

noncompliance. Mazda then concluded that the vehicles equipped with the affected headlamps failed to comply with paragraph S7.2(b) of FMVSS No. 108.

Mazda stated the following reasons why they believe the noncompliance is inconsequential to vehicle safety and does not present a risk to motor vehicle safety:

The affected headlamps fulfill all the relevant performance requirements of FMVSS No. 108, except that trade name and/or trademark of the manufacturer or importer is missing on the lens. However, the affected headlamps have the trademark of the headlamp manufacturer on the rim of the headlamp housing. Thus, Mazda contends that this marking on the rim is visible with the vehicle's front hood open and states that it believes that the rim marking could assist the easy identification of the headlamp manufacturer by the users of the vehicles.

Mazda has not received any complaints or claims related to the noncompliance nor is it aware of any known reports of accidents or injuries attributed to the noncompliance.

In summary, Mazda states that it believes the noncompliance is inconsequential to motor vehicle safety because the affected headlamps fulfill all other relevant requirements of FMVSS No. 108.

The company also states that it has taken steps to correct the noncompliance in future production.

Supported by the above stated reasons, Mazda believes that the subject noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: By logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment Closing Date: November 22, 2010.

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

Issued on: October 15, 2010.

Claude H. Harris,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 2010-26425 Filed 10-20-10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0137; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

General Motors, LLC (GM),¹ has determined that certain 2008 through 2010 Model Year Chevrolet Malibu passenger cars equipped with automatic transmissions and manufactured between May 2007 through March 2010 do not fully meet the requirements of paragraph S3.1.4.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect*. GM filed an appropriate report pursuant to 49 CFR part 573 *Defect and Noncompliance Responsibility and Reports*, dated March 30, 2010.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), GM has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition 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 petition.

A total of 462,227² model year 2008, 2009 and 2010 Chevrolet Malibu passenger cars manufactured during the period May 2007 through March 2010 are potentially affected by the subject noncompliance.

Paragraph S3.1.4.1 of FMVSS No. 102 requires:

Except as specified in S3.1.4.3, if the transmission shift position sequence includes a park position, identification of shift positions, including the positions in relation to each other and the position selected, shall be displayed in view of the driver whenever any of the following conditions exist:

(a) The ignition is in a position where the transmission can be shifted; or

¹ General Motors, LLC (GM) is a Michigan corporation that manufactures motor vehicles.

² GM's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt GM from the notification and recall responsibilities of 49 CFR part 573 for as many as 462,227 of the affected vehicles. However, the agency cannot relieve GM's distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM recognized that the subject noncompliance existed. Those vehicles must be brought into conformance, exported, or destroyed.

(b) The transmission is not in park.

GM described the noncompliance as the absence of the required transmission shift position display for a certain ignition key cylinder position. GM explained that while the key is in the ignition there is a narrow ignition key cylinder position between the "ACC" and "OFF" positions within which the transmission shift lever can be moved and the indicator light that illuminates the transmission shift position display is inoperative. The Company added that this noncompliance only occurs when the engine is not running.

GM additionally stated that in all other ignition activation and operation positions, all of the subject vehicles comply with paragraph S3.1.4.1 of FMVSS No. 102.

GM argued its belief that the subject noncompliance is inconsequential to motor vehicle safety because:

As NHTSA recognized in proposing the standard (49 FR 32409–32411 (August 25, 1988)), the purpose of the display requirement for PRNDM information is to "provide the driver with transmission position information for the vehicle conditions where such information can reduce the likelihood of shifting errors." Thus, in all but the rarest circumstances, the primary function of the PRNDM display is to inform the driver of gear selection and relative position of the gears while the engine is running. All of the subject vehicles display PRNDM information whenever the ignition switch is in the "On" or "Run" position.

With the exception of the absence of the required transmission shift position display for one narrow ignition key cylinder position, the system meets all other applicable requirements of FMVSS No. 102.

