



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0094; Notice 1]

Porsche Cars North 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: Porsche Cars North America, Inc. has determined that certain model year (MY) 2018 Porsche 911 GT3 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, reflective devices, and associated equipment*. Porsche filed a noncompliance report dated July 24, 2019. Porsche subsequently petitioned NHTSA on August 20, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Porsche's petition.

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 number 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 am to 5 pm 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, a 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: Porsche has determined that certain MY 2018 Porsche 911 GT3 motor vehicles do not fully comply with Paragraph S8.1.4 and Table I-a of FMVSS No. 108, *Lamps, reflective devices, and associated equipment*. (49 CFR 571.108). Porsche filed a noncompliance report dated July 24, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Porsche subsequently petitioned NHTSA on August 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 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 Porsche's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercises of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 2,610 MY 2018 Porsche 911 GT3 motor vehicles, manufactured between August 30, 2017, and December 21, 2018, are potentially involved.

III. Noncompliance: Porsche explains that the noncompliance is that the subject vehicles are equipped with rear reflex reflectors that do not meet the height requirements as specified in paragraph S8.1.4 and Table I-a of FMVSS No. 108. Specifically, the rear reflex reflectors are

mounted approximately 0.20 inches below the required 15 inches above road surface. The actual height is approximately 14.8 inches.

IV. Rule Requirements: Paragraph S8.1.4 and Table I-a of FMVSS No. 108 includes the requirements relevant to this petition. The reflective devices should not be mounted less than 15 inches, and no more than 60 inches in height.

V. Summary of Porsche's Petition:

The following views and arguments presented in this section, V. Summary of Porsche's Petition, are the views and arguments provided by Porsche. They have not been evaluated by the Agency and do not reflect the views of the Agency.

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

Porsche submitted the following views and arguments in support of the petition:

1. The installation height requirements of reflex reflectors as defined by paragraph S8.1.4 of FMVSS No. 108 are intended to assure a sufficient luminous intensity of the reflex reflectors towards the source of illumination. Although the rear reflex reflectors' installation height falls slightly below the specified minimum height by 0.20 inches (5 mm), Porsche has confirmed that the rear reflex reflectors meet or exceed all applicable FMVSS requirements regarding the luminous intensity performance as stated under §571.108, S14 and all other relevant requirements of FMVSS No. 108 of paragraphs S8.1 and S8.2. Porsche provided a copy of the photometric test results for the rear reflex reflectors, which Porsche believes shows that the installation height does not affect the performance of the luminous intensity of the rear reflex reflectors or the visibility of the subject vehicles.

2. Porsche is unaware of any accidents, injuries, warranty claims or customer complaints related to the slight shortfall of the rear reflex reflectors' installation height. The absence of indicant data supports the conclusion that the minimal deviation in mounting height does not affect the performance of the rear reflectors or the visibility of the subject vehicles.
3. Porsche notes that NHTSA has previously granted a similar petition. *See* 79 FR 69558, November 21, 2014. In that petition, Harley-Davidson described the noncompliance with FMVSS No. 108 where the rear reflex reflectors were mounted an average of 0.3 inches to 0.7 inches below the required 15 inch height. NHTSA determined that this noncompliance, where the deviation from the specified height was even greater than in the present case, was inconsequential to motor vehicle safety based primarily on the lack of reduction in conspicuity as compared to compliant vehicles. Porsche respectfully suggests that its noncompliant vehicles are also equally conspicuous.
4. The purpose of the FMVSS No. 108 reflex reflector requirement is to prevent crashes by permitting early detection of an unlighted motor vehicle at an intersection or when parked on or by the side of the road, and the height requirement is intended "to ensure adequate reflex reflector performance relative to headlamps that would illuminate them." *See* 82 FR 24204 (May 25, 2017). Porsche stated that the photometry performance of the reflex reflectors in the subject vehicles well exceeds the minimum performance standards outlined in FMVSS No. 108, Table XVI. Based on the photometry performance of the reflectors in the subject vehicles, and the fact that the vehicles meet or exceed the requirements of paragraphs S8.1 and S8.2 of FMVSS No. 108, with regard to reflection performance, Porsche believes the vehicles satisfy the safety objectives of the standard.

5. The noncompliance issue has been corrected in production vehicles and all vehicles currently being produced meet applicable mounting height requirements.
6. The mounting height of the reflex reflectors complies with the minimum height requirements of the United Nations ECE regulations. Those regulations specify a minimum mounting height of 250 mm (9.84 inches) for rear retro-reflectors. *See* UN R48, §6.14.4.2. The reflex reflectors in the subject Porsche vehicles, with a mounting height of 14.8 inches, are well within this requirement.

Porsche 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.

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 Porsche 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 Porsche 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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