

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration**

[Docket No. NHTSA–2010–0171; Notice 1]

**Nissan North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance**

Nissan North America, Inc. (Nissan)<sup>1</sup> has determined that certain model year 2008 through 2010 Nissan Titan trucks do not fully comply with the requirements of paragraph S19.2.2(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*. Nissan has filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, dated August 18, 2010.

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

Nissan estimates that approximately 102,254 model year 2008 through 2010 Nissan Titan trucks that were manufactured from April 10, 2007, through August 6, 2010, are affected.

Paragraph S19.2.2 of FMVSS No. 208 requires in pertinent part:

S19.2.2 The vehicle shall be equipped with at least one telltale which emits light whenever the passenger air bag system is deactivated and does not emit light whenever the passenger air bag system is activated, except that the telltale(s) need not illuminate when the passenger seat is unoccupied. Each telltale: \* \* \*

(b) Shall have the identifying words "PASSENGER AIR BAG OFF" or "PASS AIR BAG OFF" on the telltale or within 25 mm (1.0 in) of the telltale; and \* \* \*

Nissan states that the noncompliance is that the label identifying the amber air bag status telltale lamp for the front outboard passenger seating position is identified with the words "PASSENGER AIR BAG" instead of "PASSENGER AIR BAG OFF."

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

1. The passenger air bag system on the subject vehicles operates as designed and automatically deactivates the passenger air bag when it is appropriate in accordance with the requirements in S19.2 of FMVSS No. 208. That is, the system requires no input from the operator to perform its intended function. Further, the front passenger airbag status telltale operates correctly and illuminates when the passenger air bag is deactivated as required by the standard.

2. The meaning of the air bag status telltale alone (without the identifying words) is unequivocal to the vehicle occupants. The telltale remains off when the passenger air bag is in the normal mode. When the passenger air bag is deactivated, the telltale is illuminated, showing an icon representing an air bag with an X drawn over it. This clearly represents a deactivated air bag. Nissan notes that in certain other markets, the telltale alone is deemed sufficient with no identifying words required next to the telltale. The identifying words "passenger side air bag" (without the word "OFF") do not confuse the otherwise clear and readily apparent meaning of the telltale.

3. Information provided in several locations in the vehicle owner's manual further reduces any possibility of operator confusion. If the meaning of telltale is unclear, the operator can refer to multiple explanations in the owner's manual.

4. Telltale Function is also described in Quick Reference Guide.

5. There have been no customer complaints, injuries, or accidents related to the word "OFF" missing from the label. Nissan has searched its databases and has found no cases of misunderstanding the telltale.

6. Nissan conducted an informal survey at Nissan's National Headquarters Building in Franklin, Tennessee. The building houses mostly business personnel (sales marketing, finance) and not design engineers that would have special understanding of the air bag systems. As employees were approaching the building to begin their workday, they were asked to participate in a survey regarding the Titan and that the survey would take about 30 seconds of their time. The participants represented a good cross-section of the general population by age, gender and race. The subject Titan pickup truck was equipped with the required yellow passenger side air bag status telltale that contained the "no air bag" symbol, but did not display the word "OFF". The passenger air bag telltale was illuminated. Survey participants were asked to describe the meaning of the

telltale. Sixty people participated in the survey. Of the sixty people, 58 responded correctly that the telltale indicated the passenger side airbag was in suppressed mode. The survey shows that people understand the meaning of the passenger air bag telltale even with the word "OFF" missing. We note also that adding the word "OFF" did not help the two respondents to understand the meaning of the telltale. They would have needed to consult the Owner's Manual. Nissan acknowledges that this was an ad hoc survey that may not meet rigid statistical standards, nevertheless, we believe it is predictive of the results that would be obtained from a larger, controlled survey.

7. A decision to grant this petition would be consistent with arguably similar prior requests related to labeling issues. For example, NHTSA has previously granted petitions related to certain tire and tire placard labeling errors.

Nissan also states that it has taken steps to correct the non-compliance in future production.

Supported by the above stated reasons, Nissan believes that the described FMVSS No. 208 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

<sup>1</sup> Nissan North America, Inc., is a state of Tennessee corporation that manufactures and imports motor vehicles and motor vehicle equipment.

