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MONTHLY REPORT OF

EPA, NHTSA, CALIFORNIA, MISC.,

CANADA, AND PRODUCT LIABILITY

DEVELOPMENTS

## JUNE 2011

1. AN ELECTRONIC COPY WILL BE PROVIDED FOR EACH ITEM IDENTIFIED WITH AN ASTERISK "\*" IN THIS INDEX (THESE ARE ITEMS THAT ARE PARTICULARLY SIGNIFICANT WITH REGARD TO ON-ROAD LIGHT DUTY VEHICLES).
2. THE FILE NAME OF THE ELECTRONIC FILE WILL DESCRIBE THE FILE.
3. IF YOU WISH A HARD OR ELECTRONIC COPY OF AN ITEM NOT PRECEDED BY AN ASTERISK, PLEASE CONTACT VSC.
4. THE MONTHLY REPORT GENERALLY OMITS ITEMS THAT DO NOT CONCERN PASSENGER CARS/LIGHT TRUCKS OR THAT ARE DEEMED NOT SIGNIFICANT.
5. THE INDEX IS THE FILE STARTING “IndexMR”
6. PARTICULARLY IMPORTANT ITEMS IN THIS INDEX ARE HIGHLIGHTED IN YELLOW

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I. ENVIRONMENTAL PROTECTION AGENCY

ACTIONS

1. *Final EPA Actions*

None

1. *Proposed EPA Actions*

None

*C. The following emissions-related documents/materials issued:*

* \*VSCI Emissions Deadline Alert
* \*Advance copy EPA misfueling rule
* \*Draft guidance re HD SCR
* The Fuel Economy Label Final Rule published, July 6, 2011, in the Federal Register; the rule was announced and a pre-publication version released in late May, 2011.  A copy of the rulemaking can be found at: <http://www.gpo.gov/fdsys/search/pagedetails.action?granuleId=2011-14291&packageId=FR-2011-07-06&acCode=FR>

II. NATIONAL HIGHWAY TRAFFIC

SAFETY ADMINISTRATION

ACTIONS

1. *Final NHTSA Actions*

* \*Anthropomorphic Test Devices; Hybrid III Test Dummy, ES-2re Side Impact Crash Test Dummy,

June 2, 2011; Page 31860

* \*Make Inoperative Exemptions; Vehicle Modifications To Accommodate People With Disabilities, Side Impact Protection,

June 24, 2011; Page 37025

1. *Proposed NHTSA Actions*

* Toyota Motor Corporation, Inc., on Behalf of Toyota Corporation, and Toyota Manufacturing, Indiana, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance re FMVSS 225 and labeling

June 16, 2011; Page 35271

* \*Preliminary Theft Data; Motor Vehicle Theft Prevention Standard; Publication of preliminary theft data; request for comments.

June 22, 2011; Page 36484

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*C*. NHTSA Interpretations and other safety-related issues of particular note:

* \*VSCI NHTSA Deadline Alert (in 2 parts: final rules not yet in effect; upcoming rules)

1. MISCELLANEOUS ACTIONS

**USA UNIFIED REGULATORY AGENDA – 2011 – PENDING AND UPCOMING USA RULEMAKINGS**

**OF INTEREST TO AUTO INDUSTRY**

(Click on link to open summary)

* **Motor vehicle emissions:**

|  |  |
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|  | Air conditioning system servicing... [2060-AO75](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AO75) |

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|  | Component durability procedures... [2060-AN01](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AN01) |

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|  | Emission standards: |

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|  | Heavy-duty vehicles... [2060-AP61](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AP61), [2060-AQ05](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ05) |

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|  | Light duty vehicles... [2060-AQ54](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ54), [2060-AQ86](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ86) |

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|  | Off-highway engines... [2060-AQ05](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ05) |

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|  | Misfueling of vehicles with greater than ten volume percent ethanol... [2060-AQ17](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ17) |

* **Motor vehicle safety:**

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|  | Accelerator control systems... [2127-AK18](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK18) |

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|  | Air brake systems... [2127-AK84](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK84) |

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|  | All-terrain vehicles... [3041-AC28](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=3041-AC28) |

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|  | Brake fluids... [2127-AK58](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK58) |

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|  | Brake readjustment limits FMCSA... [2126-AB28](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2126-AB28) |

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|  | Bus testing procedures... [2132-AB01](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2132-AB01) |

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|  | Child restraint systems... [2127-AJ44](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AJ44) |

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|  | Early warning reporting... [2127-AK72](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK72) |

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|  | Electric-powered vehicles: |

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|  | Electrolyte spillage and electrical shock protection... [2127-AK80](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK80) |

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|  | Event data recorders... [2127-AK87](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK87), [2127-AK86](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK86), [2127-AK71](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK71) |

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|  | Foreign defect reporting... [2127-AK72](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK72) |

