

affixed to the driver's side B-pillar. In each vehicle without a driver's side B-pillar and with two doors on the driver's side of the vehicle opening in opposite directions, the placard shall be affixed on the forward edge of the rear side door. If the above locations do not permit the affixing of a placard that is legible, visible and prominent, the placard shall be permanently affixed to the rear edge of the driver's side door."

Chrysler further explained that the subject vehicles have placards that contain all of the tire and vehicle loading information required by the various subsections of S4.3. However, because of an inadvertent failure of the assembly plant work instructions to differentiate between RHD and left hand drive (LHD) vehicles in this respect, the placards were inadvertently affixed to the rear edge of the door on the left (passenger) side of the subject vehicles, as opposed to the driver's side door. (Chrysler notes that the subject vehicles do not have a B-pillar with a flat surface that would permit the affixing of a placard that is "legible, visible, and prominent.")

Chrysler states its belief that the fact that the placard required by paragraph S4.3 of the standard was affixed to the left hand door of these RHD vehicles—as opposed to the driver's side door—creates absolutely no risk to motor vehicle safety. All of the relevant tire and loading information is set forth on the placard, and therefore it is readily available to vehicle operators. Moreover, the placard is located at the place where United States drivers are used to looking for it.

Chrysler also states its belief that the operators of the subject vehicles will have almost certainly owned and driven conventional LHD vehicles, so they will have had experience in locating the tire and load information on the left side of their vehicles. And in the extremely unlikely event that an owner has difficulty locating the placard, the owner's manual provided with the subject vehicles shows the location of the placard on the left side door.

Chrysler also makes reference to several previous inconsequential noncompliance grant decisions, involving the omission of rim data on tire labels, which in its opinion, are similar to the instant one.

Chrysler also notes that it has not received any consumer complaints regarding an inability to locate the placard or an unawareness of the relevant tire and loading information.

In addition, Chrysler states that it has corrected the problem that caused these errors so that they will not be repeated in future production and that it believes

that because the noncompliance is inconsequential to motor vehicle safety that no corrective action is warranted.

#### NHTSA Decision

By way of background, the Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106-414) required, among other things, that the agency initiate rulemaking to improve consumer awareness of tire inflation pressure and load limit information. In 2001, as part of a proposed update to FMVSS No. 110, NHTSA proposed in a Notice of Proposed Rulemaking (NPRM) that "A standard location for tire information placards would contribute to consumer awareness of recommended tire inflation pressure and load limits by providing a consistent and predictable place for this information."<sup>1</sup> In the subsequent final rule, the location required for the consistent and predictable location of the labeling information is one of three locations allowed on the driver's-side of the vehicle.

NHTSA agrees with Chrysler that this noncompliance will not have an adverse effect on vehicle safety. In the agency's judgment, most consumers in the United States are accustomed to left-hand drive (LHD) vehicles, with tire inflation pressure and load limit information labeling located on the left-hand side of the vehicle. Not locating the labeling on the driver's-side (right-hand side) for the subject RHD vehicles will not appreciably interfere with customer awareness of recommended tire inflation pressures and load limits. The agency agrees with Chrysler's statement that it is extremely unlikely an owner will have difficulty locating the placard in this case.

In consideration of the foregoing, NHTSA has decided that Chrysler has met its burden of persuasion that the subject FMVSS No. 110 labeling noncompliance is inconsequential to motor vehicle safety. Accordingly, Chrysler's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

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

Issued on: October 16, 2008.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

[FR Doc. E8-25138 Filed 10-21-08; 8:45 am]

**BILLING CODE 4910-59-P**

<sup>1</sup> See 66 FR 6555, December 19, 2001.

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0088; Notice 2]

#### Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance

Ford Motor Company (Ford), on behalf of Jaguar and Land Rover, has determined that an unknown number of seat belt replacement assemblies for model year 1981 through 2008 Jaguar and Land Rover make passenger cars and multi-purpose vehicles did not comply with paragraphs S4.1(k) and S4.1(l) of 49 CFR 571.209, Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies*. The assemblies were sold through January 24, 2008. Ford has filed an appropriate report 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, Ford 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 May 14, 2008 in the **Federal Register** (73 FR 27889). 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-2008-0088."

For further information on this decision, contact Ms. Claudia Covell, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5293, facsimile (202) 366-7002.

Paragraphs S4.1(k) and S4.1(l) of FMVSS No. 209 require:

(k) Installation instructions. A seat belt assembly, other than a seat belt assembly installed in a motor vehicle by an automobile manufacturer, shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles, and shall include at least those items specified in SAE Recommended Practice J800c, "Motor Vehicle Seat Belt Installations," November 1973. If the assembly is for use only in specifically stated motor vehicles, the

assembly shall either be permanently and legibly marked or labeled with the following statement, or the instruction sheet shall include the following statement:

This seat belt assembly is for use only in [insert specific seating position(s), e.g., "front right"] in [insert specific vehicle make(s) and model(s)].

(l) Usage and maintenance instructions. A seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened. Instructions for a nonlocking retractor shall include a caution that the webbing must be fully extended from the retractor during use of the seat belt assembly unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly. Instructions for Type 2a shoulder belt shall include a warning that the shoulder belt is not to be used without a lap belt.

#### Ford's Data, Views, and Arguments

Ford explains that service seat belt assemblies were sold for use in the following vehicles in the United States and federalized territories without the installation, usage, and maintenance instructions required by paragraphs in S4.1(k) and S4.1(1) of FMVSS No. 209.

