



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0166; Notice 1]

Mercedes-Benz USA, LLC and Daimler AG, Receipt of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Receipt of Petition

SUMMARY: Mercedes-Benz USA, LLC (MBUSA)¹ on behalf of itself and its parent company Daimler AG (DAG)², collectively referred to in the petition as "Mercedes", have determined that certain model year (MY) 2013 Mercedes-Benz GLK-Class (X204 platform) multipurpose passenger vehicles (MPVs), do not fully comply with paragraph S5.1.1.6 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. Mercedes has filed an appropriate report dated October 9, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), Mercedes submitted a petition for an exemption from the notification and remedy

¹ Mercedes-Benz USA, LLC is a manufacturer and importer of motor vehicles and is registered under the laws of the state of Delaware.

² Daimler AG is a manufacture of motor vehicles that is located in and organized under the laws of Germany.

requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Mercedes'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.

Vehicles involved: Affected are approximately 2,951 MY 2013 Mercedes-Benz GLK-Class (X204 platform) MPVs manufactured from January 1, 2012 through August 15, 2012.

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, these provisions only apply to the subject 2,951³ vehicles that Mercedes no longer controlled at the time it determined that the noncompliance existed.

³ Mercedes's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Mercedes as a motor vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 2,951 affected vehicles. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicles under their control after Mercedes notified them that the subject noncompliance existed.

Noncompliance: Mercedes explains that the noncompliance is that the subject vehicles contain parking lamps that exceed the maximum designated candlepower output level provided in FMVSS No. 108 paragraph S5.1.1.6; id. Figure 1b (listing maximum candlepower value of 125 cd for parking lamps). Due to a programming issue in the electronic control unit, the voltage in the parking lamp circuit is 12.8 volts which is higher than the design voltage specification of 7 volts in the affected vehicles. This higher voltage causes the lamps to exceed the maximum value listed in FMVSS No. 108.

Rule text: Paragraph S5.1.1.6 of FMVSS No. 108 requires in pertinent part:

S5.1.1.6 Instead of the photometric values specified in Table 1 of SAE Standards J222 December 1970, or J585e September 1977, a parking lamp or tail lamp, respectively, shall meet the minimum percentage specified in Figure 1a of the corresponding minimum allowable value specified in Figure 1b. The maximum candlepower output of a parking lamp shall not exceed that prescribed in Figure 1b, or of a taillamp, that prescribed in Figure 1b at H or above. If the sum of the percentages of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c, a parking lamp or taillamp is not required to meet the minimum photometric value at each test point specified in SAE Standards J222 or J585e respectively.

SUMMARY OF MERCEDES' ANALYSIS AND ARGUMENTS:

Mercedes stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. Although the parking lamps in the subject vehicles exceed the candlepower limits of FMVSS No. 108, the level of brightness of the lamps is very low. As explained below, to evaluate the impact on motor vehicle safety in actual use, MBUSA analyzed the brightness of the lamps in use and has confirmed that the potential exceedance is minimal, and below the level perceptible to the human eye during night-time driving operations which would be pertinent to determining potential safety relevance.

2. In the subject vehicles, the parking lamps are activated in conjunction with low beam lights, as required by FMVSS No. 108 paragraph S5.5.7(b). In other words, whenever the low beam lights are used, the parking lamps are also illuminated at the same time. Therefore, to evaluate the total illumination that would be experienced by other motorists at night, it is necessary to evaluate the candlepower output of the parking lights in combination with the low beams, as would occur under actual driving conditions. As noted above, the output limit for parking lamps is 125 cd. The maximum output value for low beam lights is 1,000 cd at 0.5U - 1.5L to L test points (0.5 degrees up from the H-point and from 1.5 degrees left of the vertical centerline to the end of the leftward measurements) and 700 cd for 1 U - 1.5L to L test points (1

degree up from the H-point and from 1.5 degrees left of the vertical centerline to the end of the leftward measurements). See FMVSS No. 108 paragraph S7.7; id. Figure 17-2 (photometric test point values for lower beams). Thus, the maximum output for the combined parking lamps and low beam lamps is 1,125 cd (125 cd + 1,000 cd) for the 0.5U test points and 825 cd (125 cd + 700 cd) for the 1U test points.

3. Mercedes has measured the output of the combined parking lamps and low beam lights on the subject vehicles using two different headlight samples. Two lamp samples were used to evaluate the impact of normal part to part production variations on light output. In order to provide a complete overview of the brightness of the lights, measurements were done every 10 cm on the two horizontal lines at 0.5U and 1U, from 20 to 100 cm from the vertical centerline to the left, measured at a distance of 25 meters. (This is the same method used for certification testing for low beam lights.)

4. With the first sample headlight, all candlepower measurements were below 1,125 cd (for the 0.5U test points) and below 825 cd (for the 1U test points). Thus, for this headlamp, there were no exceedances of the combined brightness standard. For the second headlight, the

candlepower measurements were below 1,125 cd at all measurements for the 0.5U test points, and below 825 cd for half of the 1U test point measurements. The candlepower measurement was slightly above 825 cd (840-920 cd) for five of the 1U test point measurements with the second headlight. Thus, even the maximum measurement of 920 cd for the worst-case measurement location is only 11% above the reference value of 825 cd. Overall, the testing indicates that due to these normal production variations in low beam lights, in many cases, there will be no exceedance of the combined parking lamp/low beam light maximum candlepower, even with the parking lamp over-voltage. The testing indicated that even in the worst-case measurement locations, with the worst-case low beam lamp sample, there was the potential for only an 11% exceedance of the combined lamp brightness, which is below the human detection threshold.

Mercedes is not aware of any incidents or customer complaints related to the subject noncompliant parking lamps.

Mercedes also notes its belief that NHTSA has granted similar petitions in the past.

Mercedes has informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 108.

In summation, Mercedes believes that the described noncompliance of its vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

COMMENTS: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. 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.

b. By hand delivery 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.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) website at <http://www.regulations.gov/>.

Follow the online instructions for submitting comments.

Comments may also be faxed to 1-202-493-2251.

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 your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent

possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

COMMENT CLOSING DATE: (insert date 30 days after Publication Date).

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Dated: July 31, 2013.

Claude H. Harris, Director
Office of Vehicle Safety Compliance

Billing Code: 4910-59-P

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