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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0028; Notice 1]

Toyota Motor Engineering & Manufacturing North America, Inc.,

Receipt of Petition for Decision of Inconsequential

Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: Toyota Motor Engineering & Manufacturing North America, Inc., on behalf of Toyota Motor Corporation and certain Toyota manufacturing entities (collectively referred to as "Toyota") have determined that specific model year (MY) 2013-2014 Toyota vehicles do not fully comply with paragraph S4 of Federal Motor Vehicle Safety Standard (FMVSS) No. 302, *Flammability of Interior Materials*. Toyota has filed an appropriate report dated January 29, 2014 as amended on February 20, 2014 pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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 Deliver: 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 am to 5 pm except Federal Holidays.
- Electronically: Submit comments 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 (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.

SUPPLEMENTARY INFORMATION:

I. Toyota's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Toyota 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 Toyota'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. Vehicles Involved: Affected are approximately 206,271 MY 2012-14 Camry, Avalon, Corolla, Sienna, Tundra, and Tacoma model Toyota vehicles. Refer to the amended report that Toyota filed pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* that Toyota included as attachment to its petition for identification of the associated Toyota manufacturing entities as well as the vehicles involved.

III. Noncompliance: Toyota explains that the noncompliance is that the front and rear seat cushions and front and rear seat backs in the subject vehicles fail to fully meet the requirements of paragraph S4 of FMVSS No. 302 because seat cushion and seat back components, when tested separately, failed to meet the burn rate requirements of paragraph S4.3. Toyota identified the noncompliant components as seat heater assemblies. Toyota also states that all other components of the seat required to meet FMVSS No. 302 are in compliance with the standard.

IV. Rule Text: Paragraph S4 of FMVSS No. 302 requires in pertinent part:

S4.1 The portions described in S4.2 of the following components of vehicle occupant compartments shall meet the requirements of S4.3: seat cushions, seat backs, seat belts, headlining, convertible tops, arm rests, all trim panels including door, front, rear, and side panels, compartment shelves, head restraints, floor coverings, sun visors, curtains, shades, wheel housing covers, engine compartment covers, mattress covers, and any other interior materials, including padding and crash-deployed elements, that are designed to absorb energy on contact by occupants in the event of a crash...

S4.2 Any portion of a single or composite material which is within 13 mm of the occupant compartment air space shall meet the requirements of S4.3.

S4.2.1 Any material that does not adhere to other material(s) at every point of contact shall meet the requirements of S4.3 when tested separately...

S4.3(a) When tested in accordance with S5, material described in S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 102 mm per minute. The requirement concerning transmission of a flame front shall not apply to a surface created by cutting a test specimen for purposes of testing pursuant to S5.

(b) If a material stops burning before it has burned for 60 seconds from the start of timing, and has not burned more than 51 mm from the point where the timing was started, it shall be considered to meet the burn-rate requirement of S4.3(a).

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

1. Toyota believes that its testing shows that the seat heater assemblies comply with FMVSS No. 302 when tested as a "composite" as installed in the vehicle, i.e., along with the surrounding FMVSS No. 302 compliant seat cover, plus pad, and foam pad.

2. Toyota believes that its testing and design review of the seat heater assemblies indicates that the chance of fire or flame induced by a malfunctioning seat heater is essentially zero.
3. Toyota believes that the purpose of FMVSS No. 302 is to "...reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes.¹" The noncompliant seat heater assemblies would normally not be exposed to open flame or an ignition source (like matches or cigarettes) in its installed application, because it is installed within and surrounded by complying materials that meet FMVSS No. 302.
4. The seat heater assembly is a very small portion of the overall mass of the soft material portions comprising the entire seat assembly (i.e. less than 1%), and is significantly less in relation to the entire vehicle interior surface area that could potentially be exposed to flame. Therefore, Toyota believes that it would have an insignificant adverse effect on interior material burn rate and the potential for occupant injury due to interior fire.

¹ Paragraph S2 of FMVSS No. 302 Flammability of Interior Materials

5. Toyota is not aware of any data suggesting that fires have occurred in the field due to the installation of the non-complying seat heater assemblies.
6. Toyota also expressed its belief that in similar situations NHTSA has granted petitions for inconsequential noncompliance relating to FMVSS No. 302 requirements.

Toyota has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 302.

In summation, Toyota believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt Toyota 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, any decision on this petition only applies to the subject vehicles that Toyota

no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve Toyota distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicles under their control after Toyota 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.

Billing Code: 4910-59-P

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