

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.

This notice of receipt of GTC'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.

**Equipment involved:** Affected are approximately 4,291 size ST235/85R16/14 ply Samson and Advance brand ST Trailer Tires manufactured from December 4, 2011 through March 31, 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 4,291<sup>1</sup> tires that GTC no longer controlled at the time it determined that the noncompliance existed.

**Noncompliance:** GTC explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the tires incorrectly identifies the Load Range as "F" when in fact it should be "G".

**Rule text:** Paragraph S6.5(j) of FMVSS No. 119 requires in pertinent part:

S6.5 Tire markings. Except as specified in this paragraph, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of this section. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, the markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings shall be in letters and numerals not less than 2 mm (0.078 inch) high and raised above or sunk below the tire surface not less than 0.4mm (0.015 inch) in the case of motorcycle tires. The tire identification and the DOT symbol labeling shall comply with part 574 of this chapter. Markings may appear on only one sidewall and the entire sidewall area may be used in the case of

motorcycle tires and recreational, boat, baggage, and special trailer tires \* \* \*

(j) The letter designating the tire load range.

#### Summary of GTC's Analysis and Arguments

GTC states that while the tire sidewall labeling incorrectly identifies the Load Range as "F" when in fact it should be identified as "G" it does not pose a safety issue because if a consumer followed the load range "F" designation they would actually fall below the actual recommended load carrying capacity. Since the tire load range designation "F" falls below the actual recommended load carrying capacity the tires will perform without incident causing no safety issue.

GTC also stated that all other required sidewall markings are present and correct.

GTC has additionally informed NHTSA that it has stopped production of the subject tires, is correcting the tire molds so that the subject noncompliance does not occur in future production, and has notified dealers to discontinue selling the tires.

In summation, GTC believes that the described noncompliance of its tires 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:

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**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. EP 290 (Sub-No. 5) (2012-3)]

#### Quarterly Rail Cost Adjustment Factor

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Approval of rail cost adjustment factor.

**SUMMARY:** The Board has approved the third quarter 2012 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2012 RCAF (Unadjusted) is 1.171. The third quarter 2012 RCAF (Adjusted) is 0.513. The third quarter 2012 RCAF-5 is 0.485. The Board noted an error in the first and second quarter 2012 Materials &

<sup>1</sup> Guizhou Tyre Corporation's (GTC) petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt GTC as a tire manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 4,291 affected tires. However, a decision on this petition will not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after GTC notified them that the subject noncompliance existed.