

agency continued to gather feedback on the FAVP through a public docket and public meetings.

NHTSA analyzed the docket comments, public meeting proceedings, and information from stakeholder discussions, Congressional hearings, and State activities as the foundation for its 2017 guidance, *Automated Driving Systems 2.0: A Vision for Safety* (ADS 2.0). This guidance adopted the nomenclature of Automated Driving Systems (ADS) rather than HAVs to align with the taxonomy in the SAE standard J3016, and focused on SAE Automation Levels 3–5. The vehicle guidance from FAVP was updated in a section of ADS 2.0 with a new name, Voluntary Guidance for Automated Driving Systems. The topics included in this section were streamlined into 12 priority safety design elements, eliminating three elements from FAVP that were not performance based. ADS 2.0 clarified the voluntary nature of safety self-assessments and provided greater flexibility in how ADS entities might provide such information to the public. ADS 2.0 also clarified the State and Federal roles through technical assistance to States, a refined version of the Model State Policy from FAVP.

In subsequent years, DOT released *AV 3.0: Preparing for the Future of Transportation* and *AV 4.0: Ensuring American Leadership*, which discussed automation across a wider range of transportation modes, and broader government coordination of automation, respectively. However, ADS 2.0 remains the most recent NHTSA guidance on the safe and transparent development and testing of vehicles equipped with ADS.

II. Updating Guidance

Given the significant advancements in ADS technology and safety knowledge since 2017, NHTSA believes now is an appropriate time to update its technical guidance. To facilitate this update, the agency is committed to gathering broad stakeholder input that promotes the safe development and deployment of ADS-equipped vehicles, provides Federal leadership, and resolves existing industry ambiguities. Engaging with stakeholders representing a wide range of expertise will help NHTSA issue guidance that enhances safety while fostering ADS innovation.

This public docket is opened as the primary means of transparently communicating with the broader public as NHTSA develops the new guidance. The comment period is open for one year, and NHTSA will extend the comment period if necessary. Submissions to the docket will be

reviewed and assessed on a continual basis.

The initial submission to the docket by NHTSA is a list of the potential draft technical chapters the agency is considering including in the new guidance. NHTSA seeks comments on the chapter topics, including whether stakeholders believe the agency should address different or additional topics. NHTSA is also seeking public input on the priority order for developing guidance chapters. NHTSA requests comments on the potential chapter topics and prioritization within 30 days of publication of this notice but will continue to monitor comments received thereafter.

NHTSA currently plans to develop a substantive document for each topic area with in-depth discussion of the technical guidance for that subject matter, which would be included as chapters in a final, collated guidance document. Guidance is not legally binding. Conformity with guidance—as distinct from existing statutes and regulations—is entirely voluntary, and nonconformity will not affect rights and obligations under existing statutes and regulations. See 49 U.S.C. 30111(f); 49 CFR 5.87.

Although the docket is the official record of drafts and comments, NHTSA intends to hold periodic public meetings to discuss technical input for an updated guidance document.

III. Request for Comment

NHTSA seeks public comment on all agency documents submitted to this docket for the duration of the open comment period. Comments on the initial document addressing proposed chapter topics are requested within 30 days of the publication of this notice.

Issued under authority delegated in 49 CFR 1.95.

Jonathan Morrison,

Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0010; Notice 2]

Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Mercedes-Benz AG (MBAG) and Mercedes-Benz USA, LLC (MBUSA) (collectively, “Mercedes-Benz”) has determined that certain model year (MY) 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems*. Mercedes-Benz filed a noncompliance report dated January 27, 2020, and subsequently petitioned NHTSA on February 10, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of Mercedes-Benz’s petition.

FOR FURTHER INFORMATION CONTACT:

Vince Williams, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2319.

SUPPLEMENTARY INFORMATION:

I. Overview: Mercedes-Benz has determined that certain MY 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with the requirements of paragraph S5.5.5 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135). Mercedes-Benz filed a noncompliance report dated January 27, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on February 10, 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*.

Notice of receipt of Mercedes-Benz’s petition was published with a 30-day public comment period, on May 6, 2020, in the **Federal Register** (85 FR 27024). NHTSA received one comment from the general public but the comment was removed because it wasn’t relevant to the noncompliance and didn’t address the petition. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2020–0010.”

