

**TOYOTA**  
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October 5, 2005

The Honorable Jacqueline Glassman  
Acting Administrator  
National Highway Traffic Safety Administration  
400 Seventh St, S.W.  
Washington DC 20590

**Re: Appeal of NHTSA Denial of Petition for Determination of Inconsequential Noncompliance  
Federal Motor Vehicle Safety Standard 225 – *Child Restraint Anchorage Systems*  
2003-2005 MY Toyota Tundra Access Cab**

Dear Ms. Glassman:

Pursuant to the National Traffic and Motor Vehicle Safety Act and 49 CFR Part 556.7, on behalf of Toyota Motor Corporation (TMC), Toyota Motor North America, Inc. hereby petitions an appeal to the National Highway Traffic Safety Administration (NHTSA) regarding the denial of an earlier petition for inconsequential non-compliance that the subject non-compliance is inconsequential as it relates to motor vehicle safety. Based on the agency's response to Toyota, it appears there has been some miscommunication regarding the subject vehicles and presence of lower anchorage systems (LATCH).

The subject access cab vehicles have 3 rear designated seating positions with two rear seat child restraint lower anchorage systems, and a manual air bag on-off switch to disable the front passenger air bag, but no child restraint lower anchorage system in the front passenger seat. FMVSS 225 S5(c)(2) requires,

*Each vehicle that- (i) Has a rear designated seating position and meets the conditions in S4.5.4.1(b) of Standard No. 208 (Sec. 571.208); and, (ii) Has an air bag on-off switch meeting the requirements of S4.5.4 of Standard 208 (Sec. 571.208), shall have a child restraint anchorage system for a designated passenger seating position in the front seat, instead of a child restraint anchorage system that is required for the rear seat...*

Since the subject vehicles do not have a child restraint lower anchorage system in the front seat, these vehicles do not meet the requirement outlined in S5(c)(2) of FMVSS225.

Regarding the issue of misuse of the LATCH seating position, the agency's response states (70FR56208),

*In this particular case, the owner's manual for the Toyota Tundra provides instruction for installing a child restraint using the LATCH system, even though one is not available.*

The agency also stated,

*...absence of LATCH anchorages compromises the overall level of safety of child restraints.*

The agency continued,

*NHTSA agrees ... that the noncompliant vehicles offer a lower level of child passenger safety than those which comply with the requirements of FMVSS 225.*

Based on these types of statements, Toyota believes the agency may have misunderstood the situation regarding the subject vehicles. The subject vehicles have two LATCH positions in the rear seats. The owner's manuals for these vehicles are correct, since it provides instructions for installing child restraints using LATCH in the rear seats, and provides instructions for installing child restraints for the front passenger seats using the seat belt.

The issue in question is the airbag cut-off switch installed pursuant to FMVSS 208 S4.5.4. FMVSS 225 requires that if this airbag cut-off switch is installed a LATCH position must be provided in the front passenger seat, in lieu of one of the rear LATCH seating positions. As stated previously, the subject vehicles do not have a LATCH in the front passenger seat, but has two rear LATCH positions. Thus, the difference between the subject vehicles and competitive models with two LATCH positions in the rear seats and no LATCH in the front passenger seat is that the subject vehicles have airbag cut-off switch allowed under FMVSS 208 S4.5.4, while the competitor models do not have this switch.

In the *Federal Register* notice, based on the type of reasoning used by the agency, the agency seemed to imply that the non-compliance remedy to this situation is the installation of a LATCH position to the front passenger seat. However, we believe the agency should understand that the likely remedy is to remove the airbag cut-off switches. Further, Toyota has not received any customer complaints regarding the airbag cut-off switch, and Toyota believes that vehicle owners of the subject vehicles consider them a useful feature.

In conclusion, since the subject vehicles have two LATCH systems in the rear seats, the vehicles comply with the intent of the standard and the vehicles are no less safe than vehicles which comply with the requirements of FMVSS 225 without a cut-off switch. Toyota believes the non-compliance of the subject vehicles is inconsequential to motor vehicle safety for the reasons outlined above, and therefore Toyota should be exempt from the notification and remedy requirements of the Safety Act for this specific non-compliance. If you have any questions concerning this matter, please do not hesitate to call Mr. Chris Santucci or Mr. Kevin Ro of our staff at (202) 775-1700.

Sincerely,



Chris Tinto  
Vice President  
Technical and Regulatory Affairs  
Toyota Motor North America, Inc.

cc: Mr. Ron Medford, Senior Associate Administrator, NHTSA