notice 1]

Cooper Tire & Rubber Company; Receipt of Application for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that some of its tires fail to comply with the labeling requirements of 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, "New Pneumatic Tires for Vehicles Other Than Passenger Cars," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Cooper has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Paragraphs S6.5(d)(j) of FMVSS No. 119, "Tire markings," requires that tires be marked on each sidewall with the maximum load rating and corresponding inflation pressure of the tire and the letter designating the tire load range. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which 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, the markings shall 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.

Cooper's description of the noncompliance follows:

Our [Cooper] Findlay, Ohio, tire manufacturing facility had one mold in production during the forty-seventh and forty-eighth production weeks of 1996 in which, on the serial side, there was an incorrect load and inflation plate for the tire being produced.

The involved tires were the Dean Wildcat Radial LT 235/85R16, tubeless, outline white letters, 10 ply rating, and load range E.

The incorrect plate read "LOAD RANGE D MAX. LOAD SINGLE 1190 kg (2623 LBS) AT 450 kPa (65 P.S.I.) COLD (8 PLY RATING) MAX. LOAD DUAL 1080 kg (2381 LBS) AT 450 kPa (65 P.S.I.) COLD." The correct information should have been "LOAD

RANGE E MAX. LOAD SINGLE 1380 kg (3042 LBS) AT 550 kPa (80 P.S.I.) COLD (10 PLY RATING) MAX. LOAD DUAL 1260 kg (2778 LBS) AT 550 kPa (80 P.S.I.) COLD.

The involved tires have the correct load and inflation information on the non-serial side which is the side with the outline white letters. In addition, each tire had a paper tread label affixed to it reflecting the correct load information as set forth on Attachment A. [Copy available in the National Highway Traffic Safety Administration Docket Section.]

There were a total of five hundred fifty-three (553) tires produced with the incorrect load and inflation information on the non-serial side of the tire during the forty-seventh and forty-eighth production periods. Forty-eight (48) of the involved tires have been accounted for in Cooper's inventory, leaving five hundred five (505) tires not accounted for in Cooper's inventory.

The involved tires produced from this mold during the aforementioned production periods comply with all other requirements of 49 CFR 571.

Cooper supported its application for inconsequential noncompliance with the following:

We [Cooper] submit that the noncompliance with the standard established under 15 U.S.C. is inconsequential as it relates to motor vehicle safety because it is (i) correctly stated on the non-serial side and on the paper tread label and (ii) the incorrect load range and inflation information is within the design parameters of the tire and would not result in any overloading or overinflation of the involved tires.

The forty-eight (48) tires in Cooper's inventory will be re-stamped with the correct load and inflation information.

Interested persons are invited to submit written data, views, and arguments on the application of Cooper, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, D.C., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible.

When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: May 22, 1997. (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: April 17, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97-10404 Filed 4-21-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 97-2]

Safety Advisory: Unauthorized Marking and Modification of Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that RSPA is investigating the unauthorized marking and modification of high-pressure compressed gas cylinders. On March 27, 1997, RSPA inspectors entered the premises of Browns Welding Supply. They observed numerous compressed gas cylinders and found a significant number marked with an expired Retester Identification Number (RIN) or unauthorized RIN. Based on those RIN markings and the inspectors' observations, RSPA believes that many of these cylinders may not have been retested in accordance with the Hazardous Materials Regulations (49 CFR Parts 171-180)(HMR).

Furthermore, the inspectors observed many cylinders that exhibited evidence of improper grinding. Unauthorized grinding can have a significant effect on a cylinder's minimum wall thickness, and therefore, its structural integrity. Unauthorized grinding can remove required markings and can be used to mask a cylinder's overall condition. Serious personal injury, death, and property damage could result from the rupture of a cylinder. Cylinders which have not been retested in accordance with the HMR may not be charged or filled with a hazardous material.

FOR FURTHER INFORMATION CONTACT:

Anthony Smialek, Chief, Western Region, telephone (909) 483-5624, Fax—(909) 483-5636, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, Department of Transportation, 3200 Inland Empire Boulevard, Suite 230, Ontario, CA 91764.

SUPPLEMENTARY INFORMATION: On Thursday, March 27, 1997, RSPA inspectors entered the premises of Browns Welding Supply located at 4165 State Street, Pomona, California 91766

and 14412 East Valley Boulevard, La Puente, California 91746. They observed a large number of cylinders that were marked with the following two RINs:

(1)

C	2
X	Y
4	7

where

X = month of retest

Y = year of retest

On September 1, 1988, RSPA issued RIN C274 for a 5-year period to Coast Welding Supply in Oxnard, California. Coast Welding did not renew its RIN and is no longer in business. Thus, the RIN expired on September 1, 1993 and, after that date, persons are not authorized to mark any cylinders with that RIN. RSPA believes that any cylinder marked with RIN C274 between a test date of "10 93" or any later date is not in compliance with the HMR. Under the HMR, hydrostatic retesting is required to verify a cylinder's structural integrity. Thus, persons who have a cylinder marked with this RIN and a date after September 1, 1993 should not charge or fill the cylinder without first having the cylinder inspected/retested by a DOT-authorized retest facility.

