

*FHWA Response 1:* As explained above, form FHWA-1273 incorporates existing regulatory requirements. As a result, FHWA proposed updates to make the form consistent with existing regulatory requirements. The requirement for the contractor to submit a copy of all payrolls to the contracting agency is a DOL regulatory requirement at 29 CFR 5.5(a)(3). The FHWA does not have the authority to modify this requirement and must incorporate the full text of the DOL's contract clauses in form FHWA-1273.

*Comment 2:* A representative of the PennDOT inquired about the removal of the reference to social security numbers in Section IV.3.

*FHWA Response 2:* On December 19, 2008, DOL issued a final rule titled, "Protecting the Privacy of Workers: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction." This rule revised the DOL's regulatory policy to better protect the personal privacy of laborers and mechanics employed on covered construction contracts. The rule changed the reporting requirements concerning the use of full social security numbers and home addresses on weekly payroll statements provided to contracting agencies. As a result of the rule, payroll statements are only required to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). However, it did not change the requirements in 29 CFR 5.5(a)(3)(i) for contractors to maintain that information on their own payroll records.

Section VI. Subletting or Assigning the Contract

*Comment 1:* The Wyoming DOT noted a typographic error in Section VI.2 that incorrectly references Section VII.

*FHWA Response 1:* The correction will be made in the final document.

*Comment 2:* A representative of the Wyoming DOT recommended that Section VI.2 be clarified by stating that the purchase of materials and manufactured products, if done by the prime contractor, will count as part of the minimum 30 percent of work that prime contractors are required to perform with their own organizations.

*FHWA Response 2:* The FHWA believes that the phrase "total original contract price" as used in Section VI.1 and 23 CFR 635.116 provides sufficient clarity as to what is required. Therefore, no changes are made.

Section VIII. False Statements Concerning Highway Projects

*Comment:* The Wyoming DOT recommended that the second sentence of paragraph two be clarified to reference form FHWA-1022, which is the False Statements poster required by 23 CFR 635.119. Wyoming also recommended that the phrase, "Notice to all Personnel Engaged on Federal-Aid highway Projects," be removed.

*FHWA Response:* FHWA agrees with both recommendations. The appropriate revisions will be made in the final document.

Sections IX and X

*Comment:* A representative of PennDOT noted an inconsistency between references to the submission of bids and the submission of proposals.

*FHWA Response:* FHWA agrees and the final document will be revised to use the terms bids/proposals or bidders/proposers as appropriate.

#### Final Form FHWA-1273

Pursuant to 23 CFR 633.104(a), FHWA has updated form FHWA-1273 to be consistent with existing regulatory requirements. The FHWA published the proposed revised form FHWA-1273 for public comment on January 31, 2012. After considering all the comments, the FHWA has incorporated all appropriate edits into the revised form FHWA-1273. As such, the revised form FHWA-1273, which can be found at <http://www.fhwa.dot.gov/programadmin/contracts/1273.cfm>, should be used as soon as possible after publication of this notice and no later than August 9, 2012.

**Authority:** 23 U.S.C. 315; 23 CFR 633.104(a).

Issued on: June 18, 2012.

**Victor M. Mendez,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0075; Notice 1]

#### BMW of North America, LLC, a Subsidiary of BMW AG; Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of Petition.

**SUMMARY:** BMW of North America, LLC,<sup>1</sup> a subsidiary of BMW AG,<sup>2</sup> has determined that certain model year 2012 BMW X6M SAV multipurpose passenger vehicles (MPV) manufactured between April 1, 2011 and March 23, 2012, do not fully comply with paragraph S4.3(b) 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*. BMW has filed an appropriate report dated April 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) (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.

*Vehicles involved:* Affected are approximately 364 model year 2012 BMW X6M SAV MPVs manufactured between April 1, 2011 and March 23, 2012.

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 364<sup>3</sup> vehicles that BMW no longer controlled at the time it determined that the noncompliance existed.

*Noncompliance:* BMW explains that the noncompliance is that the tire

<sup>1</sup> BMW of North America, LLC, is a U.S. company that manufactures and imports motor vehicles.

<sup>2</sup> BMW AG, is a German company that manufactures motor vehicles.

<sup>3</sup> BMW's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt BMW as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR part 573 for the 364 affected vehicles. However, a decision on this petition will not 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 vehicles under their control after BMW notified them that the subject noncompliance existed.

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."

*Rule text:* Paragraph S4.3(b) of FMVSS No. 110 requires in pertinent part:

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 Analysis and Arguments

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 its tire placards regarding seating capacity 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.

**DATES:** *Comment Closing Date:* July 25, 2012.

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

Issued on: June 18, 2012.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0073; Notice 1]

#### Guizhou Tyre Corporation; Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of Petition.

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**SUMMARY:** GTC North America, Inc., on behalf of Guizhou Tyre I/E Co. LTD (collectively referred to as "GTC") has determined that certain Samson and Advance brand ST trailer Tires, do not fully comply with paragraph S6.5 (j) 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*. GTC has filed an appropriate report dated March 22, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

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