

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]

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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.

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

at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2012–0142.”

II. *Vehicles Involved*: Affected are approximately 45,167 MY 2009 through 2012 Nissan Titan trucks manufactured from January 31, 2008 to July 17, 2012 and MY 2012 Nissan NV trucks, buses or MPVs manufactured from December 20, 2010 to July 17, 2012 equipped with steering column-mounted transmission shift levers with a manual mode.

III. *Rule Text*: Paragraph S3.1.4.1 of FMVSS No. 102 specifically states:

S3.1.4.1 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
- (b) The transmission is not in park.

IV. *Summary of Nissan’s Analyses*: Nissan explains that the noncompliance is that on the affected vehicles a unique sequence of actions can lead the shift position indicator to incorrectly display the shift position as required by paragraph S3.1.4.1 of FMVSS No. 102.

Nissan further explains that the noncompliance occurs when the following sequences are accomplished:

- (1) The transmission is shifted into “manual” shift mode by pressing the “manual” shift mode button; and
- (2) The ignition is switched from the “ON” position directly into “ACC” position, which shuts off the engine.

During the time in which the ignition is in the “ACC” mode, the gear position indicator displays the last “manual” gear position of the transmission ([1]^M through [4]^M) prior to the “ACC” mode. If the key is not rotated from the “ACC” position and the shift lever is moved, the last “manual” gear position will be displayed regardless of the shift lever position (the engine will not be running). Turning the ignition to either the “ON” or “OFF” positions will reset the indicator, at which point the correct position will be displayed.

This issue only occurs when the ignition is switched from “ON” into “ACC” mode and the engine is off. Further, the vehicle cannot be restarted unless the ignition is switched out of “ACC” at which point the shift position indicator would reset and show the correct position. Likewise, if the ignition is turned to the “OFF” position to turn the vehicle completely off, the position indicator resets itself and will display the correct shift position the next time the vehicle is started.

Nissan believes the noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. The vehicle cannot be operated in the noncompliant condition. The noncompliant condition only exists when the vehicle ignition is switched from the “ON” directly into the “ACC” mode and exists only for the time that the ignition remains in “ACC” mode. The engine is not running at this time. If the transmission is shifted into park while in “ACC” mode, it cannot be removed from park unless the ignition is switched to the “ON” position. If the ignition is switched to either the “ON” position (to start the vehicle), or the “OFF” position (to remove the key and exit the vehicle) the shift indicator resets to the correct position and the vehicle is no longer in the noncompliant condition.

2. The sequence of events that leads to the noncompliant condition is exceptionally rare. This sequence, stated in the description of the noncompliance, is not one that a driver should encounter in the typical operation of the vehicle. If a driver were to happen into this circumstance, the condition is so fleeting that the vehicle would likely be taken out of the noncompliant condition almost immediately. This is evidenced by the fact that some of the affected vehicles have been on the road for four years and Nissan has not received any customer complaints or warranty claims regarding the issue.

3. The likelihood of an affected vehicle being inadvertently left out of park is nearly impossible in this case. When the noncompliant condition occurs, the shift indicator states, incorrectly, that the vehicle is in a “manual” forward gear regardless of the actual shifter position. Due to the geometry of the shifter, the park position should be apparent to the driver even without the assistance of the shift indicator.

4. Furthermore, since the owner cannot remove the mechanical key from the ignition while the transmission is in any position except for park due to the transmission shift interlock, it is unlikely that a vehicle would be left unattended in the noncompliant condition. Given this, the driver will either exit the vehicle without the key or the driver will remain in the vehicle.

If the driver attempts to leave the vehicle without the key, an audible warning (as required by FMVSS No. 114) will sound, alerting the driver that the key is in the ignition. This should reduce the possibility of the operator leaving the vehicle.

If the driver remains in the vehicle, he or she will attempt to restart the vehicle. An attempt to restart will take the ignition from the “ACC” position to the ON position and the indicator will reset to the correct position.

5. As NHTSA recognized in proposing FMVSS No. 102 (see 49 FR 32409–32411, August 25, 1988,) the purpose of the display requirement for PRNDM information is to “provide the driver with transmission position information for the vehicle conditions where such information can reduce the likelihood of shifting errors.” Thus, the primary function of the transmission display is to inform the driver of gear selection and relative position of the gears while the engine is running. Except for the absence of the required transmission shift position during the one circumstance described above, which occurs when the engine is not running, all of the 45,167 affected vehicles otherwise comply with paragraph S3.1.4.1 of FMVSS No. 102.

Nissan also stated its belief that in similar situations, NHTSA has granted the applications of other petitioners.

Nissan has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 102.

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

V. *NHTSA’S Decision*: NHTSA has reviewed Nissan’s analyses that the subject noncompliance is inconsequential to motor vehicle safety. Considering the rare occurrence where the shift position indicator fails to correctly display the shift position, the noncompliance poses little if any risk to motor vehicle safety. This is because the vehicle cannot be started or operated in a manual gear position of the transmission, i.e., 1 through 4. In addition, the mechanical ignition key in these vehicles cannot be removed unless the transmission control is in “park,” and an audible warning required by FMVSS No. 114 would alert a driver exiting the vehicle if the key remained in the starting system. Furthermore, if the driver places the vehicle in park, the shifter cannot be moved to another position without rotating the key from the accessory position, at which point shift position indicator would reset and show the correct shift position.

In consideration of the foregoing, NHTSA has decided that Nissan has met its burden of persuasion that the FMVSS No. 102 noncompliance is inconsequential to motor vehicle safety. Accordingly, Nissan's petition is hereby granted and Nissan 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 45,167 vehicles that Nissan 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 tires under their control after Nissan 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.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0064; Notice 1]

Notice of Receipt of Petition for Decision that Nonconforming 1988-1996 Alpina B10 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 1988-1996 Alpina B10 passenger cars that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), are eligible for

importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: October 25, 2013.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Send comments by mail addressed to: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001
- **Hand Delivery:** Deliver comments by hand to: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, 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>, 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.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202-366-5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

101 Innovations, LLC, of Lummi Island, WA (Registered Importer 07-350) has petitioned NHTSA to decide whether nonconforming 1988-1996 Alpina B10 passenger cars are eligible for importation into the United States. 101 Innovations believes these vehicles are capable of being modified to meet all applicable FMVSS.

In the past, NHTSA has granted import eligibility to a number of Alpina vehicles that were derived from BMW vehicles. These include the 2005-2007 (manufactured before September 1, 2006) Alpina B5 series, 1987-1994 Alpina B11 sedan, the 1989-1996 Alpina B12 2-door coupe, and the 1988-1994 Alpina B12 5.0 sedan (assigned vehicle eligibility numbers VCP-53, VCP-48, VCP-43, and VCP-41, respectively). These eligibility decisions were based on petitions submitted by Registered Importers (RIs) who claimed that the vehicles were capable of being altered to comply with all applicable FMVSS.

Because those vehicles were not manufactured for importation into and sale in the United States, and were not