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June 3, 2020

VIA Overnight Mail

The Honorable James C. Owens
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
West Building, 41-304
Washington, D.C. 20590

Re: Petition for Determination of Inconsequential Noncompliance – Mercedes-Benz

Dear Administrator Owens:

Pursuant to 49 U.S.C. § 30118(d) and 49 C.F.R. Part 556, Mercedes-Benz AG and Mercedes-Benz USA, LLC (collectively, “Mercedes-Benz”), submit the two enclosed petitions for determination of inconsequential noncompliance.

In the first petition, Mercedes-Benz petitions the agency for a determination that a deviation from the field of view requirements for a single test object in FMVSS 111 is inconsequential to motor vehicle safety. In the second petition, Mercedes-Benz petitions the agency for a determination that when the “car wash mode” feature is activated in certain vehicles, the ability to automatically close the sun roof does not create an enhanced safety risk under FMVSS 118.

Mercedes-Benz requests that the agency relieve it from the notice and remedy requirements under the Vehicle Safety Act for both of these issues.

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Please contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Jacqueline Glassman". The signature is written in a cursive, flowing style.

Jacqueline Glassman

Enclosures

Petition for Inconsequential Noncompliance
NHTSA Recall 20V-265

Mercedes-Benz AG (“MBAG”) and Mercedes-Benz USA, LLC (“MBUSA”) (collectively, “Mercedes-Benz”), submit this petition for inconsequential noncompliance pursuant to the Vehicle Safety Act, 49 U.S.C. § 30118(d) and 49 U.S.C. § 30120(h), and the related regulations at 49 C.F.R. 556. MBAG is a joint stock company headquartered in Germany, and MBUSA is a Delaware limited liability company with its principal place of business at One Mercedes-Benz Drive, Sandy Springs, Georgia 30328. Mercedes-Benz requests that the agency grant its petition exempting it from the notice and remedy requirements of the Vehicle Safety Act on the ground that the noncompliance described below is inconsequential to motor vehicle safety.

In certain Model Year 2020 CLA-Class vehicles (118 Platform), the border of the text box that contains the rearview camera warning message partially obscures the top edge of one of the test objects. As such, the field of view for the individual test object is not fully shown, compromising the expectation in FMVSS 111, S5.5.1 that the test objects be completely visible. However, when the warning message is active on the in-vehicle display, approximately 90% of the affected test object can still be seen. None of the other remaining test objects is impacted by the display of the text box and the performance of the rearview camera is not otherwise impacted. Because only the extreme upper portion of the test object is covered, the driver would still be able to fully recognize that a person is present at the rear of the vehicle, including a child or person of small stature. This unique situation does not create an enhanced safety risk.

Background

When the subject vehicles are placed in reverse, a driver alert message appears on the in-vehicle display to remind drivers to pay attention to their surroundings. A deviation in the software received from the supplier caused the pitch of the rearview camera image not to meet MBAG’s specification so that when the driver alert message appears, the black border that surrounds the message box slightly covers a portion of the top of the rear middle test object (Test Object B). When the text box is displayed, approximately 10% of the extreme top of Test Object B is covered by the border. However, the remaining 90% of the test object is displayed without issue. None of the other test objects is affected by this condition and the rearview camera display otherwise functions as intended.

MBAG corrected the issue in production in early September 2019, and through its technical investigation of the issue found that 155 vehicles in the United States market contain the affected software. On May 4, 2020, MBAG determined that a noncompliance existed with the requirements of FMVSS 111, S5.5.1 pertaining to the rearview camera field of view. Mercedes-Benz submitted its initial Noncompliance Information Report on May 11, 2020, and submitted an amended report on May 18, 2020 to include information identifying the affected components. *See* NHTSA Recall 20V-265, attached. Mercedes-Benz is not aware of any reports or complaints about the issue from the field.

Analysis

Manufacturers may be exempted from the notification and remedy provisions of the Safety Act if NHTSA determines that the noncompliance is inconsequential to motor vehicle

Petition for Inconsequential Noncompliance
NHTSA Recall 20V-265

safety. *See* 49 U.S.C. §§ 30118(d), 30120(h). The basis upon which NHTSA evaluates an inconsequentiality petition is “whether the 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 Fed. Reg. 19897, 19900 (April 14, 2004). This matter is appropriate for a decision that the noncompliance is inconsequential to motor vehicle safety as it does not present any increased risk to vehicle occupants.

