

production of the vehicles will comply with FMVSS no 205.

In summation, Fuji believes that the described noncompliance of its vehicles 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.

*V. NHTSA'S Decision:* FMVSS No. 205 specifies labeling and performance requirements for automotive glazing. Paragraph S6 of FMVSS No. 205 requires glazing material manufacturers to certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which the standard applies. A prime glazing material manufacturer is required to mark its glazing by adding the marks required in Section 7 of ANSI Z26.1 (1996) including the FMVSS certification symbol "DOT," the item of glazing code mark (in this case "AS3") and a manufacturer's code mark as assigned by the NHTSA's Office of Vehicle Safety Compliance (in this case "44").

NHTSA has reviewed and accepts Fuji analyses that this noncompliance is inconsequential to motor vehicle safety. Fuji has provided documentation that the windows do comply with all safety performance requirements of the standard. This documentation is a surrogate for the FMVSS certification "DOT" labeling. NHTSA also believes that the lack of the manufacturer's code and the item of glazing code labeling would not result in inadvertent replacement of the windows with the wrong glazing. Broken tempered glass can readily be identified as tempered glass, rather than plastic or laminated glass. Anyone who intended to replace the window with an identical tempered glass window would have to obtain the glazing from Fuji or a major automotive parts manufacturer since tempered glass automotive windows cannot be easily manufactured by small field facilities. Fuji, or an automotive parts supplier would be able to identify the correct replacement window by use of their replacement parts identification systems.

In consideration of the foregoing, NHTSA has decided that Fuji has met its burden of persuasion that the FMVSS No. 205 noncompliance in the glazing material identified in Fuji's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, Fuji's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 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 approximately 23,600 vehicles that Fuji no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles. However, the granting of this petition does not 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 vehicles under their control after Fuji notified them that the subject noncompliance existed.

**Authority:** 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.95 and 501.8.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013-23361 Filed 9-24-13; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0083; Notice 1]

#### Spartan Motors, Inc. on Behalf of Spartan Motors Chassis, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of petition.

**SUMMARY:** Spartan Motors, Inc. on behalf of Spartan Motors Chassis, Inc. (Spartan) has determined that certain model year 2008 through 2013 Spartan Gladiator and MetroStar chassis cabs do not fully comply with paragraph S5.3.3.1(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems*. Spartan has filed an appropriate report dated April 19, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**DATES:** October 25, 2013.

**ADDRESSES:** 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:

- **Mail:** Send comments 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.

- **Hand Delivery:** Deliver comments by hand 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 a.m. to 5 p.m. except Federal Holidays.

- **Electronically:** Submit comments 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 (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](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.

#### SUPPLEMENTARY INFORMATION:

I. *Spartan's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Spartan submitted a petition 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 Spartan'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.

**II. Chassis Cabs Involved:** Affected are approximately 26 model year 2008 through 2013 Spartan Gladiator and MetroStar chassis cabs manufactured between April 9, 2008 and January 14, 2013.

**III. Noncompliance:** Spartan explains that it has determined that certain emergency rescue chassis cabs built between April 9, 2009 and January 14, 2013 may not meet the brake actuation time for trucks as identified in § 5.3.3 of FMVSS No. 121.

**IV. Rule Text:** Section S5.3.3 of FMVSS No. 121 specifically states:

S5.3.3 Brake actuation time. Each service brake system shall meet the requirements of S5.3.3.1 (a) and (b).

S5.3.3.1(a) With an initial service reservoir system air pressure of 100 psi, the air pressure in each brake chamber shall, when measured from the first movement of the service brake control, reach 60 psi in not more than 0.45 second in the case of trucks and buses, \* \* \*

**V. Summary of Spartan's Analyses:** Spartan stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

Section 5.3.3.1 of FMVSS No. 121 defines the amount of pressure (60 psi) for, in this case, the front brake chambers. Further, it also defines a "not to exceed" time (0.45 seconds) in which that pressure at the brake chamber must be achieved. This is not interpreted to mean brakes are to be applied at 60 psi but rather a certain pressure at the brake chamber will be achieved. Brakes will be applied nearly instantaneously after actuation of the treadle valve.

Spartan conducted three tests on a sample of three chassis cabs of similar brake system configurations. Detailed results from the testing are shown in Spartan's petition. The reported average was used to determine the actual results in comparison to the requirements. By rounding the average of the three tests for each sample, Spartan Chassis identified it exceeds the requirements by 0.01 second.

The measurement of time, in this case, is for when air pressure at the chamber reaches 60 psi. As stated, the brakes are still being applied irrespective of achieving the 60 psi pressure at the front brake chambers. The impact of being 0.006 to 0.01

seconds above the requirement of 0.45 seconds would have very little impact (approximately 1 ft @ 60 mph) to stopping distance of the vehicle and would not impede the capability of the vehicle being able to stop.

According to Driver's License Manual, stopping distance is impacted by driver perception distance and reaction distance. Other factors include speed and gross weight of the vehicle. These attributes would appear to have a more significant impact to overall stopping distance than 0.01 second timing for air pressure to reach 60 psi at the front brake chambers.

From a speed of 60 mph, vehicles affected by this condition are required to achieve a complete stop in 310 ft. At this speed, it would take approximately 3.52 seconds for vehicles to stop at this rate of speed. Vehicles affected by the condition that has resulted in the identified non-compliance are capable of stopping within the distance of 310 ft as prescribed by FMVSS No. 121 and would still be able to stop within the required stopping distance.

Spartan has additionally informed NHTSA that it has corrected the noncompliance so that all future production Gladiator and MetroStar chassis cabs will comply with FMVSS No. 121.

In summation, Spartan believes that the described noncompliance of the subject chassis cabs is inconsequential to motor vehicle safety, and that its petition, to exempt 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. Therefore, 26 Gladiator and MetroStar chassis cabs that Spartan no longer controlled at the time it determined that the noncompliance existed. Therefore, these provisions only apply to the 26 Chassis cabs that Spartan no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction for delivery or introduction into interstate commerce of the noncompliant vehicles under their

control after Spartan notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013-23359 Filed 9-24-13; 8:45 am]

**BILLING CODE 4910-59-P**

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0142; Notice 2]

#### Nissan North America, Incorporated, Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.  
**ACTION:** Grant of Petition.

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**SUMMARY:** Nissan North America, Inc. (Nissan) has determined that certain model year (MY) 2009 through 2012 Nissan Titan trucks manufactured from January 31, 2008 to July 17, 2012 and MY 2012 Nissan NV trucks, buses or multipurpose passenger vehicles (MPVs) manufactured from December 20, 2010 to July 17, 2012, do not fully comply with paragraph S3.1.4.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect*. Nissan has filed an appropriate report dated July 23, 2012, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**ADDRESSES:** For further information on this decision contact Mr. Vince Williams, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)366-2319, facsimile (202)366-5930.

#### SUPPLEMENTARY INFORMATION:

**I. Nissan's Petition:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556), Nissan submitted a petition 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 Nissan's petition was published, with a 30-day public comment period, on July 5, 2013, in the **Federal Register** (78 FR 40546.) No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site