

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration**

[Docket No. NHTSA–2010–0064; Notice 2]

**Bentley Motors Inc., Grant of Petition for Decision of Inconsequential Noncompliance****AGENCY:** National Highway Traffic Safety Administration, DOT.**ACTION:** Grant of Petition for Decision of Inconsequential Noncompliance.

**SUMMARY:** Bentley Motors Inc. (BMI),<sup>1</sup> has determined that an unknown number of replacement seat belts that it imported do not include the installation and usage instructions required by paragraphs S4.1(k) and S4.1(l) of Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies*. BMI filed an appropriate report pursuant to 49 CFR part 573, “Defect and Noncompliance Responsibility and Reports” on December 18, 2009.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, BMI 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 June 23, 2010 in the **Federal Register** (75 FR 35877). 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–2010–0064.”

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.

BMI explained that approximately 300 nonconforming seat belt assemblies, produced during the 12 months prior to December 18, 2009, and an additional unknown number produced prior to that by its manufacturer, Bentley Motors, Ltd, which is based in the United Kingdom, were imported by BMI and sold to its authorized dealers in the United States for replacement purposes.

BMI described the noncompliance as the failure to provide both installation

and use instructions with the seat belt assemblies as required in FMVSS No. 209 S4.1(k) and S4.1(l).

BMI noted that the noncompliant seat belts can be identified by part number for specific vehicle applications and are labeled by model number, name of manufacturer, and date of production in accordance with paragraph S4.1(j) of FMVSS No. 209.

BMI provided the basis of why they believe this noncompliance is inconsequential to motor vehicle safety. In essence, the BMI stated that:

- Seat belts currently sold by BMI to its dealers are only for installation as replacement [seat] belts in specific seating positions in Bentley vehicles and are identified by part number in the parts catalogue for use in specific vehicle models and seat positions. This method of identification and the physical differences between belt retractors and attachment hardware as well as the vehicle installation environment preclude the misinstallation of seat belt assemblies.

- Seat belt assembly installation instructions are included in Bentley Service Manuals available to all Bentley Independent repair shops and individual owners can also purchase the Service Manual or seek dealer assistance and obtain copies of the instructions, if necessary. In most cases, reference to the installation instructions will not be necessary because the seat belt installation will be to replace an existing belt and the installation procedure will just be the reverse of the removal procedure.

- Seat belt use instructions regarding proper seat belt positioning on the body and proper maintenance and periodic inspection for damage are, and have been included, in all Bentley owners’ manuals.

- BMI has developed installation and use instructions for replacement seat belt assemblies. This material is being placed into the packages of seat belts currently in BMI’s service parts warehouses. The required material will also be included with all seat belt assemblies shipped to BMI for resale to dealers in the future.

- BMI is not aware of owner complaints or field incident reports relating to the lack of installation and use instructions with replacement seat belt assemblies.

In view of the above, BMI believes that the described noncompliance is inconsequential and does not present a risk to motor vehicle safety. Thus, BMI requests that its petition, to exempt it 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:* 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 BMI authorized dealerships for their use or subsequent resale. Because the parts ordering process used by BMI 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 BMI vehicle.

Second, we note that technicians at BMI dealerships have access to the seat belt assembly installation instruction information in BMI Shop Manuals. In addition, installers other than BMI dealership technicians can access the installation instructions from BMI service manuals, BMI dealers or from aftermarket service information compilers. We also believe that BMI 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 BMI 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

<sup>1</sup> Bentley Motors Inc. is a Delaware Corporation that imports motor vehicles and replacement equipment.

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>2</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 BMI 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 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.

In consideration of the foregoing, NHTSA has decided that BMI has met its burden of persuasion that the seatbelt installation and usage instruction noncompliances described are inconsequential to motor vehicle safety. Accordingly, BMI'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.

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<sup>3</sup> that BMI 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: September 14, 2011.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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<sup>3</sup> BMI's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt BMI as a manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the affected replacement seat belt assemblies. However, the agency cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant replacement seat belt assemblies under their control after BMI notified them that the subject noncompliance existed.

<sup>2</sup> *Subaru of America, Inc.; Grant of Application for Decision of Inconsequential Non-Compliance* (65 FR 67472)