



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. The change between the display settings must be done intentionally and cannot be accomplished inadvertently.
2. In the affected 2017-2019 MY Audi A3 vehicles, the two speedometer scales are noticeably different. Were the previous driver to have changed the display, a subsequent driver would be able to tell at a glance that the scale is not in mph.
3. The indicated vehicle speed in km/h is 1.6 times greater than the speed in mph [in terms of numeric value displayed by the speedometer – 1km/h is approximately 0.62 MPH]. Audi purports that if the vehicle operator changes the display to indicate km/h and later has not changed the display back to mph, the vehicle operator will clearly recognize that the vehicle is moving at a lower speed than intended and adjust their vehicle speed to match road and traffic conditions. Notice of the speed differential advises the vehicle operator to perform the

- necessary steps to adjust the speedometer back to mph (at the next appropriate opportunity).
4. The 2017-2019 MY Audi A3 Owner Manual contains information and instructions for changing the units displayed, via the Infotainment system, using the MMI Settings menu. Therefore, if a vehicle operator needs to change the display to indicate mph, instructions are available.
 5. As of January 08, 2019, production has been corrected, vehicles withheld at the factory have been corrected and unsold units will be corrected prior to sale. The correction for these vehicles is a software fix that permits display of the speed in mph or in both mph and km/h simultaneously.
 6. Additionally, Volkswagen is not aware of any field or customer complaints related to this condition, nor has it been made aware of any accidents or injuries that have occurred as a result of this issue.

Volkswagen concluded 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.

VI. NHTSA's Analysis: NHTSA has reviewed Volkswagen's petition that the subject noncompliance is inconsequential to motor vehicle safety. Volkswagen explains the Audi A3/RS3 vehicles are initially delivered for first-sale in the U.S. market compliant with FMVSS No. 101 with the speedometer display factory-set to mph. The subject vehicles are noncompliant because the driver can select an alternative speedometer display in the menu setting of the "virtual cockpit."

Specifically, in Audi A3/RS3 vehicles equipped with a “virtual cockpit,” if the driver selects the alternative speedometer display in the settings menu, the speedometer displays only km/h without simultaneously indicating mph, as required by FMVSS No. 101. The purpose of FMVSS No. 101 is to reduce safety hazards caused by the diversion of the driver’s attention from the driving task when using controls, telltales, and indicators.

Volkswagen further explains that all vehicles display mph from factory settings and cannot be changed inadvertently. Additionally, when displaying km/h, the scale of the speedometer is different so it would be visibly apparent to the driver that the units of measure are different. NHTSA agrees with Volkswagen that it is unlikely that the switch from mph to km/h could be done inadvertently because specific interactions with the menu-driven vehicle settings are required by the operator to make the change. We believe that if an operator were to make this change it would be done intentionally and with some understanding of the implications and would not cause any impact to vehicle safety. Also, if an operator were unaware that a speedometer had been changed to display speed in km/h, they would be likely to travel at a slower speed rather than faster speed that might impact safety because the indicated numeric value of the speed in km/h would be 1.6 times greater than the numeric value of the speed in mph. For example, a driver attempting to match a speed limit of 40mph using a speedometer reading “40” in km/h would be traveling approximately 25mph and have an opportunity to safely detect the difference between their speedometer reading and the speed of nearby traffic. Furthermore, we believe that the majority of the owners of these vehicles will continue to operate them using the factory-set display (with the speed identified in mph) and never attempt to change to the metric units.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Volkswagen has met its burden of persuasion that the subject FMVSS No. 101 noncompliance is inconsequential to motor vehicle safety. Accordingly, Volkswagen's petition is hereby granted and Volkswagen is exempted from the obligation to provide notification of and free remedy for, the subject noncompliance in the affected vehicles 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 that Volkswagen no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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)

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