DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–11041, Notice 2]

Toyota Motor Corporation, Denial of Application for Decision of Inconsequential Noncompliance

Toyota Motor Corporation (TMC) has determined that certain 2000–2001 Model Year (MY) Celicas are equipped with daytime running lamps (DRLs) whose location fails to comply with the spacing requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, Reflective Devices and Associated Equipment.'' Toyota has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports.'' Toyota has also applied to be exempted from the notification and remedy requirements of 49 U.S.C chapter 301—"Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** (67 FR 1270) on January 9, 2002. Opportunity was afforded for public comment until February 8, 2002. One comment was received from Koito Manufacturing Co., LTD. (Koito), a lighting manufacturer, and two comments were received from individuals, Steve Johnson and Margaret Coleman.

Paragraph S5.5.11 (a)(4) of FMVSS No. 108 states that "* * * if not optically combined with a turn signal lamp, [the DRL] is located so that the distance from its lighted edge to the optical center of the nearest turn signal lamp is not less than 100mm, unless * * * the luminous intensity of the DRL is not more than 2,600 candela at any location in the beam * * *''

Between May 7, 1999 and June 18, 2001, Toyota produced 92,794 MY 2000–2001 Celicas with DRLs that do not meet the FMVSS No. 108 minimum spacing requirements relating to turn signals. As stated above, unless the maximum luminous intensity of the DRL is not more than 2,600 candela (cd) at any location in the beam, the optical center of the turn signal must be at least 100 millimeters (mm) from the lighted edge of the DRL. The peak intensity of the Celica DRLs is 5,880 cd and the distance between the optical center of the turn signal and the lighted edge of the DRL is 45.6 mm. Thus, the spacing is too close and the DRL peak intensity is too high.

Toyota supports its application for inconsequential noncompliance with the following:

Toyota conducted subjective evaluations of turn signal visibility using 20 contractors for the subject vehicles under various conditions, and confirmed that visibility for the subject vehicles is substantially better than vehicles that were modified to meet the minimum turn signal/maximum DRL luminous intensity permitted by the standard. According to Toyota's evaluation, the flashing of the subject turn signals can be readily discerned by a driver in an oncoming vehicle at a distance of 300 feet, and much more so than vehicles with modified signals/DRLs. The assessment distance of 300 feet is the same used in NHTSA's own evaluation of turn signal masking, as described in the final rule published in the Monday, January 11, 1993, **Federal Register** (58 FR 3500).

In addition to the subjective measures, [Toyota also provides] the following technical factors which contribute to good visibility of the turn signal lamps:

The turn signal lighted area is 45.1 cm^2, two times larger than the 22 cm^2 required by FMVSS 108.

The luminous intensity of the subject vehicle's turn signal lamps [is] 568 cd, or 2.8 times the minimum value of 200 cd.

The substantial distance from the turn signal optical center (bulb filament axes) to the DRL's lighted edge is 82 mm, exceeding 80% of the requirements. In this case, the "substantial'' distance refers to the distance from the turn signal's optical center to the actual lighted edge "A'' [as shown in the figure below], although the theoretical lighted edge is point "C'' (45.6mm). In [the figure below], the lighted range from A to C of the reflector emits only light which is parallel to the axis of the DRL, which can only be seen by drivers in oncoming vehicles that are looking along the optical axis of the DRL. However, as one moves off center, this light is no longer visible. Therefore the perceptible DRL's lighted area, except for the unique case where the eye-point is on the optical axis of the DRL, is actually from A to B (as shown in the figure).

