

at restricted speed. However, main track rear end collisions are seldom the result of a single factor or cause. Preliminary investigations of the above-described collisions have established that they likely resulted from a combination of unrelated factors, some of which include: employee fatigue; distraction due to the improper use of cell phones; work-related discussions in the cab of the controlling locomotive; alleged confusion over signal indications; and, what FRA refers to as "self dispatching." Self-dispatching is the operation of a train based on assumptions about the locations of other trains. These assumptions are sometimes developed through overheard radio conversations among other train crewmembers.

Operating employees must work together as a team, because they work in an environment which is often without on-site managerial oversight. Both the locomotive engineer and conductor of a train are equally responsible for safe operation of their train and compliance with railroad operating rules. Indeed, both the engineer and conductor, and any other crewmembers present in the controlling locomotive of a train, must remain vigilant and must assist each other in the safe operation of the train. As the above accidents indicate, even slight lapses in situational awareness, particularly when operating trains on "Approach" and "Restricting" signal indications can lead to tragedy. An environment must be created and maintained in the locomotive control compartment where the crew exclusively focuses on properly controlling the train in compliance with the operating rules.

A railroad's safety culture must support employees' undisturbed attention to the tasks at hand without the distraction of electronic devices or the loss of situational awareness due to fatigue. All train crewmembers must maintain this enhanced level of awareness. Initial investigations of the accidents described above indicate that the crewmembers involved were properly trained, experienced, and were qualified on the territory over which they operated. However, in every case, it appears that there was a lack of attentiveness to the signal indications being conveyed prior to the collisions. This discussion is not intended to place blame or assign responsibility to individuals or railroad companies, but simply to point out that a culture of operating rules compliance must be everyone's job. Peer support for the railroad employees who perform each task in the prescribed manner helps

individuals maintain responsibility for their own safety.

**Recommended Railroad Action:** In light of the above discussion, FRA recommends that railroads:

1. Review with operating employees the circumstances of the six rear end collisions identified above.

2. Discuss the requirements of restricted speed and related operational tests at future instructional classes (and also as part of ad hoc coaching and briefings) for operating employees, with a focus on the railroad's absolute speed limit for such operations, as well as requirements that ensure the ability to stop in one-half the range of vision. Special emphasis should be placed on situations in which the range of vision is limited (e.g., curves).

3. Evaluate quarterly and 6-month reviews of operational testing data as required by Title 49 Code of Federal Regulations (CFR) section 217.9, and, as appropriate, increase the level of operational testing with regard to the operation of trains on main tracks at restricted speed. A representative number of operational tests should be conducted on trains following other trains into an occupied block, particularly in high-density corridors. Operational tests should also include a review of locomotive event recorder data to verify compliance with restricted speed requirements.

4. Reinforce the importance of communication between crewmembers located in the controlling locomotive, particularly during safety critical periods when multiple tasks are occurring, including such activities as copying mandatory directives; closely approaching or passing fixed signals that require trains to operate at restricted speed; approaching locations where trains' movement authority is being restricted; and during radio conversations with other employees or job briefings about work to be done at an upcoming location.

5. Review with operating employees the requirements of subpart C of 49 CFR part 220, and reinforce that the improper use of electronic devices during safety critical periods often leads to a loss of situational awareness and resultant dangers.

FRA encourages railroad industry members to take actions that are consistent with the preceding recommendations and to take other actions to help ensure the safety of the Nation's railroad employees. FRA may modify this Safety Advisory 2012-02, issue additional safety advisories, or take other appropriate actions it deems necessary to ensure the highest level of safety on the Nation's railroads,

including pursuing other corrective measures under its rail safety authority.

Issued in Washington, DC, on April 20, 2012.

**Robert C. Lauby,**

*Acting Associate Administrator for Railroad Safety/Chief Safety Officer.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0176; Notice 2]

#### Mitsubishi Motors North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Grant of Petition.

**SUMMARY:** Mitsubishi Motors North America, Inc. (Mitsubishi) <sup>1</sup> has determined that an unknown number of replacement seat belts that it imported do not include the installation, usage and maintenance instructions required by paragraphs S4.1(k) and S4.1(l) of Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies*. Mitsubishi filed an appropriate report dated October 25, 2010, pursuant to 49 CFR Part 573 *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Mitsubishi 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. Notice of receipt of the petition was published, with a 30-day public comment period, on January 7, 2011 in the **Federal Register** (76 FR 1210). No comments were received. To view the petition, and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2010-0176."