The subject vehicles display a driver alert message that appears when the driver places the vehicle in Reverse and reminds drivers to pay attention to their surroundings when backing up the vehicle. The warning message remains on the screen the entire time the vehicle is in the Reverse position and automatically extinguishes at the end of the backing event (when the vehicle is moved to a position other than Reverse). In the subject vehicles, when the alert message appears, the black border that surrounds the box partially obscures the extreme top portion of Test Object B. As a result, the rear middle test object does not meet the full field of view requirements. Despite the manner in which the text box displays, the condition does not pose an increased safety risk because a person behind the vehicle, including a small child, would still be visible by the driver. The objective of the FMVSS 111 field of view requirements, to ensure that persons located at the rear of the vehicle remain visible to the driver, continues to be met despite the variation in the software.

The overarching objective of FMVSS 111, Rear Visibility, is to mitigate against the potential for accidents or injuries due to striking persons, including children, located at the rear of the vehicle. The rearview camera provisions contain field of view requirements for the zone behind the vehicle and are met by displaying certain height and width parameters of the designated test objects when tested in accordance with the test procedure set out in the standard. *See* FMVSS 111, S5.5.1. The provision, in relevant part, states:

S5.5.1 Field of view. When tested in accordance with the procedures in S14.1, the rearview image shall include:

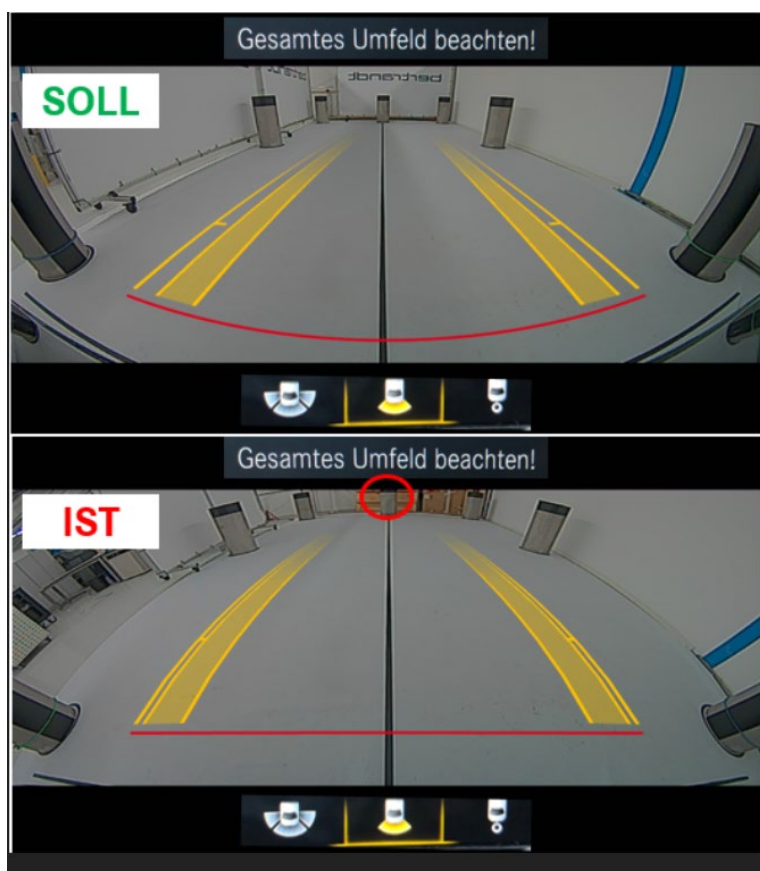
- (a) A minimum of a 150-mm wide portion along the circumference of each test object located at positions F and G specified in S14.1.4; and
- (b) The full width and height of each test object located at positions A through E specified in S14.1.4.

