

document withdraws that notice, FR Doc. 2023–18996. On August 30, 2023, NS withdrew its RFA.

**DATES:** As of September 6, 2023, FR Doc. 2023–18996, published on September 1, 2023, is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** For further information, please contact Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: [Gabe.Neal@dot.gov](mailto:Gabe.Neal@dot.gov).

**SUPPLEMENTARY INFORMATION:** FR Doc. 2023–18996, published on September 1, 2023, is withdrawn by this notice.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2023–19186 Filed 9–5–23; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0038; Notice 2]

#### Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Grant of petition.

**SUMMARY:** Porsche Cars North America, Inc., (“Porsche”), has determined that certain model year (MY) 2017–2021 Porsche Panamera, MY 2019–2021 Porsche Cayenne, and MY 2020–2021 Porsche Taycan motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems*. Porsche filed an original noncompliance report dated March 10, 2021. Subsequently, Porsche petitioned NHTSA on April 1, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of Porsche’s petition.

**FOR FURTHER INFORMATION CONTACT:** Vince Williams, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–2319, [vince.williams@dot.gov](mailto:vince.williams@dot.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Overview

Porsche has determined that certain MY 2017–2021 Porsche Panamera, MY 2019–2021 Porsche Cayenne, and MY 2020–2021 Porsche Taycan motor vehicles do not fully comply with the

requirements of paragraphs S5.5.5(a) and S5.5.5(d)(5) of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135). Porsche filed a noncompliance report dated March 10, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Porsche subsequently petitioned NHTSA on April 1, 2021, 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*.

Notice of receipt of Porsche’s petition was published with a 30-day public comment period, on August 16, 2021, in the **Federal Register** (86 FR 45817). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2021–0038.”

#### II. Vehicles Involved

Approximately 80,666 of the following MY 2017–2021 Porsche motor vehicles manufactured between October 23, 2016, and February 9, 2021, are potentially involved:

- MY 2017–2021 Panamera 4
- MY 2017–2021 Panamera
- MY 2017–2021 Panamera 4 S
- MY 2017–2020 Panamera Turbo Executive
- MY 2017–2020 Panamera Turbo Executive
- MY 2018–2021 Panamera 4 Hybrid
- MY 2018–2020 Panamera Turbo S Hybrid
- MY 2018–2021 Panamera 4 Executive
- MY 2018–2020 Panamera 4 Hybrid Executive
- MY 2018–2020 Panamera Turbo S Hybrid Executive
- MY 2018–2020 Panamera 4 Sport Turismo
- MY 2018–2020 Panamera 4 S Sport Turismo
- MY 2018–2020 Panamera 4 Hybrid Sport Turismo
- MY 2018–2020 Panamera Turbo Sport Turismo
- MY 2018–2020 Panamera Turbo S Hybrid Sport Turismo
- MY 2019–2021 Panamera GTS
- MY 2020 Panamera GTS Sport Turismo
- MY 2019–2021 Cayenne
- MY 2019–2021 Cayenne S
- MY 2019–2021 Cayenne Hybrid

- MY 2019–2021 Cayenne Turbo
- MY 2020 Panamera 10 Year Special Model
- MY 2020 Panamera 4 10 Year Special Model
- MY 2020–2021 Taycan 4S
- MY 2020 Taycan Top S
- MY 2020 Taycan Top
- MY 2020 Panamera 4 Hybrid 10 Year Special Model
- MY 2020 Cayenne Turbo S Hybrid
- MY 2020–2021 Cayenne Coupe
- MY 2020–2021 Cayenne S Coupe
- MY 2020–2021 Cayenne Hybrid Coupe
- MY 2020–2021 Cayenne Turbo Coupe
- MY 2020 Cayenne Turbo S Hybrid Coupe
- MY 2021 Taycan
- MY 2021 Taycan Turbo S
- MY 2021 Taycan Turbo
- MY 2021 Panamera Turbo S
- MY 2021 Panamera 4S Hybrid
- MY 2021 Cayenne GTS
- MY 2021 Cayenne GTS Coupe

#### III. Noncompliance

Porsche explains that the noncompliance is that the subject vehicles are equipped with brake wear indicators that do not meet the minimum lettering height requirements, as specified in paragraph S5.5.5(d)(5) of FMVSS No. 135. Specifically, the lettering height for the brake wear indicators ranges in height from 1.7 mm to 2.2 mm, when the required minimum height is 3.2 mm.

