

pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, BMW 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 the petition was published, with a 30-day public comment period, on June 25, 2012 in the **Federal Register** (77 FR 37956.) No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2012-0075."

Contact Information: For further information on this decision contact Ms. Amina Fisher, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-1018, facsimile (202) 366-5930.

Vehicles Involved: Affected are approximately 364 MY 2012 BMW X6M SAV MPVs manufactured between April 1, 2011 and March 23, 2012.

Rule Text: Section S4.3(b) of FMVSS No. 110 specifically states:

S4.3 (b) Placard. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. * * *

b) Designated seated capacity (expressed in terms of total number of occupants and number of occupants for each front and rear seat location); * * *

Summary of BMW'S Analyses: BMW explains that the noncompliance is that the tire placard on the affected vehicles incorrectly identifies the rear designated seating capacity as "2" when in fact it should be "3," and the total designated seating capacity as "4" when in fact it should be "5."

BMW states that while the tire placard incorrectly identifies the vehicle seating capacity, this noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. It would become clear to a vehicle owner that the rear seat of the affected vehicles contains three sets of seat belts, and provides adequate space for three people to occupy the rear seat and that the vehicle in fact does accommodate five passengers not four as labeled.

2. The tire pressure value on the tire placard is correct. In fact, the

recommended tire inflation pressure for both the five passenger and the four passenger vehicles is the same.

Therefore, there is no risk of under-inflation.

3. The vehicle capacity weight listed on the tire placard is correct, and is the same for X6M model vehicles built for four or five occupants. Therefore, there is no risk of overloading.

4. The vehicle's Monroney label contains a listing of all options that have been equipped on the affected vehicles. The option regarding the rear seat for three occupants is noted on the Monroney label; therefore, an owner would have been notified at time of purchase of the vehicle that the rear seat is equipped to accommodate three occupants.

5. The vehicle Owner's Manual contains information pertaining to the vehicle's tires, tire pressure, and the vehicle capacity weight. Therefore, if owners check the Owner's Manual, correct information is available for their use.

6. BMW also offers Roadside Assistance™ and BMW Assist™ which are available 24 hours/day with representatives that are available to provide drivers with all of the available tires sizes and specifications for the affected vehicles.

7. BMW has received no customer complaints and are unaware of any accidents or injuries regarding this noncompliance of the affected vehicles.

BMW has additionally informed NHTSA that it has corrected future production and that all other required markings are present and correct.

BMW also expressed its belief that NHTSA has previously granted similar petitions.

In summation, BMW believes that the described noncompliance of the subject vehicles 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 should be granted.

NHTSA Decision: NHTSA has reviewed and accepts BMW's analyses that the noncompliance is inconsequential to motor vehicle safety. BMW has provided sufficient documentation that other than the labeling error, the vehicles comply with all other safety performance requirements of FMVSS No. 110. Since the correct information is provided in other locations, BMW has met its burden of persuasion. Accordingly, BMW's petition is hereby granted, and BMW is exempted from the obligation of

providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

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 364 vehicles that BMW no longer controlled at the time it determined that a noncompliance existed. However, the granting of this petition does not relieve 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 BMW notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Issued on: July 9, 2013.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0147; Notice 1]

American Honda Motor Co., Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: American Honda Motor Co., Inc. (Honda) ¹ has determined that the tire pressure monitoring system (TPMS) low tire pressure warning for certain model year (MY) 2011 and 2012 Acura TSX passenger cars equipped with accessory 18-inch diameter wheels sold at Honda dealerships do not comply with paragraph S4.2(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 138 *Tire Pressure Monitoring Systems*. Honda has filed an appropriate report dated September 27, 2012, pursuant to 49 CFR Part 573, *Defect and*

¹ American Honda Motor Co., Inc. is manufacturer of motor vehicles and is registered under the laws of the state of California.

Noncompliance Responsibility and Reports.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Honda submitted a petition 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 Honda'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.

