

that the 2.44 mm height is preserved across the width of the word.

(b) In addition to the park brake applied telltale required by FMVSS No. 135, all of the affected vehicles also have a driver information center (DIC) message “Park Brake Set” that illuminates when the parking brake is applied. The lettering height of this DIC message is 3.24 mm, greater than the 3.2 mm minimum specified for visual indicators in FMVSS No. 135. The DIC message is also substantially wider than the typical width of the telltale required by the standard. The redundant telltale and the DIC message, assure ample communication to the driver that the parking brake is applied.

(c) The operation and performance of the park brake itself is unaffected by this telltale condition. The park brake complies with all applicable requirements of FMVSS No. 135.

(d) The NHTSA has previously granted inconsequential treatment for labeling issues across various motor vehicle safety standards, including for discrepancies involving lettering height, missing information, incorrect information, and misplaced or obscured information. For example, two comparable petitions for inconsequential treatment involving brake telltale lettering height were granted to Kia and Hyundai (reference Docket numbers “NHTSA–2004–17439”, Notice 2 and “NHTSA–2004–17439” (sic), Notice 2, published in the **Federal Register** on July 8, 2004, and July 9, 2004, respectively). The Kia petition cited multiple previous petitions for inconsequential treatment for brake telltale noncompliance granted by NHTSA, and we ask to incorporate them here by reference.

(e) After searching VOQ, TREAD and internal GM databases, GM is not aware of any crashes, injuries, or customer complaints associated with this condition.

(f) GM has corrected this condition in production. All vehicles produced after June 13, 2016, comply with the telltale lettering height specified in FMVSS No. 135.

GM 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'S Decision

*NHTSA's Analysis:* NHTSA has reviewed GM's analysis that the subject noncompliance is inconsequential to

motor vehicle safety. Specifically, the lettering height for the park brake applied indicator “Park” at 2.44 mm versus the FMVSS No. 135 requirement of 3.2 mm poses little if any risk to motor vehicle safety. This decision is based on the following:

1. The subject vehicles appear to meet all of the other parking brake indicator labeling requirements as specified in S5.5.5 of FMVSS No. 135. If a separate indicator is provided for application of the parking brake, the single word “Park” or the words “Parking Brake” may be used. GM has opted to comply with this section by use of the single word “PARK” and has capitalized all four letters of the word providing a more pronounced indicator. The indicator used is legible to the driver under all daytime and nighttime conditions when activated. The indicator is conspicuously located in the top left-of-center position on the instrument panel which is in front of and in clear view of the driver. The “Park” indicator is red in color when illuminated and has a black contrasting background. All of these required features help ensure that the indicator can be seen and recognized by the driver when illuminated.

2. The affected vehicles are equipped with a driver information center which is located in the instrument cluster and adjacent to the speedometer, in direct view of the driver. When the parking brake is applied, the FMVSS No. 135 required “PARK” indicator is illuminated. Simultaneously, in addition to the “PARK” indicator, the information center provides a message that the parking brake is activated with the wording “Park Brake Set.” GM stated that the height of this message is 3.24 mm and is substantially wider than the typical width of the required indicators. Illumination of both the “PARK” indicator combined with the information center statement “Park Brake Set” provides ample communication to the driver that the parking brake has been applied.

*NHTSA'S Decision:* In consideration of the foregoing, NHTSA decided that GM has met its burden of persuasion that the FMVSS No. 135 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, GM's petition is hereby granted and GM is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

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, this decision only applies to the subject vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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 GM 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.*

[FR Doc. 2016–30578 Filed 12–19–16; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0109; 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 USA, LLC (MBUSA), has determined that certain model year (MY) 2015–2016 Mercedes-Benz CLS-Class motor vehicles 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 4,536 kilograms (10,000 pounds) or Less*. MBUSA filed a Safety Recall Report dated September 12, 2016. MBUSA also petitioned NHTSA on October 4, 2016, 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 January 19, 2017.

**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 a.m. to 5 p.m. except Federal Holidays.

- **Electronically:** Submit comments electronically by logging onto the Federal Docket Management System (FDMS) Web site 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 USA, LLC (MBUSA), has determined that certain model year (MY) 2015-2016 Mercedes-Benz CLS-Class motor vehicles do not fully comply with paragraph S4.3(a) 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 filed a report dated September 12, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MBUSA also petitioned NHTSA on October 4, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, 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 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.

##### II. Vehicles Involved

Approximately 6,678 MY 2015-2016 Mercedes-Benz CLS 400 and Mercedes-Benz CLS 400 4MATIC motor vehicles manufactured between May 23, 2014 and April 21, 2016, are potentially involved.

##### III. Noncompliance

MBUSA explains that the noncompliance is that the subject

vehicles have tire and loading information placards affixed to their B-pillars that incorrectly identify the maximum combined weight of occupants and cargo. Specifically, the Mercedes CLS 400 was manufactured with a tire information placard that identifies a maximum combined weight of 420 kilograms (926 pounds) and the Mercedes CLS 400 4MATIC was manufactured with a tire information placard that identifies a maximum combined weight of 355 kilograms (783 pounds). However, the maximum combined weight of occupants and cargo should be 315 kilograms (694 pounds) for the Mercedes CLS 400 and 325 kg (717 pounds) for the CLS 400 4MATIC. Therefore, the vehicles do not comply with paragraph S4.3 of FMVSS No. 110.

