



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0038; Notice 1]

**Ride the Ducks International, LLC, Receipt of Petition for
Decision of Inconsequential Noncompliance**

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

ACTION: Receipt of petition.

SUMMARY: Ride the Ducks International, LLC (RTDI), has determined that certain model year (MY) 1996-2014 Ride the Ducks International Stretch Amphibious passenger vehicles (APVs) do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 104, *Windshield Wiping and Washing Systems*. RTDI filed a noncompliance information report dated March 15, 2017. RTDI also petitioned NHTSA on April 12, 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 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: Ride the Ducks International, LLC (RTDI), has determined that certain model year (MY) 1996-2014 Ride the Ducks International Stretch Amphibious passenger vehicles (APVs) do not fully comply with paragraph S4.2.2 of Federal Motor Vehicle

Safety Standard (FMVSS) No. 104, *Windshield Wiping and Washing Systems*. RTDI filed a noncompliance information report dated March 15, 2017, pursuant to 49 CFR 573, *Defect and Noncompliance Responsibility and Reports*. RTDI also petitioned NHTSA on April 12, 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 RTDI'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 105 MY 1996-2014 Ride the Ducks International Stretch APVs, manufactured between January 1, 1996, and December 31, 2014, are potentially involved.

III. Noncompliance: RTDI explained that the noncompliance is that the subject vehicles were manufactured without a windshield washing system, as required by paragraph S4.2.2 of FMVSS No. 104.

IV. Rule Text: Paragraph S4.2.2 of FMVSS No. 104 states in pertinent part:

S4.2.2 Each multipurpose passenger vehicle, truck, and bus shall have a windshield washing system that meets the requirements of SAE Recommended Practice J942

(1965) (incorporated by reference, see §571.5), except that the reference to "the effective wipe pattern defined in SAE J903, paragraph 3.1.2" in paragraph 3.1 of SAE Recommended Practice J942 (1965) shall be deleted and "the pattern designed by the manufacturer for the windshield wiping system on the exterior surface of the windshield glazing" shall be inserted in lieu thereof.

V. Summary of RTDI's Petition: As background, in 1996, RTDI began to produce APVs. The original Amphibious Passenger vehicles (APVs) are based on military vehicles that were capable of operation over both land and water. The "Stretch" APVs were refurbished by RTDI in accordance with state and U.S. Coast Guard rules and regulations. These vehicles have renewed hulls that are "stretched" over the original chassis frame and original vehicle components that were replaced with modern equipment. RTDI manufactured the stretch APVs until 2005, when RTDI introduced its "Truck" APVs. The truck APVs are based on military cargo vehicles. RTDI has not manufactured any vehicles since 2014.

RTDI described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, RTDI submitted the following reasoning:

1. FMVSS No. 104 specifies, in relevant part, that
"each...[vehicle] shall have a windshield washing system

that meets the requirements of SAE Recommended Practice J942 (1965)" 49 C.F.R. §571.104, S4(a), S4.2.2. This FMVSS is designed to ensure that when activated, the windshield washing system is capable of reaching a sufficient portion of the exterior surface of the windshield, as designed by the manufacturer. The standard establishes minimum performance requirements for the windshield wiping and washing systems so that the vehicle operator is able to sufficiently see through the windshield. The APVs have features installed that are designed to achieve the same purpose as the standard. If there is debris present on the windshield, the driver is able to engage the vehicle's windshield wipers to clear the windshield's exterior surface. Further, the windshield of the APVs have a unique design that allows the driver to fully lower and raise the windshield glass. In the event that the windshield wipers could not clear the surface of the windshield, the driver has the option of lowering the windshield. Under either option, the visibility of the operator would not be compromised.

2. In the water portion of the vehicles' tours, the APVs are required to have the windshield lowered during operation, per U.S. Coast Guard regulations. The Coast

Guard has recognized that in the event of an accident on the water, a raised windshield could impede passenger egress. Consequently, the Coast Guard has issued guidance which provides that the windshields of APVs be "designed to fold down with minimal force to allow egress." U.S. Coast Guard Navigation and Inspection Circular (NVIC) 1-01, inspection of Amphibious Passenger Carrying Vehicles, p.24. Further, the APV's exteriors, including the windshields, are washed after each tour, removing any debris that may have accumulated during the last tour.

3. From its inception, the Safety Act has included a provision recognizing that some noncompliances may pose little or no actual safety risk. The Safety Act exempts manufacturers from their statutory obligation to provide notice and remedy upon a determination by NHTSA that a noncompliance is inconsequential to motor vehicle safety. See 49 U.S.C. § 30118(d). In applying this recognition to particular fact situations, the agency considers whether the noncompliance gives rise to "a significantly greater risk than...in a compliant vehicle." 69 Fed. Reg. 19897, 19900 (April 14, 2000). As described above, the specialized design of the APVs and the vehicles' pattern of use does not expose the

vehicles to conditions that could create an increased safety risk when compared to a vehicle that has a windshield washing system installed.

RTDI 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.

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 RTDI 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 RTDI 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

[FR Doc. 2017-17326 Filed: 8/15/2017 8:45 am; Publication Date: 8/16/2017]