

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

[Docket No. NHTSA–2017–0098; Docket No. NHTSA–2017–0101; Docket No. NHTSA–2019–0049; Notice 2]

FCA US, LLC and AGC Glass Company North America, Grant of Petitions for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petitions.

SUMMARY: FCA US, LLC, f/k/a Chrysler Group, LLC (FCA) has determined that the rear liftgate privacy glass equipped in certain model year (MY) 2013–2017 Jeep Compass and certain MY 2018 Jeep Wrangler motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. Similarly, AGC Glass Company North America, d.b.a. AGC Automotive Americas Co. (AGC) determined that the same liftgate privacy glass sold as replacement parts for MY 2013–2017 Jeep Compass motor vehicles do not fully comply with FMVSS No. 205. The petitioners have requested that NHTSA deem the subject noncompliance inconsequential to motor vehicle safety. As the issues involved in both petitions are identical, NHTSA is addressing both petitions in this single notice, which announces the grant of both petitions.

FOR FURTHER INFORMATION CONTACT:

Leroy Angeles, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366–5304, facsimile (202) 366–3081.

SUPPLEMENTARY INFORMATION: I.

Overview: FCA has determined that certain MY 2013–2017 Jeep Compass and MY 2018 Jeep Wrangler motor vehicles do not fully comply with paragraphs S5.1.1 and S5.1.2 of FMVSS No. 205, *Glazing Materials* (49 CFR 571.205). FCA filed noncompliance reports dated October 10, 2017, and April 25, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. FCA petitioned NHTSA on November 2, 2017, and May 15, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*. FCA later submitted supplemental petitions to their

November 2, 2017, and May 15, 2019, petitions on June 3, 2019 and May 31, 2019, respectively. Notices of receipt of FCA's petitions were published with a 30-day public comment period on April 16, 2018, and September 12, 2019, in the **Federal Register** (83 FR 16430 and 84 FR 48209). No comments were received.

In addition, AGC has determined that the rear privacy glass manufactured as replacement glass for certain MY 2013–2017 Jeep Compass motor vehicles do not fully comply with paragraph S5.1.2 of FMVSS No. 205, *Glazing Materials*. AGC filed a report dated October 13, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. AGC also petitioned NHTSA on November 8, 2017, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*. Notice of receipt of AGC's petition was published with a 30-day public comment period on April 11, 2018, in the **Federal Register** (83 FR 15676). No comments were received.

II. Vehicles and Equipment Involved: Approximately 287,064 MY 2013–2017 Jeep Compass motor vehicles, manufactured between January 18, 2013, and December 23, 2016, and approximately 1,804 MY 2018 Jeep Wrangler motor vehicles, manufactured between October 13, 2018, and October 19, 2018, are potentially involved.

In addition, approximately 5,000 replacement privacy glass parts manufactured for replacement of the rear liftgate glass in MY 2013–2017 Jeep Compass motor vehicles, manufactured between January 16, 2013, and June 30, 2017, are potentially involved.

III. Noncompliance: The petitioners explain that the noncompliance is that the rear liftgate privacy glass equipped in or sold as replacement glass for certain MY 2013–2017 Jeep Compass and MY 2018 Jeep Wrangler motor vehicles do not fully comply with paragraphs S5.1.1 and S5.1.2 of FMVSS No. 205. Specifically, the liftgate glass has the AS2 glazing marking when it should have been marked with the AS3 glazing marking.

IV. Rule Requirements: Paragraphs S5.1.1 and S5.1.2 of FMVSS No. 205 include the requirements relevant to this petition. Except as otherwise specifically provided by FMVSS No. 205, glazing for use in multipurpose passenger vehicles shall conform to the requirements for glazing for use in

trucks as specified in ANSI/SAE Z26.1–1996. Glazing intended for aftermarket replacement is required to meet the requirements of this standard or the requirements of 49 CFR 571.205(a) applicable to the glazing being replaced.

