

COOPER TIRE & RUBBER CO

Form 10-K/A

April 01, 2005

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 10-K/A

Amendment No. 1

For Annual and Transition Reports Pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934

(Mark One)

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the fiscal year ended December 31, 2004

or

Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the transition period from ___ to ___

Commission File Number **001-04329**

COOPER TIRE & RUBBER COMPANY

(Exact name of registrant as specified in its charter)

DELAWARE
(State of incorporation)

34-4297750
(I.R.S. employer
identification no.)

701 Lima Avenue, Findlay, Ohio
(Address of principal executive offices)

45840
(Zip Code)

Registrant's telephone number, including area code: (419) 423-1321

Securities registered pursuant to Section 12(b) of the Act:

| (Title of each class) | (Name of each exchange on which registered) |
|---|---|
| Common Stock, \$1 par value per share | New York Stock Exchange |
| Rights to Purchase Series A Preferred Stock | New York Stock Exchange |

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was

required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2).

Yes No

The aggregate market value of the voting common stock held by non-affiliates of the registrant at June 30, 2004 was \$1,676,412,180.

The number of shares outstanding of the registrant's common stock as of February 28, 2005 was 70,170,779.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the following document are incorporated by reference into the following Parts of this Form 10-K:

The registrant's definitive proxy statement dated March 24, 2005 for its 2005 Annual Meeting of Stockholders

Part III, Items 10 - 14

**Amendment No. 1 to the Annual Report on Form 10-K
For the Year Ended December 31, 2004**

EXPLANATORY NOTE

Cooper Tire & Rubber Company (the Company) is filing this Amendment No. 1 on Form 10-K/A (this Amendment) to its Annual Report on Form 10-K for the fiscal year ended December 31, 2004, which was originally filed on March 11, 2005 (the Original Filing), to amend and restate in their entirety the cover page, Part III, and the Exhibit Index to correct references to the Company's definitive proxy statement for the Company's 2005 Annual Meeting of Stockholders. The Original Filing indicated that the Company's definitive proxy statement for the Company's 2005 Annual Meeting of Stockholders would be dated March 22, 2005. This Amendment corrects the Original Filing by indicating that the Company's definitive proxy statement for the Company's 2005 Annual Meeting of Stockholders is dated March 24, 2005.

This Amendment amends and restates in their entirety only the cover page, Part III, and the Exhibit Index. Other than as reflected in the Exhibit Index, this Amendment does not affect any other parts of or exhibits to the Original Filing, and those unaffected parts or exhibits are not included in this Amendment.

This Amendment continues to speak as of the date of the Original Filing and the Company has not updated the disclosure contained herein to reflect events that have occurred since the filing of the Original Filing. Accordingly, this Amendment should be read in conjunction with the Company's other filings, if any, made with the Securities and Exchange Commission subsequent to the filing of the Original Filing, including any amendments to those filings, if any.

PART III

Item 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Information concerning the Company's directors, corporate governance guidelines, Compensation Committee and Nominating and Governance Committee appears in the Company's Proxy Statement dated March 24, 2005, which will be herein incorporated by reference. The names, ages, and all positions and offices held by all executive officers of the Company, as of the same date, are as follows:

| Name | Age | Executive Office Held | Business Experience |
|-------------------|-----|---|---|
| Thomas A. Dattilo | 53 | Chairman of the Board, President and Chief Executive Officer and Director | Chairman of the Board and Chief Executive Officer since 2000. President since 1999 and Chief Operating Officer from 1999 to 2000. Director since 1999. Formerly with Dana Corporation, an automotive parts supplier, since 1977, having served as |

President,
Sealing Products and
previously in other
senior management
positions. Director of
Harris Corporation.