(2)

A	3
X	Y
7	3

where

X = month of retest

Y = year of retest

RIN A337 was issued to Altair/Ultratest, a Torrance, California cylinder filler/shipper that also retests and stamps its own cylinders. RSPA believes that persons, who were not authorized to use this RIN, marked an unknown number of cylinders with Altair/Ultratest's RIN, in violation of 49 CFR 173.34(e)(2). RSPA believes that many of these cylinders also bear "UT", plus (+) sign and five-pointed star (☆) markings indicating that the cylinders have been tested with ultrasonic equipment, can be filled to a pressure 10 percent in excess of cylinder's marked service pressure and qualify for a ten-year hydrostatic retest, respectively. Specifically with regard to the "UT"

markings, Altair/Ultratest has indicated that it began ultrasonic testing after April 1995. Therefore, RSPA believes that any cylinder marked with RIN A337 earlier than "4 95" and bearing "UT" markings is not in compliance with the HMR and should not be charged or filled without first having the cylinder inspected/retested by a DOT-authorized retest facility. It is important to note, however, that other cylinders marked with RIN A337 and test dates after "4 95" with or without the "UT", "+" and (☆) markings may not be in compliance with the HMR.

RSPA also believes that an unknown number of cylinders bearing RINs C274 and A337 (and possibly others) had permanent markings (e.g. ICC/DOT-specifications, service pressures, original manufacturers' dates and Independent Inspection Agency (IIA) marks, and older hydrostatic test dates) ground off and were then restamped with more contemporary information before or after painting. The grinding may have included areas of corrosion or other imperfections which may have met the criteria for rejection on visual examination in accordance with 49 CFR 173.34(e)(3) and Compressed Gas Association Pamphlet C-6, Standards for Visual Inspection of Steel Compressed Gas Cylinders. Some cylinder neck collars, which generally indicate the cylinder owner, were also subjected to grinding and may be detected by a "wavy", irregular appearance. In some cases, the ground areas of cylinders may appear smoother to the touch when compared to untouched areas adjacent to them or these areas may reveal paint brush strokes which contrast to other untouched areas of the cylinder surface. This grinding may have a significant effect on the minimum wall thickness and, therefore, the overall integrity of the cylinder. In some cases, cylinders may have a "putty-like" substance applied to the area adjacent to the cylinder's valve. This substance may cover defects in the cylinder and prevent a complete visual inspection.

Should any evidence of unauthorized or improper grinding be found, the cylinder(s) may not be used until a DOT-authorized cylinder retest facility has reinspected and retested the cylinder(s) as required by 49 CFR 173.34(e). If a cylinder fails the reinspection and retest or the DOT-authorized cylinder retest facility cannot verify the markings on a cylinder, the cylinder must be condemned in accordance with 49 CFR 173.34(e)(6).

Filled cylinders (if filled with an atmospheric gas) described in this safety

notice should be vented or otherwise properly and safely evacuated and purged, and taken to a DOT-authorized cylinder retest facility for visual reinspection and retest to determine compliance with the HMR.

Under no circumstances should a cylinder described in this safety notice be filled, refilled or used for any purpose other than scrap, absent reinspection and retest by a DOT-authorized retest facility.

Persons possessing cylinders described in this safety notice, and marked with RIN A337, can contact Altair/Ultratest to verify the cylinder's retest information and markings. Altair/Ultratest will require the cylinder's serial number and dimensions/size/capacity. Altair/Ultratest requests this information by fax (Fax Number: (310) 371-2162).

It is further recommended that persons finding or possessing cylinders described in this safety notice contact Anthony Smialek for further information and instructions.

Issued in Washington, DC on April 16, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Ex Parte No. 334 (Sub-No. 8) ¹]

Joint Petition for Rulemaking on Railroad Car Hire Compensation (Clarification of Association of American Railroad's Code of Car Hire Rules)

AGENCY: Surface Transportation Board.

ACTION: Notice of clarification.

SUMMARY: The Board clarifies that Rule 25, Car Hire Arbitration of the Association of American Railroads' Code of Car Hire Rules and Interpretations—Freight, may be amended as provided in part D of the rule, without prior Board approval, but subject to subsequent Board review on petition or on the Board's own initiative.

DATES: The decision is effective on April 22, 1997.

ADDRESSES: Send an original and 10 copies of pleadings referring to Ex Parte

¹ This notice also embraces Joint Petition for Exemption of Arbitration Rule from Application of 49 U.S.C. 10706 and Motion to Dismiss, Ex Parte No. 334 (Sub-No. 8A).