GM has no record of any incidents, injuries, owner complaints or field reports related to this noncompliance. GM added that if a customer reports this problem to them and requests a remedy, the Company will replace the ignition switch with a conforming component.

Since this noncompliance only occurs during an atypical operation, the noncompliance is not likely to occur under normal driving conditions. The only circumstance where the noncompliance would appear is if the ignition switch is in the intermediary position between the "OFF" and "ACC" detent positions prior to the interlock. In order for this condition to be present, a driver would have to first move the transmission control to "PARK." In such a case, there are two possible scenarios for the driver: 1) leaving the vehicle with the key in the ignition or 2) remaining in the vehicle. GM provides the following analysis for both scenarios:

1. The driver exits the vehicle while leaving the key in the ignition:

If the driver attempted to remove the key before exiting the vehicle, the key would not be capable of removal. The doors may also still be locked if they are in the factory default setting to unlock in the "PARK" position.

As required by S5.1.3 of FMVSS 114, GM provides an audible warning to the driver that activates whenever the key has been left in the ignition locking system and the driver's door is opened.

The Owner's Manual supplied with the vehicle provides specific warnings and instructions on ensuring the vehicle is in "PARK" and the key is removed before exiting the vehicle.

2. The driver remains in the vehicle:

If the driver remains in the vehicle, he or she would likely either restart the vehicle's engine or attempt to remove the key to exit the vehicle.

If the driver attempts to restart the engine, paragraph S3.1.3 of FMVSS No. 102 requires that the starter be inoperative whenever the vehicle's transmission shift position is in a forward or reverse drive position. The driver rotating the ignition switch forward attempting to start the engine will definitely activate the PRNDM display. Therefore, the PRNDM information will be available to the driver who can see that the vehicle did not start because the transmission was not in "Park" or "Neutral".

GM says that because both of these situations are addressed by FMVSS requirements, a lack of a transmission shift position display in either of these cases may constitute a minor inconvenience, but will have no consequence to safety. In addition, GM stated that NHTSA has previously granted similar petitions on 3 occasions.

Furthermore, GM also stated the following:

GM recognizes that there may be isolated non-driving situations in which a person may desire to know gear selection or the relative position of the gears with the engine off, such as when placing the vehicle in tow. However, these cases occur infrequently and do not occur during normal ignition activation and vehicle operation. If the subject condition [noncompliance] is present during these infrequent non-driving situations when PRNDM information may be desired, gear selection and relative positioning can easily be determined by rotating the ignition switch slightly clockwise past the accessory "ACC" detent to activate the shift indicator display without starting the vehicle's engine. Given the nature of these non-driving situations and since the information can be readily obtained with a slight key rotation, GM believes that the subject condition [noncompliance] will have no real or implied degradation of motor vehicle safety.

GM stated that previous rulemakings and NHTSA decisions on several previous inconsequential noncompliance petitions further support its position that the subject noncompliances are inconsequential to motor vehicle safety.

GM also indicated that it has corrected the problem that caused the subject noncompliance so that it cannot reoccur in future production.

In view of the above, GM believes that the described noncompliance is inconsequential and does not present a

risk to motor vehicle safety. Thus, GM requests that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

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Comment closing date: November 22, 2010.

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

Issued on: October 14, 2010.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2010–26426 Filed 10–20–10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2010–0202]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt thirty-nine individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective October 21, 2010. The exemptions expire on October 22, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, fmcsamedical@dot.gov, FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf>.

Background

On August 27, 2010, FMCSA published a notice of receipt of Federal diabetes exemption applications from thirty-nine individuals and requested comments from the public (75 FR 52809). The public comment period closed on September 27, 2010 and no comments were received.

FMCSA has evaluated the eligibility of the thirty-nine applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that “A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control” (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled “A Report to Congress on the Feasibility of a Program To Qualify Individuals with Insulin-Treated Diabetes Mellitus To Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.” The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441)

Federal Register notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These thirty-nine applicants have had ITDM over a range of 1 to 33 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the August 27, 2010, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comment

FMCSA did not receive any comments in this proceeding.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly