

California. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(I)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before April 19, 2011. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then the shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Kevin Hovey, Senior Environmental Planner, Division of Environmental Analysis, California Department of Transportation, 4050 Taylor Street, San Diego, CA 92110, Regular Office Hours 7 a.m. to 3 p.m., Telephone number 619-688-0240, e-mail [Kevin.Hovey@dot.ca.gov](mailto:Kevin.Hovey@dot.ca.gov).

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, the FHWA assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(I)(1) by issuing licenses, permits, and approvals for the following project in the State of California: The project is located in the Mission Valley Community of the City of San Diego along SR-163. The proposed project will: Construct new at grade lanes on the west-side of southbound SR-163 approaching Friars Road with connection to westbound Interstate 8/ Hotel Circle North; modify the existing SR-163/Friars Road interchange partial cloverleaf, including the addition of a flyover bridge from Ulric Street to southbound SR-163; widen Friars Road bridge from 6 lanes to 10 lanes with added sidewalks on both sides of the bridge; widen the eastern portion of Friars Road past the northbound SR-163 on-ramp; widen the western portion of Frazee Road immediately north and south of Friars Road; remove the median on Avenida de las Tiendas (south of Friars Road) and restripe the roadway to provide three southbound and three northbound lanes; install or upgrade traffic signals at Friars Road/Ulric Street, Ulric Street/southbound SR-163 on-ramp; Friars Road/northbound SR-163 on-ramp; and Frazee Road/Murray Canyon Road; and construct 15 retaining walls and 9 noise attenuation barriers along SR-163 and Friars Road. The project will be constructed in three phases. The actions by the Federal agencies, and the laws under which such actions were taken, are described

in the project files. The Categorical Exclusion, approved on 09/30/2010, and other project records are available by contacting Caltrans at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality regulations;
2. National Environmental Policy Act (NEPA);
3. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU);
4. Department of Transportation Act of 1966;
5. Federal Aid Highway Act of 1970;
6. Clean Air Act Amendments of 1990;
7. Clean Water Act of 1977 and 1987;
8. Endangered Species Act of 1973;
9. Migratory Bird Treaty Act;
10. Title VI of the Civil Rights Act of 1964;
11. Uniform Relocation Assistance and Real Property Acquisition Act of 1970;
12. National Historic Preservation Act of 1966;
13. Executive Order 11990, Protection of Wetlands;
14. Executive Order 13112, Invasive Species; and
15. Executive Order 11988, Floodplain Management.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(I)(1).

Issued on: October 13th, 2010.

**Karen Bobo,**

*Director, Local Programs, Federal Highway Administration, Sacramento, California.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0141; Notice 1]

#### Mazda North American Operations, Receipt of Petition for Decision of Inconsequential Noncompliance

Mazda North American Operations (MNAO),<sup>1</sup> on behalf of Mazda Motor

<sup>1</sup> Mazda Motor Corporation of Hiroshima, Japan (Mazda) is the manufacturer of the subject vehicles

Corporation of Hiroshima, Japan (Mazda), has determined the lens of the headlamps equipped on certain 2004 through 2009 Mazda RX-8 model passenger cars, manufactured from April 1, 2003, to May 29, 2009, and certain 2006 through 2008 MX-5 model passenger cars, built from May 17, 2005, to November 27, 2008, failed to meet the requirements of paragraph S7.2(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 108 Lamps, *Reflective Devices, and Associated Equipment*. Mazda has filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, dated December 18, 2009.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Mazda 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.

This notice of receipt of Mazda's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Mazda estimates approximately 123,000 2004 through 2009 Mazda RX-8 model passenger cars, manufactured from April 1, 2003 to May 29, 2009, and 2006 through 2008 MX-5 model passenger cars, built from May 17, 2005 to November 27, 2008, are affected. All of the affected vehicles were built at Mazda's plant in Hiroshima Japan.

