



## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2018-0105; Notice 1]**

### **BMW of North America, 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:** BMW of North America, LLC (BMW), a subsidiary of BMW AG, has determined that certain model year (MY) 2019 BMW F750 GS and F850 GS motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. BMW filed a noncompliance report dated October 19, 2018. BMW subsequently petitioned NHTSA on October 29, 2018, 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 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](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:** BMW has determined that certain MY 2019 BMW F750 GS and F850 GS motorcycles do not fully comply with paragraph S6.3 of FMVSS No. 205, *Glazing Materials* (49 CFR 571.205). BMW filed a noncompliance report dated October 19, 2018, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. BMW subsequently petitioned NHTSA on October 29, 2018, 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 BMW'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 604 MY 2019 BMW F750 GS and F850 GS motorcycles, manufactured between June 21, 2018, and September 19, 2018, are potentially involved.

**III. Noncompliance:** BMW explains that the noncompliance is that the subject motorcycles are equipped with windscreens that do not comply with paragraph S6.3 of FMVSS No. 205.

Specifically, the subject windscreens were marked with the AS4 marking instead of the AS6 marking.

**IV. Rule Requirements:** Paragraph S6.3 of FMVSS No. 205 includes the requirements relevant to this petition. A manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, must mark that material in accordance with section 7 of ANSI/SAE Z26.1–1996 and certify that its product complies with this standard in accordance with 49 U.S.C. 30115.

AS4 certified windscreens are rigid plastic and only for use on certain locations, not including motorcycle windscreens and they are not subject to a flexibility test, whereas AS6 marked windscreens are subject to this test. AS6 certified windscreens are flexible plastic and, unlike AS4 certified windscreens, can be used as a motorcycle windscreen. Additionally, AS6 certified windscreens are not required to be subject to an impact test or an abrasion test, whereas, AS4 certified windscreens are.

**V. Summary of BMW's Petition:** BMW 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, BMW submitted the following reasoning:

1. FMVSS No. 205 Section 2 (Purpose) states, “The purpose of this standard is to reduce injuries resulting from impact to glazing surfaces, to ensure a necessary degree of transparency in motor vehicle windows for driver visibility, and to minimize the possibility of occupants being thrown through the vehicle windows in collisions.”
2. Potentially affected vehicles conform to all of the FMVSS No. 205 performance requirements. Therefore, they satisfy the stated purpose of FMVSS No. 205 regarding a) injury reduction, and b) rider visibility.

3. Potentially affected vehicles conform to all the FMVSS No. 205 performance requirements.

Therefore, there are no safety performance implications associated with this potential noncompliance.

4. BMW has not received any contacts from vehicle owners regarding this issue. Therefore, BMW is unaware of any vehicle owners that have encountered this issue.
5. BMW is unaware of any accidents or injuries that may have occurred as a result of this issue.
6. NHTSA has previously granted petitions for inconsequential noncompliance regarding FMVSS No. 205 involving marking of window glazing. BMW believes that its petition is similar to other manufacturers' petitions in which NHTSA has granted approval. Examples of similar petitions, in which NHTSA has granted approval, include the following:

- Ford Motor Company, 80 FR 11259 (March 2, 2015).
- Ford Motor Company, 78 FR 32531 (May 30, 2013).
- Ford Motor Company, 64 FR 70115 (December 15, 1999).
- General Motors, LLC, 79 FR 23402 (September 25, 2015).
- General Motors, LLC, 70 FR 49973 (August 25, 2005).
- Toyota Motor North America Inc., 68 FR 10307 (March 4, 2003).
- Fuji Heavy Industries USA, Inc., 78 FR 59088 (September 25, 2013).
- Mitsubishi Motors North America, Inc., 80 FR 72482 (August 22, 2015).
- Pilkington North America, Inc., 78 FR 22942 (April 17, 2003).
- Supreme Corporation, 81 FR 72850 (October 21, 2016).
- Custom Glass Solutions Upper Sandusky Corp., 80 FR 3737 (January 23, 2015).

7. Vehicle production has been corrected to conform to FMVSS No. 205 S6.

8. BMW also provided a copy of the FMVSS No. 205 Certification Report from AIB-Vincotte International N.V.

BMW's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and following the online search instructions to locate the docket number listed in the title 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 BMW 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 BMW 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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**Billing Code 4910-59-P**

[FR Doc. 2020-03959 Filed: 2/26/2020 8:45 am; Publication Date: 2/27/2020]