DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0125; 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 ("MB AG") and Mercedes-Benz USA, LLC ("MBUSA") (collectively, "Mercedes-Benz"), formerly known as Daimler AG has determined that certain model year (MY) 2019 Mercedes-Benz AMG GT motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 201, *Occupant Protection in Interior Impact*. Mercedes-Benz filed a noncompliance report dated October 18, 2019, and subsequently petitioned NHTSA on November 7, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document 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 may be 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, SE, 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, SE, 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 Mercedes-Benz AMG GT motor vehicles do not fully comply with paragraph S5.3.1(c) of FMVSS No. 201, *Occupant Protection in Interior Impact* (49 CFR 571.201).

Mercedes-Benz filed a noncompliance report dated October 18, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on November 7, 2019, 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 the Mercedes-Benz's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 12 MY 2019 Mercedes-Benz GT63, GT53, and GT63S AMG motor vehicles, manufactured between August 29, 2017, and March 4, 2019, are potentially involved.

III. Noncompliance: Mercedes-Benz explains that an interior compartment door assembly in the subject vehicles, does not meet the requirements of paragraph S5.3.1(c) of FMVSS No. 201. Specifically, the front center console storage compartment sliding lid may open briefly in certain types of forward crashes.

IV. Rule Requirements: Paragraphs S5.3, S5.3.1(a) and S5.3.1(c) of FMVSS No. 201, include the requirements relevant to this petition. Each interior compartment door assembly located in an instrument panel, console assembly, seat back, or side panel adjacent to a designated seating position shall remain closed when tested in accordance with either S5.3.1(a) and S5.3.1(b) or S5.3.1(a) and S5.3.1(c). S5.3.1(a) subjects the interior compartment door latch system to an inertia load of 10g in a horizontal transverse direction and an inertia load of 10g in a vertical direction in accordance with the procedure described in section 5 of SAE Recommended Practice J839b (1965) (incorporated by reference, see §571.5), or an approved equivalent. Further, S5.3.1(c) subjects the interior compartment door latch system to a horizontal inertia load of 30g in a longitudinal direction in accordance with the procedure described in section 5 of SAE Recommended Practice J839b (1965) (incorporated by reference, see §571.5), or an approved equivalent.

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 its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

Background: Prior to the introduction of the MY 2019 AMG GT vehicles to the United States market, MB AG found that the lid of the front center console could open for a matter of milliseconds and that the supplier of the compartment had tested the locking mechanism of the door with 24g of force, instead of the 30g force requirement contained in subparagraph (c). The crash lock was updated in production, prior to introduction to the U.S. market, to ensure conformance to the force requirements in subparagraph (c) and vehicles in the company's possession were reworked.[1] MB AG later identified 12 vehicles that had not received the improved crash lock mechanism prior to being released into the field and made a determination to submit a Part 573 Noncompliance Information Report on October 11, 2019. In support of its petition, Mercedes-Benz submitted the following reasoning:

1. At issue in this petition are a total of 12 MY 2019 Mercedes-Benz AMG GT vehicles. MB AG previously determined that the interior compartment door located within the vehicle's center console does not fully meet the requirement in FMVSS No. 201, *Occupant Protection in Interior Impact*, when tested to the demonstration procedure for frontal crash set forth in the standard. In a frontal crash scenario, there is a possibility for the lid of the interior compartment door in the center console to open for a matter of milliseconds, after which the door will automatically close again.
2. Mercedes-Benz says that due to the location and geometry of the compartment

[1]The crash lock mechanism is not installed on vehicles offered for sale outside of the United States, Canada and South Korea, where FMVSS 201 or its equivalent has been adopted. MB AG is not aware of any claims or reports of injuries due to the performance of the interior compartment door in any market.

door, there is no risk of injury even if it were to open in a frontal crash. Mercedes-Benz stated that the door is located in the center console, below the in-vehicle display, and does not present an opportunity to strike vehicle occupants when opened. Further, because the design of the door slides forward and into the center console when it opens, there is similarly no risk of injury from the performance of the door. Finally, although the purpose and objective of the standard is to protect against injury from hard and sharp surfaces in the event of a crash, because the compartment door will automatically close within an extremely short period of time (a matter of milliseconds) from opening and because the door may only open during a frontal crash in which case any objects within the compartment would only move in a forward direction and not rearward into the occupant compartment, there is no risk of harm from objects inside the compartment escaping into the occupant space.

3. **The Performance of the Compartment Door Does Not Create an Increased Safety Risk:**

Mercedes-Benz cited the provisions of the Safety Act, 49 U.S.C. §§ 30118(d) and 30120(h) and the basis upon which NHTSA evaluates an inconsequentiality petition "whether an occupant who is affected by the noncompliance is likely to be exposed to a *significantly greater risk* than an occupant in a compliant vehicle." *See* 69 FR 19897, 19900 (April 14, 2004) (emphasis added).

As described below, the issue here does not impact the operational safety of the vehicle and will not create an enhanced risk to vehicle occupants

because, in the limited, frontal crash scenario in which the door could potentially open, neither the door itself nor any objects within the compartment could cause injury to vehicle occupants.

