In support of its petition, Cooper submitted the following information pertaining to the subject noncompliance:

(a) Cooper states that the mislabeled number of plies indicated on the sidewalls has no impact on the operational performance or durability of the subject tires or on the safety of vehicles on which those tires are mounted. Cooper states that while the subject tires do not indicate the correct number of plies in the tread on the outboard side, they meet all other performance requirements under the Federal Motor Vehicle Safety Standards. Cooper notes that the number of plies in the tread does not impact the performance or operation of a tire and does not create a safety concern to either the operator of the vehicle on which the tires are mounted, or the safety of personnel in the tire repair, retread and recycle industry.

(b) Cooper also states that the subject tires were built as designed and meet or exceed all performance requirements and testing requirements specified under FMVSS No. 139. Cooper states that the subject tires completed all Cooper Tire internal compliance testing criteria, including passing shipping certification testing in January 2016. In addition, the 215/60R16, Mastercraft LRS Grand Touring, serial week 1116, passed all surveillance testing conducted in early March 2016.

(c) Cooper states that the stamping deviation occurred as a result of an administrative error when incorrect information was entered into Cooper Tire’s electronic specification system at the corporate level. That system communicates information to the mold management system which in turn generates the construction stamping pocket plate. The electronic specification system incorrectly listed the specific tire sizes and brands as two-ply, when the tires were actually designed with an HPL construction or as having a single ply in the tread. The incorrect construction information was then engraved in the pocket plate and then installed in the affected molds.

(d) Cooper states that it is not aware of any crashes, injuries, customer complaints, or field reports associated with the mislabeling.

Cooper states that the mislabeling has been corrected at the corporate level and the pocket plates of the molds have been replaced, therefore, no additional tires will be manufactured or sold with the noncompliance. Cooper also states that it has conducted training with tire engineers at all levels, responsible for inputting information into the electronic specification system on the importance of the information they are submitting. Cooper observed that NHTSA has previously granted inconsequential noncompliance petitions regarding noncompliances that are similar to the subject noncompliance.

Cooper concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA’s Decision

NHTSA’s Analysis: The agency agrees with Cooper that the noncompliance is inconsequential to motor vehicle safety. The agency believes that one measure of inconsequenceality to motor vehicle safety in this case is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair and recycling industries must also be considered and is a measure of inconsequentiality.

Although tire construction affects the strength and durability of tires, 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 sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the 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 also believes the noncompliance will have no measureable 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 are marked correctly for the number of steel plies, this potential safety concern does not exist.

NHTSA’S Decision: In consideration of the foregoing, NHTSA finds that Cooper has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Cooper’s petition is hereby granted and Cooper is consequently exempted from the obligation of providing notification of, and a free 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 inconsequenceality allow NHTSA to exempt manufacturers only from 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 Cooper notified them that the subject noncompliance existed. Therefore, this decision only applies to the subject tires that Cooper no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment 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 Cooper notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120:

delegations of authority at 49 CFR 1.95 and 501.

Jeffrey M. Giuseppe, 
Director, Office of Vehicle Safety Compliance.

[FR Doc. 2017–06957 Filed 4–6–17; 8:45 am]
BILING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0127; Notice 1]

Toyota Motor Engineering & Manufacturing North America, Inc.,

Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

November 23, 2016, and provided a supplement to their petition on
December 12, 2016, for a decision that the subject noncompliance is
inconsequential as it relates to motor vehicle safety.

DATES: The closing date for comments on the petition is May 8, 2017.

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 in the title 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 Delivery: 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
  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 comments you have
submitted by mail were received, please
enclose a stamped, self-addressed
postcard with the comments. Note
that all comments received will be posted
without change to https://
www.regulations.gov, including any
personal information provided.

All comments and supporting
materials received before the close of
business on the closing date indicated
above will be filed in the docket and
will be considered. All comments and
supporting materials received after the
closing date will also be filed and will
be considered to the fullest extent
possible.

When the petition is granted or
denied, notice of the decision will also
be published in the Federal Register
pursuant to the authority indicated at
the end of this notice.

