



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0010; Notice 1]

Mercedes-Benz USA, 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: Mercedes-Benz AG (“MBAG”) and Mercedes-Benz USA, LLC (“MBUSA”) (collectively, “Mercedes-Benz”) has determined that certain model year (MY) 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with Federal motor vehicle safety standard (FMVSS) No. 135, *Light Vehicle Brake Systems*. Mercedes-Benz filed a noncompliance report dated January 27, 2020, and subsequently petitioned NHTSA on February 10, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Mercedes-Benz’s petition.

DATES: Send comments on or before **[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 the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for 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: Mercedes-Benz has determined that certain MY 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with the requirements of paragraph S5.5.5 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135). Mercedes-Benz filed a noncompliance report dated January 27, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on February 10, 2020, 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*.

This notice of receipt of Mercedes-Benz'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 27,375 of the following MY 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles manufactured between August 20, 2018, and January 16, 2020, are potentially involved:

- Mercedes-Benz A220
- Mercedes-Benz A220 4MATIC
- Mercedes-Benz A35 AMG 4MATIC
- Mercedes-Benz CLA250
- Mercedes-Benz CLA250 4MATIC
- Mercedes-Benz CLA35 AMG 4MATIC
- Mercedes-Benz CLA45 AMG 4MATIC
- Mercedes-Benz GLA250 4MATIC
- Mercedes-Benz GLB250
- Mercedes-Benz GLB250 4MATIC

III. Noncompliance: Mercedes-Benz explains that the noncompliance is that the instrument panel in the subject vehicles displays the braking indicators in a slightly smaller size than required by paragraph S5.5.5 of FMVSS No. 135. Specifically, the size of the text for the brake indicators in the subject vehicles ranges between 2.92 mm to 3.17 mm when the minimum required is 3.2 mm.

IV. Rule Requirements: Paragraph S5.5.5 of FMVSS No. 135, includes the requirements relevant to this petition. Each visual indicator shall display a word or words in accordance with the requirements of FMVSS No. 101 and S5.5 of FMVSS 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 (1/8 inch) high.

V. Summary of Mercedes-Benz's Petition: The following views and arguments presented in this section, V. Summary of Mercedes-Benz's petition, are the views and arguments provided by Mercedes-Benz. They have not been evaluated by the Agency and do not reflect the views of the Agency. Mercedes-Benz described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Mercedes-Benz submitted the following reasoning:

1. Mercedes-Benz believes that the letter height of the braking indicators, in this instance is slightly smaller than the requirement, does not expose an occupant to any greater risk of injury than an occupant in a vehicle with slightly larger font size.
2. Mercedes-Benz alleges that the purpose of the standardized size requirement for the brake system warning indicators is to ensure they are visually perceptible to drivers under all operating conditions. Mercedes-Benz says that the Agency has a long and consistent history of granting petitions for inconsequentiality for discrepancies involving a letter height requirement where the text appeared somewhat smaller than required. In fact, NHTSA has granted petitions where the indicators displayed included lettering that was as much as a full millimeter less than the minimum size. *See* 47 FR 31347 (July 19, 1982) (granting a petition of Subaru of America, Inc., where the brake system indicator lettering was only 2.2 mm high, but the ISO symbol indicators were located within the driver's line of sight and continued to be "easily identifiable and very readable").
3. Mercedes-Benz asserts that in addressing similar noncompliances in the past, the Agency has determined that "it is very unlikely that a vehicle user would

either fail to see or fail to understand the meaning of the brake ... warning light” where the “information presented by the telltales is correct.” *See* 81 FR 92963 (December 20, 2016) (granting General Motors’ petition of over 46,000 vehicles where the “Park” indicator displayed at 2.44 mm). In the General Motors decision, the Agency found the discrepancy “pose[d] little, if any, risk to motor vehicle safety” where all other braking indicator requirements were met and the indicators were located in the instrument cluster, adjacent to the speedometer and in direct view of the driver); 69 FR 41568 (July 9, 2004) (granting a petition of Hyundai Motor Company involving more than 237,000 vehicles, where the FMVSS No. 105 braking system indicator letter height varied from 2.5 mm to 3.1 mm).

4. In this case, the letter height for the braking indicators is only slightly smaller than the 3.2 mm minimum. Depending on the particular indicator, the text size can be smaller by a range of 0.03 mm up to a maximum of .28 mm. The electronic instrument cluster is located within the driver’s direct field of vision, and the braking indicators are located adjacent to the speedometer and, therefore, remain within the driver’s direct line of sight. This slight difference in size is not visually perceptible and does not affect the driver’s ability to read or understand the indicators. Indeed, the indicators are clearly illuminated and remain visible under all driving conditions.
5. Mercedes-Benz stated that all of the indicators at issue here are accurately depicted and are displayed in the correct colors, consistent with FMVSS No. 101, Table 1. Thus, there should not be any confusion about the meaning of

the indicators, and the standard symbol that is displayed continues to convey the intended meaning of the indicator. Further, although the lettering that appears below the ISO symbols is slightly smaller than 3.2 mm minimum height, the overall height of the ABS and Parking Brake symbols is more than 3.2 mm and exceeds the height requirement of the standard. Finally, the functionality of the brake indicators themselves is not affected by the software issue. The indicators properly display during both the instrument cluster warning lamp operation check and in the event a brake malfunction were to occur.

6. Mercedes-Benz says that it has not received any reports related to the performance of the indicators included on the 10.25-inch displays in the subject vehicles. Nor has it received any reports related to customers' inability to read or decipher the brake telltales.

Mercedes-Benz's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

Mercedes-Benz concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition request 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 Mercedes-Benz 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 Mercedes-Benz 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.

Billing Code 4910-59-P

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