Vehicles involved: Affected are approximately 212 model years 2011 and 2012 Acura TSX passenger cars equipped with accessory 18-inch diameter wheels sold at Honda dealerships.

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, these provisions only apply to the subject 212² vehicles that Honda no longer controlled at the time it determined that the noncompliance existed.

Noncompliance: Honda explains that the noncompliance is that when the accessory wheels and tires are installed on the subject vehicles, the preset TPMS warning level cannot be adjusted to warn at a higher cold inflation pressure for the accessory tires. The TPMS system on these vehicles is set for the OEM 17-inch diameter wheels with recommended 230kPa (33psi), not the accessory 18-inch wheels with recommended 260kPa (38psi).

The TPMS warning level is based on the OEM tires, which is no lower than 183kPa (26.5psi), while the accessory wheel should be set to warn at no lower than 204kPa (29.5psi). Therefore, the vehicles do not comply with paragraph S4.2(a) of FMVSS No. 138.

² Honda's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt Honda as a motor vehicle manufacturer from the notification and recall responsibilities of 49 CFR part 573 for the affected vehicles. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicles under their control after Honda notified them that the subject noncompliance existed.

Rule text: Paragraph S4.2(a) of FMVSS No. 138 requires in pertinent part:

S4.2 *TPMS detection requirements.* The tire pressure monitoring system must:

(a) Illuminate a low tire pressure warning telltale not more than 20 minutes after the inflation pressure in one or more of the vehicle's tires, up to a total of four tires, is equal to or less than either the pressure 25 percent below the vehicle manufacturer's recommended cold inflation pressure, or the pressure specified in the 3rd column of Table 1 of this standard for the corresponding type of tire, whichever is higher;

Summary of Honda's Analysis and Arguments

A total of approximately 848 wheels, or 212 complete wheel sets, were sold to Acura dealerships by Honda between November 2010 and April 2012. These wheels were sold with a replacement tire pressure placard, in accordance with the requirements of FMVSS No. 110 "Tire Selection and Rims", indicating an inflation pressure of 260kPa (38psi) for the recommended 225/45ZR 18 tire size with an 95Y load capacity rating. There have been no reports of crashes, injuries or death as a result of the accessory tire being used with the standard TPMS threshold.

After the beginning of retail sales of 2012 model year Acura TSX models Honda discovered that the recommended electronic method of updating the TPMS setting for these accessory wheels would incorrectly inform technicians that the adjustments had been completed successfully. The result is that the TPMS warning threshold remains at the standard setting for the OEM 17-inch diameter wheels of not less than 183kPa (26.5psi) for the standard recommended tire pressure of 230kPa (33psi). The minimum allowable TPMS threshold for the 18-inch diameter accessory wheels would be 193kPa (28psi), based on the recommended pressure of 260kPa (38psi) as indicated on the tire pressure placard.

Honda believes that this noncompliance is inconsequential to motor vehicle safety because even at the lower TPMS threshold, adequate load capacity remains for the tires on these vehicles. Honda indicated that it also conducted dynamic testing to confirm that the handling and stability of the vehicle is not adversely affected at the lower pressures.

The maximum load capacity for each of the P225/45ZR 18 95Y tires for this vehicle is 575 kilograms (1,268 lbs) at 230kPa (33psi), calculated using the Japan Automotive Tyre Manufacturer's Association (JATMA) method, as recognized by NHTSA in FMVSS No.

110. The maximum allowable load according to the Gross Axle Weight Ratings (GAWR) for a 2011 or 2012 Acura TSX is 546.6 kilograms (1,207.2 lbs) for each front tire and 514.9 kilograms (1,135 lbs) for each rear tire, well within the load capacity specified by JATMA.

At 80% of the lower pressure for the OEM 17-inch tires (230kPa (33psi), as opposed to the 260kPa (38psi) recommended on the tire pressure placard for the 18-inch accessory tires), the low tire pressure indicator will illuminate at 183kPa (26.5psi).