The agency previously considered the safety benefits related to the use of overlays such as text based alert messages, guidance markers and other indicators on rear camera visibility systems during the development of the FMVSS 111 rulemaking. While NHTSA recognized the inherent safety benefit of these features, the concerns it raised about the appropriate use of overlays was specific. NHTSA carefully considered whether and how to regulate the use of overlays in order to mitigate against a specific type of concern – the potential for overlays to create blind spots in the rearview image that could obscure or mask small objects or persons at the rear of the vehicle, particularly children. *See* 79 Fed. Reg. 19178, 19210 (April 7, 2014).

Petition for Inconsequential Noncompliance
NHTSA Recall 20V-265

Ultimately, NHTSA declined to mandate specific performance criteria related to the use of overlays, largely due to a lack of practical means of testing the wide variations of overlay use and design without additional research. Instead, the agency considered the field of view requirements to have been met as long as they did not cover any of the required portions of the test objects if activated automatically or if the overlay was manually activated by the driver. In doing so, NHTSA recognized the “decision not to regulate overlays does not relieve manufacturers from designing their system overlays so as to afford their customers *a reasonable ability to see the required field of view.*” *Id.* at 19211 (emphasis added).

Given the background regarding the very specific type of concern related to the use of overlays, the subject vehicles do not create an increased safety risk. The portion of Test Object B that is affected by the software issue is limited to the extreme top edge of the test object, as provided in the photo below.¹ The border of the text box covers approximately 10% of the top edge of Test Object B. The full height of the test object when displayed on the screen is 800 mm. The uppermost portion of the test object (indicated by the black band at the top of the test object) is 150 mm. When the alert message appears on the in-vehicle display, the border obscures approximately half of the 150 mm strip of the text object, or 75 mm.



¹ The photo below provides an example of the in-vehicle display for a vehicle sold in the German market. The display image, text size and measurements used in a vehicle for the U.S. market are the same with the exception that the warning language is provided in English text. MBAG will provide an updated photo once available.

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Despite the manner in which the alert message displays, the system still operates to provide the driver an ability to fully and safely see the required field of view. The key concern related to the use of overlays raised by the agency in the FMVSS 111 final rule was the potential for the overlay to prevent the driver from seeing a child or small person located at the rear of the vehicle. That concern does not manifest in this instance. The border obscures only the upper edge of the test object. The remaining 90% of the lower portion of the test object remains fully visible and the driver is still able to recognize a person or child present behind the vehicle. Because only the extreme upper edge of the test object is affected by the software deviation, none of the agency's concerns related to covering or obscuring the image of a person behind the vehicle with an overlay occurs.

Based on the foregoing, Mercedes-Benz requests that that the agency exempt it from the notification and remedy provisions under the Safety Act.



Mercedes-Benz USA, LLC.

Vehicle Report

NHTSA ID: 20V265 Transaction ID: 20-00855-24511-11 (Amendment 1)

Required fields indicated with *

Manufacturer: Mercedes-Benz USA, LLC.	
13470 International Parkway Jacksonville FL 32218	Bibi Anali 741-9608,

This is a Noncompliance Report. Filing a petition pursuant to [49 CFR 556](#)

Vehicle Information	
Mercedes-Benz CLA 250 2020	
* Model Yr. Start: 2020	* Model Yr. End: 2020
* Make: Mercedes-Benz	Type: LIGHT VEHICLES
* Model: CLA 250	Body Style: 4-DOOR
	Powertrain: GAS
Production Dates Begin: 06/19/2019 End: 08/21/2019	Descriptive Information: Mercedes-Benz 2020 CLA250 155 Vehicles. The recall population was determined through potentially affected software versions. Vehicles outside of the recall population have a rearview camera with software that operates within current production specifications.
VIN Range(s): Begin: End:	

Number potentially involved: 155 **Estimated percentage of involved with defect:** 100%