Paragraph 7.2(b) of FMVSS No. 108 requires:

S7.2(b) The lens of each headlamp and of each beam contributor manufactured on or after December 1, 1989, to which paragraph (a) of this section applies shall be marked with the name and/or trademark registered with the U.S. Patent and Trademark Office of the manufacturer of such headlamp or beam contributor, or its importer, or any manufacturer of a vehicle equipped with such headlamp or beam contributor. Nothing in this paragraph shall be construed to authorize the marking of any such name and/or trademark by one who is not the owner, unless the owner has consented to it.

Mazda states that the noncompliance is that the lenses of the headlamps on the affected vehicles are not marked with the name or trademark of the manufacturer of the headlamp, the manufacturer of the vehicle, or the importer of the vehicle.

Mazda was notified by its headlamp manufacturer, Koito Manufacturing Company, Ltd. (Koito) of the apparent

and Mazda North American Operations (MNAO) is the importer of the vehicles as well as the registered agent for Mazda.

noncompliance. Mazda then concluded that the vehicles equipped with the affected headlamps failed to comply with paragraph S7.2(b) of FMVSS No. 108.

Mazda stated the following reasons why they believe the noncompliance is inconsequential to vehicle safety and does not present a risk to motor vehicle safety:

The affected headlamps fulfill all the relevant performance requirements of FMVSS No. 108, except that trade name and/or trademark of the manufacturer or importer is missing on the lens. However, the affected headlamps have the trademark of the headlamp manufacturer on the rim of the headlamp housing. Thus, Mazda contends that this marking on the rim is visible with the vehicle's front hood open and states that it believes that the rim marking could assist the easy identification of the headlamp manufacturer by the users of the vehicles.

Mazda has not received any complaints or claims related to the noncompliance nor is it aware of any known reports of accidents or injuries attributed to the noncompliance.

In summary, Mazda states that it believes the noncompliance is inconsequential to motor vehicle safety because the affected headlamps fulfill all other relevant requirements of FMVSS No. 108.

The company also states that it has taken steps to correct the noncompliance in future production.

Supported by the above stated reasons, Mazda believes that the subject noncompliance is inconsequential to motor vehicle safety, and 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 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.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: By logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to [http://www.regulations.gov](http://www.regulations.gov/), including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

*Comment Closing Date:* November 22, 2010.

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

Issued on: October 15, 2010.

**Claude H. Harris,**  
*Director, Office of Vehicle Safety Compliance.*  
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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0137; Notice 1]

#### General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

General Motors, LLC (GM),<sup>1</sup> has determined that certain 2008 through 2010 Model Year Chevrolet Malibu passenger cars equipped with automatic transmissions and manufactured between May 2007 through March 2010 do not fully meet the requirements of paragraph S3.1.4.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect*. GM filed an appropriate report pursuant to 49 CFR part 573 *Defect and Noncompliance Responsibility and Reports*, dated March 30, 2010.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (*see* implementing rule at 49 CFR part 556), GM 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.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

A total of 462,227<sup>2</sup> model year 2008, 2009 and 2010 Chevrolet Malibu passenger cars manufactured during the period May 2007 through March 2010 are potentially affected by the subject noncompliance.

Paragraph S3.1.4.1 of FMVSS No. 102 requires:

Except as specified in S3.1.4.3, if the transmission shift position sequence includes a park position, identification of shift positions, including the positions in relation to each other and the position selected, shall be displayed in view of the driver whenever any of the following conditions exist:

(a) The ignition is in a position where the transmission can be shifted; or

<sup>1</sup> General Motors, LLC (GM) is a Michigan corporation that manufactures motor vehicles.

<sup>2</sup> GM's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt GM from the notification and recall responsibilities of 49 CFR part 573 for as many as 462,227 of the affected vehicles. However, the agency cannot relieve GM's distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM recognized that the subject noncompliance existed. Those vehicles must be brought into conformance, exported, or destroyed.