



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0030; Notice 1]

### Collins Bus Corporation, Receipt of Petition for Decision of Inconsequential

### Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** Collins Bus Corporation (Collins) has determined that certain model year (MY) 2012–2020 Ford and Chevrolet school buses do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 217, *Bus Emergency Exits and Window Retention and Release*. Collins filed a noncompliance report dated April 15, 2020. Collins subsequently petitioned NHTSA on April 30, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Collins’s petition.

**DATES:** Send comments on or before **[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 the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., 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, S.E., 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](https://www.regulations.gov/) by following the online instructions for accessing the docket. 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:** Collins has determined that certain MY 2012–2020 Ford and Chevrolet school buses do not fully comply with the requirements of paragraph S5.5.3(b) of FMVSS No. 217, *Bus Emergency Exits and Window Retention and Release* (49 CFR 571.217). Collins filed a noncompliance report dated April 15, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Collins subsequently petitioned NHTSA on April 30, 2020, 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 Collins’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. Buses Involved:** Approximately 11,079 MY 2012–2020 Ford and Chevrolet school buses manufactured between February 2, 2012, and April 3, 2020, are potentially involved:

- Ford TH 400
- Ford Sh416, models SL, SH, DH, DE, TH, and TL
- Chevrolet DE516
- Chevrolet DH516
- Chevrolet DH500
- Ford TL 400
- Ford T24
- Chevrolet DH400

**III. Noncompliance:** Collins explains that the noncompliance is that the letter height for the operating instructions describing the motions necessary to unlatch and open the emergency exits in the subject school buses does not fully comply with the requirements set forth in paragraph

S5.5.3(b) of FMVSS No. 217. Specifically, the operating instructions describing the motions necessary to unlatch and open the emergency window exits are only eight (8) millimeters in height rather than the required one (1) centimeter.

**IV. Rule Requirements:** Paragraph S5.5.3(b) of FMVSS No. 217 includes the requirements relevant to this petition. Paragraph S5.5.3(b) requires that concise operating instructions describing the motions necessary to unlatch and open the emergency exit shall be located within 15 centimeters of the release mechanism on the inside surface of the bus. These instructions shall be in letters at least 1 centimeter high and of a color that contrasts with its background.

**V. Summary of Collins’s Petition:** The following views and arguments presented in this section, “V. Summary of Collins’s Petition,” are the views and arguments provided by Collins. They have not been evaluated by the Agency and do not reflect the views of the Agency. Collins describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Collins offers the following reasoning:

1. **The Noncompliance is Inconsequential to Motor Vehicle Safety:** Collins states that the 2-millimeter deficiency in the letter height is inconsequential to motor vehicle safety. The actual height of the emergency window exit operating instructions letters—eight (8) millimeters—is 80 percent of the height required by FMVSS No. 217 (ten (10) millimeters). NHTSA has previously granted inconsequential noncompliance petitions for labeling defects across various motor vehicle safety standards, including for more significant lettering height deficiencies:

- Notice Granting Petition by Kia Motors: Letters as little as **53.1 percent** of the minimum height requirement. *See* 69 FR 41333 (July 8, 2004) (Docket No. NHTSA-2004-17439).

- Notice Granting Petition by General Motors: Lettering height **76.3 percent** of the minimum height requirement. *See* 81 FR 92963 (Docket No. NHTSA-2016-0093).
  - Notice Granting Petition by Hyundai: Letters as little as **78.1 percent** of the minimum height requirement. *See* 69 FR 41568 (Docket No. NHTSA-2004-17439).
  - Notice Granting Petition by Mercedes-Benz: Letters “about **78 percent** of the minimum height required for such letters.” *See* 67 FR 72026 (Docket No. NHTSA-2002-12544).
2. Further, the instruction label includes the words “Emergency Exit” in letters with a height of 11 millimeters, which not only meets but substantially exceeds the 1-centimeter requirement. *See* 67 FR 72026 (noting that some of the letters did meet the minimum height requirements in finding that insufficient height of other letters did not have an adverse effect on vehicle safety).
  3. Collins claims that the height discrepancy does not affect the readability of the instructions. *See* 67 FR 72026 (finding that letters which were roughly 78 percent of the required size (which required size was nearly one-third of the relevant one-centimeter letter height requirement at issue here) would not “degrade the legibility” of the words); 81 FR 92964 (finding “the lettering height for the park brake applied indicator ‘Park’ at 2.44 mm versus the FMVSS No. 135 requirement of 3.2 mm poses little if any risk to motor vehicle safety”).
  4. Further, Collins says the discrepancy does not compromise the conspicuity of the instructions. The instructions are not only in a color that sharply contrasts with their background (red) as required by FMVSS No. 217, the letters are additionally in bold and block capital letters, which is not required by the standard but which preserves the 8-millimeter height across the width of the words and increases the visibility of

- the instructions. *See* 81 FR 92964 (finding the use of all capitalized letters, where not required, provided “a more pronounced indicator”). And as noted above, some of the words in the label (i.e., “Emergency Exit”) not only meet but exceed the minimum height requirement, thereby increasing the visibility of the instructions.
5. Collins states that NHTSA has previously granted petitions for inconsequential noncompliance under FMVSS No. 217 for conditions that present a more direct safety risk than the potential safety risk (if any) created here. *See* New Flyer of America, Inc.; Grant of Application for Decision of Inconsequential Noncompliance, 63 FR 32694 (granting petition for inconsequential noncompliance where buses were manufactured with only one emergency exit instead of two); IC Corporation, Grant of Petition for Decision of Inconsequential Noncompliance, 70 FR 24464 (granting petition for inconsequential noncompliance where school buses were manufactured with two emergency doors under the same post and roof bow panel space).
  6. Finally, Collins states that the emergency window exit instructions on the affected vehicles meet all other labeling requirements of FMVSS No. 217 and do not affect the actual operation of the emergency window exit, and Collins has not received any complaints regarding the size or visibility of the instructions and is not aware of any injuries associated with the size or visibility of the instructions. Collins has corrected the noncompliance in all buses remaining within its possession.

Collins concludes by again contending 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.

Collins’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 by

following the online search instructions to locate the docket number as 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 buses that Collins 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 buses under their control after Collins 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)

**Otto G. Matheke III,**

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