

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0114; Notice 1]

Volkswagen Group of 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:** Volkswagen Group of America, Inc. (Volkswagen), has determined that certain model year (MY) 2020–2021 Volkswagen motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems*. Volkswagen filed a noncompliance report dated October 23, 2020, and later amended it on November 11, 2020. Volkswagen also petitioned NHTSA on November 16, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Volkswagen's petition.

**DATES:** Send comments on or before August 11, 2021.

**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 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 a.m. to 5 p.m. 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 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).

**FOR FURTHER INFORMATION CONTACT:** Kerrin Bressant, Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–1110.

**SUPPLEMENTARY INFORMATION:**

*I. Overview:* Volkswagen has determined that certain MY 2020–2021 Volkswagen motor vehicles do not fully comply with the requirements of Paragraph S4.5(a) of FMVSS No. 138, *Tire Pressure Monitoring Systems* (49 CFR 571.138). Volkswagen filed a noncompliance report dated October 23, 2020, and later amended it on November 11, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Volkswagen subsequently petitioned NHTSA on November 16, 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 Volkswagen'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. Vehicles Involved:* Approximately 115,855 of the following MY 2020–2021 motor vehicles, manufactured between December 16, 2019, and August 28, 2020, are potentially involved:

- MY 2020 Volkswagen Arteon;
- MY 2020 Volkswagen Passat;
- MY 2021 Volkswagen Atlas;
- MY 2020 Volkswagen Atlas Cross Sport;

- MY 2020 Volkswagen Tiguan;
- MY 2020 Volkswagen Jetta; and
- MY 2020 Volkswagen Jetta GLI.

*III. Noncompliance:* Volkswagen explains that the noncompliance is due to an error in the owner's manual editing process and that the subject motor vehicles may have received an owner's manual that did not have the exact statement in English as required by paragraph S4.5(a) of FMVSS No. 138. Specifically, the written instructions to vehicle operators about the functionality of the tire pressure monitoring system was not included in the exact wording per paragraph S4.5(a).

*IV. Rule Requirements:* Paragraph S4.5(a) of FMVSS No. 138 includes the requirements relevant to this petition. Beginning on September 1, 2006, the owner's manual in each vehicle certified as complying with paragraph S4 of FMVSS No. 138 must provide an image of the Low Tire Pressure Telltale symbol (and an image of the TPMS Malfunction Telltale warning (TPMS), if a dedicated telltale is utilized for this function) with the following statement in English:

Each tire, including the spare (if provided), should be checked monthly when cold and inflated to the inflation pressure recommended by the vehicle manufacturer on the vehicle placard or tire inflation pressure label. (If your vehicle has tires of a different size than the size indicated on the vehicle placard or tire inflation pressure label, you should determine the proper tire inflation pressure for those tires.)

As an added safety feature, your vehicle has been equipped with a tire pressure monitoring system (TPMS) that illuminates a low tire pressure telltale when one or more of your tires is significantly under-inflated. Accordingly, when the low tire pressure telltale illuminates, you should stop and check your tires as soon as possible, and inflate them to the proper pressure. Driving on a significantly under-inflated tire causes the tire to overheat and can lead to tire failure. Under-inflation also reduces fuel efficiency and tire tread

life, and may affect the vehicle's handling and stopping ability.

Please note that the TPMS is not a substitute for proper tire maintenance, and it is the driver's responsibility to maintain correct tire pressure, even if under-inflation has not reached the level to trigger illumination of the TPMS low tire pressure telltale.

[The following paragraph is required for all vehicles certified to the standard starting on September 1, 2007, and for vehicles voluntarily equipped with a compliant TPMS MIL before that time.] Your vehicle has also been equipped with a TPMS malfunction indicator to indicate when the system is not operating properly. [For vehicles with a dedicated MIL telltale, add the following statement: The TPMS malfunction indicator is provided by a separate telltale, which displays the symbol "TPMS" when illuminated.] [For vehicles with a combined low tire pressure/MIL telltale, add the following statement: The TPMS malfunction indicator is combined with the low tire pressure telltale. When the system detects a malfunction, the telltale will flash for approximately one minute and then remain continuously illuminated. This sequence will continue upon subsequent vehicle start-ups as long as the malfunction exists.] When the malfunction indicator is illuminated, the system may not be able to detect or signal low tire pressure as intended. TPMS malfunctions may occur for a variety of reasons, including the installation of replacement or alternate tires or wheels on the vehicle that prevent the TPMS from functioning properly. Always check the TPMS malfunction telltale after replacing one or more tires or wheels on your vehicle to ensure that the replacement or alternate tires and wheels allow the TPMS to continue to function properly.

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

In support of its petition, Volkswagen submitted the following reasoning:

1. Volkswagen states that the affected manuals all have sections devoted to describing appropriate tire pressures and the functionality of the tire pressure monitoring system and that the affected manuals contain equivalent instructions to those set forth in S4.5(a), just in different words. Volkswagen compared the required language and the actual language and believes that the comparable text present in the owner's manuals is consistent with the rationale and intent of the FMVSS No. 138 requirements, even though the exact words required by the standard are not used.

2. Volkswagen asserts that NHTSA has granted similar petitions in the past in which required owner's manual text was not present in verbatim form, but an equivalent version of the text was present. *See* 65 FR 14009 (label and owner's manual missing FMVSS No. 303 required text but include substantive equivalent) and 80 FR 68602 (owner's manual missing description required by FMVSS No. 226).

3. Volkswagen states that as of the last dates of production for the subject vehicles, the condition has been corrected and that any affected vehicles held at the factory have been corrected, and unsold units in dealer inventory will be corrected prior to sale.

4. Additionally, Volkswagen says it is not aware of any field or customer complaints related to this condition, nor has it been made aware of any accidents or injuries that have occurred as a result of this issue.

Volkswagen concludes 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 Volkswagen 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 motor vehicles under their control after Volkswagen 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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