V. Summary of FCA's Petitions: FCA described the subject noncompliance and stated their belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

In support of their petition, FCA submitted the following arguments:

1. NHTSA recently described the glazing materials certification and marking requirements as follows: "A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1–1996." American National Standard Institute ("ANSI"), standard ANSI/SAE Z26.1–1996, requires privacy glass to meet AS3 requirements for light transmissibility and requires labeling the glass with an AS3 marking.

2. FCA stated that the liftgate glass glazing of the affected vehicles otherwise meets all marking and performance requirements of FMVSS No. 205 and ANSI Z26.1–1996. FCA cited NHTSA as previously noting, "The purpose of this standard (FMVSS No. 205) is to ensure a necessary degree of transparency in motor vehicle windows for driver visibility, and to minimize the possibility of occupants being thrown through the vehicle windows in collisions." Since all transparent sections of the affected glazing fully meet all the applicable performance requirements, FCA does not believe the incorrect AS2 marking impacts the applicable performance requirements. FCA also does not believe that the incorrect AS2 marking impacts the ability of the glazing to satisfy the stated purpose or affect the performance of the glazing as required by FMVSS No. 205.

3. FCA also stated that the subject glazing meets all applicable performance requirements of FMVSS No. 205 and FCA believes there is no safety performance implication associated with this technical noncompliance.

4. In addition to meeting all the component level performance requirements of FMVSS No. 205, the subject glazing also fully meets the vehicle level installation requirements as specified by FMVSS No. 205. The subject glazing at 22% light transmissibility, is permitted in the liftgate glass location on the affected Jeep Compass and Jeep Wrangler vehicles.

5. The actual transmissibility of the subject liftgate glass glazing (approximately 22%) is consistent with

all the other glazing rearward of the driver (*i.e.* left and right side windows, and the left and right rear quarter window glazing) on the affected Jeep Compass and Jeep Wrangler vehicles. Accordingly, there is no reason for the customer, state inspection authorities, service personnel or anyone else to focus on or detect any distinction involving the subject liftgate glass.

6. In the extremely unlikely event that a glazing corresponding to the incorrect markings (*i.e.* solar glazing with 70% transmittance) was installed on the affected vehicles, this would also be fully compliant with all requirements of FMVSS No. 205, including component level and vehicle level marking requirements of the standard.

7. FCA is not aware of any crashes, injuries, or customer complaints associated with this condition.

8. NHTSA has previously granted similar inconsequential treatment for FMVSS No. 205 marking noncompliances. Examples of similar granted inconsequentiality petitions for incorrect markings related to glazing include:

- Supreme Corporation, 81 FR 72850, (October 21, 2016).
- Mitsubishi Motors North America, Inc., 80 FR 72482, (November 19, 2015).
- Ford Motor Company, 80 FR 11259, (March 2, 2015).
- Custom Glass Solutions Upper Sandusky Corp., 80 FR 3737, (January 23, 2015).
- General Motors, LLC, 81 FR 23402, (April 28, 2014).
- Fiji Heavy Industries U.S.A. Inc., 78 FR 59088, (September 25, 2013).
- Ford Motor Company, 78 FR 32531, (May 30, 2013).
- Pilkington North America, Inc., 78 FR 22942, (April 17, 2013).
- Pilkington Glass of Canada LTD., 71 FR 39141, (July 11, 2006).
- General Motors, 70 FR 49973, (August 25, 2005).
- Freightliner LLC, 68 FR 65991, (November 24, 2003).
- Toyota Motors North America Inc, 68 FR 10307, (March 4, 2003).
- Guardian Ind. Corp., 67 FR 65185, (October 23, 2002).
- Ford Motor Company, 64 FR 70115, (December 15, 1999).
- Western Star Trucks Inc, 63 FR 66232, (December 1, 1998).