II. Vehicles Involved: Approximately 27,375 of the following MY 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles manufactured between August

20, 2018, and January 16, 2020, are potentially involved:

- Mercedes-Benz A220
- Mercedes-Benz A220 4MATIC
- Mercedes-Benz A35 AMG 4MATIC
- Mercedes-Benz CLA250
- Mercedes-Benz CLA250 4MATIC
- Mercedes-Benz CLA35 AMG 4MATIC
- Mercedes-Benz CLA45 AMG 4MATIC
- Mercedes-Benz GLA250 4MATIC
- Mercedes-Benz GLB250
- Mercedes-Benz GLB250 4MATIC

III. Relevant FMVSS Requirements:

Paragraph S5.5.5 of FMVSS No. 135, includes the requirements relevant to this petition. Each visual indicator shall display a word or words in accordance with the requirements of FMVSS No. 101 and S5.5 of FMVSS 135, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm ($\frac{1}{8}$ inch) high.

IV. *Noncompliance:* Mercedes-Benz explains that the noncompliance is that the instrument panel in the subject vehicles display the braking indicators in a slightly smaller size than required by paragraph S5.5.5 of FMVSS No. 135. Specifically, the size of the text for the brake indicators in the subject vehicles ranges between 2.92 mm to 3.17 mm when the minimum required is 3.2 mm.

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 and do not reflect the views of the Agency. In its petition, 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:

1. Mercedes-Benz believes that the letter height of the braking indicators, which in this instance is slightly smaller than the requirement, does not expose an occupant to any greater risk of injury than an occupant in a vehicle with slightly larger font size.

2. Mercedes-Benz alleges that the purpose of the standardized size requirement for the brake system warning indicators is to ensure they are visually perceptible to drivers under all operating conditions. Mercedes-Benz says that the Agency has a long and consistent history of granting petitions for inconsequentiality for discrepancies involving a letter height requirement where the text appeared somewhat smaller than required. Mercedes-Benz says that NHTSA has granted petitions where the indicators displayed included

lettering that was as much as a full millimeter less than the minimum size. See 47 FR 31347 (July 19, 1982) (granting a petition of Subaru of America, Inc., where the brake system indicator lettering was only 2.2 mm high, but the ISO symbol indicators were located within the driver's line of sight and continued to be "easily identifiable and very readable").

3. Mercedes-Benz asserts that in addressing similar noncompliances in the past, the Agency has determined that "it is very unlikely that a vehicle user would either fail to see or fail to understand the meaning of the brake . . . warning light" where the "information presented by the telltales is correct." See 81 FR 92963 (December 20, 2016) (granting General Motors' petition of over 46,000 vehicles where the "Park" indicator displayed at 2.44 mm). In the General Motors decision, the Agency found the discrepancy "pose[d] little, if any, risk to motor vehicle safety" where all other braking indicator requirements were met and the indicators were located in the instrument cluster, adjacent to the speedometer and in direct view of the driver); 69 FR 41568 (July 9, 2004) (granting a petition of Hyundai Motor Company involving more than 237,000 vehicles, where the FMVSS No. 105 braking system indicator letter height varied from 2.5 mm to 3.1 mm).

4. In subject noncompliance, the letter height for the braking indicators is only slightly smaller than the 3.2 mm minimum. Depending on the particular indicator, the text size can be smaller by a range of 0.03 mm up to a maximum of .28 mm. The electronic instrument cluster is located within the driver's direct field of vision, and the braking indicators are located adjacent to the speedometer and, therefore, remain within the driver's direct line of sight. Mercedes-Benz claims that this slight difference in size is not visually perceptible and does not affect the driver's ability to read or understand the indicators. Mercedes-Benz further asserts that the indicators are clearly illuminated and remain visible under all driving conditions.

5. Mercedes-Benz states that all of the indicators at issue here are accurately depicted and are displayed in the correct colors, consistent with FMVSS No. 101, Table 1. Thus, there should not be any confusion about the meaning of the indicators, and the standard symbol that is displayed continues to convey the intended meaning of the indicator. Further, although the lettering that appears below the ISO symbols is slightly smaller than 3.2 mm minimum height, the overall height of the ABS

and Parking Brake symbols is more than 3.2 mm and exceeds the height requirement of the standard. Finally, the functionality of the brake indicators themselves is not affected by the software issue. The indicators properly display during both the instrument cluster warning lamp operation check and in the event a brake malfunction were to occur.

