

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety
Administration

[Docket No. NHTSA-99-5014: notice 2]

**Bridgestone/Firestone, Inc.; Grant of
Application for Decision of
Inconsequential Noncompliance**

Bridgestone/Firestone, Inc. (Bridgestone) determined that certain tires manufactured in 1998 of various sizes and brands are not in full compliance with 49 CFR 57 1.119, 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." Bridgestone 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.

Although the applicant stated this was a noncompliance with FMVSS No. 119, NHTSA considers this to be a noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 109, New pneumatic tires. On March 2, 1999, the agency received a letter from Bridgestone concurring that the relevant standard is indeed FMVSS No. 109.

Notice of receipt of the application was published, with a 30-day comment period, on February 15, 1999, in the **Federal Register** (64 FR 6937). NHTSA received no comments on this application during the 30-day comment period.

Paragraph S4.3.2 of FMVSS No. 109 requires each tire to be marked in accordance with Part 574, Tire Identification and Recordkeeping. If a tire lacks this correct information, it fails to comply with FMVSS No. 109 and is subject to the notification and remedy requirements of Chapter 301, unless exempted pursuant to 49 U.S.C. 30118(d) and 30120(h) on grounds of inconsequentiality.

On December 12, 1998, Bridgestone produced approximately 1,389 tires with an incorrect date code. The affected tires were marked incorrectly with a date code of "509," instead of the correct date code of "508." The tires

were manufactured at Bridgestone's Oklahoma City Plant.

Bridgestone supports its application for inconsequential noncompliance by stating that all of the tires manufactured in the affected sizes and brands meet all the agency's requirements, except the correct date code. The purpose of the date code 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. Bridgestone has stated that it will include the 509 code in any future recall of tires manufactured in its Oklahoma City plant during the 50th week of 1998. In addition, the tires meet all of the agency's safety performance requirements.

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

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

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L. Robert Shelton,

*Associate Administrator for Safety
Performance Standards.*

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