



**Department of Transportation**

**National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2017-0020; 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) 2013-2017 Volkswagen CC and MY 2012-2017 Volkswagen Tiguan motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 126, *Electronic Stability Control Systems for Light Vehicles*. Volkswagen filed a noncompliance report dated March 1, 2017. Volkswagen also petitioned NHTSA on March 2, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**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 in the title 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 Delivery: 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 <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).

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Volkswagen Group of America, Inc. (Volkswagen), has determined that certain model year (MY) 2013-2017 Volkswagen CC and MY 2012-2017 Volkswagen Tiguan motor vehicles do not fully comply with paragraph S5.3.3 of FMVSS No. 126, *Electronic*

*Stability Control Systems for Light Vehicles*. Volkswagen filed a noncompliance report dated March 1, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Volkswagen also petitioned NHTSA on March 2, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, 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.

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 other exercise of judgment concerning the merits of the petition.

**II. Vehicles Involved:** Approximately 230,458 MY 2013-2017 Volkswagen CC motor vehicles, manufactured between January 19, 2012, and November 28, 2016, and MY 2012-2017 Volkswagen Tiguan motor vehicles, manufactured between January 9, 2012 and February 28, 2017, are potentially involved.

**III. Noncompliance:** Volkswagen explains that during an electronic stability control (ESC) malfunction in the subject vehicles, the ESC malfunction telltale illuminates as required by FMVSS No. 126 unless the steering angle sensor is the source of the malfunction. In the instance of a steering angle sensor malfunction the indicator telltale does not re-illuminate immediately after the vehicle ignition is reactivated as

required by paragraph S5.3.3 of FMVSS No. 126. Specifically, the ESC malfunction telltale will only re-illuminate after the vehicle reaches a speed of 1.2 mph.

**IV. Rule Text:** Paragraph S5.3.3 of FMVSS No. 26 provides, in pertinent part:

S5.3.3 As of September 1, 2011, except as provided in paragraphs S5.3.4, S5.3.5, S5.3.8, and S5.3.10, the ESC malfunction telltale must illuminate only when a malfunction(s) of the ESC system exists and must remain continuously illuminated under the conditions specified in S5.3 for as long as the malfunction exists (unless the "ESC malfunction" and "ESC off" telltales are combined in a two-part telltale and the "ESC off" telltale is illuminated), whenever the ignition locking system is in the "On" ("Run") position ...

**V. Summary of Volkswagen's Petition:** Volkswagen submits that the condition described above is inconsequential as it relates to motor vehicle safety because the warning (ESC warning lamp) immediately re-illuminates when the vehicle starts to move and reaches 2 km/h or 1.2 mph.

Further, the particular condition is limited to an ESC system fault caused by the steering angle sensor. For all other potential ESC system faults, the warning lamp illuminates as required with the next ignition key in the "On" ("Run") position.

Volkswagen concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor

vehicle safety, and that 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.

In a supplemental e-mail from Volkswagen dated March 29, 2017, Volkswagen stated that the ESC warning light illuminates and stays on for the complete ignition cycle and does not turn off when the vehicle decelerates below 1.2 mph. However, the steering wheel warning light is constantly illuminated and is not turned off with ignition key cycle, which represents a substitutional warning. Volkswagen says that the 1.2 mph (2km/h) threshold was used to prevent triggering of warning lamps when workshops work on steering components and turn the wheels during repairs with non-attached components/sensors etc. during the repair and causing erratic signals during such repairs. This "repair aid threshold" is in conflict with the FMVSS. Volkswagen also says, to clarify, all Tiguan and CC vehicles are affected that were built since the updated regulation went into effect (regulation refers to the specific vehicle production date, i.e. 2011-09-01). All CC and Tiguan's are fitted with the same ABS/ESC system.

To view Volkswagen's petition analyses and any supplemental information in its entirety you can visit <https://www.regulations.gov> by following the online instructions

for accessing the dockets and by using the docket ID number for this petition shown in the heading of this notice.

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)

**Jeffrey M. Giuseppe,**

Director,

Office of Vehicle Safety Compliance.

**Billing Code 4910-59-P**

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