James E. Kline

63 Vice President,
General Counsel
and Secretary

Vice President, General
Counsel and
Secretary since April 2003.
Vice President
from February to April 2003.
Previously,
Executive Vice President
(real estate
development) Cavista
Corporation, an

integrated real estate company, from 2000 through August 2001, and Vice President and General Counsel, Aeroquip-Vickers, Inc., a manufacturer of power and motion control and fluid conveyancing products, from 1989 to 1999.

Harold C. Miller 52 Vice President

Vice President since March 2002. Formerly Vice President and General Manager, Eaton Fluid Power Hose and Plastic Operations, Eaton Corporation, an automotive and truck parts producer, from January through March 2002. Director, Finance and Planning, Eaton Fluid Power Automotive Operations from 2001 through 2002. General Manager, Eaton Aeroquip Global Hose Division from 1998 through 2001.

D. Richard Stephens 57 Vice President

Vice President since 2001. President, Cooper Tire since 2001. President, International Tire Division, Cooper Tire from 2000 to 2001. Vice President, Technical and Commercial Tire Operations, Cooper Tire from March 2000 to December 2000. Vice President, Technical from 1994 to 2000.

Philip G. Weaver 52

| | | | |
|-----------------|----|--|---|
| | | Vice President and Chief Financial Officer | Vice President and Chief Financial Officer since 1999. Tire Operations Vice President from 1994 through 1999. |
| Eileen B. White | 54 | Corporate Controller | Corporate Controller since 1997. Assistant Corporate Controller from 1994 to 1997. |

Each such officer shall hold such office until a successor is selected and qualified.

AUDIT COMMITTEE

Information regarding the Audit Committee, including the identification of the Audit Committee members and the audit committee financial expert, appears in the Company's Proxy Statement dated March 24, 2005, which will be herein incorporated by reference.

COMPLIANCE WITH SECTION 16(a) OF THE EXCHANGE ACT

Information regarding compliance with Section 16(a) of the Securities Exchange Act of 1934, as amended, appears in the Company's Proxy Statement dated March 24, 2005, which will be herein incorporated by reference.

CODE OF ETHICS

Information regarding the Company's code of business conduct and ethics appears in the Company's Proxy Statement dated March 24, 2005, which will be herein incorporated by reference.

Item 11. EXECUTIVE COMPENSATION

Information regarding executive compensation appears in the Company's Proxy Statement dated March 24, 2005, which will be herein incorporated by reference.

Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED SHAREHOLDER MATTERS

Information concerning the security ownership of certain beneficial owners and management of the Company's voting securities and equity securities appears in the Company's Proxy Statement dated March 24, 2005, which will be herein incorporated by reference.

Equity Compensation Plan Information

The following table provides information as of December 31, 2004 regarding the Company's equity compensation plans, all of which have been approved by the Company's security holders:

| Plan category | Number of securities to be issued upon exercise of outstanding options, warrants and rights (a) | Weighted-average exercise price of outstanding options, warrants and rights (b) | Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c) |
|--|---|---|--|
| Equity compensation plans approved by stockholders | 3,793,028 | \$17.60 | 2,599,954 |
| Equity compensation plans not approved by stockholders | | | |
| Total | 3,793,028 | \$17.60 | 2,599,954 |

Additional information on equity compensation plans is contained in the Stock-Based Compensation note to the consolidated financial statements.

Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

None.

Item 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

Information regarding the Company's independent auditor appears in the Company's Proxy Statement dated March 24, 2005, which will be herein incorporated by reference.

SIGNATURE

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this amended report to be signed on its behalf by the undersigned, thereunto duly authorized.