For further information on this decision contact Ms. Claudia Covell, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone

<sup>1</sup> Mitsubishi Motors North America, Inc. (Mitsubishi), is organized under the laws of the state of California. Mitsubishi manufactures and imports motor vehicles and replacement equipment.

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*Equipment involved:* Mitsubishi explained that an unknown number of nonconforming seat belt assemblies were sold by Mitsubishi to its authorized dealers in the United States for resale and replacement purposes.

*Noncompliance:* Mitsubishi described the noncompliance as the failure to provide installation, use and maintenance instructions with the seat belt assemblies as required in FMVSS No. 209 S4.1(k) and S4.1(l).

### Summary of Mitsubishi's Analysis and Arguments

Mitsubishi argues that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

(1) The service seat belt assemblies in question are only made available to Mitsubishi authorized dealerships for their use or subsequent resale. The Mitsubishi parts ordering system used by Mitsubishi dealers clearly identifies the correct service seat belt components for any given model/model year/seat position combination and the parts are unique to each seat belt and designed to assemble properly only in their intended application.

(2) When ordering Mitsubishi replacement seat belt parts, the dealer must refer to the Mitsubishi parts catalog to identify the ordering part number with the information on the specific vehicle model type, location and model year. Each replacement seat belt assembly is packaged individually with a specific part number label to ensure shipping the correct parts. Dealers routinely confirm that the part received matches their order to validate that the correct parts were received.

(3) Installation instructions for seat belts are readily available in the Mitsubishi workshop manuals. Technicians at Mitsubishi dealerships that replace seat belts have access to the installation instruction information in the workshop manual. Installers other than Mitsubishi dealership technicians also have seat belt installation information available in the workshop manuals and are available on the Mitsubishi Service Web site ([www.mitsubishitechinfo.com](http://www.mitsubishitechinfo.com)). As a result, the seat belt parts can be successfully installed with the information already available even though installation instructions were not accompanied in the replacement seat belt assemblies.

(4) Instructions for proper use and maintenance are described in the owner's manual which is installed in each vehicle. Therefore, incorrect usage

and maintenance by the vehicle owner is highly unlikely.

Mitsubishi is also not aware of any customer or field reports of replacement seat belt assemblies being incorrectly installed in the subject applications as a result of the absence of the installation instructions in the service part.

Mitsubishi also is not aware of any reports requesting the installation instructions, which Mitsubishi believes is indicative of the availability of this information from the other sources mentioned above.

Finally, Mitsubishi has taken action to ensure that all replacement seat belt assemblies are packaged with the required installation instructions and has corrected all the replacement seat belt assemblies in the inventory for shipment to dealers.<sup>2</sup>

In summation, Mitsubishi believes that the described noncompliance of its replacement seat belt assemblies 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.

### NHTSA Decision

*Requirement Background:* To help ensure proper selection, installation, usage, and maintenance of seat belt assemblies, paragraph S4.1(k) of FMVSS No. 209 requires that installation, usage, and maintenance instructions be provided with seat belt assemblies, other than those installed by an automobile manufacturer.

*NHTSA's Analysis of Mitsubishi's Reasoning:* First, we note that the subject seat belt assemblies are only made available to Mitsubishi authorized dealerships for their use or subsequent resale. Because the parts ordering process used by Mitsubishi authorized dealerships clearly identifies the correct service part required by model year, model, and seating position, NHTSA believes that there is little likelihood that an inappropriate seat belt assembly will be provided for a specific seating position within a Mitsubishi vehicle.

Second, we note that technicians at Mitsubishi dealerships have access to the seat belt assembly installation instruction information in Mitsubishi Shop Manuals. In addition, installers other than Mitsubishi dealership technicians can access the installation

instructions from Mitsubishi service manuals, Mitsubishi dealers or from aftermarket service information compilers. We also believe that Mitsubishi is correct in stating that the seat belt assemblies are designed to be installed properly only in their intended application. Thus, we conclude that sufficient safeguards are in place to prevent the installation of an improper seat belt assembly.

NHTSA recognizes the importance of having installation instructions available to installers as well as use and maintenance instructions available to consumers. The risk created by this noncompliance is that someone who purchased an assembly is unable to obtain the necessary installation information resulting in an incorrectly installed seat belt assembly. However, because the seat belt assemblies are designed to be installed properly only in their intended application and the installation information is widely available to the public, it appears that there is little likelihood that installers will not be able to access the installation instructions. Furthermore, we note that Mitsubishi has stated that they are not aware of any customer field reports of service seat belt assemblies being incorrectly installed in the subject applications, nor aware of any reports requesting installation instructions. These findings suggest that it is unlikely that seat belts have been improperly installed.