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|  | Import of nonconforming vehicles... [2127-AK32](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK32) |

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|  | Keyless ignition systems... [2127-AK88](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK88) |

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|  | Modifications to accommodate people with disabilities (head restraints)... [2127-AK22](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK22) |

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|  | Motor carrier safety fitness determination... [2126-AB11](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2126-AB11) |

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|  | Motorcycle brake systems... [2127-AK16](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK16) |

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|  | Motorcycle helmet labeling... [2127-AK15](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK15) |

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|  | New car assessment program labeling... [2127-AK51](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK51) |

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|  | Platform lift systems: |

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|  | Control lighting, illumination and testing requirements... [2127-AJ93](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AJ93) |

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|  | Pneumatic tires... [2127-AK17](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK17) |

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|  | Rearview mirrors... [2127-AK43](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK43) |

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|  | Recreational off-road vehicles... [3041-AC78](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=3041-AC78) |

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|  | Saddlemount braking requirements... [2126-AB30](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2126-AB30) |

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|  | Safety standards... [2127-AK89](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK89) |

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|  | School bus emergency exits and window latches... [2127-AK20](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK20) |

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|  | Seat belt installation requirement on motorcoaches... [2127-AK56](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK56) |

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|  | Seat belt lockability... [2127-AK25](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK25) |

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|  | Seat belt use state observational survey criteria... [2127-AK41](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK41) |

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|  | Side impact protection... [2127-AK82](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK82) |

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|  | Test dummies: |

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|  | Child size... [2127-AJ49](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AJ49), [2127-AK34](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK34) |

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|  | ES-2re drawing package... [2127-AK64](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK64) |

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|  | Hybrid III... [2127-AJ49](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AJ49), [2127-AK34](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK34) |

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|  | Tires: |

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|  | Quality grading... [2127-AK06](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK06) |

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|  | Test inflation pressure requirement for T-Type spare tires... [2127-AK42](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK42) |

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|  | Tubeless tire resistance to bead unseating test procedure... [2127-AK55](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK55) |

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|  | Window automatic reversal systems... [2127-AK52](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK52) |

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|  | Windshield zone intrusion... [2127-AK13](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK13) |

* **Motor vehicles:**

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|  | Advanced Technology Vehicles Manufacturing Incentive Program... [1901-AB25](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=1901-AB25) |

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|  | Alternative-fueled vehicles labeling requirements... [3084-AB21](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=3084-AB21) |

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|  | Charitable contribution deduction... [1545-BF10](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=1545-BF10) |

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|  | Electric drive vehicles... [1904-AB81](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=1904-AB81) |

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|  | Fuel economy labeling... [2127-AK75](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK75), [2060-AQ09](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ09) |

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|  | Fuel economy standards: |

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|  | Commercial medium- and heavy-duty on-highway vehicles and work trucks... [2127-AK74](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK74) |

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|  | Passenger cars and light trucks... [2127-AK79](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK79) |

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|  | Tire information... [2127-AK83](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK83), [2127-AK76](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK76) |

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|  | Imports... [2127-AK32](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK32) |

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|  | Insurer theft loss reporting requirements... [2127-AK90](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK90) |

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|  | Labeling for fuel economy, greenhouse gas and other emissions... [2127-AK73](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK73) |

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|  | National Stolen Passenger Motor Vehicle Information System... [1110-AA01](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=1110-AA01) |

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|  | Stolen vehicle recovery system... [3060-AJ01](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=3060-AJ01) |

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|  | Theft prevention standard: |

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|  | Light duty trucks... [2127-AK91](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK91) |

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|  | Target areas... [2127-AK81](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK81) |

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|  | Used motor vehicle trade regulation rule... [3084-AB05](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=3084-AB05) |

* **Fuel economy:**

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|  | Advanced Technology Vehicles Manufacturing Incentive Program... [1901-AB25](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=1901-AB25) |

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|  | Alternative fuel conversions... [2060-AP64](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AP64) |

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|  | Alternative fueled vehicles: |

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|  | Electric drive vehicles inclusion... [1904-AB81](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=1904-AB81) |

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|  | Commercial medium- and heavy-duty on-highway vehicles and work trucks... [2127-AK74](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK74) |

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|  | Labeling... [2127-AK75](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK75), [2127-AK73](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK73), [2060-AQ09](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ09) |

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|  | Light duty vehicles... [2060-AQ54](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ54), [2060-AQ86](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2060-AQ86) |

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|  | Passenger car and light truck corporate average standards... [2127-AK79](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK79) |

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|  | Tire information... [2127-AK83](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK83), [2127-AK76](http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=2127-AK76) |

* \*FCC, June 16, 2011, proposal to amend rules to enable enhanced vehicular radar technologies in the 76–77 GHz band to improve collision avoidance and driver safety.
* FTC:

\*June 1, 2011, Advance notice of proposed rulemaking. re public comment on Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles

**\*** June 1, 2011, Postponement of amendment of guide. re amendments to its Guide Concerning Fuel Economy Advertising for New Automobiles ("Fuel Economy Guide" or "Guide") pending completion

IV. PRODUCT LIABILITY

This section of the Monthly Report sets forth summaries of recent Product Liability events in the US automotive industry. If additional information on any summary is needed, contact VSCI.

