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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0103; Notice 1]

Daimler Trucks North America, Receipt of Petition for Decision
of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Daimler Trucks North America (DTNA), has determined that certain model year (MY) 2016-2017 Freightliner and Western Star trucks do not fully comply with Table 2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays*. DTNA filed a report dated September 22, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. DTNA also petitioned NHTSA on September 22, 2016, under 49 CFR part 556 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 **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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 am to 5 pm except
Federal Holidays.
- Electronically: Submit comments electronically by
logging onto the Federal Docket Management System
(FDMS) website 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>, 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: Pursuant to 49 U.S.C. 30118(d) and 30120(h), 49 CFR part 556, DTNA 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 as it relates to motor vehicle safety.

This notice of receipt of DTNA'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: Affected are approximately 36,959 MY 2016-2017 versions of the following trucks, manufactured between September 28, 2015 and July 30, 2016:

- Freightliner Cascadia
- Freightliner 122SD
- Freightliner Coronado
- Western Star 5700

III. Noncompliance: DTNA explains that the noncompliance is that the Low Brake Air Pressure telltale for air brake systems displays the word "BRAKE" and a red International Standards Organization (ISO) symbol for brake malfunction when a low air brake pressure condition exists, rather than the words "BRAKE AIR," as specified in Table 2 of FMVSS No. 101. DTNA states that the telltale is accompanied by an audible alert and low pressure gauge reading.

IV. Rule Text: Paragraph S5 of FMVSS No. 101 provides: "Each passenger car, multipurpose passenger vehicle, truck and bus

that is fitted with a control, a telltale, or an indicator listed in Table 1 or Table 2 must meet the requirements of this standard for the location, identification, color, and illumination of that control, telltale or indicator.”

Paragraph S5.2.1 of FMVSS No. 101 provides, in pertinent part: “. . . each control, telltale and indicator that is listed in column 1 and 2 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2.”

Table 2 appears as follows:

Table 2
Identifiers for
Controls, Telltales and Indicators with
No Color or Illumination Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 3 WORD(S) OR ABBREVIATION
Hand Throttle Control	—	Throttle
Engine Start Control	—	Engine Start ₁
Manual Choke Control	—	Choke
Odometer	—	Kilometers or km, if kilometers are shown. Otherwise, no identifier is required. ₂
Horn		Horn
Master Lighting Switch	 ₃	Lights
Headlamps and Taillamps Control	—	— _{4,5}
Low Brake Air Pressure Telltale (for vehicles subject to FMVSS 121)	—	Brake Air
Seat Belt Unfastened Telltale	 or 	Fasten Belts or Fasten Seat Belts

Notes:

1. Use when engine control is separate from the key locking system.
2. Any combination of upper- or lowercase letters may be used.
3. Framed areas may be filled.
4. If a line appears in Column 2 and Column 3, the Control, Telltale or Indicator is required to be identified, however the form of the identification is the manufacturer's option.
5. Separate identification not required if function is combined with Master Lighting Switch.

V. Summary of DTNA's Petition: DTNA 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, DTNA submitted the following reasoning:

- a) DTNA notes that the purpose of the low brake air pressure telltale is to alert the driver to a low air condition, consistent with the requirements of FMVSS No. 121, S5.1.5 (warning signal). The word "BRAKE" instead of "BRAKE AIR," together with the audible alert that occurs in the subject vehicles would still alert the driver to an issue with the brake system. Once alerted, the driver can check the actual air pressure by reading the primary and secondary air gauges and seeing the contrasting color on the gauges indicating low pressure.
- b) NHTSA stated in a 2005 FMVSS No. 101 rulemaking that the reason for including vehicles over 10,000 pounds in the requirements of FMVSS No. 101 is that there is a need for drivers of heavier vehicles to see and identify their displays, just as there is for drivers of lighter vehicles. See 70 FR 48295, 48298 (Aug. 17, 2005). The telltale in the subject vehicles saying "BRAKE" would allow the driver to see and identify the improper functioning system as was the intent of the rule, thus serving the purpose of the FMVSS No. 101 requirement.
- c) There are two scenarios when a low brake air pressure condition would exist: a parked vehicle and a moving vehicle. Each of these are discussed separately below; in

each scenario, there is ample warning provided to the driver of low brake air pressure.

a. Parked Vehicle

The driver of an air-braked vehicle must ensure that the vehicle has enough brake air pressure to operate safely. At startup, the vehicle will likely be in a low air condition. When in a low air condition the following warnings would occur, conditioning the driver over time as to the purpose of the telltale and audible alerts and under what conditions they are activated.

- Red contrasting color of the telltale saying "BRAKE"
- Red contrasting color of the ISO symbol for brake malfunction
- Audible alert to the driver as long as the vehicle has low air
- Air gauges for the primary and secondary air tanks clearly showing the air pressure in the system
- Red contrasting color on the air gauges indicating when the pressure is low
- Difficulty/inability of releasing the parking brakes with low air

- Reduced drivability if the driver attempts to drive with the parking brakes applied

b. Moving Vehicle

If a low brake air pressure situation occurs while driving, the function of the service brakes may be reduced or lost and, eventually if the pressure gets low enough, the parking brakes will engage. The driver must pull to the side of the road and apply the parking brakes as soon as possible. A loss of brake air pressure while driving represents a malfunctioning brake system and requires immediate action from the driver. Drivers recognize that a telltale illuminated in red represents a malfunction which needs to be remedied.

The following warning would occur if a low air condition occurred while driving.

- Red contrasting color of the telltale saying "BRAKE"
- Red contrasting color of the ISO symbol for brake malfunction
- Audible alert to the driver as long as the vehicle has low air
- Air gauges for the primary and secondary air tanks clearly showing the air pressure in the system

- Red contrasting color on the air gauges indicating when the pressure is low

The functionality of both the parking brake system and the service brake system remains unaffected by the "BRAKE" telltale used in the subject vehicles.

d) NHTSA Precedents - DTNA notes that NHTSA has previously granted petitions for decisions of inconsequential noncompliance for similar brake telltale issues, in which the ISO symbol in combination with other available warnings was deemed sufficient to provide the necessary driver warning. See Docket No. NHTSA-2012-0004, 78 Fed. Reg. 69931 (November 21, 2013) (grant of petition for Ford Motor Company) and Docket No. NHTSA-2014-0046, 79 Fed. Reg. 78559 (December 30, 2014) (grant of petition for Chrysler Group, LLC). In both of these instances, the vehicles at issue displayed an ISO symbol for the brake telltale instead of the wording required under FMVSS No. 101. The ISO symbol in combination with other available warnings was deemed sufficient to provide the necessary driver warning. DTNA respectfully suggests that the same is true for the subject vehicles: the ISO symbol, together with other warnings and alerts, are fully sufficient to warn the driver of a low brake air pressure situation.

DTNA 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 DTNA 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 DTNA 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

Billing Code: 4910-59-P

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