

construction that were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III devices on other GM models, and the advanced technology utilized in PASS-Key III+, GM believes that the PASS-Key III+ device will be more effective in deterring theft than the parts-marking requirements of 49 CFR part 541.

Additionally, GM stated that the PASS-Key III+ is installed as standard equipment on the GMC Terrain vehicle line. The agency notes that the GMC Terrain vehicle line has been equipped with the device since introduction of its MY 2010 vehicles. GM was granted an exemption from the parts-marking requirements by the agency for the GMC Terrain vehicle line beginning with the 2010 MY (See 74 FR 3132, January 16, 2009). The average theft rate for the GMC Terrain vehicle line, based on NHTSA's theft data, using 3 MYs theft data (MYs 2010-2012) is 0.3235, which is substantially below the median theft rate established by the agency.

GM further stated that it believes that PASS-Key III+ devices will be more effective in deterring theft than the parts-marking requirements and that the agency should find that inclusion of the PASS-Key III+ device on the Chevrolet Spark vehicle line is sufficient to qualify it for full exemption from the parts-marking requirements.

Based on the evidence submitted by GM, the agency believes that the antitheft device for the Chevrolet Spark vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that GM has provided adequate reasons for its belief that the antitheft device for the Chevrolet Spark vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information GM provided about its device.

The agency concludes that the device will provide the four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat

or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

GM's proposed device lacks an audible or visible alarm. Therefore, this device cannot perform one of the functions listed in 49 CFR 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. Based on comparison of the reduction in the theft rates of Chevrolet Corvettes using a passive antitheft device along with an audible/visible alarm system to the reduction in theft rates for the Chevrolet Camaro and the Pontiac Firebird models equipped with a passive antitheft device without an alarm, GM finds that the lack of an alarm or attention-attracting device does not compromise the theft deterrent performance of a device such as PASS-Key III+ device. In these instances, the agency has concluded that the lack of an audible or visible alarm has not prevented these antitheft devices from being effective protection against theft.

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the Chevrolet Spark vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If GM decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission

of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Under authority delegated in 49 CFR 1.95.

**Raymond R. Posten,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0054; Notice 2]

#### Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Grant of petition.

**SUMMARY:** Ford Motor Company (Ford) has determined that certain model year (MY) 2010-2014 Transit Connect vehicles do not fully comply with paragraph S5.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. Ford has filed an appropriate report dated March 31, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**ADDRESSES:** For further information on this decision contact Luis Figueroa, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5287, facsimile (202) 366-5930.

#### SUPPLEMENTARY INFORMATION:

*I. Ford's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Ford submitted a petition for an exemption from the

notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of Ford's petition was published, with a 30-Day public comment period, on June 19, 2014 in the **Federal Register** (79 FR 35224). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2014-0054."

*II. Vehicles Involved:* Affected are approximately 174,453 Transit Connect vehicles built from March 20, 2009 through September 2, 2013 at the plant in Kocaeli, Turkey as well those built from August 1, 2013 through February 28, 2014 at the plant in Valencia, Spain.

*III. Noncompliance:* Ford explains that the noncompliance is that subject vehicles do not fully meet the requirements of paragraph S5.1 of FMVSS No. 205 because the windshields installed in the vehicles do not include the "A↓S1" upper boundary markings specified in Section 7 of ANSI/SAE Z 26.1-1996 *Marking of Safety Glazing Materials* which is incorporated by reference in FMVSS No. 205.

*IV. Rule Requirements:* FMVSS No. 205 incorporates ANSI Z26.1-1996 and other industry standards in paragraph S.5.1 by reference. Paragraph S6 of FMVSS No. 205 specifically requires manufacturers to mark the glazing material in accordance with Section 7 of ANSI Z26.1-1996 and to add other markings required by NHTSA. With respect to the subject noncompliance, Section 7 of ANSI Z26.1-1996 specifies that in addition to the item of glazing number and other required markings, the manufacturer shall include the "A↓S1" upper boundary which will identify the item of glazing, and the area that meets Test 2 of ANSI Z26.1 (1996). The direction of the arrow will point to the direction of the area that complies with Test 2 of ANSI Z26.1 (1996).

*V. Summary of Ford's Analyses:* Ford stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

(A) The windshield glazing of the affected vehicles otherwise meets all marking and performance requirements of FMVSS No. 205 and ANSI Z26.1-1996. Because all transparent sections of the affected glazing fully meet all of the applicable performance requirements, Ford does not believe the absence of the "A↓S1" upper boundary markings

impact the ability of the glazing to satisfy the stated purpose or affect the performance of the glazing intended by FMVSS No. 205.

(B) No other related FMVSSs are affected. The vision zones used for all other related FMVSSs are all in clear areas of the glazing and the vehicles are fully compliant to FMVSS No. 103 *Windshield Defrosting and Defogging Systems* and FMVSS No. 104 *Windshield Wiping and Washing Systems*.

(C) The windshields are appropriately marked with the AS1 marking adjacent to the Manufacturer's Trademark, as required by ANSI/SAE Z26.1-1996.

(D) Ford made reference to a previous petition for inconsequential noncompliance that addressed labeling issues that NHTSA granted.

Ford also stated that it is not aware of any field or owner complaints, accidents, or injuries attributed to this condition.

Ford has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 205.

In summation, Ford believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt Ford from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

#### **NHTSA Decision**

*NHTSA Analysis:* FMVSS No. 205 specifies labeling and performance requirements for automotive glazing. FMVSS No. 205 incorporates ANSI Z26.1 (1996) and other industry standards by reference (S.5.1). Paragraph S6 of FMVSS No. 205 requires manufacturers to mark glazing material in accordance with Section 7 of ANSI Z26.1 (1996) and to add other specific markings required by NHTSA. Section 7 of ANSI Z26.1 (1996) specifies that in addition to other required markings, glazing which in a single sheet of material are intentionally made with an area having a luminous transmittance of not less than 70% (Test 2—Luminous Transmittance) adjoining an area that has less than 70% luminous transmittance, shall be permanently marked at the edge of the area that complies with Test 2 with the item of glazing number and an arrow pointing in the direction of the area that is intended to comply with Test 2, e.g., "AS↓1".

According to the petition, Ford manufactured the affected MY 2010–2014 Transit Connect vehicles with windshields that lack the arrow marking designating the area intended to comply with Test 2. NHTSA believes that the missing arrow is inconsequential to vehicle safety since Ford has certified that the glazing complies with all other labeling and performance requirements of FMVSS No. 205, including the item of glazing number. Ford has also informed NHTSA that all future Transit Connect vehicles will fully comply with FMVSS No. 205.

NHTSA believes that the absence of the "A↓S1" upper boundary markings, poses little if any risk to motor vehicle safety because in this particular instance the area having a luminous transmittance of less than 70% is readily apparent without the upper boundary markings.

*NHTSA Decision:* In consideration of the foregoing, NHTSA has decided that Ford has met its burden of persuasion that the FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, Ford's petition is hereby granted and Ford is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

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 Ford no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve Ford 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 Ford 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)

**Jeffrey M. Giuseppe,**

*Acting Director, Office of Vehicle Safety Compliance.*

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