c. Three or more high-inrush current spikes that exceed the body control module (BCM) inrush current threshold occur on the parking lamp/daytime running lamp (DRL) circuit within a period of 0.625 seconds.

Under certain daytime conditions, a driver rapidly moving the headlamp switch between the ''AUTO'' and ''Park'' positions could generate these spikes that would turn the park lamps off. Although potentially contradictory and misleading lighting signals resulted from this noncompliance, NHTSA granted the petition because, among other things, the noncompliance would occur only in daytime when parking lamps are generally not in use, a fairly high degree of unusual user intervention was required, and the condition would correct itself during normal vehicle operation. *See General Motors, LLC,* 83 FR 7848. In contrast, the traction control event and the misleading activation of brake lights in the petition NHTSA is analyzing requires no unusual user intervention, can occur under normal driving conditions, and poses a risk both day and night.

Illumination of the stop lamps during a traction control event is an impairment of the stop lamp function. The safety risk occurs when the stop lamps are activated and other road users expect that the motion of the vehicle is being retarded, but the vehicle is not slowing, thereby potentially confusing or misleading road users by the introduction of a nonstandard signal.

The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[4] Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

An important issue to consider in determining inconsequentiality based upon NHTSA's prior decisions on noncompliance issues was the safety risk to individuals who experience the type of event against which the recall would otherwise protect.[5] In general, NHTSA also does not consider the absence of complaints or injuries to show that the issue is inconsequential to safety. ''Most importantly, the absence of a complaint does not mean there have not been any safety issues, nor does it mean that there will not be safety issues in the future.'' [6] ''[T]he fact that in past reported cases good luck and swift reaction have prevented many serious injuries does not mean that good luck will continue to work.'' [7]

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected have also not justified granting an inconsequentiality petition.[8] Similarly, NHTSA has rejected petitions based on the assertion that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance. The percentage of potential occupants that could be adversely affected by a noncompliance does not determine the question of inconsequentiality. Rather, the issue to consider is the consequence to an occupant who is exposed to the consequence of that noncompliance.[9] These considerations are also relevant when considering whether a defect is inconsequential to motor vehicle safety.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA has decided that DTNA has not met its burden of persuasion that the subject FMVSS No. 108 noncompliance is inconsequential to motor vehicle safety. Accordingly, DTNA's petition is hereby denied and DTNA is consequently obligated to provide notification of and free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey Mark Giuseppe,

Associate Administrator for Enforcement.

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[4] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[5] *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); *Osram Sylvania 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).

[6] *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016).

[7] *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'').

[8] *See Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance,* 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

[9] *See Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance,* 64 FR 29408, 29409 (June 1, 1999).

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974: Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of a New Computer Matching Program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program. This will match personnel records of the Department of Defense (DoD) with VA records of benefit recipients under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, and the Post-9/11 GI Bill. The goal of these matches is to identify the eligibility status of Veterans, servicemembers, and reservists who have applied for or who are receiving education benefit payments under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, and the Post-9/11 GI Bill. The purpose of the match is to enable VA to verify that individuals meet the conditions of military service and eligibility criteria for payment of benefits determined by VA under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, and Post-9/11 GI Bill.

DATES: Comments on this match must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new agreement will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary. This matching program will be valid for 18 months from the effective date of this notice.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to CMA VBA/DoD MGIB and Post 9/11 and SORN 58VA21/22/28. Comments received will be available at regulations.gov for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Eric Patterson, Legislative Strategy, Development and Implementation Chief, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9830.

SUPPLEMENTARY INFORMATION: The authority to conduct this match is found in 38 U.S.C. 3684A(a)(1). The records covered include eligibility records extracted from DoD personnel files and benefit records that VA establishes for all individuals who have applied for and/or are receiving, or have received education benefit payments under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, and the Post-9/11 GI Bill. These benefit records are contained in a VA system of records identified as 58VA21/22/28 entitled: Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA, first published in the **Federal Register** at 41 FR 9294 (March 3, 1976), and last amended at 84 FR 4138 (Feb. 14, 2019), with other amendments as cited therein.

This information is required by paragraph 6c of the ''Guidelines on the Conduct of Matching Programs'' issued by OMB (54 FR 25818), interpreting the provisions of the Privacy Act pertaining to computer matching, as well as those computer matching portions of a revision of OMB Circular No. A–108, Federal Responsibilities for Review, Reporting, and Publication under the Privacy Act (December 23, 2016). The current matching agreement with the Department of Defense (DoD) expires November 25, 2020. The legal authority to conduct this match is 38 U.S.C. 5106, which requires any Federal department or agency to provide VA such information as VA requests for the purposes of determining eligibility for benefits or verifying other information with respect to payment of benefits. A copy of the notice has been provided to both Houses of Congress and OMB. The matching program is subject to their review.

Participating Agencies

This computer match is between the Department of Veterans Affairs (VA) and the Department of Defense (DoD).

Authority for Conducting the Matching Program

The authority to conduct this match is the Privacy Act, 5 U.S.C. 552a, 38 U.S.C. 5106, and 38 U.S.C. 3684A(a)(1).

Purpose(s)

This agreement establishes the conditions under which the Department of Defense (DoD) agrees to disclose information regarding eligibility to education benefits under the Montgomery GI Bill, Montgomery GI Bill—Selected Reserve and the Post-9/11 GI Bill to the Department of Veterans Affairs (VA). The purpose of this computer matching program between VA and DoD is to verify that individuals meet the conditions of military service and eligibility criteria for payment of benefits determined by VA under three enacted programs.

Categories of Individuals

Veterans, Servicemembers, Reservists and Dependents.

Categories of Records

Department of Defense (DoD), as the source agency, will provide to VA the eligibility records on DoD individuals consisting of data elements which contains specific data relating to the requirements for eligibility including data on member contribution amounts, service periods, and transfer of entitlement. VA will match on attributes, including Social Security Number (SSN), DoD Electronic Data Interchange Personal Identifier (EDIPI—or VA_ID), Date-of-Birth, Last Name, and File Identification Number.

System(s) of Records

These benefit records are contained in a VA system of records identified as 58VA21/22/28 entitled: Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA, first published in the **Federal Register** at 41 FR 9294 (March 3, 1976), and last amended at 84 FR 4138 (Feb. 14, 2019) and DoD updated their Defense Enrollment Eligibility Reporting Systems (DEERS) in the **Federal Register** at 84 FR 55293 on October 16, 2019 and corrected at 84 FR 65975 on December 2, 2019) with other amendments as cited therein.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Joseph S. Stenaka, Executive Director for Information Security Operations and Chief Privacy Officer, approved this document on October 2, 2020 for publication.

Dated: October 21, 2020.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

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