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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0017; Notice 1]

Fuji Heavy Industries U.S.A., Inc., Receipt of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Receipt of Petition

SUMMARY: Fuji Heavy Industries U.S.A., Inc., on behalf of Subaru of America (Fuji),¹ has determined that certain 2013 Subaru XV Crosstrek Multipurpose Passenger Vehicles manufactured between May 17, 2012, and February 7, 2013, do not fully comply with paragraphs S6.1 and S6.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. Fuji has filed an appropriate report dated January 29, 2013, 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), Fuji 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 Fuji North America, Inc, is a manufacturer of motor vehicles and is registered under the laws of the state of New Jersey.

This notice of receipt of Fuji'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 23,600 model year 2013 Subaru XV Crosstrek passenger vehicles manufactured between May 17, 2012, and February 7, 2013.

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 23,600² model year 2013 Subaru XV Crosstrek multipurpose passenger vehicles that Fuji no longer controlled at the time it determined that the noncompliance existed.

NONCOMPLIANCE: Fuji explains that the noncompliance is that, due to a labeling error, the glazing markings on the rear window

² Fuji's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Fuji as a motor vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 23,600 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 Fuji notified them that the subject noncompliance existed.

of the subject vehicles lack the symbol "DOT", the manufacturer's code mark (i.e. 44), and the AS3 code mark and thus do not conform to the requirements of 49 CFR 571.205 paragraphs S6.1 and S6.2.

RULE TEXT: Paragraphs S6.1 and S6.2 of FMVSS No. 205 requires in pertinent part:

S6.1 A prime glazing material manufacturer must certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies that is designed -

- (a) As a component of any specific motor vehicle or camper; or
- (b) To be cut into components for use in motor vehicles or items of motor vehicle equipment.

S6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI Z26.1-1996, in letters and numerals of the same size, the symbol "DOT" and a manufacturer's code mark that NHTSA assigns to the manufacturer.

SUMMARY OF FUJI'S ANALYSIS AND ARGUMENTS:

Fuji explains that while the noncompliant vehicle's rear window glazing lack the following markings: the symbol "DOT", the manufacturer's code mark (i.e. 44) and the AS3 code mark; on the glazing of the rear window as required by FMVSS No. 205, the rear glazing of the affected vehicles otherwise meet or exceed all other marking and performance requirements as required by FMVSS No. 205 and ANSI Z26.1-1996.

Fuji has additionally informed NHTSA that it has corrected future production and that all other glazing labeling information is correct.

Fuji also expressed its belief that NHTSA has previously granted similar petitions involving the omission of FMVSS No. 205 markings.

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.

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: February 15, 2013

Claude H. Harris, Director
Office of Vehicle Safety Compliance

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