



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0085; 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”) a subsidiary of Daimler AG has determined that certain model year (MY) 2019–2020 Mercedes-Benz Sprinter and MY 2019–2020 Freightliner Sprinter vans do not fully comply with 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 5,536 Kilograms (10,000 Pounds) or Less*.

Daimler Vans USA LLC on behalf of Mercedes-Benz filed a noncompliance report dated July 15, 2020. Mercedes-Benz subsequently petitioned NHTSA on August 6, 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](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 docket. 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, a subsidiary of Daimler AG, has determined that certain MY 2019–2020 Mercedes-Benz Sprinter and 2019–2020 Freightliner Sprinter vans do not fully comply with the requirements of paragraph S4.3(a) of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 5,536 Kilograms (10,000 Pounds) or Less* (49 CFR 571.110). Daimler Vans USA LLC on behalf of Mercedes-Benz filed a noncompliance report dated July 15, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Mercedes-Benz subsequently petitioned NHTSA on August 6, 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. Vans Involved:** Approximately 33 MY 2019–2020 Mercedes-Benz Sprinter and MY 2019–2020 Freightliner Sprinter vans manufactured between April 18, 2019, and February 25, 2020, are potentially involved.

**III. Noncompliance:** Mercedes-Benz explains that the noncompliance is that the subject vehicles are equipped with vehicle placards that incorrectly state the maximum combined weight of occupants and cargo in pounds and therefore, do not meet the requirements set forth in paragraph S4.3(a) of FMVSS No. 110. Specifically, the last digit of the value in pounds for the combined weight of occupants and cargo is missing. The vehicle placard states that the combined weight of occupants and cargo should never exceed 353 pounds when it should state 3,532 pounds.

**IV. Rule Requirements:** Paragraph S4.3 of FMVSS No. 110 includes the requirements relevant to this petition. 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. Specifically, S4.3(a) states that vehicle capacity weight expressed as "[t]he combined weight of occupants and cargo should never exceed XXX kilograms or XXX pounds" must be present on the driver's side B-pillar.

**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 describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

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

Mercedes-Benz says the affected vehicles contain placards that do not list the correct vehicle weight limit in pounds as they inadvertently omit the last digit of the weight capacity. The maximum weight capacity is provided accurately in kilograms. As an example, the maximum weight is listed as 353 pounds but should be 3,532 pounds. All of the remaining information on the placard is accurate.

Despite the error on the placard, there is no increased risk to motor vehicle safety. There is no risk of vehicle overloading. In the event the consumer relies upon the maximum vehicle weight capacity listed in pounds and does not reference any of the additional sources of information available to determine the maximum loading capacity, then the vehicle would be substantially underloaded.

In addition, there are other accurate sources of vehicle weight capacity information available to the operator. The certification label pursuant to 49 CFR Part 567 is located on the vehicle's B-pillar and accurately indicates the vehicle's GVWR. In addition, the placard includes the statement that the operator should refer to the owner's manual for further information. The owner's manual for the affected vehicles (both the hard copy manual and the electronic version available online) describes the methodology for the customer to calculate the accurate maximum weight in capacity information in both pounds and kilograms. Upon noting that the maximum weight in pounds is extremely low and differs

significantly from the maximum weight listed in kilograms, it is reasonable to expect that the operator would question the information and refer to the owner's manual for further clarification, as instructed on the placard. Thus, the driver can refer to this alternate source of information to determine the correct maximum load weight of the vehicle.

Discrepancies in the maximum occupant capacity information have been found to be inconsequential to motor vehicle safety, particularly where the vehicle is technically capable of handling any increased loading. *See, e.g., Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance*, 82 FR 33547, July 20, 2017 (maximum combined weight of occupants and cargo was listed as a value higher on the placard than the actual vehicle capacity. The noncompliance was found to be inconsequential because the tire size and pressure were accurate, and the tires and vehicle axles would have been able to safely carry any additional loading on the vehicle).<sup>1</sup> In the affected vehicles, the omission of the last digit leads to a substantially lower than calculated maximum vehicle loading capacity. Therefore, there is no risk that a consumer relying on the placard alone would overload the vehicle.

Further, the Agency has previously granted petitions for inconsequential treatment for FMVSS No. 110, where the underlying issue also involved missing information of typographical errors on the vehicle placard, but where the

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<sup>1</sup>Mercedes-Benz also notes that a similar inconsequentiality petition from another manufacturer is currently pending before the Agency where the last digit was left off of the printed label and the maximum loading capacity was similarly understated. *See Jayco, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance*, 85 FR 554 (January 6, 2020). Here, the manufacturer indicated a total of 8,174 trailers have trailer loading capacity placards which show the vehicle weight capacity as 80 kg when it should be 807 kg. In that case, the placard also includes an additional character in the recommended tire inflation listing.

information was otherwise readily available from another source, such as the owner's manual. *See, e.g.,* Kia Motors America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 85 FR 39676, July 1, 2020 (failure to provide wheel size information and the letter "i" in "psi" on the placard is inconsequential where the information could be obtained from the owner's manual). That the accurate information is otherwise readily available from other sources creates no additional enhanced risk to motor vehicle safety in this case. In this case, the owner's manual instructs the user on how to calculate the maximum vehicle weight capacity.

Finally, Mercedes-Benz states that it is not aware of any reports or complaints about the issue from the field and it has corrected the condition in production.

Mercedes-Benz concludes by again contending 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.

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 following the online search instructions to locate the docket number listed in the title of this notice.

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 vans 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 buses 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,**

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**Billing Code 4910-59-P**

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