

CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES—Continued

Manufacturer and model	Mobile	Nonmobile
2000* .....		X
National Draeger, Inc., Durango, CO:		
Alcotest Model:		
7010* .....	X	X
7110* .....	X	X
7110 MKIII .....	X	X
7110 MKIII-C .....	X	X
7410 .....	X	X
7410 Plus .....	X	X
Breathalyzer Model:		
900* .....	X	X
900A* .....	X	X
900BG* .....	X	X
7410 .....	X	X
7410-II .....	X	X
National Patent Analytical Systems, Inc., Mansfield, OH:		
BAC DataMaster (with or without the Delta-1 accessory) .....	X	X
BAC Verifier DataMaster (with or without the Delta-1 accessory) .....	X	X
DataMaster cdm (with or without the Delta-1 accessory) .....	X	X
Omicron Systems, Palo Alto, CA:		
Intoxilyzer Model:		
4011* .....	X	X
4011AW* .....	X	X
Plus 4 Engineering, Minturn, CO: 5000 Plus4* .....	X	X
Seres, Paris, France:		
Alco Master .....	X	X
Alcopro .....	X	X
Siemans-Allis, Cherry Hill, NJ:		
Alcomat* .....	X	X
Alcomat F* .....	X	X
Smith and Wesson Electronics, Springfield, MA:		
Breathalyzer Model:		
900* .....	X	X
900A* .....	X	X
1000* .....	X	X
2000* .....	X	X
2000 (non-Humidity Sensor)* .....	X	X
Sound-Off, Inc., Hudsonville, MI:		
AlcoData .....	X	X
Seres Alco Master .....	X	X
Seres Alcopro .....	X	X
Stephenson Corp.: Breathalyzer 900* .....	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA:		
Alco-Analyzer 1000 .....		X
Alco-Analyzer 2000 .....		X
Alco-Analyzer 2100 .....	X	X
Verax Systems, Inc., Fairport, NY:		
BAC Verifier* .....	X	X
BAC Verifier Datamaster .....	X	X
BAC Verifier Datamaster II* .....	X	X

\*Instruments marked with an asterisk (\*) meet the Model Specifications detailed in 49 FR 48854 (December 14, 1984) (i.e., instruments tested at 0.000, 0.050, 0.101, and 0.151 BAC). Instruments not marked with an asterisk meet the Model Specifications detailed in 58 FR 48705 (September 17, 1993), and were tested at BACs = 0.000, 0.020, 0.040, 0.080, and 0.160. All instruments that meet the Model Specifications currently in effect (dated September 17, 1993) also meet the Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids.

(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501.1)

Issued on: July 9, 2004.

**Marilena Amoni,**

*Associate Administrator for Program Development and Delivery.*

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

[Docket No. NHTSA 2004-17623; Notice 2]

**Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance**

Cooper Tire & Rubber Company (Cooper) has determined that certain tires it manufactured during 2004 do not comply with S6.5(f) of Federal Motor

Vehicle Safety Standard (FMVSS) No. 119, "New pneumatic tires for vehicles other than passenger cars." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Notice of receipt of a petition was published, with a 30-day comment period, on May 7, 2004 in the **Federal**

**Register** (69 FR 25655). NHTSA received one comment.

S6.5(f) of FMVSS No. 119 requires that each tire shall be marked on each sidewall with "the actual number of plies and the composition of the ply cord material in the sidewall." Cooper produced approximately 148 size 11R24.5 Cooper and Mastercraft brand tubeless radial tires during the period from February 29, 2004 through March 6, 2004 that do not comply with FMVSS No. 119, S6.5(f). These tires were marked "tread 5 plies steel; sidewall 1 ply steel," when they should have been marked "tread 4 plies steel; sidewall 1 ply steel."

Cooper stated that the incorrect number of steel tread plies was removed from the molds by buffing and the correct number of steel tread plies inserted; however, prior to the molds being correctly stamped, 148 tires were inadvertently shipped.

Cooper stated that the incorrect number of steel tread plies on each tire does not present a safety issue. Cooper explained:

The involved tires have been redesigned by Cooper, and the fifth steel belt removed. This change was done to improve tread wear resistance and has no effect on the tire's ability to meet all applicable DOT testing standards. The certification data from the redesigned four steel ply construction showed no remarkable difference when compared to the equivalent certification data for the previous five ply steel construction. Both sets of data are well in excess of DOT requirements.

Cooper stated that the involved tires comply with all other requirements of FMVSS No. 119.

One comment was received in response to the notice of receipt. The commenter, Barb Sashaw of Florham Park, NJ, stated:

I do not think there should be any exemption for Cooper Tires. This company violated federal standards. Cooper tried to make money since 5 ply cots [sic] more than 4 ply and Cooper would then make higher profits. It may have been a blatant attempt to steal money because consumers would pay more for an inferior tire.

The issue to be considered in determining whether to grant this petition is the effect of the noncompliance on motor vehicle safety. The comment does not address this issue, and therefore is not persuasive in its argument that the petition should not be granted.

The agency agrees with Cooper's statement that the incorrect designation of 5 plies when there were actually 4 plies in each tire does not present a serious safety concern. 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 vehicles on which these tires are mounted.

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 the 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 number of plies in a tire.

In addition, the tires are certified to meet all the performance requirements of FMVSS No. 119. All other informational markings as required by FMVSS No. 119 are present. Cooper has corrected the problem.

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

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

Issued on: July 7, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-18556; Notice 1]

#### General Motors Corporation, Receipt of Petition for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that certain 2004 model year Saab 9-3 Sport Sedans and Convertibles do not comply with S4.2(b) of 49 CFR 571.114, Federal Motor Vehicle Safety

Standard (FMVSS) No. 114, "Theft protection." GM has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), GM 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.

This notice of receipt of GM'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.

Within a total of approximately 4032 model year 2004 Saab 9-3 Sport Sedans and Convertibles equipped with a manual transmission, approximately 11 are affected. S4.2(b) of FMVSS No. 114 requires that "[e]ach vehicle shall have a key-locking system which, whenever the key is removed, prevents either steering or forward self-mobility of the vehicle or both." The affected vehicles were produced with an ignition key locking system that contains a center spring plate switch that can bind in the closed position. This switch communicates to certain vehicle systems that the ignition key has been inserted or removed. When this switch binds in the closed position, certain systems will read that the ignition key is still in the ignition switch, even after ignition key removal. One of the systems using the input from this switch is the electronic steering column lock to meet the S4.2 requirement of FMVSS No. 114. If a vehicle has the aforementioned condition, the steering column will not lock upon ignition key removal.

GM believes that the noncompliance is inconsequential to motor vehicle safety for the following reasons stated in its petition:

Continued Theft Protection: FMVSS No. 114 was developed to increase road safety by reducing the risk of traffic accidents resulting from unauthorized vehicle operation. All Saab 9-3 vehicles are equipped with an electronic engine immobilizer system that prevents engine operation in the absence of the vehicle's ignition key from the ignition switch module. The immobilizer remains fully operation[al] on vehicles with the aforementioned condition present. Although a vehicle could be steered with this condition, the engine could not be started, even through hot-wiring or other vehicle manipulation. GM considers the immobilizer system to be at least as effective as a steering column lock in preventing vehicle theft. NHTSA and Highway Loss Data Institute data have also confirmed the effectiveness of passively activated engine immobilizers such as that present on the 9-3.