

b. Improving welder training programs to ensure consistency in welding procedures, especially for the pressure electric welding process; and

c. Developing and scheduling appropriate pressure electric welding maintenance and rail testing programs.

2. Identify electrode-induced rail pitting by:

a. Inspecting the rail upon completion of welding, and reviewing the documentation in the weld report to help identify if pitting occurred;

b. Visually inspecting existing welds for electrode-induced pitting during routine track inspections; and

c. Considering alternative methods of identifying electrode-induced pitting, such as ultrasonic testing, machine vision, etc.

3. Remediate any identified electrode-induced pitting by:

a. Removing the section of rail containing electrode-induced pitting and re-welding the rail; or

b. Developing and applying possible alternative methods to remove electrode-induced pitting, such as drilling, if electrode-induced pitting is found and the section of rail cannot be readily removed or re-welded.

FRA requests public comment on all aspects of this draft Safety Advisory.

*Privacy Act Statement:* Anyone can search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://www.regulations.gov/#!privacyNotice>.

Issued in Washington, DC, on August 10, 2017.

**Patrick Warren,**  
Executive Director.

[FR Doc. 2017-17285 Filed 8-15-17; 8:45 am]

BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0035; Notice 1]

#### Ride the Ducks International, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** Ride the Ducks International, LLC (RTDI), has determined that certain model year (MY) 1996-2014 Ride the Ducks International Stretch Amphibious passenger vehicles (APVs) do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 103, *Windshield Defrosting and Defogging Systems*. RTDI filed a noncompliance information report dated March 15, 2017. RTDI also petitioned NHTSA on April 12, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**DATES:** The closing date for comments on the petition is September 15, 2017.

**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 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 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 Federal Holidays.

- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) Web site 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> 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).

#### SUPPLEMENTARY INFORMATION:

*I. Overview:* Ride the Ducks International, LLC (RTDI), has determined that certain model year (MY) 1996-2014 Ride the Ducks International Stretch Amphibious passenger vehicles (APVs) do not fully comply with paragraph S4.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 103, *Windshield Defrosting and Defogging Systems*. RTDI filed a noncompliance information report dated March 15, 2017, pursuant to 49 CFR 573, *Defect and Noncompliance Responsibility and Reports*. RTDI also petitioned NHTSA on April 12, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, 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.

This notice of receipt of RTDI'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 105 MY 1996-2014 Ride the Ducks International Stretch APVs, manufactured between January 1, 1996, and December 31, 2014, are potentially involved.

*III. Noncompliance:* RTDI explained that the noncompliance is that the subject vehicles were manufactured without a windshield defrosting and defogging system, as required by paragraph S4.1 of FMVSS No. 103.

*IV. Rule Text:* Paragraph S4.1 of FMVSS No. 103 states in pertinent part:

S4.1 Each vehicle shall have a windshield defrosting and defogging system

*V. Summary of RTDI's Petition:* As background, in 1996, RTDI began to produce APVs. The original Amphibious Passenger vehicles (APVs) are based on military vehicles that were capable of operation over both land and water. The "Stretch" APVs were refurbished by RTDI in accordance with state and U.S. Coast Guard rules and regulations. These vehicles have renewed hulls that are "stretched" over the original chassis frame and original vehicle components that were replaced with modern equipment. RTDI manufactured the stretch APVs until 2005, when RTDI introduced its "Truck" APVs. The truck APVs are based on military cargo vehicles. RTDI has not manufactured any vehicles since 2014.

RTDI described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

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

1. FMVSS No. 103 specifies that "[e]ach vehicle shall have a windshield defrosting and defogging system." 49 CFR 571.103, S4(a), S4.1. The purpose of FMVSS No. 103 is to establish minimum performance requirements for vehicle windshield defrosting and defogging systems in order to ensure that the vehicle operator is able to sufficiently see through the windshield.

The APVs have features that are designed to achieve the same purpose as the standard. The APVs' "open-air" design precludes fog from building up on the windshield. Fog buildup on the interior or exterior of a motor vehicle windshield occurs when water condenses on the windshield. For water to condense on a windshield, the air next to the windshield must be humid and the air's dew point—the temperature to which air must be cooled to become saturated with water vapor—must be higher than the windshield's temperature. In other words, humid and warm air must surround a cool windshield. Because of its open-air design, the APVs will not encounter any of the physical conditions that create fog buildup on the windshield. The APVs do not have solid glass windows in the passenger compartment and the rear of the vehicle is also open to the air. The side panels of the driver's compartment are open on both sides of the windshield and the center windshield can be pushed outward and opened when needed. Because of the APVs' design, the ambient air is able to continually circulate within the interior of the vehicle, creating no difference between the temperature or humidity of the air outside and inside the vehicle. In

the unlikely event that fog did accumulate on the windshield, the APVs have windshield wipers to clear the surface and the vehicle operator can also push down the windshield for visibility.

2. Frost builds up on the windshield of a vehicle when the temperature of liquid or condensation on the windshield decreases to the freezing point of water, turning the condensation into frost. The APVs' lack of a defrosting system similarly does not present a safety concern. The APVs are only operated on a seasonal basis and not during the winter months in any location where the vehicles provide tours. The APVs, therefore, are not operated during or exposed to weather conditions that would expose the vehicles to frost or create the need to defrost the windshields. As above, the operator also has the ability to push down the center windshield or use the windshield wipers to increase visibility in the unlikely event of frost.

3. From its inception, the Safety Act has included a provision recognizing that some noncompliances may pose little or no actual safety risk. The Safety Act exempts manufacturers from their statutory obligation to provide notice and remedy upon a determination by NHTSA that a noncompliance is inconsequential to motor vehicle safety. See 49 U.S.C. 30118(d). In applying this recognition to particular fact situations, the agency considers whether the noncompliance gives rise to "a significantly greater risk than . . . in a compliant vehicle." 69 FR 19897, 19900 (April 14, 2000). As described above, the specialized design of the APVs and the vehicles' pattern of use does not expose the vehicles to conditions that could create an increased safety risk when compared to a vehicle that has a windshield defrosting and defogging system installed.

RTDI concluded by expressing the belief 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 RTDI 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 RTDI 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,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2017-17325 Filed 8-15-17; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0038; Notice 1]

#### Ride the Ducks International, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** Ride the Ducks International, LLC (RTDI), has determined that certain model year (MY) 1996–2014 Ride the Ducks International Stretch Amphibious passenger vehicles (APVs) do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 104, *Windshield Wiping and Washing Systems*. RTDI filed a noncompliance information report dated March 15, 2017. RTDI also petitioned NHTSA on April 12, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**DATES:** The closing date for comments on the petition is September 15, 2017.

**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 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 U.S. Department of