All comments, background
documentation, and supporting
materials submitted to the docket may
be viewed by anyone at the address and
times given above. The documents may
also be viewed on the Internet at https://
www.regulations.gov by following the
online instructions for accessing the
dockets. The docket ID number for this
petition is shown in the heading of this
notice.

DOT’s complete Privacy Act
Statement is available for review in a
Federal Register notice published on
April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview: Toyota Motor
Corporation (Toyota), has determined
that certain model year (MY) 2016–2017
Lexus RX350 and Lexus RX450H motor
vehicles do not fully comply with
paragraph S4.2 of Federal Motor Vehicle
Safety Standard (FMVSS) No. 302,
Flammability of Interior Materials.

Toyota filed a noncompliance
information report dated November 3,
2016, pursuant to 49 CFR part 573,
Defect and Noncompliance
Responsibility and Reports. Toyota also
petitioned NHTSA on November 23,
2016, pursuant to 49 U.S.C. 30118(d) and
30120(h) and 49 CFR part 556, for
an exemption from the notification and
remedy requirements of 49 U.S.C.
Chapter 301 on the basis that this
noncompliance is inconsequential as it
relates to motor vehicle safety.

This notice of receipt of Toyota’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: Approximately
102,075 MY 2016–2017 Lexus RX350
and Lexus RX450H motor vehicles
manufactured between September 29,
2015 and October 21, 2016, are
Potentially involved.

III. Noncompliance: Toyota explains
that the noncompliance is that the front
and rear seat covers and rear center
armrest assemblies in the subject
vehicles were manufactured with needle
punch felt material that does not meet
the burn rate requirements as specified in
paragraph S4.2 and S4.3 of FMVSS
No. 302.

IV. Rule Text: Paragraph S4.2 of
FMVSS No. 302 states:

S4.2 Any portion of a single or composite
material which is within 13 mm of the
occupant compartment air space shall meet
the requirements of S4.3.

Paragraph S4.3(a) of FMVSS No. 302
states:

When tested in accordance with S5,
material described in S4.1 and S4.2 shall not
burn, nor transmit a flame front across its
surface, at a rate of more than 102 mm per
minute. The requirement concerning
transmission of a flame front shall not apply
to a surface created by cutting a test
specimen for purposes of testing pursuant to
S5.

V. Summary of Toyota’s Petition:
Toyota described the subject
noncompliance and stated its belief that
the noncompliance is inconsequential
as it relates to motor vehicle safety.

In support of its petition, Toyota
submitted the following reasoning:

1. The front and rear seats in the
subject vehicles are constructed of
several layers of soft material mounted
on a steel seat frame. The layers of soft
material include a leather or synthetic
leather seating surface with a cover pad
laminated or laminated and sewn
underneath, and a needle punch felt
material attached to a seat cushion foam
pad. The needle punch felt material is
used to attach the cover subassembly to
the foam pad. The needle punch felt is
the only material that does not comply
with FMVSS No. 302 requirements. It
comprises up to approximately 0.32% of
the total mass of the soft material of the
front seat assembly, and between 0.48% and
0.55% of the total mass of the soft
material of the rear seat assembly, an
insignificant mass in relation to the total
interior vehicle surfaces required to
meet FMVSS No. 302.

2. The needle punch felt material
complies with FMVSS No. 302 when
tested as a “composite” as installed in
the vehicle, i.e., along with the
surrounding FMVSS No. 302 compliant
seat cover, cover pad, foam pad, seat
heater, carpet, and storage bin.

3. Toyota testing and design review
of the seat heater and its components
indicate that the chance of fire or flame
induced by a malfunctioning seat heater
is essentially zero.

4. The non-complying needle punch
felt material would normally not be
exposed to open flame or an ignition
source (like matches or cigarettes) in its
installed application, because it is
installed within or completely covered by
complying materials that meet
FMVSs No. 302.

5. The needle punch felt material is a
very small portion of the overall mass of
the soft material portions comprising
the entire seat assembly and is
significantly less in relation to the entire
vehicle interior surface area that could
potentially be exposed to flame.

Therefore, it would have an
insignificant adverse effect on interior
material burn rate and the potential for
occupant injury due to interior fire.