**COURT HOLDS THAT COMPLIANCE WITH STANDARDS DOES NOT PRECLUDE PUNITIVE DAMAGES CLAIMS**Compliance with government safety standards in the design and manufacture of an allegedly defective tire is not enough to exonerate the manufacturer from punitive damages claims, a Texas federal judge held. *Idar et al. v. Cooper Tire & Rubber Co.* The U.S. District Judge rejected Cooper's argument that it could not be liable for malicious conduct, fraud or gross negligence if it complied with the federal regulations. According to the judge, while compliance with government standards may constitute strong evidence that a product is not defective, such compliance does not necessarily exonerate a manufacturer of liability for punitive damages.

**KIA HIT WITH $40M VERDICT IN FAULTY SEATBELT DEATH CASE**  
In 2002, Kia had recalled seatbelt buckles on 1995-1998 Sephias and Sportages for a condition called "false latching," wherein a belt appears to be locked into the buckle but actually isn't. Plaintiff’s car wasn't part of the recall, even though the 1999 and 2000 Sephias used the same buckle as the 1995-1998 models. The 1999-2000 cars were recalled in 2004, after the U.S. inquired again as to why they weren't included the first time.  
The deceased got into an accident, was ejected from the car and later died from injuries. Kia, Kia Motors America and Celtrion, the Korean maker of the seatbelt, were sued for wrongful death. After five years in trial and two visits to the Alabama Supreme Court, a lower-court jury decided for the plaintiffs and issued a $40-million judgment against Kia.   
  
  
**AVIS IS SUED OVER RENTAL CARS' LACK OF SIDE AIR BAGS**Avis Rent-a-Car failed to exercise reasonable care to make sure its vehicles had a crucial -- though optional -- safety feature, the plaintiff in a rollover suit argues in a federal appeals court brief. *Noveck v. General Motors Corp*.

Plaintiff requested the 2nd U.S. Circuit Court of Appeals to reinstate his complaint against Avis. He says the company's failure to make sure its vehicles were equipped with side-curtain air bags violated New York law.

Noveck says he rented a Chevrolet TrailBlazer SUV from Avis, allegedly after being assured the model was safe. Several hours later he was ejected from the vehicle during a rollover accident and suffered paralyzing injuries, he says.

He sued General Motors Corp. and Avis and eventually settled with GM. The trial judge dismissed Noveck's suit against Avis.

In his appeal, plaintiff sates that “A commercial lessor who introduces a defective product into the marketplace should be subject to the same potential liability that faces the manufacturer or retailer of a defective product,”.

Avis, he insists, should have “made it its business to know” that without side-curtain air bags, the TrailBlazer was unreasonably dangerous.

Noveck says Avis had stopped renting Ford Explorers some years ago because of stability and tire-failure dangers, indicating that it knew of a legal duty to supply safe vehicles.

“There is no reason such sensitivity should not similarly have been applied to addressing the serious and undisputed rollover problems affecting the Chevy TrailBlazer,” he says.

**IOWA FEDERAL JURY FINDS NO DEFECT IN FORD F-250 RESTRAINTS**A federal court jury in Iowa has returned a verdict for Ford Motor Co., rejecting a woman's claim that a defective 2002 F-250 pickup truck made the injuries she suffered in a rollover accident worse. *Nemmers v. Ford Motor Co.*.

Plaintiff insisted the vehicle was defective in that the center front seat only had a lap belt instead of a lap-shoulder belt. (Though lap belt permitted at that seating position by federal standards)

Ford countered that at the time the F-250 was designed and manufactured, no extended-cab or crew-cab pickup truck (those with two rows of seating) was equipped with an upper torso restraint in the front center seat position. The company said evidence that the F-250 design was customary in the industry and complied with government standards at the time is admissible under state law.

In its trial brief, Ford also cited authority which required the trier of fact to consider “both the nature of the conduct of each party and the extent of the causal relation between the conduct and the damages claimed.”

Ford also asserted that Chrest and Nemmers were both drunk when the accident occurred.

The automaker pointed out that Chrest acknowledged consuming “at least 11 beers” before getting behind the wheel of his truck, and his blood alcohol content at the time of the accident

V. CALIFORNIA ACTIONS

The following California-CARB-related documents of note issued:

* \*VSCI Emissions Deadline Alert
* \*2010 CARB enforcement report

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