##### IV. Rule Text

Paragraph S4.3 of FMVSS No. 110 states:

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. . . .

(a) Vehicle capacity weight expressed as "The combined weight of occupants and cargo should never exceed XXX kilograms or XXX pounds"

##### V. Summary of MBUSA's Petition

MBUSA 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, MBUSA submitted the following reasoning:

(a) The tires originally equipped on the subject vehicles are able to carry the additional weight indicated on the tire label. Further, the tire pressure detailed on the label is sufficient to carry those weights. The maximum tire and vehicle load information detailed in the table below demonstrates that the tire is designed to carry a higher load than that which was incorrectly set out on the tire label:

Tire dimension	Maximum tire load (lbs)	Maximum vehicle load (per tire)	
		CLS 400 (lbs)	CLS 400 4MATIC (lbs)
18" front .....	1708	1243	1289
18" rear .....	1609	1256	1278
19" front .....	1565	1243	1289
19" rear .....	1653	1256	1278

(b) Should the driver follow the values displayed on the tire label, motor vehicle safety is not negatively impacted. The vehicle platform (including chassis and axles) serves other CLS vehicle lines and is designed for vehicles with a higher gross vehicle weight rating ("GVWR"). The platform therefore can handle the potential additional weight.

(c) Subject vehicles are equipped with the B-pillar certification information label in accordance with 49 CFR part 567 indicating a GVWR of 2260 kilograms (4982 pounds) for vehicle type 218.365, the CLS 400, and a GVWR of 2330 kg (5137 pounds) for vehicle type 218.367, the CLS 400 4MATIC. The information detailed on the B-pillar certification information label is correct. Therefore, the driver can refer to this alternative source of information in order to determine the correct maximum load weight of the vehicle.

(d) After identifying the potentially incorrect values in the tire label, Daimler AG (DAG) analyzed potential technical implications, specifically with respect to the requirements of FMVSS No. 110, including potential effects on axles, suspension, brakes, driving dynamic, and crashworthiness. Based on this analysis, an impact on steering, braking or other vehicle dynamics as a result of the tire label weight discrepancy can be excluded.

(e) Moreover, MBUSA is not aware of any customer complaints, accidents or injuries alleged to have occurred as a result of this non-compliance. Hence, field data supports the assertion that the issue described above will have an inconsequential impact on safety.

MBUSA 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 MBUSA 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 MBUSA 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.  
[FR Doc. 2016-30579 Filed 12-19-16; 8:45 am]  
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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[No. DOT-OST-2016-0239]

### Update to U.S. Department of Transportation's NEPA Implementing Procedures

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice of availability and request for comment.

**SUMMARY:** The United States Department of Transportation (Department) is issuing a proposed update to its National Environmental Policy Act (NEPA) implementing procedures, DOT Order 5610.1D, Procedures for Considering Environmental Impacts. Consistent with the Council on Environmental Quality's regulations implementing NEPA, the Department is proposing this update and seeking public review and comment on the proposals.

**DATES:** Submit comments on or before January 10, 2017.

**ADDRESSES:** To ensure you do not duplicate your docket submissions, please submit them by only one of the following means:

*Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

*Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

*Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.

*Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov), including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Amy Coyle, Senior Attorney Advisor, U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590, 202-366-0691, [amy.coyle@dot.gov](mailto:amy.coyle@dot.gov); or Camille Mittelholtz, Environmental Policies Team Leader, U.S. Department of Transportation, Office of the Assistant Secretary for Transportation Policy, 1200 New Jersey Avenue SE., Washington, DC 20590, 202-366-4861, [camille.mittelholtz@dot.gov](mailto:camille.mittelholtz@dot.gov).

## SUPPLEMENTARY INFORMATION:

### I. Introduction

The U.S. Department of Transportation (Department or DOT) is proposing to update its National Environmental Policy Act (NEPA) implementing procedures. The Department last updated its current procedures, DOT Order 5610.1C, Procedures for Considering Environmental Impacts, in 1985 (5610.1C).<sup>1</sup> The proposed Order, DOT Order 5610.1D, Procedures for Considering Environmental Impacts (updated NEPA Order) seeks to achieve the following objectives: (1) Ensure a full and fair NEPA process that includes meaningful public involvement throughout, and the balanced consideration of a reasonable range of alternatives and their impacts on the human environment; (2) improve efficiency and expedite project delivery; (3) provide good customer service to stakeholders through consistent implementation of NEPA across the Department; (4) provide the requisite flexibility for the Department's Operating Administrations (OAs) to apply their NEPA implementing procedures to their specific programs; and (5) balance the needs of all OAs, from those with well-established NEPA programs to those seeking more guidance.

Additionally, the updated NEPA Order addresses relevant project delivery provisions of the Fixing America's Surface Transportation Act (FAST Act) that apply Department-wide, including the following:

- Section 1301 directs the Secretary to align, to the maximum extent practicable, the requirements of Section 4(f) (23 U.S.C. 138/49 U.S.C. 303), Section 106 of the Historic Preservation Act (54 U.S.C. 306108), and NEPA.

<sup>1</sup> 44 FR 56420, Oct. 1, 1979, available at <https://www.transportation.gov/office-policy/transportation-policy/procedures-considering-environmental-impacts-dot-order-56101c>.