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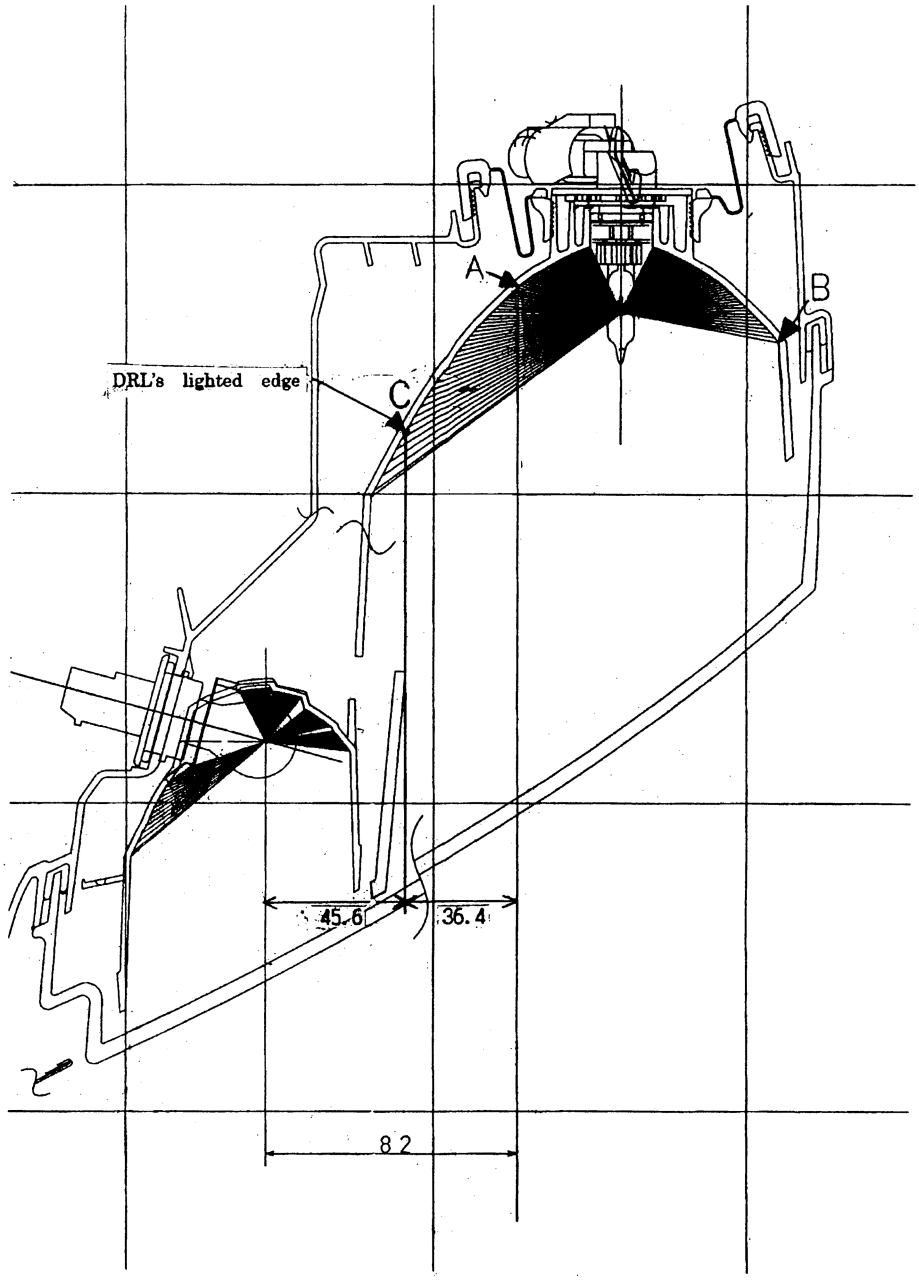

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The subject vehicles meet all of the requirements of [Canadian Motor Vehicle Safety Standard (CMVSS)] 108 and the identical DRL requirements [that] are found in FMVSS 108 prior to October 1, 1995.

Finally, although Toyota has sold approximately 100,000 of the subject vehicles since the summer of 1999 in the USA and Canada, it has not received any customer complaints [or] accident reports that alleged problems with turn signal visibility or masking.

As stated above, three public comments were received. The first comment was from Koito. It supported Toyota's position that the noncompliance is inconsequential to safety. Koito stated that the requirements for DRL/turn signal spacing and maximum intensity contain two points that are "contradictory and controversial in terms of motor vehicle safety.'' Regarding the situation when the turn signal lamp is located less than 100 mm from the lighted edge of the DRL, CMVSS No. 108, the Canadian standard, requires that the DRL have an intensity of 2,600 cd or less *or* that the front turn signal lamp have its minimum luminous intensities multiplied by a factor of 2.5. FMVSS No. 108 requires these two conditions to be met concurrently. Koito states that this "difference generates some controversial difficulties in designing a DRL for [the] U.S. and Canadian market because a design could be a violation of [law] while it is fully supported by the requirement of the other country.''

Regarding the luminous intensity requirements, Koito points out that FMVSS No. 108 does not require any limitation of luminous intensity when a DRL is optically combined with a lower beam headlamp, provided that a turn signal located within 100 mm of the DRL has its minimum required luminous intensities multiplied by 2.5. Koito states that there are many examples of lower beam headlamps that have a luminous intensity of 2,600 cd or higher because Figure 15 in FMVSS No.

108 allows a lower beam headlamp to have an intensity of up to 5,000 cd at test point H–V. In summation, Koito stated that the current wording of FMVSS No. 108 does not fully explain its technical legitimacy.