#### IV. Rule Requirements

Paragraphs S5.5.5(a) and S5.5.5(d)(5) of FMVSS No. 135 include the requirements relevant to this petition. Each visual indicator shall display a word or words in accordance with the requirements of FMVSS No. 101 (49 CFR 571.101) and FMVSS No. 135, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm ( $\frac{1}{8}$  inch) high and the letters and background shall be of contrasting colors, one of which is red. Words or symbols in addition to those required by FMVSS No. 101 and FMVSS No. 135 may be provided for purposes of clarity. If a separate indicator is provided to indicate brake lining wear-out as specified in S5.5.1(d), the words “Brake Wear” shall be used.

#### V. Summary of Porsche’s Petition

The following views and arguments presented in this section, “V. Summary of Porsche’s Petition,” are the views and arguments provided by Porsche and do not reflect the views of the Agency.

Porsche describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Porsche believes that the subject noncompliance is inconsequential to vehicle safety. Porsche explains that, in addition to the required brake wear indicator, the affected vehicles have a multi-functional display that provides brake wear information and is readily visible to the driver. Porsche states that the brake wear message can be confirmed and then suppressed at the next ignition cycle, however, the operator would need to read and understand the message in order to do so. Porsche states that the brake wear indicator text is red, which is compliant and a contrasting color to the background of the text. Porsche believes that along with the color, the position of the text makes the brake wear indicator symbol conspicuous to the driver. The symbol is located adjacent to the fuel, temperature, and other vehicle data displays. Furthermore, Porsche states that the brake wear detection is functional and not affected by the noncompliant size of the text. Porsche adds that each letter of the text is capitalized, making it more easily seen and read by the driver due to the uniform height.

Porsche states that owners of the subject vehicles would understand the symbol despite the noncompliant text size because the owner's manual provided with the vehicle contains information about the brake wear warning symbol. Porsche notes that the subject noncompliance has been corrected in production vehicles.

Porsche contends that NHTSA has granted the prior petitions for similar noncompliances.<sup>1</sup> Furthermore, Porsche says that NHTSA has stated in previous determinations that it generally finds labeling noncompliances like the subject noncompliance to be "more appropriate for a determination of inconsequentiality."<sup>2</sup>

Porsche 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.

<sup>1</sup> See 81 FR 92964 (Dec. 20, 2016); see also 67 FR 72026 (Dec. 3, 2002).

<sup>2</sup> See, Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 85 FR 62365, 62366 (Oct. 2, 2020).

## VII. NHTSA's Analysis

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.<sup>3</sup> In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.<sup>4</sup>

The Agency concurs with Porsche that this noncompliance will not have an adverse effect on vehicle safety. Despite the letter height of the brake wear indicators being smaller than the 3.2 mm requirement, the affected vehicles include a multi-functional display which provides supplementary brake wear information that is located within the driver's direct field of vision, immediately adjacent to the fuel, temperature, other critical vehicle data displays. Although the additional brake warnings can be suppressed by the vehicle operator, the information is presented at every new ignition cycle and informs the driver of the need to change the brake pads while also recommending if continued driving is possible/advised. For as long as the brake warnings exist, the driver will be required to make a deliberate action after every new key cycle in order to suppress the additional brake warning messages. Finally, the additional brake warning symbols are accurately depicted and displayed in the correct colors, consistent with Table 1 of FMVSS No. 101, minimizing any confusion about the meaning of the indicators. Due to the aforementioned factors, the Agency concurs with Porsche that the subject noncompliance will have an adverse effect on vehicle

<sup>3</sup> See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osrarnsylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

<sup>4</sup> See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it "results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future").

safety and therefore recommends that this petition be granted.

## VII. NHTSA's Decision

In consideration of the foregoing, NHTSA finds that Porsche has met its burden of persuasion that the subject FMVSS No. 135 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, Porsche's petition is hereby granted, and Porsche is consequently exempted from the obligation of providing notification of, and a free 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, this decision only applies to the subject vehicles that Porsche no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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 Porsche 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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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No. DOT-OST-2023-0063]

### Agency Information Collection Activities: Approval of Information Collection

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Department of Transportation (DOT) invites public comments on our intention to request Office of Management and Budget (OMB) approval for an information collection in accordance with the