Honda has additionally informed NHTSA that it has corrected the noncompliance so that all future vehicles will comply with FMVSS No. 138.

In summation, Honda believes that the described noncompliance of its vehicles 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 should be granted.

Comments: 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 a.m. to 5 p.m. 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: August 21, 2013.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Issued on: July 9, 2013.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0115; Notice 2]

Mercedes-Benz USA, LLC, on Behalf of Daimler AG, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition .

SUMMARY: Mercedes-Benz USA, LLC (MBUSA), ¹ on behalf of itself and its parent company Daimler AG (DAG),² has determined that certain model year (MY) 2012 Mercedes-Benz C-Class (204 platform) passenger cars manufactured between March and August 2011, do not fully comply with paragraph S4.3(d) of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire selection and rims and motor home/recreation vehicle*

trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less. MBUSA has filed an appropriate report dated May 4, 2012, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, MBUSA 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 the petition was published, with a 30-day public comment period, on September 13, 2012 in the **Federal Register** (77 FR 56698). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2012–0115.”

Contact Information: For further information on this decision contact Ms. Amina Fisher, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–1018, facsimile (202) 366–5930.

Vehicles Involved: Affected are approximately 1,479 MY 2012 Mercedes-Benz C-Class (204 platform) passenger vehicles manufactured between March and August 2011.

Rule Text: Section S4.3(d) of FMVSS No. 110 specifically states:

S4.3 *Placard.* Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. * * *

(b) Tire size designation, indicated by the headings “size” or “original tire size” or “original size,” and “spare tire” or “spare,” for the tires installed at the time of the first purchase for purposes other than resale. * * *

Summary of MBUSA'S Analyses:

MBUSA explains that the noncompliance is that the vehicle placard on the affected vehicles incorrectly identifies the tire size designation of the spare tire in the vehicle.

MBUSA explains that while the vehicle placard incorrectly identifies the designated spare tire size corresponding to the actual size of the spare tire originally installed in the vehicle, the recommended cold tire inflation pressure for the spare tire is correctly

stated. In addition, all information required under S4.3 for maintaining and replacing the front and rear tires, as well as vehicle weight and seating capacity, is correct.

MBUSA also stated that if a vehicle owner were to question the correct spare tire size they would be able to check the size by comparing it with the size stamped on the sidewall of the originally provided spare tire. If the vehicle owner were to attempt to put a spare tire of the size indicated on the vehicle placard on the spare tire rim originally provided with the vehicle, it would be immediately apparent that the tire is too large to be installed on the rim and hold any inflation pressure. Both the actually provided spare tire and a tire of the size indicated on the vehicle placard for the spare tire meet the FMVSS No. 110 loading requirements at the recommended cold inflation pressure stated on the vehicle placard. Both the originally installed spare tire and a spare tire of the size listed on the vehicle placard, when inflated to the labeled recommended cold inflation pressure, are appropriate to handle the vehicle maximum loads.

MBUSA has additionally informed NHTSA that it has corrected future production and that all other required markings are present and correct.

MBUSA is not aware of any incidents or customer complaints related to the noncompliant vehicle placard.

MBUSA also expressed its belief that NHTSA has previously granted similar petitions.

In summation, MBUSA believes that the described noncompliance of the subject vehicles 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 should be granted.

NHTSA Decision: NHTSA has reviewed and accepts MBUSA's analyses that the noncompliance is inconsequential to motor vehicle safety. MBUSA has provided sufficient documentation that other than the vehicle placard error, the vehicles comply with all other safety performance requirements of FMVSS No. 110. Since the correct information is provided in other locations, MBUSA has met its burden of persuasion. Accordingly, MBUSA's petition is hereby granted, and MBUSA is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

¹ Mercedes-Benz USA, LLC is a U.S. company that manufactures and imports motor vehicles.

² Daimler AG is a German company that manufactures motor vehicles.