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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0115; Notice 1]

Mercedes-Benz USA, LLC, on behalf of Daimler AG, Receipt of  
Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT

**ACTION:** Receipt of Petition

**SUMMARY:** Mercedes-Benz USA, LLC (MBUSA),<sup>1</sup> on behalf of itself and its parent company Daimler AG (DAG)<sup>2</sup>, has determined that certain model year 2012 Mercedes-Benz C-Class (204 platform) passenger cars manufactured between March and August 2011, do not fully comply with paragraph S4.3 (d) of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less*. MBUSA has filed an appropriate report dated May 4, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), MBUSA submitted a petition for an exemption from the notification and remedy

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<sup>1</sup> Mercedes-Benz USA, LLC, is a U.S. company that manufactures and imports motor vehicles.

<sup>2</sup> Daimler AG, is a German company that manufactures motor vehicles.

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

This notice of receipt of MBUSA'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.

*Vehicles involved:* Affected are approximately 1,479 model year 2012 Mercedes-Benz C-Class (204 platform) passenger vehicles manufactured between March and August 2011.

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, these provisions only apply to the subject 1,479<sup>3</sup> vehicles that MBUSA no longer controlled at the time it determined that the noncompliance existed.

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<sup>3</sup>MBUSA's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt MBUSA as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 1,479 affected vehicles. However, a decision on this petition will not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after MBUSA notified them that the subject noncompliance existed.

*Noncompliance:* MBUSA explains that the noncompliance is that the vehicle placard on the affected vehicles incorrectly identifies the tire size designation of the spare tire in the vehicle.

*Rule text:* Paragraph S4.3 (d) of FMVSS No. 110 requires in pertinent part:

S4.3 *Placard.* Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3 (a) through (g), and may show, at the manufacturer's option, the information specified in S4.3 (h) and (i), on a placard permanently affixed to the driver's side B-pillar. ...

(b) Tire size designation, indicated by the headings "size" or "original tire size" or "original size," and "spare tire" or "spare," for the tires installed at the time of the first purchase for purposes other than resale. ...

**SUMMARY OF MBUSA'S ANALYSIS AND ARGUMENTS:**

MBUSA explains that while the vehicle placard incorrectly identifies the designated spare tire size corresponding to the actual size of the spare tire originally installed in the vehicle, the recommended cold tire inflation pressure for the spare tire is correctly stated. In addition, all information required under S4.3 for maintaining and replacing the front and rear tires, as well as vehicle weight and seating capacity, is correct.

MBUSA also stated that if a vehicle owner were to question the correct spare tire size they would be able to check the size

by comparing it with the size stamped on the sidewall of the originally provided spare tire. If the vehicle owner were to attempt to put a spare tire of the size indicated on the vehicle placard on the spare tire rim originally provided with the vehicle, it would be immediately apparent that the tire is too large to be installed on the rim and hold any inflation pressure. Both the actually provided spare tire and a tire of the size indicated on the vehicle placard for the spare tire meet the FMVSS No. 110 loading requirements at the recommended cold inflation pressure stated on the vehicle placard. Both the originally installed spare tire and a spare tire of the size listed on the vehicle placard, when inflated to the labeled recommended cold inflation pressure, are appropriate to handle the vehicle maximum loads.

MBUSA has additionally informed NHTSA that it has corrected future production and that all other required markings are present and correct.

MBUSA is not aware of any incidents or customer complaints related to the noncompliant vehicle placard.

MBUSA also expressed its belief that NHTSA has previously granted similar petitions.

In summation, MBUSA believes that the described noncompliance of its vehicle placards regarding the spare tire size is inconsequential to motor vehicle safety, and that its

petition, to exempt 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.

**COMMENTS:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. 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.

b. By hand delivery 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 am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) website at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

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 your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

**COMMENT CLOSING DATE:** (insert date 30 days after Publication Date).

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

**Issued on:** September 6, 2012

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Claude H. Harris, Director  
Office of Vehicle Safety Compliance

**Billing Code:** 4910-59-P

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