VI. Summary of AGC's Petition: AGC described the subject noncompliance and stated their belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, AGC submitted the following arguments:

1. The only error in the logo mark was including the incorrect AS standard.

The logo and the parts were otherwise fully compliant. All other information was correct. The AS3 mark relates to meeting certain light transmission requirements for privacy glass. The glass met those requirements as confirmed by both AGC and its primary customer, FCA. The glass also met all other applicable Federal motor vehicle safety standards. This error did not change the character of the glass or its performance. It was a simple marking error and will not in any way impact or affect motor vehicle safety. AGC produced up to 5,000 parts to be installed as replacement glass over the relevant time period. As soon as AGC found the potential error, it was immediately corrected by replacing the print screen that included the incorrect AS2 mark and instead used a print screen which included the correct AS3 mark in the logo. No parts are produced today for these model vehicles for replacement glass without the correct AS3 mark in the logo. All parts, which AGC had in its possession and which were confirmed a customer still had that were not already installed, were destroyed or returned to AGC.

There is nothing that would affect or impact vehicle safety resulting from this erroneous AS2 mark being included in the logo and this error should be classified as inconsequential to motor vehicle safety.

2. The logo error will not mislead or affect consumers. Consumers would never look at a logo and know or understand that privacy glass with an AS2 logo should have an AS3 mark instead in that logo. Only someone trained in the intricate requirements of ANSI and the differences in light transmission between a part meeting the AS3 standard versus a part meeting the AS2 standard would know whether including the AS2 mark was an error or not. Therefore, the fact that there are vehicles on the road which have the incorrect AS2 mark in the logo will not be misleading, nor should it require any of those parts to be replaced since the consumer will not know the difference, will not be misled by looking at the logo mark for this part, there will be no confusion about the performance or compliance of the parts with all applicable FMVSSs, and the error does not affect the safety of the vehicle. Every consumer that had their rear liftgate replaced with privacy glass that included the logo with the incorrect AS2 mark still has exactly what they expected to receive and paid for regardless of this error as the rear privacy glass for their Jeep Compass does not pose any safety risk to them or others who may ride on their vehicle.

Both FCA and AGC concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that their petitions to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

FCA and AGC's complete petitions and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov> and following the online search instructions to locate the associated docket number listed in the title of this notice.

VII. NHTSA's Analysis: NHTSA has evaluated the merits of AGC and FCA's petitions for inconsequential noncompliance.

The purpose of FMVSS No. 205 is to reduce injuries resulting from impact to glazing surfaces, to ensure a necessary degree of transparency in motor vehicle windows for driver visibility, and to minimize the possibility of occupants being thrown through the vehicle windows in collisions.

The subject replacement glazing in AGC's petition and the subject vehicles in FCA's petition pertain to liftgate glass that was incorrectly marked as AS2 glazing material when it should have been marked as AS3 glazing material.

The difference in performance requirements between AS2 and AS3 glazing is that AS2 glazing is required to have a luminous transmittance of at least 70% while AS3 has no luminous transmittance requirement. Because AS3 glazing does not have a luminous transmittance requirement, it is typically darker in tint. The luminous transmittance for the subject glazing, which was incorrectly marked as AS2, is 22%.

The first factor NHTSA considered in its evaluation was if the liftgate glass sold as replacement glazing by AGC and equipped in the subject vehicles by FCA is compliant with FMVSS No. 205 requirements. Both AGC and FCA stated that the subject liftgate glass meets all marking and performance requirements for AS3 glazing in accordance with FMVSS No. 205, other than the incorrect AS marking. NHTSA reviewed the test data provided by the petitioners and believes the data supports the petitioners' statements that the subject glazing meets the applicable requirements for AS3 glazing stated in FMVSS No. 205.

Furthermore, NHTSA recognizes that FMVSS No. 205 allows AS2 glazing to be installed anywhere in motor vehicles

except windshields, and AS3 glazing to be installed anywhere in motor vehicles except windshields and certain specified locations. AS3 glazing is permitted to be installed in liftgates of the subject vehicles.