6. Toyota is not aware of any data
suggesting that fires have occurred in
the field due to the installation of

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non-complying needle punch felt material.

7. In similar situations, NHTSA has granted petitions for inconsequential noncompliance relating to FMVSS No. 302 requirements.

8. To emulate the potential real world conditions that could occur to the relevant soft material portions of the front and rear seats as they are assembled into the subject vehicles, Toyota conducted FMVSS No. 302 burn testing of the seating materials when assembled as a “composite.” Toyota chose locations to evaluate that were judged to potentially be the least flame resistant so as to be the most conservative in determining material performance.

Toyota determined synthetic leather to be the least flame resistant surface material to test based on review of the material construction as well as “composite” FMVSS No. 302 evaluations performed on the cover subassembly itself. Natural leather made from cow skin contains collagen fibers which are a non-flammable material. Synthetic leather is constructed of flammable urethane resin and polyester fibers which are treated with a flame retardant to achieve flammability requirements.

To identify the potentially least flame resistant “composite” sample locations to evaluate Toyota did a thorough design review and “composite” testing of the cover assemblies according to FMVSS No. 302 procedures. Toyota tested the cover subassembly for the seat back and cushions at 21 different locations where needle punch felt is used. All locations met FMVSS No. 302 criteria; however, the three locations with the fastest burn rate were selected for further testing as assembled in the subject vehicles. These locations were tested under various conditions to simulate open flame exposure inside the vehicle. The samples were tested in their installed condition; however, in locations where the seat foam is part of the “composite,” only the portion which is within the 13 mm of the occupant airspace specified by the standard was tested. When applicable, the seat heater was included in the “composite” in its “OFF” condition.

9. In order to evaluate any potential risk associated with the seat heater element as an internal ignition source, a design review and tests were conducted. The findings of the review and tests are outlined below:

<table>
<thead>
<tr>
<th>Part</th>
<th>Location</th>
<th>Seat Heater</th>
<th>Test Condition</th>
<th>Burn Rate, mm/min</th>
<th>FMVSS 302 Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Ft Back</td>
<td>U</td>
<td>N/A</td>
<td>1  2  3  4  5  6  7  8</td>
<td>N/A  37  33  45 N/A</td>
<td>ALL PASS</td>
</tr>
<tr>
<td>F-Sport Fr Cushion &amp; Back</td>
<td>C-C</td>
<td>N/A</td>
<td></td>
<td>0  5</td>
<td></td>
</tr>
<tr>
<td>All Rr Back</td>
<td>A-A</td>
<td>N/A</td>
<td></td>
<td>34 N/A</td>
<td></td>
</tr>
<tr>
<td>All Rr Amrrest</td>
<td>B-B</td>
<td>N/A</td>
<td></td>
<td>42</td>
<td></td>
</tr>
</tbody>
</table>

[ ] = Test condition is not relevant to the “composite” sample

As evidenced by testing in the table above, the needle punch felt material complies with FMVSS No. 302 when tested as a “Composite” as installed in the vehicle, i.e., along with the surrounding FMVSS No. 302 compliant cover sub-assembly parts, foam pad, seat heater, or storage bin. The non-complying needle punch felt material would not be exposed to open flame or an ignition source (like matches or cigarettes) in its installed application, because it is within or completely covered by complying materials that meet FMVSS No. 302. Given that the purpose of FMVSS No. 302 is to “reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes,” we believe that the noncompliant needle punch felt material as installed in the vehicle does not present a safety risk, and the chance of fire or flame propagation is essentially zero.

9. In order to evaluate any potential risk associated with the seat heater element as an internal ignition source, a design review and tests were conducted. The findings of the review and tests are outlined below:

a. In all locations, the needle punch felt material never comes in direct contact with a seat heater element wire.
b. The seat heater system has a self-diagnosis function. At ignition “ON” a system self-diagnosis check is performed to confirm that the switch, which consists of a relay and an IPD (Intelligent Power Device), is operating properly. If the diagnosis detects a fault in the relay and/or the IPD, the system would not allow the seat heater to be turned on. In the unlikely event both the relay and the IPD fail and are stuck in the open position after the self-diagnosis, each seat heater’s temperature is still regulated by its...
thermostat. Under normal design operating conditions, the thermostat restricts the temperature of the element wire in a range of approximately 50 °C to 100 °C, depending on the specific application. This temperature range is far below the auto-ignition temperature of the needle punch felt, which is approximately 253 °C.