Defect / Noncompliance Description	
For this Defect/Noncompliance:	
<p>* Describe the defect or noncompliance: Mercedes-Benz AG ("MBAG"), the manufacturer of Mercedes-Benz vehicles, has determined that on certain Model Year ("MY") 2020 CLA-Class (C118 platform) vehicles, the rear view camera display does not fully display the rear middle test object as set forth in FMVSS 111, S5.5.1.</p> <p>If a noncompliance, provide the applicable FMVSS: 111 - Rearview mirrors</p> <p>If applicable, provide any further FMVSS affected:</p> <p>Describe the cause: Due to a development deviation at a supplier, the software of the rearview camera on certain vehicles might not meet current production specifications.</p>	<p>* Describe the safety risk: The warning message text box slightly covers the rear middle test object. While the rearview camera does not meet the exact display requirements of FMVSS 111, S5.5.1., approximately 90% of the test object that is affected can still be seen and none of the remaining test objects are impacted. Additionally, both object movements and position changes are still clearly visible in the rearview camera image under real-world driving conditions. Therefore, MBAG does not see an increased safety risk due to this minor deviation and plans to submit a petition for inconsequential noncompliance.</p> <p>Identify any warning which can precede or occur: The customer will not receive an advance warning due to the nature of the failure mechanism.</p>
This Recall affects all vehicles.	
If applicable, identify the manufacturer of the defective or noncompliant component. If the manufacturer of the component is unknown, provide the information for the company that supplied the subject component.	
<p>Component manufacturer</p> <p>Company Information</p> <p>Company Name: Magna Electronics Europe GmbH & Co. OHG</p> <p>Country: Germany</p> <p>Address 1: Kurfürst-Eppstein-Ring 9</p> <p>Address 2:</p> <p>City: Sailauf</p> <p>State: FOREIGN STATES</p> <p>Zip/Postal Code: 63877</p>	<p>Company Contact Information</p> <p>First Name: Faker</p> <p>Last Name: Bouzelma</p> <p>Position: Program Manager</p> <p>Email:</p> <p>Phone:</p>

Involved Components	
If the defect or noncompliance involves a specific component(s), identify that component(s) below.	
Component Name:	Rearview camera software
Component Description:	Software coding for the rearview camera
Component Part Number:	QNT11814806

Chronology of Defect / Noncompliance Determination
<p>Provide the chronology of events leading up to the defect decision or test data for the noncompliance decision.: In August 2019, MBAG identified this issue through internal analyses for quality assurance at a production plant. A plant action was launched with a software fix release at the beginning of September, 2019. Throughout the Fall of 2019, MBAG reviewed whether there were potentially affected vehicles in the field and which impact the slight pitch of the rearview camera image might be present. MBAG determined that the difference in the image would not impede the driver's ability to detect an object behind the vehicle, and therefore posed no safety risk. In the Spring of 2020, a detailed evaluation was performed to assess the extent to which the deviation might impact the detailed requirements of FMVSS 111, S5.5.1.. On May 4, 2020, MBAG decided that, although the difference in the pitch was minimal, the difference was inconsistent with the requirements of FMVSS 111, S5.5.1. MBAG intends to file a petition for inconsequential treatment with regard to this noncompliance.</p>

Identify the Remedy

Describe the defect/noncompliance remedy program, including the manufacturer's plan for reimbursement.

MBAG intends to submit a petition for inconsequential noncompliance for NHTSA review.

Describe what distinguishes the remedy component from the recalled component.

Field of view of the rearview camera image complies with specification. The number of correct coding is: QNT118AAL91 and QNT118AAL93

Identify and describe how and when the recall condition was corrected in production.

A change in the production procedure of our supplier ensures that this issue can no longer occur from Aug 22, 2019 onwards.

Identify the Recall Schedule

Describe the recall schedule for notifications.:

Dealers will be notified of the pending voluntary recall campaign on May 18, 2020. Owners will be notified of the voluntary recall campaign approximately one week after launch to the dealers on July 10, 2020. A copy of all communications will be provided when available.

Planned Dealer Notification Begin Date: 05/18/2020

Planned Dealer Notification End Date:

Planned Owner Notification Begin Date: 07/10/2020

Planned Owner Notification End Date:

Manufacturer's identification code for this recall (if applicable):

Please be reminded that owner notification letters must be mailed no more than 60 days from submission of this report.

Manufacturer Comments to NHTSA Staff

For any questions, please contact Gregory Gunther at gregory.gunther@mbusa.com.

Document Upload

There are 1 documents associated with this report.

