



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2023-0010; Notice 1]

Volvo 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: Volvo Bus Corporation (VBC) has determined that certain model year (MY) 2009-2023 Volvo 9700 buses do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. VBC filed a noncompliance report dated November 15, 2022, and subsequently petitioned NHTSA (the “Agency”) on December 13, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of VBC’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: Leroy Angeles, NHTSA, Office of Vehicle Safety Compliance, (202) 366-5304.

SUPPLEMENTARY INFORMATION:

I. Overview: VBC determined that certain MY 2009-2023 VBC 9700 buses do not fully comply with paragraph S7.7.15.3 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108).

VBC filed a noncompliance report dated November 15, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. VBC petitioned NHTSA on December 13, 2022, 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 VBC'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 958 MY 2009-2023 Volvo 9700 buses, manufactured between February 1, 2008 and May 1, 2022, were reported by the manufacturer.

III. Rule Requirements: Paragraph S7.7.15.3 of FMVSS No. 108 includes the requirements relevant to this petition. Paragraph S7.7.15.3 of FMVSS No. 108 requires that light rays reach all portions of an imaginary plate of the same size at least 25 mm ahead of the actual plate measured perpendicular to the plane of the plate.

IV. Noncompliance: VBC explains that the noncompliance is that the subject vehicles are equipped with license plate lamps that do not reach all portions of the license plate when the license plate is placed 25 mm ahead of its normal position. Therefore, the subject vehicles do not comply with paragraph S7.7.15.3 of FMVSS No. 108.

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

VBC says that although the subject license plate lamps are noncompliant, when the license plate is installed in its normal position, it is fully illuminated by the lamps.¹

VBC states that it has corrected the subject noncompliance in vehicle production and production is currently in compliance with paragraph S7.7.15.3 of FMVSS No. 108. VBC notes that paragraph S7.7.15.3 of FMVSS No. 108 "refers to an imaginary plate in a testing position, and not a real license plate that requires physical testing with measurable test data."

VBC contends that the subject noncompliance is inconsequential to motor vehicle safety because the noncompliant license plate lamps equipped on the subject vehicles fulfill its main purpose to ensure that law enforcement personnel and the public are able to identify vehicles in low-lighting conditions.

VBC explains that "except for vehicle testing purposes, the license plate is never installed in a position that differs from its original intended one." Furthermore, VBC says no vehicles were delivered with a license plate in the testing position. Additionally, the license plates are fixed in the original position and cannot be adjusted. Thus, VBC believes that the license plate equipped on the subject vehicles "will always be fully illuminated under normal vehicle operating conditions"

VBC says that "test results demonstrate that this noncompliance is imperceptible to road users considering that the license plate is fully illuminated when normally installed, as demonstrated in Attachment 2 'VBC Engineering Report ER-684684'."

¹ See Figure 3 and Figure 4 of VBC's petition.

VBC says that since 2008, over 900 subject vehicles have been functioning with the noncompliance at issue, and VBC has not received any customer complaints, field reports, or warranty claims related to the subject noncompliance. VBC adds that it is not aware of any accidents, injuries, or death related to the subject noncompliance.

VBC says that NHTSA has granted prior petitions in which a noncompliance involving the license plate lamps “is expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers.” VBC believes that the subject noncompliance is imperceptible to all road users, therefore, VBC contends that NHTSA should also grant VBC’s petition.

VBC 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 VBC 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 VBC 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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