



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2023-0055; Notice 1]

Blue Bird Body Company, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Blue Bird Body Company (Blue Bird) has determined that certain model year (MY) 2019-2024 Blue Bird Vision and MY 2020-2024 Blue Bird All American school buses do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 217, *Bus Emergency Exits and Window Retention and Release*. Blue Bird filed two noncompliance reports, both dated August 9, 2023, and subsequently petitioned NHTSA (the “Agency”) on September 13, 2023, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Blue Bird’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 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, 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).

FOR FURTHER INFORMATION CONTACT: Daniel Lind, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-7235.

SUPPLEMENTARY INFORMATION:

I. Overview: Blue Bird determined that certain MY 2019-2024 Blue Bird Vision and MY 2020-2024 Blue Bird All American school buses do not fully comply with paragraph S5.5.3(b) of FMVSS No. 217, *Bus Emergency Exits and Window Retention and Release* (49 CFR 571.217).

Blue Bird filed two noncompliance reports, both dated August 9, 2023, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Blue Bird petitioned NHTSA on September 13, 2023, 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 Blue Bird's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 28,765 and 403 MY 2019-2024 Blue Bird Vision and MY 2020-2024 Blue Bird All American school buses, manufactured between July 1, 2019, and August 3, 2023, were reported by the manufacturer.

III. Noncompliance: Blue Bird explains that the Emergency Exit Label in the subject vehicles contains lettering that does not meet the height required by paragraph S5.5.3(b) of FMVSS No. 217. Specifically, the lettering height was 0.88 cm and therefore does not meet the minimum lettering height requirement of 1 cm.

IV. Rule Requirements: Paragraph S5.5.3(b) of FMVSS No. 217 includes the requirements relevant to this petition. 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 Blue Bird's Petition: The following views and arguments presented in this section, "V. Summary of Blue Bird's Petition," are the views and arguments provided by Blue Bird. They have not been evaluated by the Agency and do not reflect the views of the Agency. Blue Bird describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Blue Bird contends that the subject noncompliance is inconsequential to motor vehicle safety because the difference between 1 centimeter and 0.882 centimeters would be difficult to differentiate without the use of precise measuring equipment. A 0.118 cm difference is less than 3/64ths of an inch or 0.047 inches, which Blue Bird argues would be unrecognizable and would not cause the instructions to be unclear to passengers or impact their ability to open the door in an emergency.

In 2022, NHTSA denied a petition by Collins Bus Corporation (Collins) in which the lettering height on the affected buses was 2 mm less than 1 cm. Collins contended that some of the lettering in the labeled message exceeds the requirement by 1mm. Therefore, the difference of the noncompliant lettering being 2 mm smaller than required should be deemed inconsequential. However, NHTSA was not persuaded by Collins's assertion that a 2 mm measurement is not any less significant than a 1 mm measurement. Blue Bird says that NHTSA's decision in this case implies that a 0.118 cm variation from the required lettering height at a single location can be considered inconsequential.

Moreover, Blue Bird believes that Vernier caliper jaws, when used for the official measurement of letter height can introduce inaccuracies, particularly in discerning small variations from the required height. Blue Bird says manual error in the repeatability of both the measurement device and the user could lead to discrepancies that exceed the difference between the Blue Bird text size from the requirement. Blue Bird contends that the photo provided of the

measurement in this case illustrates the potential for human error in identifying a small variation. According to Blue Bird, “the caliper is not positioned flat against the decal, and only one location on the decal was measured.” Therefore, Blue Bird believes that a discrepancy of 0.118 cm could be attributed to a slight angle of the calipers or measurements conducted at various points on the signage.

According to Blue Bird, its lettering meets all other FMVSS No. 217 labeling requirements, specifically, (1) operating instructions must be “concise” and describe “the motions necessary to unlatch and open the emergency exit,” (2) operating instructions must “be located within 15 centimeters of the release mechanism on the inside surface of the bus,” and (3) operating instructions must be “of a color that contrasts with [their] background.”

Blue Bird asserts NHTSA has not put forth any claim or reasoning indicating that a 0.118 cm variation from the 1 cm lettering height requirement “compromises a passenger’s ability to safely view or understand the lettering.” Furthermore, Blue Bird contends that NHTSA’s prior determination on the Collins petitions notes the substantial difference between a 1 mm and a 2 mm variation from the requirement. Additionally, Blue Bird believes it has effectively demonstrated that the manual use of Vernier calipers can introduce “discrepancies and variations when distinguishing variations as small as .118 cm.”

Blue Bird concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and 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

Blue Bird 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 Blue Bird 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,

Director, Office of Vehicle Safety Compliance

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