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/>, 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:* January 20, 2011.

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

Issued on: December 15, 2010.

**Claude H. Harris,**

*Acting Associate Administrator for Enforcement.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0166; Notice 1]

#### Panda Power LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

Panda Power LLC (Panda Power),<sup>1</sup> has determined that High Intensity Discharge (HID) lighting kits<sup>2</sup> that it imported and sold during 2007, 2008 and 2009 failed to meet the requirements of paragraph S7.7 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. Panda Power has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*, dated February 10, 2010.

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

Panda Power estimates that approximately 1,851 headlamp kits that it sold during 2007, 2008 and 2009 are affected. All of the affected kits were manufactured by Guangzhou Kingwoodcar Company, LTD, Guangzhou City, China.

Paragraph S7.7 of FMVSS No. 108 requires:

S7.7 Replaceable light sources. Each replaceable light source shall be designed to conform to the dimensions and electrical specifications furnished with respect to it pursuant to part 564 of this chapter, and shall conform to the following requirements:

(a) If other than an HB Type, the light source shall be marked with the bulb marking designation specified for it in compliance with Appendix A or Appendix B of part 564 of this chapter. The base of each HB Type shall be marked with its HB Type designation. Each replaceable light source shall also be marked with the symbol DOT

<sup>1</sup> Panda Power, LLC (Panda Power) is organized under the laws of the State of Arizona and is the importer of the subject nonconforming replacement equipment. Panda Power sold the nonconforming replacement equipment while doing business under the name Mobile HID.

<sup>2</sup> Panda Power's high-intensity lighting (HID kits each contained 2 lamps, 2 lamp ballasts and a wiring harness with relay and fuse).

and with a name or trademark in accordance with paragraph S7.2.

(b) The measurement of maximum power and luminous flux that is submitted in compliance with Appendix A or Appendix B of part 564 of this chapter shall be made in accordance with this paragraph. The filament or discharge arc shall be seasoned before measurement of either. Measurement shall be made with the direct current test voltage regulated within one quarter of one percent. The test voltage shall be 12.8v. The measurement of luminous flux shall be in accordance with the Illuminating Engineering Society of North America, LM-45, IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps (April 1980); shall be made with the black cap installed on Type HB1, Type HB2, Type HB4, and Type HB5, and on any other replaceable light source so designed; and shall be made with the electrical conductor and light source base shrouded with an opaque white cover, except for the portion normally located within the interior of the lamp housing. The measurement of luminous flux for the Types HB3 and HB4 shall be made with the base covered with a white cover as shown in the drawings for Types HB3 and HB4 filed in Docket No. NHTSA 98-3397. (The white cover is used to eliminate the likelihood of incorrect lumen measurement that will occur should the reflectance of the light source base and electrical connector be low).

(c) The capsule, lead wires and/or terminals, and seal on each Type HB1, Type HB3, Type HB4, and Type HB5 light source, and on any other replaceable light source which uses a seal, shall be installed in a pressure chamber as shown in Figure 25 so as to provide an airtight seal. The diameter of the aperture in Figure 25 on a replaceable light source (other than an HB Type) shall be that dimension furnished for such light source in compliance with Appendix A or Appendix B of part 564 of this chapter. An airtight seal exists when no air bubbles appear on the low pressure (connector) side after the light source has been immersed in water for one minute while inserted in a cylindrical aperture specified for the light source, and subjected to an air pressure of 70kPa (10 P.S.I.G.) on the glass capsule side.

(d) The measurement of maximum power and luminous flux that is submitted in compliance with section VII of Appendix A of part 564 of this chapter, or section IV of Appendix B of part 564 of this chapter, shall be made with the direct current test voltage regulated within one quarter of one percent. The test voltage shall be 12.8v. The measurement of luminous flux shall be in accordance with the Illuminating Engineering Society of North America, LM 45; IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps (April 1980). The filament of a replaceable light source shall be seasoned before such measurement. The white covers are used to eliminate the likelihood of incorrect lumens measurement that will occur should the reflectance of the light source base and electrical connector be low.

(1) For a light source with a resistive element type filament, seasoning of the light