

Issued on: August 21, 2024.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2024–19123 Filed 8–23–24; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2023–0054; Notice 1]

Volkswagen Group of 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: Volkswagen Group of America, Inc. (Volkswagen) has determined that certain model year (MY) 2014–2024 Volkswagen and Audi motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 118, *Power-Operated Window, Partition, and Roof Panel Systems*. Volkswagen filed a noncompliance report dated August 2, 2023, and subsequently petitioned NHTSA (the “Agency”) on August 24, 2023, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Volkswagen’s petition.

DATES: Send comments on or before September 25, 2024.

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 in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the 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 Delivery:* Deliver comments by hand to the 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 a.m. to 5 p.m. except for Federal Holidays.

- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://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 comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT’s complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Frederick Smith, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–7487.

SUPPLEMENTARY INFORMATION:

I. Overview: Volkswagen determined that certain MY 2014–2024 Volkswagen and Audi motor vehicles do not fully comply with paragraphs S4(d) and S4(g) of FMVSS No. 118, *Power-Operated Window, Partition, and Roof Panel Systems* (49 CFR 571.118).

Volkswagen filed a noncompliance report dated August 2, 2023, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Volkswagen petitioned NHTSA on August 24, 2023, 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*.

This notice of receipt of Volkswagen’s petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 290,671 of the following Volkswagen and Audi motor vehicles, manufactured between June 10, 2014, and July 27, 2023, were reported by the manufacturer:

- MY 2022–2023 Volkswagen Golf R A8
- MY 2022–2023 Volkswagen Golf GTI
- 2015–2024 Audi S3 Sedan
- 2017–2024 Audi RS3 Sedan
- MY 2022–2023 Audi Q4 E-Tron SUV
- MY 2022–2023 Audi Q4 E-Tron Sportback
- MY 2019–2023 Audi Q3
- MY 2014 Audi A3 Sedan
- MY 2016–2018 Audi A3 E-Tron

III. Noncompliance: Volkswagen explains that the subject vehicles are equipped with a “convenience opening function,” allowing drivers to lower the windows and move the roof panel system (“sunroof”) to a tilted, or vented, position while the vehicle and engine are off by continuously pressing the unlock button on the remote actuation device (“key fob”). The primary use of this feature is to replenish the in-cabin air with fresh, cooler outside air on hot summer days. If the sunroof were open (in a non-tilted open position) prior to activation of the convenience opening function via the key fob, the sunroof would close before going into the vented position. The convenience opening function, which can cause the sunroof to close as described above, can be activated from distances that exceed those provided in paragraphs S4(d) and S4(g) of FMVSS No. 118. Further, Volkswagen states that the affected vehicles have a UNECE-compliant automatic reversal system (ARS) that does not meet the requirements for such systems set forth in S5 of the Standard.

IV. Rule Requirements: Paragraphs S4(d) and S4(g) of FMVSS No. 118 include requirements for remote operation of power operated windows, partitions, or roof panels except for those which comply with the requirements in paragraph S5 of the Standard. Paragraph S4(d) of FMVSS No. 118 specifies that power operated window, partition, or roof panel systems may be closed by continuously activating a remote actuation device, provided that the device cannot close

them from a distance greater than 6 meters from the vehicle. Paragraph S4(g) states that these systems can be closed by continuous activation of a remote actuation device, provided that the device cannot close them if the vehicle and the device are separated by an opaque surface and the device cannot close them from a distance greater than 11 meters from the vehicle. Paragraph S5 of FMVSS No. 118 provides that any window, partition or roof panel system that can be closed in any manner not specified in S4 must have an ARS meeting all the requirements of S5.

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 have not been evaluated by the Agency and do not reflect the views of the Agency. Volkswagen describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Volkswagen explains that paragraph S4 of FMVSS No. 118 specifies conditions under which the sunroof can close under supervision. Paragraphs S4(d) and S4(g) provide the requirements relevant to the subject noncompliance. These paragraphs allow the closure of the sunroof by continuous activation of the key fob either within 6 meters of the vehicle or within 11 meters if the key fob and vehicle are separated by an opaque surface.

However, Volkswagen says that its closure mechanism does not fit within the parameters specified in paragraph S4 of FMVSS No. 118 or paragraph S5 which allows unsupervised closures of sunroofs equipped with an Automatic Reversal System (ARS) complying with the specific requirements of that section. Paragraph S5 of FMVSS No. 118 provides that the ARS must stop and reverse the sunroof's direction (1) before contacting a test rod or, (2) before exerting a squeezing force of 100 Newtons on a semi-rigid test rod. The cylindrical test rods range in size from 4 mm to 200 mm and have deflection ratios of not less than 65 N/mm for rods less than 25 mm and not less than 20 N/mm for rods larger than 25 mm in diameter.

Volkswagen explains that the convenience opening feature leading to the subject noncompliance in the affected vehicles requires the driver to continuously and deliberately press the unlock button on the key fob to move the sunroof to a vented position. Volkswagen notes that if the operator releases the unlock button, the windows and sunroof stop moving. Volkswagen

further explains that due to the absence of active feedback to the driver, such as on the key fob, regarding the sunroof's operation status, Volkswagen expects that drivers will only use this feature while the vehicle is in sight to confirm the completion of the desired action. Therefore, Volkswagen believes that there is little to no risk of accidental operation of the convenience opening feature. According to Volkswagen, if the driver left the vehicle with an occupant inside and then attempted to use the convenience opening feature, they could release the unlock button if they noticed any risk of injury to the occupants. If the driver did not release the unlock button, and the sunroof continued closing, the subject vehicle's ECE R21 compliant ARS is designed to mitigate the risk of injury to vehicle occupants.

