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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0118; Notice 1]

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

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Receipt of Petition

SUMMARY: Mazda North American Operations (MNAO),¹ on behalf of Mazda Motor Corporation of Hiroshima, Japan (Mazda)², has determined that certain Mazda brand motor vehicles manufactured between 2007 and 2012 for sale or lease in Puerto Rico, do not fully comply with paragraph S4.5 of Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems*. MNAO has filed an appropriate report dated June 21, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

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

¹ Mazda North American Operations, is a U.S. company that manufactures and imports motor vehicles.

² Mazda Motor Corporation, is a Japanese company that manufactures motor vehicles.

This notice of receipt of MNAO'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.

VEHICLES INVOLVED: Affected are approximately 16,748 Mazda brand motor vehicles manufactured between 2007 and 2012 for sale or lease in Puerto Rico.

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, these provisions only apply to the subject 16,748³ vehicles that MNAO no longer controlled at the time it determined that the noncompliance existed.

NONCOMPLIANCE: MNAO explains that the noncompliance is that certain Mazda brand motor vehicles sold in Puerto Rico were not delivered with the instruction statements required by paragraph

³MNAO's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt MNAO as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 16,748 affected vehicles. However, a decision on this petition will not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after MNAO notified them that the subject noncompliance existed.

S4.5(a) of FMVSS No 138 written in English. The instructions were provided in Spanish as part of the Spanish language version of the vehicle owner's manual provided with the vehicles at first sale, however, no English version owner's manuals were provided.

RULE TEXT: Paragraph S4.5 of FMVSS No. 138 requires in pertinent part:

S4.5 Written instructions.

- (a) Beginning on September 1, 2006, the owner's manual in each vehicle certified as complying with S4.5 must provide an image of the Low Tire Pressure Telltale symbol (and an image of the TPMS Malfunction Telltale warning ("TPMS"), if a dedicated telltale is utilized for this function) with the following statement in English:

Each tire, including the spare (if provided), should be checked monthly when cold and inflated to the inflation pressure recommended by the vehicle manufacturer on the vehicle placard or tire inflation pressure label. (If your vehicle has tires of a different size than the size indicated on the vehicle placard or tire inflation pressure label, you should determine the proper tire inflation pressure for those tires.)

As an added safety feature, your vehicle has been equipped with a tire pressure monitoring system (TPMS) that illuminates a low tire pressure telltale when one or more of your tires is significantly under-inflated. Accordingly, when the low tire pressure telltale illuminates, you should stop and check your tires as soon as possible, and inflate them to the proper pressure. Driving on a significantly under-inflated tire causes the tire to overheat and can lead to tire failure. Under-inflation also

reduces fuel efficiency and tire tread life, and may affect the vehicle's handling and stopping ability...

SUMMARY OF MNAO'S ANALYSIS AND ARGUMENTS:

MNAO believes that while the subject motor vehicles were delivered to customers in Puerto Rico with Owners Manuals that did not include the statement as required by paragraph S4.5(a) of FMVSS No. 138 in English, it is inconsequential as it relates to motor vehicle safety for the following reasons:

1. All affected owner's manuals contain accurate Spanish translations of the information.
2. In Puerto Rico, Spanish is the universally prevalent language. According to a U.S. Census done by the Census Bureau in 2010, 95.7% of Puerto Rico's population speaks Spanish as their primary language.
3. English Owners manuals for Mazda motor vehicles manufactured on or after 2002 can be downloaded from MNAO's web site or upon request through MNAO dealerships and is available for customers in Puerto Rico free of charge.
4. MNAO has not received any complaints or claims in Puerto Rico with regards to the language of the Owner's manuals.

MNAO has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 138.

In summation, MNAO believes that the described 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.

COMMENTS: 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) website 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>, 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: (insert date 30 days after Publication Date).

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

ISSUED ON: October 15, 2012

Claude H. Harris, Director
Office of Vehicle Safety Compliance

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