

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 No. 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 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 Decision:** NHTSA agrees with GM that the noncompliance is inconsequential to motor vehicle safety. As the agency noted in the past (53 FR 32409, August 25, 1988), the purpose of the PRNDL information display requirement is to "provide the driver with transmission position information for the vehicle conditions where such information can reduce the likelihood of shifting errors." In all but the rarest circumstances, the primary function of the transmission display is to inform the driver of gear selection and relative position of the gears while the engine is running. In this case, the selected gear position and PRNDL display are always visible when the engine is running. Therefore, as GM stated, the vehicles will be in compliance with FMVSS No. 102 during normal ignition activation and vehicle operation.

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. Therefore, this decision only applies to the 462,227<sup>2</sup> vehicles that GM no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles.

In consideration of the foregoing, NHTSA has decided that GM has met its burden of persuasion that the subject FMVSS No. 102 noncompliance is inconsequential to motor vehicle safety. Accordingly, GM's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

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

Issued on: November 18, 2011.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0080; Notice 2]

#### Goodyear Tire and Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Grant of Petition for Decision of Inconsequential Noncompliance.

**SUMMARY:** Goodyear Tire and Rubber Company, (Goodyear),<sup>1</sup> has determined that approximately 14,826 passenger car replacement tires manufactured between August of 2007 and May of 2009, do not fully comply with paragraph S5.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Goodyear has filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance*

<sup>2</sup> 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 granting of this petition does not 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.

<sup>1</sup> Goodyear Tire and Rubber Company (Goodyear) a replacement equipment manufacturer is incorporated in the state of Ohio.

*Responsibility and Reports (Dated July 8, 2009).*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Goodyear 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.

Notice of receipt of Goodyear's petition was published, with a 30-day public comment period, on June 25, 2010, in the **Federal Register** (75 FR 36472). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2010-0080."

For further information on this decision, contact Mr. George Gillespie, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5299, facsimile (202) 366-7002.

Affected are approximately 14,826 sizes P195/55R15 84V and P225/60R16 97H Goodyear brand Arizonian Silver Edition Plus model passenger car tires manufactured between August of 2007 and May of 2009 at Goodyear's plant located in Otrokovice, Czech Republic.

Goodyear explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the reference side of the tires incorrectly describes the actual number of plies in the tread area of the tires as required by paragraph S5.5(f). Specifically, the tires in question were inadvertently manufactured with "Tread Plies: 2 Polyester + 2 steel." The labeling should have been "Tread Plies: 2 Polyester + 1 polyamide + 2 steel."

Goodyear also explains that while the non-compliant tires are mislabeled "the tires meet or exceed all applicable Federal Motor Vehicle Safety Standards."

Goodyear argues that this noncompliance is inconsequential to motor vehicle safety because the noncompliant sidewall marking does not create an unsafe condition and all other labeling requirements have been met.

Goodyear points out that NHTSA has previously granted similar petitions for noncompliances in sidewall marking.

Goodyear additionally states that it has corrected the affected tire molds and all future production will have the correct material shown on the sidewall.

In summation, Goodyear believes that the described noncompliance of its tires to meet the requirements of FMVSS No.

139 is inconsequential to motor vehicle safety, and that its petition, to exempt 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, and should be granted.

**NHTSA Decision:** The agency agrees with Goodyear that the noncompliances are inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliances on the operational safety of the vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered. Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the ply material in a tire.

The agency also believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, since the tire sidewalls do not contain steel plies, this potential safety concern does not exist.

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. Therefore, this decision only applies to the 14,826<sup>2</sup>

<sup>2</sup> Goodyear's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt Goodyear as a manufacturer from the notification and recall responsibilities of 49 CFR part 573 for the affected vehicles. However, a decision on this petition cannot relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction

tires that Goodyear no longer controlled at the time that it determined that a noncompliance existed in the subject tires.

In consideration of the foregoing, NHTSA has decided that Goodyear has met its burden of persuasion that the subject FMVSS No. 139 labeling noncompliances are inconsequential to motor vehicle safety. Accordingly, Goodyear's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

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

Issued on: November 18, 2011.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0152]

#### Technical Report on Fatality Risk, Mass, and Footprint of Model Year 2000-2007 Passenger Cars and LTVs

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Request for comments on technical report.

**SUMMARY:** This notice announces NHTSA's publication of a technical report describing relationships between a vehicle's mass, footprint (size), and body type and its rate of involvement in fatal crashes. The report's title is: *Relationships Between Fatality Risk, Mass, and Footprint in Model Year 2000-2007 Passenger Cars and LTVs—Preliminary Report.*

**DATES:** Comments must be received no later than January 27, 2012.

#### ADDRESSES:

**Report:** The technical report is available on the Internet for viewing on line or downloading in PDF format at the Federal eRulemaking Portal. It is item no. 0023 in Docket No. NHTSA-2010-0152. You may access it by going to <http://www.regulations.gov>, typing NHTSA-2010-0152-0023 in the box under "Enter Keyword or ID" and

into interstate commerce of the noncompliant vehicles under their control after Goodyear notified them that the subject noncompliance existed.