



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0099; Notice 2]

Toyota Motor North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: Toyota Motor North America, Inc. (Toyota) has determined that certain model year (MY) 2019 – 2020 Toyota Tundra motor vehicles do not fully comply with 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*. Toyota filed a noncompliance report dated September 18, 2019. Toyota subsequently petitioned NHTSA on October 7, 2019, and later amended its petition on January 3, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of Toyota's petition.

FOR FURTHER INFORMATION CONTACT: Ahmad Barnes, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-7236.

SUPPLEMENTARY INFORMATION:

I. Overview: Toyota has determined that certain MY 2019 – 2020 Toyota Tundra motor vehicles do not fully comply with paragraph S4.3(d) of 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* (49 CFR 571.110).

Toyota filed a noncompliance report dated September 18, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Toyota subsequently petitioned NHTSA on October 7, 2019, and later amended that petition on January 3, 2020, 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, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of Toyota's petition was published with a 30-day public comment period, on February 27, 2020, in the Federal Register (85 FR 11446). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2019-0099."

II. Vehicles Involved: Approximately 1,667 MY 2019 - 2020 Toyota Tundra motor vehicles, manufactured between March 28, 2019, and August 19, 2019, are potentially involved.

III. Noncompliance Toyota explains that the noncompliance is that the subject vehicles have tire information labels that contain spare tire size information that does not match the installed spare tire size.

IV. Rule Requirements: Paragraph S4.3(d) of FMVSS No. 110 includes the requirements relevant to this petition. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in paragraph S4.3(d) 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. For full-size spare tires, the statement "see above" may, at the manufacturer's option replace the tire size designation. If no spare tire is provided, the word "none" must replace the tire size designation.

V. Summary of Toyota's Petition:

The following views and arguments presented in this section, V. Summary of Toyota's Petition, are the views and arguments provided by Toyota. They do not reflect the views of the Agency.

Toyota described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety. Toyota believes that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. Toyota states that there is no issue with the spare tire installed on the vehicle; it is a tire/wheel combination that is designed for this vehicle and meets all other applicable FMVSSs. In addition, the cold tire inflation pressure specified on the placard is correct and is the recommended pressure for both spare tire sizes.
 - a. Toyota claims that the spare tire installed on the vehicle (P255/70R18) meets all applicable FMVSSs. Furthermore, Toyota states, it is the appropriate temporary spare tire that was designed for the vehicle and meets the vehicle loading requirements. Only the spare tire size information indicated on the placard is incorrect and reflects the size of the spare that was used on the Tundra prior to a production change. All the other information on the placard is accurate, including the cold tire inflation pressure.
 - b. In addition, Toyota says that if the vehicle owner wanted to check the size of the spare tire that is installed on the vehicle, the information is in the owner's manual and is also molded into the spare tire sidewall.
 - c. Given the intent of FMVSS No. 110, S4.3(d), Toyota believes that, because the spare tire installed on the vehicle is the appropriate tire for the vehicle performance and loading requirements, there is no risk to motor vehicle safety.
2. According to Toyota, there is also no issue if the installed spare tire is replaced with one of the sizes indicated on the incorrect placard. This would also be a tire/wheel combination that is designed for this vehicle and would meet all other applicable

FMVSSs because the replacement spare tire would be the same size as the spare tire originally equipped on the Tundra prior to the production change and would be the same size as the four main tires on the subject vehicles.

- a. Toyota explains that the spare tire size indicated on the incorrect placard was also designed for the subject vehicles and meets all applicable FMVSSs. This spare tire wheel combination (P275/65R18) is the same size as the four main tires installed on the subject vehicles. It was used as a spare tire on the prior model year Tundra and on the 2019 MY Tundra prior to the adoption of the current spare tire size (P255/70R18).
 - b. In addition, the recommended spare tire inflation pressure and wheel size (R18) are the same for the subject vehicles as the prior model year Tundra.
 - c. Because both spare tire sizes are appropriate for the vehicle loading specifications, were designed for the subject vehicles, meet all applicable FMVSSs, and the wheel size and recommended tire pressure are the same, Toyota believes there is no risk to occupant safety should a P275/65R18 tire be used in place of the one equipped on the vehicle.
3. Toyota says it is unaware of any owner complaints, field reports, or allegations of hazardous circumstances concerning the incorrect spare tire placard in the subject vehicles. Toyota has searched its records for reports or other information concerning the tire placard and spare tire in the subject vehicles. No owner complaints, field reports, or allegations of hazardous circumstances concerning the placard or tire were found.
 4. Toyota says that NHTSA has previously granted at least five similar petitions for inconsequential noncompliance for inaccurate tire placards. Toyota provides a brief summary of each petition listed below:
 - a. *Daimler Chrysler Corporation, 73 FR 11462 (March 3, 2008)* Dodge Dakota pickup trucks had the spare tire size indicated on the placard

that did not match the size of the spare tire installed on the vehicle.

b. *Mercedes-Benz USA, LLC (MBUSA) 78 FR 43967 (July 22, 2013)*

Vehicle placard on the affected vehicles incorrectly identified the tire size designation of the spare tire in the vehicle.

c. *Volkswagen Group of America, Inc., 81 FR 88728 (December 8, 2016)*

Subject vehicles had a tire placard label that was misprinted with an incorrect tire size as compared to the tires the vehicle was equipped with.

d. *Mercedes-Benz USA, LLC, 82 FR 5640 (January 18, 2017)*

The tire information placard affixed to the vehicles' B-pillar incorrectly identified the spare tire size.

e. *General Motors, LLC, 84 FR 25117 (May 30, 2019)*

Subject vehicles were equipped tire placards that stated the spare tire size is "None" when in fact it should have been "T125/70R17" and omitted the cold tire pressure for the spare tire when it should have read "420 kPa, 60 psi".

Toyota concludes 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.

VI. NHTSA's Analysis:

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.¹

¹ See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods.*

In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.²

The purpose of the placard requirements in paragraph 4.3(d) of FMVSS No. 110 is to identify the tire size designation for the tires installed at the time of the first purchase for purposes other than resale.

As described by Toyota, due to a production change to change the spare tire size on vehicles equipped with a specific tire and wheel combination, the corresponding vehicle placard was not subsequently updated to reflect this change.

The spare tire installed on the vehicle (P255/70R18) is certified to meet all applicable FMVSSs. It is a temporary spare tire that was designed for the vehicle and meets the vehicle loading requirements. The spare tire indicated on the incorrect placard was also designed for the subject vehicles and is certified to meet all applicable FMVSSs. As a point of fact, this spare tire wheel combination (P275/65R18) is the same size as the four main tires installed on the subject vehicles. Furthermore, the recommended tire inflation pressures and wheel sizes are all the same.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Toyota has met its burden of persuasion that the subject FMVSS No. 110 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Toyota's petition is hereby granted.

Toyota 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.

Inc.; Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

² See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it "results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future").

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 on this petition only applies to the subject vehicles that Toyota no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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.

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

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