COOPER TIRE & RUBBER COMPANY

/s/ James E. Kline
JAMES E. KLINE, Vice President,
General Counsel and Secretary

Date: April 1, 2005

EXHIBIT INDEX

- (3) Certificate of Incorporation and Bylaws
- (i) Certificate of Incorporation, as restated and filed with the Secretary of State of Delaware on May 17, 1993, is incorporated herein by reference from Exhibit 3(i) of the Company's Form 10-Q for the quarter ended June 30, 1993

Certificate of Correction of Restated Certificate of Incorporation as filed with the Secretary of State of Delaware on November 24, 1998 is incorporated by reference from Exhibit 3(i) of the Company's Form 10-K for the year ended December 31, 1998
 - (ii) Bylaws, as amended May 5, 1987, are incorporated herein by reference from Exhibit 19 of the Company's Form 10-Q for the quarter ended June 30, 1987
- (4)
- (i) Prospectus Supplement dated March 20, 1997 for the issuance of \$200,000,000 notes is incorporated herein by reference from Form S-3 Registration Statement No. 33-44159
 - (ii) Amended and Restated Rights Agreement, dated May 11, 1998, between the Company and The Fifth Third Bank as Rights Agent is incorporated herein by reference from Exhibit 4 to the Company's Form 8-K dated May 15, 1998
 - (iii) Amendment No. 1 to Amended and Restated Rights Agreement dated as of May 7, 2004, by and among Cooper Tire & Rubber Company, Fifth Third Bank and Computershare Investor Services, LLC is incorporated herein by reference from Exhibit 4 of the Company's Form 10-Q for the quarter ended September 30, 2004
 - (iv) Prospectus Supplement dated December 8, 1999 for the issuance of an aggregate \$800,000,000 notes is incorporated herein by reference from Form S-3 Registration Statement No. 333-89149
- (10)
- (i) Cooper Tire & Rubber Company Executive Financial Planning Assistance is incorporated herein by reference from Exhibit (10) of the Company's Form 10-Q for the quarter ended September 30, 2000 *
 - (ii) Second Amended and Restated Employment Agreement dated as of February 6, 2002 between Cooper Tire & Rubber Company and Thomas A. Dattilo is incorporated herein by reference from Exhibit (10)(ii) of the Company's Form 10-K for the year ended December 31, 2001 *
 - (iii) First Amendment to Amended and Restated Employment Agreement dated as of July 18, 2003 between Cooper Tire & Rubber Company and Thomas A. Dattilo is incorporated herein by reference from Exhibit (10) of the Company's Form 10-Q for the quarter ended June 30, 2003 *
 - (iv) Employment Agreement dated as of June 6, 2000 between Cooper Tire & Rubber Company and Philip G. Weaver is incorporated herein by reference from Exhibit (10)(v) of the Company's Form 10-K for the year ended December 31, 2001 *
 - (v) Employment Agreement dated as of July 17, 2002 between Cooper Tire & Rubber Company and D. Richard Stephens incorporated herein by reference from Exhibit (10)(ii) of the Company's Form 10-Q for the quarter ended September 30, 2002 *

