

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****[Docket No. NHTSA–2016–0092; 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 USA, LLC (MBUSA), has determined that certain model year (MY) 2016 Mercedes GL-Class multipurpose passenger 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 defect report dated August 12, 2016, and amended it on August 29, 2016. MBUSA then petitioned NHTSA on August 31, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**ADDRESSES:** For further information on this decision contact Mr. Kerrin Bressant, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–1110, facsimile (202) 366–5930.

**SUPPLEMENTARY INFORMATION:****I. Overview**

Mercedes-Benz USA, LLC (MBUSA), has determined that certain model year (MY) 2016 Mercedes GL-Class multipurpose passenger vehicles do not fully comply with paragraph S4.3(d) 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 August 12, 2016, and amended it on August 29, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MBUSA then petitioned NHTSA on August 31, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and their implementing regulations at 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.

Notice of receipt of the petition was published, with a 30-day public comment period, on November 14, 2016, in the **Federal Register** (81 FR 79558). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2016–0092.”

**II. Vehicles Involved**

Affected are 2,917 of the following MY 2016 Mercedes-Benz GL-Class multipurpose passenger vehicles manufactured between December 1, 2015, and February 5, 2016:

- GL 350 Bluetec 4Matic SUV (155 vehicles)
- GL 450 4Matic SUV (2,482 vehicles)
- GL 550 4Matic SUV (280 vehicles)

**III. Noncompliance**

MBUSA explains that the noncompliance is due to a labeling error. The subject vehicles are equipped with a spare tire, size T155/80 R19 114M; however, the tire information placard affixed to the vehicles' B-pillar incorrectly identifies the spare tire size as T165/90 R19 119M. The placard therefore does not comply with requirements specified in paragraph S4.3(d) of FMVSS No. 110.

**IV. Rule Text**

Paragraph S4.3 of FMVSS No. 110 states, in pertinent part:

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) through (i), on a placard permanently affixed to the driver's side B-pillar. In each vehicle without a driver's side B-pillar and two doors on the driver's side of the vehicle opening in the opposite directions, the placard shall be affixed on the forward edge of the rear side door . . .

(d) Tire size designation, indicated by the headings “size” or “original tire size” or “original size,” and “spare tire” or “spare,” for the tires installed at the time of the first purchase for purposes other than resale. For full size spare tires, the statement “see above” may, at the manufacturer's option replace the tire size designation. If no spare tire is provided, the word “none” must replace the tire size designation; . . .

**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 stated the following:

(a) Both tire sizes can be used on the vehicle. The spare tire with the size of T165/90 R19 119M (the size stated on the B-pillar label) is equipped on older models produced before November 2015. The purpose of FMVSS No. 110 is to “prevent tire overloading,” see 40 CFR 571. S1, and no overloading will result from the incorrect label because either tire size (the one stated on the label or the one actually on the vehicle) can be used.

(b) The tire pressure is the same for both spare tire sizes. When checking the tire pressure for the spare tire, the customer will find the correct tire pressure values on the label. Again, no overloading will result from the incorrect label because the correct tire pressure values are provided.

(c) Information regarding the correct spare tire is available to the vehicle owner. The vehicles are equipped with an Operator's Manual which describes both spare tire sizes. Also, if a tire needs to be replaced on the spare wheel, the dealer Electronic Parts Catalogue (EPC) correctly specifies the proper tire part number. Additionally, further assistance regarding the correct spare tire can be provided by the customer assistance center.

(d) The presumption that the issue described above will have an inconsequential impact on safety is supported by field data: MBUSA is not aware of any customer complaints, accidents, or injuries alleged to have occurred as a result of this tire label discrepancy in the United States.

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's Decision**

**NHTSA's Analysis:** The intent of FMVSS No. 110 is to ensure that vehicles are equipped with tires appropriate to handle maximum vehicle loads and prevent overloading. MBUSA explained that the tire placard on the affected GL-Class vehicles specifies a spare tire size (T165/90 R19 119M) that is different than the originally equipped spare tire size (T155/80R19 114M). MBUSA stated that no overloading will occur if either tire is used. The agency analyzed the load rating specifications of both spare tire sizes and confirmed that either tire could be used and are appropriate for the subject vehicle's maximum loaded weight conditions.

MBUSA explained that the recommended tire inflation pressure for the labeled spare tire listed on the FMVSS No. 110 tire placard is the same inflation pressure that MBUSA would recommend for the originally equipped spare tire. The agency verified that both spare tire sizes at the labeled recommended inflation pressure are appropriate for the maximum loaded weight of the subject vehicles. If a consumer inadvertently used the labeled inflation pressure to inflate the originally equipped spare tire, the tire load rating would be sufficient for the maximum loaded vehicle weight.

Furthermore, MBUSA explained that the subject vehicle's owner's manuals describe both spare tire sizes. The agency believes this additional information can be used by the consumer to ensure either size is appropriate for use.

**NHTSA's Decision:** In consideration of the foregoing, NHTSA finds that MBUSA has met its burden of persuasion that the subject FMVSS No. 110 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, MBUSA's petition is hereby granted and MBUSA is consequently exempted from the obligation of providing notification of, and a free remedy for, the subject 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 MBUSA 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 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.  
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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0115; Notice 1]

#### BMW Group of America, LLC, Incorporated, Receipt of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** BMW of North America, LLC (BMW), has determined that certain model year (MY) 2016–2017 BMW, Mini, and Rolls-Royce vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies*. BMW filed a report dated October 13, 2016. BMW also petitioned NHTSA on November 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 February 17, 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

BMW of North America, LLC (BMW), has determined that certain model year (MY) 2016–2017 BMW, Mini, and Rolls-Royce vehicles do not fully comply with paragraph 4.3(j)(2)(ii) of Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies*. BMW filed a report dated October 13, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. BMW also petitioned NHTSA on November 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 BMW'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 15,630 of the following MY 2016–2017 BMW, Mini, and Rolls-Royce vehicles manufactured