Part 573 Safety Recall Report

20V-265

Manufacturer Name : Mercedes-Benz USA, LLC.

Submission Date : MAY 11, 2020

NHTSA Recall No. : 20V-265

Manufacturer Recall No. : NR



Manufacturer Information :

Manufacturer Name : Mercedes-Benz USA, LLC.

Address : 13470 International Parkway

Jacksonville FL 32218

Company phone : 1-877-496-3691

Population :

Number of potentially involved : 155

Estimated percentage with defect : 100 %

Vehicle Information :

Vehicle 1 : 2020-2020 Mercedes-Benz CLA 250

Vehicle Type : LIGHT VEHICLES

Body Style : 4-DOOR

Power Train : GAS

Descriptive Information : Mercedes-Benz 2020 CLA250 155 Vehicles.

The recall population was determined through potentially affected software versions. Vehicles outside of the recall population have a rearview camera with software that operates within current production specifications.

Production Dates : JUN 19, 2019 - AUG 21, 2019

VIN Range 1 : Begin :

NR

End : NR

Not sequential

Description of Noncompliance :

Description of the Noncompliance : Mercedes-Benz AG ("MBAG"), the manufacturer of Mercedes-Benz vehicles, has determined that on certain Model Year ("MY") 2020 CLA-Class (C118 platform) vehicles, the rear view camera display does not fully display the rear middle test object as set forth in FMVSS 111, S5.5.1.

FMVSS 1 : 111 - Rearview mirrors

FMVSS 2 : NR

Description of the Safety Risk : The warning message text box slightly covers the rear middle test object. While the rearview camera does not meet the exact display requirements of FMVSS 111, S5.5.1., approximately 90% of the test object that is affected can still be seen and none of the remaining test objects are impacted.

Additionally, both object movements and position changes are still clearly visible in the rearview camera image under real-world driving conditions. Therefore, MBAG does not see an increased safety risk due to this minor deviation and plans to submit a petition for inconsequential noncompliance.

Description of the Cause : Due to a development deviation at a supplier, the software of the rearview camera on certain vehicles might not meet current production specifications.

Identification of Any Warning that can Occur : The customer will not receive an advance warning due to the nature of the failure mechanism.

Involved Components :

Component Name 1 : NR

Component Description : NR

Component Part Number : NR

Supplier Identification :

Component Manufacturer

Name : Magna Electronics Europe GmbH & Co. OHG

Address : Kurfürst-Eppstein-Ring 9
Sailauf FOREIGN STATES 63877

Country : Germany

Chronology :

In August 2019, MBAG identified this issue through internal analyses for quality assurance at a production plant. A plant action was launched with a software fix release at the beginning of September, 2019.

Throughout the Fall of 2019, MBAG reviewed whether there were potentially affected vehicles in the field and which impact the slight pitch of the rearview camera image might be present. MBAG determined that the difference in the image would not impede the driver's ability to detect an object behind the vehicle, and therefore posed no safety risk.

In the Spring of 2020, a detailed evaluation was performed to assess the extent to which the deviation might impact the detailed requirements of FMVSS 111, S5.5.1..

On May 4, 2020, MBAG decided that, although the difference in the pitch was minimal, the difference was inconsistent with the requirements of FMVSS 111, S5.5.1. MBAG intends to file a petition for inconsequential treatment with regard to this noncompliance.

Description of Remedy :

Description of Remedy Program : MBAG intends to submit a petition for inconsequential noncompliance for NHTSA review.

How Remedy Component Differs from Recalled Component : Field of view of the rearview camera image complies with specification.

Identify How/When Recall Condition was Corrected in Production : A change in the production procedure of our supplier ensures that this issue can no longer occur from Aug 22, 2019 onwards.

Recall Schedule :

Description of Recall Schedule : Dealers will be notified of the pending voluntary recall campaign on May 18, 2020. Owners will be notified of the voluntary recall campaign approximately one week after launch to the dealers on July 10, 2020. A copy of all communications will be provided when available.

Planned Dealer Notification Date : MAY 18, 2020 - NR

Planned Owner Notification Date : JUL 10, 2020 - NR

* NR - Not Reported