Volkswagen states that, in addition to the continuous activation required by the driver, the sunroof must be in the "slid open" position for the subject noncompliance to occur. However, in this scenario, Volkswagen believes that the driver would not use the convenience feature to refresh the in-cabin air, as this would have already been achieved if the driver left the vehicle with the sunroof open. If the driver closed the sunroof before turning off and exiting the vehicle, then the subject noncompliance would not occur because this feature would only move the sunroof to the vented position. Volkswagen believes that the driver would only be motivated to use this feature to refresh the in-cabin air on hot days. Further, Volkswagen notes that the opposite feature does not exist, meaning that the driver cannot close the sunroof by continuously pressing the lock button on the key fob. According to Volkswagen, this design prevents the driver from mistakenly using the sunroof opening feature to close the sunroof to protect the interior of the vehicle. Attempting to do so would also open the windows, while moving the sunroof to a vented position, which contradicts the intended purpose of refreshing the in-cabin air on hot days. Therefore, Volkswagen asserts that the driver is incentivized to use this feature only when the sunroof is already closed. Therefore, Volkswagen maintains that, when the sunroof is closed prior to activation of the convenience opening function, this feature fully complies with FMVSS No. 118, as it only allows the sunroof to open to the vented position.

Volkswagen says that the affected vehicles are equipped with an ECE R21 compliant ARS, a safety system that has been effective in millions of vehicles worldwide. Additionally, Volkswagen

cites NHTSA's acknowledgment of the safety effectiveness of all ARS, including those that do not explicitly comply with safety regulations. (74 FR 45143).

Volkswagen further explains that the subject noncompliance only affects the sunroof and not the power operated windows, thereby reducing the risk of entrapment and injury. Volkswagen asserts that NHTSA, in granting a petition for a decision of inconsequential noncompliance, clarified that the greater risk of injury lies with the power windows, not the sunroof. (73 FR 22549).

Volkswagen notes that NHTSA has granted prior petitions for inconsequential noncompliance involving FMVSS No. 118 noncompliances. Volkswagen cites NHTSA's granting of a petition by General Motors (73 FR 22549) as an example. In that case, the sunroof was operational after the vehicle was turned off. Volkswagen says NHTSA concluded that the noncompliance was inconsequential to motor vehicle safety because the sequence was unlikely to occur, the condition did not affect the power windows, releasing the button stopped the sunroof closure, and General Motors reported no injuries. Volkswagen argues that the same conditions apply in this case.

Volkswagen concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition 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.

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 Volkswagen no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle 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 under their control after Volkswagen 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)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2024–19017 Filed 8–23–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0090; Notice 1]

Polaris Industries 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: Polaris Industries Inc. (Polaris) and Indian Motorcycle Company have determined that windscreens installed on certain model year (MY) 2015–2021 Slingshot three-wheeled motorcycles and MY 2019–2022 Indian motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials* and ANSI/SAE Z26.1–1996. On September 29, 2021, Polaris and Indian Motorcycle Company each filed a noncompliance report. Polaris subsequently amended its noncompliance report on October 27, 2021, and on August 23, 2022. On October 29, 2021, Polaris (the parent company of Indian Motorcycle) petitioned NHTSA, on behalf of both companies, regarding the two noncompliance reports for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Polaris' two petitions.

DATES: Send comments on or before September 25, 2024.

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 in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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- 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 comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

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When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov/> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Jack Chern, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–0661.

SUPPLEMENTARY INFORMATION:

I. Overview: Polaris and Indian Motorcycle Company determined that certain MY 2015–2021 Slingshot three-wheeled motorcycles and MY 2019–

2022 Indian Motorcycles do not fully comply with paragraph S6 of FMVSS No. 205, *Glazing Materials* (49 CFR 571.205).

Polaris and Indian Motorcycle Company filed original noncompliance reports dated September 29, 2021, and Polaris amended its report on October 27, 2021, and August 23, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Polaris petitioned NHTSA on October 29, 2021, 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*.

This notice of receipt of Polaris' petitions is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 5,377 windscreens of the following Polaris Slingshot three-wheeled motorcycles manufactured between December 15, 2014, and September 25, 2021, and approximately 9,057 after-market/accessory windscreens are potentially involved:

- MY 2015 Slingshot SL
- MY 2019 SLG SLR Icon
- MY 2020 Slingshot GT
- MY 2020 Slingshot R
- MY 2020 Slingshot SL
- MY 2021 Slingshot

Approximately 14,189 windscreens of the following Indian Motorcycles manufactured between April 2, 2018, and September 28, 2021, and approximately 5,223 after-market/accessory windscreens are potentially involved:

- MY 2019–2022 Indian
- MY 2019 Chieftain Limited
- MY 2019 Chieftain Ltd Icon
- MY 2019 Chieftain
- MY 2019 Chieftain Dark Horse
- MY 2019 Chieftain Classic Icon
- MY 2019 Chieftain Classic
- MY 2020 Chieftain Elite
- MY 2020 Jack Daniel's Springfield
- MY 2020 Chieftain Limited
- MY 2020 Challenger Dark Horse
- MY 2019–2022 Chieftain
- MY 2020 Springfield
- MY 2020–2021 Roadmaster
- MY 2020–2022 Challenger

III. Noncompliance: Polaris explains that the windscreens installed on the subject motorcycles do not fully comply with certain marking requirements specified by FMVSS No. 205.