c. The seat heater element wire used in the subject vehicle is of a design which eliminates the potential for localized “hot spots.” The heating element wire is comprised of multiple individual filaments insulated from each other by urethane coating. The filaments are connected to each other in parallel rather than in series. In the event that one or more of the filaments are damaged, there is no change in current through the seat heater wire, and therefore no increase in temperature.

Given the findings from the evaluation of the seat heater and its components, Toyota believes that the chance of ignition internal to the seat induced by a malfunctioning seat heater is essentially zero, and no safety risk is presented.

10. The needle punch felt material is one of several layers of the soft material of the seats which is used for securing components together, improving appearance, and reducing noise. For all seating areas the needle punch felt material is either encased between or covered by other materials which themselves comply with FMVSS No. 302 requirements.

In the vast majority of applications, the needle punch is encased by other FMVSS No. 302 materials. A typical construction consists of the leather seating surface on which an occupant sits. A cover pad is glued to the underside of the leather. The cover and cover pad each comply with FMVSS No. 302. The needle punch felt is sewn to the cover pad assembly, and when so equipped, a layer of seat heater material is attached to the underside, forming a cover sub-assembly. The seat heater complies with FMVSS No. 302 requirements. The cover sub-assembly is then tightly secured over the seat cushion pad foam or seat back pad foam to the seat structure with “hog” rings. The seat cushion and seat back foam each comply with FMVSS No. 302 requirements. When so secured, no portion of the needle punch felt material is visible or directly exposed to the occupant compartment. As constructed, it would be highly unlikely that the needle punch felt material would ever be exposed to ignition sources such as matches or cigarettes, identified in S2 of FMVSS No. 302 as a stated purpose of the standard. Because the needle punch felt is completely surrounded by FMVSS No. 302 compliant material, it would be extremely unlikely that a vehicle occupant would ever be exposed to a risk of injury as a result of the noncompliance.

11. The needle punch felt material is only a very small part of the overall mass of the soft material comprising the entire seat assembly (i.e. up to a maximum of 0.55% depending on the seat and vehicle model), and it is significantly less in relation to the entire vehicle interior surface area that could potentially be exposed to flame. Therefore, it would have an insignificant adverse effect on interior material burn rate and the potential for occupant injury due to interior fire.

12. There are no known field events involving ignition of the needle punch felt material as of November 22, 2016. Toyota is not aware of any fires, crashes, injuries or customer complaints involving this component in the subject vehicle.

13. NHTSA has previously granted at least nine FMVSS No. 302 petitions for inconsequential noncompliance, one of which was for a vehicle’s seat heater assemblies, one of which was for a vehicle’s console armrest, one of which was for large truck sleeper bedding, and six of which were for issues related to child restraints. For a full list along with summaries of the petitions that Toyota references please see Toyota’s petition.

Toyota stated that they have made improvements that were implemented as of October 21, 2016, to assure that any new vehicle sold by Toyota will meet all FMVSS No. 302 requirements. Toyota concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the 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 Toyota no longer controls 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 Toyota notified them that the subject noncompliance existed.


Jeffrey M. Giuseppe, Director, Office of Vehicle Safety Compliance.

[FR Doc. 2017–06955 Filed 4–6–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0129; Notice 1]

Toyota Motor Engineering & Manufacturing North America, 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: Toyota Motor Engineering & Manufacturing North America, Inc., on behalf of Toyota Motor Corporation and certain other specified Toyota manufacturing entities (collectively referred to as “Toyota”), has determined that certain model year (MY) 2016–2017 Lexus RX350 and Lexus RX450H motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 202a, Head Restraints. Toyota filed a noncompliance information report dated November 29, 2016. Toyota also petitioned NHTSA on December 21, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

DATES: The closing date for comments on the petition is May 8, 2017.

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 in the title 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 Delivery: Deliver comments by hand to U.S. Department of