The second comment was from Mr. Steve Johnson, an individual. Mr. Johnson is in favor of denying the petition due to the large margin of noncompliance. He also stated that, when he encountered one of the subject vehicles making a turn about 240 feet away from him, he could not see the turn signal due to the glare from the DRL. When the vehicle had begun to make the turn and the DRL was pointed away from his line of sight, he could then see the turn signal.

The third comment was from Ms. Margaret Coleman, also an individual. Ms. Coleman stated her dislike for DRLs and recommended that the DRLs on the subject vehicles be disconnected. She did not comment on the merits of Toyota's rationale for granting its petition.

The reason for specifying a spacing relationship is to lessen the likelihood of motor vehicle crashes, deaths, and injuries, by ensuring visibility of a vehicle's turn signal lamps in daylight. In this case, Toyota claimed that, although the DRLs on the Celica do not meet the spacing requirements, the visibility of the vehicles is substantially better than vehicles that comply with the permissible spacing requirements. Toyota measured the distance from the DRL's lighted edge to the optical center of the nearest turn signal lamp as 45.6 mm, not the required minimum of 100 mm. Also, the DRL emits more than twice the maximum luminous intensity specified in the standard for being located closer than 100 mm from the turn signal's optical center. However, Toyota found in subjective testing that the turn signals could be readily discerned by a driver in an oncoming vehicle at a distance of 300 feet. It believes that this is better performance than vehicles with compliant DRL/turn signal spacing.

The agency has reviewed Toyota's rationale for granting the petition and does not agree. Toyota produced almost 100,000 vehicles on which the required spacing between the DRL and turn signal is approximately 55 percent below the minimum required distance. The agency notes that the noncompliance would not have occurred if the DRL had an intensity of 2,600 cd or less. However, Toyota chose not to do this.

Toyota based part of its rationale for granting the petition on the subjective evaluations of 20 contractors. We do not find this type of subjective evaluation persuasive, particularly when noncompliances are far from minimum required levels.

Toyota also discussed an alternative method of measuring the distance between the DRL's lighted edge and the optical center of the turn signal. The above figure outlines these two spacing measurements. Toyota stated that the spacing of 45.6 mm between the DRL's lighted edge and the turn signal's optical center (line C to the optical center) would only be seen when looking along the optical axis of the DRL. In other positions, the DRL's lighted edge (line A) would be seen by observers as being 82 mm from the turn signal's optical center. The agency does not find merit in this rationale. First, the distance measured from line A is 18 mm less than the minimum requirement. This is still a significant difference. Second, although the distance from line C to the turn signal's optical center (45.6 mm) may not best represent the DRL's lighted edge in all conditions, it does represent a worst-case scenario. The intent of the standard is to account for all possible viewing locations. Certainly, there will be situations where opposing drivers will be looking along the optical axis of the subject vehicles' DRL. For example, if a vehicle is attempting to make a left turn in front of oncoming traffic, drivers of the oncoming vehicles may be in a position where the turn signal is not visible. Mr. Johnson described a similar situation in his comments.

In its comments on the petition, Koito stated that the FMVSS No. 108 requirements for DRL/turn signal spacing and intensity are not the same as those in the Canadian standard. It referred to "difficulties in designing a DRL for [the] U.S. and Canadian market.'' While it is true that, in this case, FMVSS No. 108 is more stringent than CMVSS No. 108, we note that it is still possible to build a vehicle having DRLs that meets both standards albeit using a different type of DRL configuration. In any event, vehicles sold in the United States are required to meet United States standards.

Finally, Koito stated that "the current wording of FMVSS No. 108 does not fully explain its technical legitimacy.'' Explanation of the rationale for a requirement is not contained in the regulatory language in the standard. Generally, it is found in the preambles to the notice of proposed rulemaking and the final rule in the **Federal Register**. The final rule amending FMVSS No. 108 to add the current spacing requirements was published on December 16, 1993 (58 FR 65673).

In consideration of the foregoing, NHTSA has decided that Toyota has not met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety, and that it should not be exempted from the notification and remedy requirements of the statute. Accordingly, its application is hereby denied and it must proceed to notify and remedy as required by statute, at no cost to the consumer.

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

Issued on: April 8, 2004.

Roger A. Saul,

Director, Office of Crashworthiness Standards.

[FR Doc. 04–8500 Filed 4–14–04; 8:45 am]

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DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 8, 2004.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 17, 2004, to be assured of consideration.

Bureau of the Public Debt (PD)

OMB Number: 1535–0094.

Form Number: None.

Type of Review: Extension.

Title: Regulations Governing Payments by the Authorized Clearing House Method on Account of United States Securities.

Description: The information is needed in order to make payments to investors in United States Securities by the Automated Clearing House (ACH) method.

Respondents: State, local or tribal government.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.