The model years that are affected are:

2001–2008 Model Year Jaguar X–Type.  
 1999–2008 Model Year Jaguar S–Type.  
 1982–2008 Model Year Jaguar XJ.  
 1997–2008 Model year Jaguar XK.  
 1981–1996 Model Year Jaguar XJS.  
 2002–2005 Model Year Land Rover Freelander.  
 2008 Model Year Land Rover LR2.  
 1993–1997 Model Year Land Rover Defender.  
 1994–1999 Model Year Land Rover Discovery Series I.  
 1999–2004 Model Year Land Rover Discovery Series II.  
 2005–2008 Model Year Land Rover LR3.  
 1987–2008 Model Year Land Rover Range Rover.  
 2006–2008 Model Year Land Rover Range Rover Sport.

Ford makes the argument that the service seat belt assemblies in question are only made available to Jaguar and Land Rover authorized dealerships for their use or subsequent resale and that the Jaguar and Land Rover parts ordering process used by its dealers clearly identifies the correct service part required by model year, model, and seating position. By way of example, Ford further explains that an order for a driver's-side front buckle assembly for a 2002 model year Range Rover would be filled by the components specifically designed to be installed in that

particular position in that specific vehicle. Furthermore, Ford states that Jaguar's and Land Rover's service seat belt assemblies are designed to be installed properly only in their intended application.

Ford additionally states that technicians at Jaguar and Land Rover dealerships that replace seat belts have access to the installation instruction information available in workshop manuals. Installers other than Jaguar and Land Rover dealership technicians also have seat belt installation information available because most workshop manual information, including seat belt replacement information, is made available to the general public on the Jaguar and Land Rover Global Technical Reference (GTR) Web sites (<http://www.jaguarinfo.com> and <http://www.landrovertchnfo.com>).

Ford additionally argues that a significant portion of paragraph S4.1(k) appears to address a concern with proper installation of aftermarket seat belts into vehicles that were not originally equipped with these restraints. Ford also notes that SAE J800c which is cited in the regulation involves installation of "universal type seat belt assemblies," particularly where no seat belt had previously been installed, and that these concerns do not apply to the service seat belts. The vehicles involved in this petition have uniquely designed seat belt components and replacement seat belt assemblies are installed into the identical location from which the original parts were removed.

Ford also states that proper seat belt usage instructions are clearly explained in the Owner Handbook that is included with each new vehicle. Information concerning maintenance, periodic inspection for wear and function of the seat belts, as well as for their proper usage is included in the Owner Handbook and this information equally applies to replacement seat belt assemblies. Many Jaguar and Land Rover Owner Handbooks are also available to the public, free of charge on the Jaguar and Land Rover GTR Web sites.

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

Ford also informed NHTSA that it has corrected the problem that caused these errors so that they will not be repeated in future production.

In summation, Ford states that it has corrected the problem that caused these errors so that they will not be repeated in future production and that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

#### NHTSA Decision

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.

First, we note that the subject seat belt assemblies are only made available to Jaguar and Land Rover authorized dealerships for their use or subsequent resale. Because the parts ordering process used by Ford 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 Ford vehicle.

Second, we note that technicians at Jaguar and Land Rover dealerships have access to the seat belt assembly installation instruction information in workshop manuals. In addition, installers other than Jaguar and Land Rover dealership technicians can access the installation instructions on the Jaguar and Land Rover GTR Web sites and through other aftermarket service information compilers. We also believe that Ford 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 and 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 Ford 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 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>1</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 as well as free of charge on the Jaguar and Land Rover GTR Web sites and apply to the replacement seat belt assemblies installed in these vehicles. Thus, with respect to usage and maintenance instructions, it appears that Ford has met the intent of S4.1(l) of FMVSS No. 209 for the subject vehicles using alternate methods for notification.

NHTSA has granted similar petitions for noncompliance with seat belt assembly installation and usage instruction standards. Refer to 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.

In consideration of the foregoing, NHTSA has decided that Ford has met its burden of persuasion that the seatbelt installation and usage instruction noncompliances described are inconsequential to motor vehicle safety. Accordingly, Ford's application is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120. All products manufactured or sold on and after

January 24, 2008, must comply fully with the requirements of FMVSS No. 209.

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

Issued on: October 16, 2008.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

[FR Doc. E8-25133 Filed 10-21-08; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 305X)]

#### Norfolk Southern Railway Company— Abandonment Exemption—in Somerset County, PA

On October 2, 2008, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 1.80-mile line of railroad known as the South Fork Industrial Track, extending between milepost QS 14.40 and milepost QS 16.20 in Somerset County, PA. The line traverses U.S. Postal Service Zip Code 15963 and include the stations of Scalp Level, Shade Creek, and Windber Jct.

In addition to an exemption from the prior approval requirements of 49 U.S.C. 10903, NSR seeks exemption from 49 U.S.C. 10904 [offer of financial assistance procedures] and 49 U.S.C. 10905 [public use conditions]. In support, NSR states that, following abandonment, it proposes to convey the line intact to Rosebud Mining Company for continued use in its coal mining operations as a private track. This request will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in NSR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 16, 2009.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must

be accompanied by a \$1,500 filing fee. See 49 CFR 1002.2(f)(25).<sup>1</sup>

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 12, 2008. Each trail use request must be accompanied by a \$200 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-290 (Sub-No. 305X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001; and (2) John M. Scheib, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. Replies to NSR's petition are due on or before November 12, 2008.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 14, 2008.

<sup>1</sup> Effective July 18, 2008, the filing fee for an OFA increased to \$1,500. See *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 update*, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

<sup>1</sup> *Subaru of America, Inc.; Grant of Application for Decision of Inconsequential Non-Compliance* (65 FR 67472).