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- (vi) First Amendment to Employment Agreement dated as of February 4, 2004 between Cooper Tire & Rubber Company and D. Richard Stephens incorporated herein by reference from Exhibit (10)(i) of the Company's Form 10-Q for the quarter ended March 31, 2004 *
 - (vii) Description of management contracts, compensatory plans, contracts, or arrangements will be herein incorporated by reference from the Company's Proxy Statement dated March 24, 2005 *
 - (viii) Amended and Restated Credit Agreement dated as of September 1, 2000 by and among Cooper Tire & Rubber Company, the Banks and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10)(i) of the Company's Form 10-Q for the quarter ended March 31, 2001
 - (ix) Amendment No. 1 to the Amended and Restated Credit Agreement dated as of March 27, 2001 by and among Cooper Tire & Rubber Company, the Banks and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10)(ii) of the Company's Form 10-Q for the quarter ended March 31, 2001
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- (x) Amendment No. 2 to the Amended and Restated Credit Agreement dated as of August 30, 2001 among Cooper Tire & Rubber Company, the Banks, and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10)(i) of the Company's Form 10-Q for the quarter ended September 30, 2001
- (xi) Amendment No. 3 to the Amended and Restated Credit Agreement dated as of September 30, 2001 among Cooper Tire & Rubber Company, the Banks, and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10)(ii) of the Company's Form 10-Q for the quarter ended September 30, 2001
- (xii) Amendment No. 4 to the Amended and Restated Credit Agreement dated as of November 1, 2001 among Cooper Tire & Rubber Company, the Banks, and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10)(iii) of the Company's Form 10-Q for the quarter ended September 30, 2001
- (xiii) Amendment No. 5 to the Amended and Restated Credit Agreement dated as of December 21, 2001 among Cooper Tire & Rubber Company, the Banks, and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10)(xiii) of the Company's Form 10-K for the year ended December 31, 2001
- (xiv) Amendment No. 6 to the Amended and Restated Credit Agreement dated as of August 29, 2002 among Cooper Tire & Rubber Company, the Banks, and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10)(i) of the Company's Form 10-Q for the quarter ended September 30, 2002
- (xv) Amendment No. 7 to the Amended and Restated Credit Agreement dated as of August 28, 2003 among Cooper Tire & Rubber Company, the Banks, and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10) of the Company's Form 10-Q for the quarter ended September 30, 2003
- (xvi) Amendment No. 8 to the Amended and Restated Credit Agreement dated as of June 30, 2004 among Cooper Tire & Rubber Company, the Banks, and PNC Bank, National Association, as agent for the Banks is incorporated herein by reference from Exhibit (10) of the Company's Form 10-Q for the quarter ended June 30, 2004
- (xvii) 1986 Incentive Stock Option Plan is incorporated herein by reference from the Appendix to the Company's Proxy Statement dated March 21, 1986 *
- (xviii) 1991 Stock Option Plan for Non-Employee Directors is incorporated herein by reference from the Appendix to the Company's Proxy Statement dated March 26, 1991 *
- (xix) 1996 Stock Option Plan is incorporated herein by reference from the Appendix to the Company's Proxy Statement dated March 26, 1996 *
- (xx) 1998 Incentive Compensation Plan and 1998 Employee Stock Option Plan are incorporated herein by reference from the Appendix to the Company's Proxy Statement dated March 24, 1998 *
- (xxi) Amended and Restated 1998 Non-Employee Directors Compensation Deferral Plan *

- (xxii) 2001 Incentive Compensation Plan is incorporated herein by reference from the Appendix A to the Company's Proxy Statement dated March 20, 2001 *
 - (xxiii) Executive Deferred Compensation Plan is incorporated herein by reference from Exhibit (10)(iv) of the Company's Form 10-Q for the quarter ended September 30, 2001 *
 - (xxiv) 2002 Non-Employee Directors Stock Option Plan is incorporated herein by reference from Appendix A to the Company's Proxy Statement dated March 27, 2002 *
 - (xxv) Stock Purchase Agreement dated as of September 16, 2004 by and among Cooper Tire & Rubber Company, Cooper Tyre & Rubber Company UK Limited and CSA Acquisition Corp. is incorporated herein by reference from Exhibit (10) of the Company's Form 10-Q for the quarter ended September 30, 2004
 - (xxvi) First Amendment to Stock Purchase Agreement dated as of December 3, 2004 by and among Cooper Tire & Rubber Company, Cooper Tyre & Rubber Company UK Limited and CSA Acquisition Corp.
 - (xxvii) Strategic Subscription Agreement dated as of January 7, 2005 between Kumho Tire Co., Inc. and Cooper Tire & Rubber Company
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- (13) Annual report to security holders, Form 10-Q or quarterly report to security holders
- (21) Subsidiaries of the Registrant
- (23) Consent of Independent Registered Public Accounting Firm
- (24) Power of Attorney
- (31.1) Certification of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Exchange Act #
- (31.2) Certification of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Exchange Act #
- (32) Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

* Indicates management contracts or compensatory plans or arrangements.

Filed with the Registrant's original Annual Report on Form 10-K for the year ended December 31, 2004, which was originally filed on March 11, 2005.

Filed herewith.