

(A) CTA believes that the mislabeling of the number of plies on the subject tires has no impact on the operational performance of the subject tires or on the safety of vehicles on which these tires are to be mounted. CTA states that the subject tires also meet or exceed all of the performance requirements specified by FMVSS No. 139.

(B) CTA states that they are unaware of any accidents or injuries that have occurred as a result of this noncompliance.

(C) CTA states that NHTSA has previously granted similar petitions for Inconsequential Noncompliances in the past.

CTA has additionally informed NHTSA that it has corrected the subject noncompliance.

In summation, CTA believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt CTA 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's Decision

*NHTSA's Analysis of CTA's Arguments:* The agency agrees with CTA that the noncompliance is 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 noncompliance 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 to 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 judgement, 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 number of plies in a tire.

The agency believes the noncompliance will have no measureable effect on the safety of 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 sidewall is marked correctly for the number of steel plies, this potential safety concern does not exist.

*NHTSA's Decision:* In consideration of the foregoing, NHTSA has decided that CTA has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, CTA's petition is hereby granted and CTA is exempted from the obligation of providing notification of, and remedy for the subject noncompliance.

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 subject tires that CTA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after CTA 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).

**Jeffrey Giuseppe,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0040; Notice 1]

#### BMW of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** BMW of North America, LLC, (BMW) a subsidiary of BMW AG in Munich, Germany, has determined that certain model year (MY) 2013 BMW 5

Series sedan passenger vehicles do not fully comply with paragraph S8.1.11 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices and Associated Equipment*. BMW has filed an appropriate report dated March 26, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**DATES:** The closing date for comments on the petition is July 13, 2015.

**ADDRESSES:** 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 submitted by any of the following methods:

- **Mail:** Send comments 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.

- **Hand Deliver:** Deliver comments by hand 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.

- **Electronically:** Submit comments 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 (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.

#### SUPPLEMENTARY INFORMATION:

##### I. BMW's Petition

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

##### II. Vehicles Involved

Affected are approximately 13,899 MY 2013 BMW 5 Series sedan passenger cars manufactured between January 30, 2013 and June 28, 2013.

##### III. Noncompliance

BMW explains that the noncompliance is that some of the rear reflex reflectors on the affected vehicles do not fully conform to the minimum photometry performance required by paragraph S8.1.11 of FMVSS No. 108.

##### IV. Rule Text

Paragraph S8.1.11 of FMVSS No. 108 requires in pertinent part:

S8.1.11 *Photometry*. Each reflex reflector must be designed to conform to the photometry requirements of Table XVI-a when tested according to the procedure of S14.2.3 for the reflex reflector color as specified by this section.

##### V. Summary of BMW's Analyses

BMW used Ricco's Law to determine a minimum required reflection coefficient in its analysis. BMW chose Ricco's Law because they believe it best corresponds to the human physiological condition in which a light source of a given size and intensity is minimally capable (*i.e.* illumination threshold) of producing visual perception.

As such, BMW created a graph whereby the y-axis represented the reflection coefficient in units consistent with FMVSS No. 108. While the x-axis represented the distance between two vehicles in order to simulate the condition of an approaching vehicle and a parked or stopped vehicle.

BMW provided the graph to illustrate that even with parameters representing a "worst-case scenario," sufficient visibility of the rear reflex reflectors of the affected vehicles exists.

BMW stated that it has not received any contacts from vehicle owners or other road users regarding issues related to the subject noncompliance and is also not aware of any accidents or injuries that have occurred as a result of this issue.

BMW has additionally informed NHTSA that it has corrected the noncompliance so that subsequent vehicle production will conform to paragraph 8.1.11 of FMVSS No. 108.

In summation, BMW believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt BMW 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. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle 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).

**Jeffrey Giuseppe,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0041; Notice 1]

#### Tireco, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** Tireco, Inc., (Tireco) has determined that certain Tireco replacement tires do not fully comply with paragraph S6.5(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More than 4,536 Kilograms (10,000 pounds) and Motorcycles*. Tireco has filed an appropriate report dated March 30, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**DATES:** The closing date for comments on the petition is July 13, 2015.

**ADDRESSES:** 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 submitted by any of the following methods:

- *Mail:* Send comments 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.

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