6. Mercedes-Benz says that it has not received any reports related to the performance of the indicators included on the 10.25-inch displays in the subject vehicles. Nor has it received any reports related to customers' inability to read or decipher the brake telltales.

Mercedes-Benz concludes 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 by following the online search instructions to locate the docket number as listed in the title of this notice.

VI. *Public Comment:* NHTSA received one comment from the general public. While the Agency takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the purpose of this particular petition.

VI. *NHTSA's Analysis:* The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement with no performance implications*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.¹ Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

An important issue to consider in determining inconsequentiality based upon NHTSA's prior decisions on noncompliance issues was the safety risk to individuals who experience the type of event against which the recall would otherwise protect.² In general,

¹ Cf. *Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

² See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR

NHTSA does not consider the absence of complaints or injuries to show that the issue is inconsequential to safety. “Most importantly, the absence of a complaint does not mean there have not been any safety issues, nor does it mean that there will not be safety issues in the future.”³ “[T]he fact that in past reported cases good luck and swift reaction have prevented many serious injuries does not mean that good luck will continue to work.”⁴

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected have also not justified granting an inconsequentiality petition.⁵ Similarly, NHTSA has rejected petitions based on the assertion that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance. The percentage of potential occupants that could be adversely affected by a noncompliance does not determine the question of inconsequentiality. Rather, the issue to consider is the consequence to an occupant who is exposed to the consequence of that noncompliance.⁶ These considerations are also relevant when considering whether a defect is inconsequential to motor vehicle safety.

35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

³ *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016).

⁴ *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it “results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future”).

⁵ See *Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance*, 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

⁶ See *Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance*, 64 FR 29408, 29409 (June 1, 1999).

While reviewing this petition, NHTSA contacted Mercedes to find out if there were additional warnings messages that triggered along with the brake indicator. Mercedes provided several screenshots that show supplemental warning messages that activate along with brake indicator and help convey the required brake warnings to the driver. Taking into consideration all the information provided and the oversized height of the additional information, the Agency agrees with Mercedes-Benz that this noncompliance will not have an adverse effect on vehicle safety. Despite the letter height of the braking indicators being slightly smaller than the 3.2 mm requirement, the overall height of the adjacent ABS and Parking Brake ISO symbols is more than 3.2 mm. Additionally, the location of the braking indicators within the electronic instrument cluster are positioned within the driver's direct field of vision as they are situated adjacent to the speedometer and therefore always remain visible. The aforementioned factors make it very unlikely for a driver to fail to read and understand the meaning of the braking indicators. Because the symbols are accurately depicted and are displayed in the correct colors, consistent with FMVSS No. 101, Table 1, there should not be any confusion about the meaning of the indicators, and the standard symbol that is displayed continues to convey the intended meaning of the indicator.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Mercedes-Benz has met its burden of persuasion that the subject FMVSS No. 135 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, Mercedes-Benz's petition is hereby granted, and Mercedes-Benz 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 section 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 Mercedes-Benz 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 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,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2025–0523]

Zoox—Grant of Temporary Exemption From Portions of Various Requirements of the Federal Motor Vehicle Safety Standards for an Automated Driving System-Equipped Vehicle

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (Department or DOT).

ACTION: Notice of grant of application for temporary exemption from portions of eight Federal Motor Vehicle Safety Standards (FMVSS).

SUMMARY: NHTSA is granting an exemption to Zoox, Inc. (Zoox) to allow it to manufacture and deploy commercially a passenger car, which is equipped with an Automated Driving System (ADS), that does not comply with certain requirements in the Federal Motor Vehicle Safety Standards (FMVSS). Specifically, NHTSA grants Zoox an exemption for its Zoox sedan from certain requirements in eight FMVSS: FMVSS No. 103, Windshield defrosting and defogging systems; FMVSS No. 104, Windshield wiping and washing systems; FMVSS No. 108, Lamps, reflective devices, and associated equipment; FMVSS No. 111, Rear visibility; FMVSS No. 135, Light vehicle brake systems; FMVSS No. 201, Occupant protection in interior impact; FMVSS No. 205, Glazing materials; and FMVSS No. 208, Occupant crash protection. NHTSA is granting Zoox's application on the basis that compliance with these requirements would prevent Zoox from selling, or otherwise commercially deploying, a motor vehicle with an overall safety level at least equal to the overall safety level of a vehicle that complies with all