AGC believes that most consumers likely would not recognize the marking error while individuals highly trained in glazing standards would recognize the marking error. NHTSA does not find these arguments compelling and believes that it is reasonable for someone in the repair industry to rely on the incorrect AS markings located on the noncompliant glazing material and replace it with glazing material corresponding to those markings. This would mean that the individual making the vehicle repair would replace the liftgate with AS2 glazing instead of AS3 glazing.

However, because compliant AS2 glazing will always meet the performance requirements of compliant AS3 glazing, no impact to safety is anticipated.

VIII. NHTSA's Decision: In consideration of the foregoing analysis, NHTSA finds that FCA and AGC have met their burden of persuasion that the FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, the FCA and AGC petitions are hereby granted. FCA and AGC are exempted from the obligation of providing notification of, and a remedy for, the subject 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 the subject vehicles and equipment that FCA and AGC no longer controlled at the time it determined that the noncompliance existed. However, the granting of these petitions does not relieve vehicle and equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles and equipment under their control after FCA and AGC 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)

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[FR Doc. 2020-14211 Filed 6-30-20; 8:45 am]
BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0022; Notice 2]

Volkswagen Group of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: Volkswagen Group of America, Inc. (Volkswagen), has determined that certain MY 2017–2019 Audi A3 motor vehicles do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays*. Volkswagen filed a noncompliance report dated February 18, 2019, and later amended it on September 13, 2019. Volkswagen subsequently petitioned NHTSA on February 20, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of Volkswagen's petition.

FOR FURTHER INFORMATION CONTACT: Neil Dold, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-7352, facsimile (202) 366-3081.

SUPPLEMENTARY INFORMATION:

I. Overview: Volkswagen has determined that certain MY 2017–2019 Audi A3 motor vehicles do not comply with paragraph S5.2.1 of FMVSS No. 101, *Controls and Displays* (49 CFR 571.101). Volkswagen filed a noncompliance report dated February 18, 2019, and later amended it on September 13, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Volkswagen subsequently petitioned NHTSA on February 20, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 40 U.S.C. 30118 and 49 U.S.C. 30120, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of Volkswagen's petition was published with a 30-day public comment period, on October 8, 2019, in the **Federal Register** (84 FR 53821). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2019-0022."

II. Vehicles Involved: Approximately 18,379 MY 2017–2019 Audi A3 sedan, Cabriolet, RS3, and e-Tron motor vehicles, manufactured between July 7, 2016, and January 7, 2019, are potentially involved.

III. Noncompliance: Volkswagen explains that the noncompliance is that the subject vehicles are equipped with speedometers that only display the vehicle's speed in units of either miles-per-hour (mph) or kilometers-per-hour (km/h) and therefore do not meet the requirements set forth in paragraph S5.2.1 and Table 1, Column 3 of FMVSS No. 101.

IV. Rule Requirements: Paragraphs S5.2.1 and Table 1, Column 3 of FMVSS No. 101 provides that each passenger car, multipurpose passenger vehicle, truck and bus that is fitted with a control, a telltale, or an indicator listed in Table 1 or Table 2 of FMVSS No. 101 must meet the requirements for the location, identification, color, and illumination of that control, telltale or indicator.

Each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2. Specifically, the speedometer must only allow the speed to be displayed in miles per hour (MPH) or km/h and MPH.

V. Summary of Volkswagen's Petition: The following views and arguments presented in this section, "V. Summary of Volkswagen's Petition," are the views and arguments provided by Volkswagen. They do not reflect the views of the Agency.

Volkswagen described the subject noncompliance and stated that the noncompliance is inconsequential as it relates to motor vehicle safety. Volkswagen submitted the following views and arguments in support of the petition:

1. All affected Audi A3 vehicles are initially delivered for first-sale in the U.S. market in a compliant state (speed displayed in miles-per-hour). Only through driver interaction, within the settings menu, can the speedometer display be changed from mph to km/h.