In addition, although 49 CFR Part 571.209 paragraph S4.1(k) requires certain instructions specified in SAE Recommended Practice J800c be included in seat belt replacement instructions, that requirement applies to seat belts intended to be installed in seating positions where seat belts do not already exist. The subject seat belt assemblies are only intended to be used for replacement of original equipment seat belts; therefore, the instructions do not apply to the subject seat belt assemblies.<sup>3</sup>

With respect to seat belt usage and inspection instructions, we note that this information is available in the Owner Handbooks that are included with each new vehicle and apply to the replacement seat belt assemblies installed in these vehicles. Thus, with respect to usage and maintenance instructions, it appears that Mitsubishi has met the intent of S4.1(l) of FMVSS No. 209 for the subject vehicles using alternate methods for notification.

<sup>2</sup> Subsequent to filing the subject petition Mitsubishi notified NHTSA that the noncompliance was corrected on Mitsubishi Motors Corporation sourced parts on August 27, 2010 and Mitsubishi Motors North America Manufacturing Division sourced parts on November 2, 2010.

<sup>3</sup> *Subaru of America, Inc.; Grant of Application for Decision of Inconsequential Non-Compliance* (65 FR 67472).

NHTSA has granted similar petitions for noncompliance with seat belt assembly installation and usage instruction standards. Refer to Hyundai Motor Company (74 FR 9125, March 2, 2009); Ford Motor Company (73 FR 11462, March 3, 2008); Mazda North America Operations (73 FR 11464, March 3, 2008); Ford Motor Company (73 FR 63051, October 22, 2008); Subaru of America, Inc. (65 FR 67471, November 9, 2000); Bombardier Motor Corporation of America, Inc. (65 FR 60238, October 10, 2000); TRW, Inc. (58 FR 7171, February 4, 1993); and Chrysler Corporation, (57 FR 45865, October 5, 1992). In all of these cases, the petitioners demonstrated that the noncompliant seat belt assemblies were properly installed, and due to their respective replacement parts ordering systems, improper replacement seat belt assembly selection and installation would not be likely to occur. Decision: In consideration of the foregoing, NHTSA has decided that Mitsubishi has met its burden of persuasion that the FMVSS No. 209 noncompliance in the replacement seat belts identified in Mitsubishi's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, Mitsubishi's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a 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 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 only applies to the replacement seat belt assemblies that Mitsubishi no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles.

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

Issued on: April 18, 2012.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2012-9946 Filed 4-24-12; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0053]

#### Visual-Manual NHTSA Driver Distraction Guidelines for In-Vehicle Electronic Devices

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

**ACTION:** Proposed Federal guidelines; extension of comment period.

**SUMMARY:** On February 24, 2012, NHTSA published proposed voluntary NHTSA Driver Distraction Guidelines for in-vehicle electronic devices. The agency provided a 60-day comment period. We received a petition from the Alliance of Automobile Manufacturers requesting an extension of the comment period. The petitioner argued that additional time was needed to review information that was not placed in the docket when the proposed NHTSA Guidelines were published. After considering the petition, we are extending the comment period by 24 days, from April 24, 2012, to May 18, 2012.

**DATES:** The comment period for the proposed NHTSA Guidelines published February 24, 2012, at 77 FR 11200, is extended. You should submit your comments early enough to ensure that the docket receives them not later than May 18, 2012.

**ADDRESSES:** You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery or Courier:** 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- **Fax:** 202-493-2251.

**Instructions:** For detailed instructions on submitting comments, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the "Privacy Act" heading below.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketInfo.dot.gov>.

**Confidential Business Information:** If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building 4th Floor, Room W41-318, Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR Part 512).

**Docket:** For access to the Docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the Docket.

**FOR FURTHER INFORMATION CONTACT:** For technical issues, you may contact Dr. W. Riley Garrett, Vehicle Research and Test Center, telephone: (937) 666-3312, facsimile: (937) 666-3590. You may send mail to this person at: The National Highway Traffic Safety Administration, Vehicle Research and Test Center, P.O. Box B-37, East Liberty, OH 43319.

**SUPPLEMENTARY INFORMATION:** On February 24, 2012, NHTSA published in the **Federal Register** a notice proposing voluntary NHTSA Driver Distraction Guidelines for in-vehicle electronic devices (77 FR 11200). The proposed NHTSA Guidelines are meant to promote safety by discouraging the introduction of excessively distracting devices in vehicles. These NHTSA Guidelines, which are voluntary, apply to communications, entertainment, information gathering, and navigation devices or functions that are not required to operate the vehicle safely and that are operated by the driver through visual-manual means (meaning