4. **Description of the Compartment Door:**

The interior compartment door at issue in this petition is a storage compartment used in vehicles with the Wireless Media Interface (WMI) package. The WMI feature allows users to wirelessly charge cell phones within the compartment and the compartment can also be used to store small objects like coins and accessories. The compartment is located within the center console between the driver and front passenger's seat and the storage portion of the compartment is approximately 15 cm/ 6 inches long and 13 cm/ 5 inches deep.

In normal use, the door remains shut until an occupant pushes the door forward. The door moves forward in an upward direction, towards the front of the vehicle. When reaching the top, the door is enclosed within the housing of the compartment itself and, with an additional push is snapped into place to remain open. Once it is snapped into place, in order to close the door an occupant can pull the door slightly from the housing. The door then closes automatically. As a result, if the door does open briefly during a frontal crash and is not pushed fully into the latched open position, it will quickly and automatically close.

5. **It is Not Possible for the Compartment Door to Strike Occupants**:

The performance of the interior compartment door does not present any of the safety risks contemplated by FMVSS No. 201 because there is no risk of vehicle occupants coming into contact with or striking the compartment door.

When originally promulgated, the interior compartment door provisions in FMVSS No. 201 were focused on preventing injuries that could occur from hard interior doors, such as the glove compartment door, striking an occupant. *See* 33 FR 15794 (October 24, 1968) (considering "the potential injury that can be caused by an open interior compartment door because... [prior requirements] do not afford protection against the type of *protrusion created by an open interior compartment door")* (emphasis added); *see also Letter to M. Smith,* August 26, 1988 ("the purpose of the requirement is to prevent a door from flying open and striking an occupant in a crash.") The standard, which was also promulgated at a time when seat belt use was substantially lower than it is today, was directed toward mitigating injuries that can be caused by interior doors with hard and sharp surfaces opening unexpectedly. That risk is not present here.

The location, geometry, and operation of the compartment door prevent it from causing or contributing to an injury in the event of a crash. The door is located in the bottom of the center console, in the area between the driver and front passenger seats. The door is installed in a location where it could not strike a vehicle occupant should it open in a crash. The door, moreover, does not have any sharp edges and is not comprised of a hard, metal surface.

Further, because of the manner in which the door opens, there is no opportunity for the door to strike a vehicle occupant. The door covering slides forwards and into the housing of the compartment itself, it does not extend outwards into the passenger compartment which is the concern that the standard is intended to address. In typical use, the operator slides the door covering away

towards the front of the vehicle, away from the occupant compartment and into the center console where it becomes fully enclosed within the housing. By contrast, glove box doors and other interior compartment doors on hinges that open outwards and into the occupant compartment are the traditional types of doors that FMVSS No. 201 was designed to address because the door's surface could come into contact with a vehicle occupant if it opened in a crash. This same risk does not exist with the door covering in the AMG vehicles based on its geometry and design.

Additionally, the compartment door will automatically close after opening if it has not been snapped into place to stay open. In the event of a frontal crash force that is severe enough to cause the door to open, the door would open for an extremely short period of time, a matter of milliseconds, and then would automatically pull back into place and the door will close again. Because of the design and operation of the door, it remains open for a matter of milliseconds seconds after which it will retreat back into its fully closed position.

6. **There is No Risk of Injury to Occupants from Objects Escaping the Compartment:**

Mercedes-Benz says there is no potential for items inside the storage compartment to escape and injure vehicle occupants. Although the scope of the standard has always been focused on risks of injury presented by the hard surface of vehicle doors opening in a crash, there is similarly no enhanced risk to safety from items escaping the compartment and causing injury. The compartment door has the potential to open only in specific situations, a frontal crash with loads

exceeding 24g of force. The compartment door operates within the requirements of the standard at all other times.[2] Even in a crash where the load force was severe enough, the compartment lid would open and completely close again all within approximately 250 ms of the crash. Further, even in a front end crash that was severe enough to open the compartment door, the direction of the crash forces precludes objects from escaping. In a front end collision with high vehicle deceleration, any objects inside the storage compartment at the time would shift forward, in the same direction in which the vehicle is moving. Because the force of deceleration causes the items to shift forward, they will move forward and deeper into the compartment and will remain enclosed within the compartment during the crash event. During the intervening moments following the crash, the door will automatically close and secure the items within the compartment.

7. Mercedes-Benz stated that the above described marking discrepancy does not create a safety risk and that they are not aware of any warranty claims, field reports, customer complaints, legal claims, or injuries related to this noncompliance. Even if the compartment door was to open in the event of a severe crash, there is no increased risk of injury due to the location of the door covering itself, its operation and design that allows it to retract into the console housing and the fact that it will automatically close shut after an extremely short period of time. Vehicle occupants are not at risk of coming into contact with the door itself (when opened or closed) and there is no risk of objects stored inside

[2]The vehicles fully meet the performance requirements when tested to S5.3.l(a) and S5.3.l(b).

the compartment from escaping into the occupant space.

Mercedes-Benz concluded 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 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)

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