

October 11, 2018

Administrator
National Highway Traffic Safety Administration
Attention: Recall Management Division
1200 New Jersey Avenue S.E.
Washington D.C. 20590

Re: Petition for Exemption from Notification and Remedy Provisions of Motor Vehicle Safety Act for Noncompliance with FMVSS No. 108, Lamps, Reflective Devices and Associated Equipment

Daimler Trucks North America (DTNA) has determined that certain vehicles it manufactured do not fully comply with the requirements contained in the Federal Motor Vehicle Safety Standard (FMVSS) 108, "Lamps, Reflective Devices and Associated Equipment", and has filed a Defect Information Report on September 18, 2018. DTNA hereby petitions the National Highway Traffic Safety Administration for an exemption from the notice and remedy requirements of the Motor Vehicle Safety Act, pursuant to 49 U.S.C. §§ 30118(d) and 30120(h), and 49 C.F.R. part 556, because DTNA believes that the noncompliance is inconsequential to motor vehicle safety.

Attached are copies of DTNA's Defect Information Report. In addition, DTNA provides the following information in accordance with 49 C.F.R. § 556.4(b)(3):

- Full name and address of applicant: Daimler Trucks North America LLC, 4747 N. Channel Avenue, Portland, OR 97217-7699
- Nature of organization: Limited Liability Company
- State or country under laws of which DTNA is organized: Delaware, USA

Background

Approximately 14,340 Western Star 4700, 4900, Freightliner Business Class M2, 114SD, 108SD, 122SD and Coronado vehicles ("subject vehicles") built from May 4, 2010 to August 23, 2018 illuminate brake lights for Automatic Traction Control (ATC) events.

FMVSS 108 S6.2.1 states that "No additional lamp, reflective device, or other motor vehicle equipment is permitted to be installed that impairs the effectiveness of lighting equipment required by" Standard No. 108.

Interpreting this requirement, in an interpretation response to GM dated 5/26/2000, NHTSA states that brake lights should not be illuminated for ATC. "...We have therefore concluded that installation of traction control systems, or any other equipment, that activates the stop lamps for purposes other than to indicate that the vehicle is stopping or slowing is prohibited by S5.1.3 and would create a noncompliance with Standard No. 108..."

In Docket No. NHTSA-200727662 NHTSA referred to the previous GM interpretation. "In our May 26, 2000 letter of interpretation to . . . General Motors, NHTSA has already established a policy regarding stop lamps and technologies that make use of the vehicles brakes (including ESC), and we intend to follow that interpretation with regard to FMVSS No. 126, as discussed below. Under our interpretation letter to GM, only when a vehicle system operates in a way that is analogous to the driver using the brakes to slow the vehicle should the stop lamps activate. We believe that it is not desirable to change the meaning of the stop lamp signal. Traction control, for example, applies one brake on an axle at a time to limit wheel spin for the purpose accelerating rather than decelerating the vehicle, so in such cases, stop lamps should not be activated." See 72 Fed. Reg. 17236, 17296 (April 6, 2007).

Potential impact on safety

ATC events occur during low traction conditions such as snow, ice and mud. The duration of the event can be very short and may not even be noticed by the following driver. If brake light illumination for an ATC event is noticed, it would help to provide early warning of an adverse road condition ahead and encourage the following driver to slow down.

Below are several examples of ATC events:

- Taking off from a stop

ATC can be very helpful to a driver when taking off from a stop in low traction conditions. From time to time a vehicle will park with one drive axle wheel end right over a patch of ice, and without ATC, it can be difficult to take off. This happens after the vehicle has been stopped and is trying to move. It seems unlikely that this would cause a safety concern to following drivers since the vehicle is stationary.

- Low speed

At low speed, hazard warning lights are commonly used to warn other drivers of adverse road conditions such as those that are in effect when an ATC event may occur. Since the hazard lights may already be applied in this case, the addition of momentary brake light activation is unlikely to cause confusion.

NHTSA has stated in Docket No. NHTSA-2000-7312 (referenced below) that the momentary activation of the Center High Mounted Stop Lamp (CHMSL) and hazard warning lamps can augment the message that extra attention should be given to the leading vehicle. This is precisely the situation with low speed ATC events.

- High Speed

For an ATC event to occur at high speed, it would signify that road conditions have changed rapidly. One way it could happen is if the vehicle has been climbing a hill on dry roads in sub-freezing conditions and crosses a patch of ice. This causes a wheel to lose traction and the ATC applies brake force to that wheel end. The torque is transferred to other wheel ends causing a momentary brake light illumination. If it is a small ice patch, the event may be over and the vehicle may continue on its way. If the ice patch is large, it is imperative that the vehicle slows down to a safe speed under slick conditions and warns others of the impending slowdown. As soon as slick road conditions are noticed and wheels begin to slip, the driver would let up on the throttle.

Brakes are commonly applied - causing the brake lights to illuminate - when a driver sees or senses a change in road conditions such as an icy patch. Reducing vehicle speed in adverse conditions increases safety, so signaling changing road conditions to following drivers would improve safety and give them the opportunity to increase the following distance. Department of Transportation guidance supports this goal:

- NHTSA's Winter Driving Tips says: *"Drive slowly. It's harder to control or stop your vehicle on a slick or snow-covered road. Increase your following distance enough so that you'll have plenty of time to stop for vehicles ahead of you."*
- FMCSA released CMV Driving Tips; Tip#11s: *Reduce Your Driving Speed in Adverse Road and/or Weather Conditions. "You should reduce your speed by 1/3 on wet roads and by 1/2 or more on snow packed roads (i.e., if you would normally be traveling at a speed of 60 mph on dry pavement, then on a wet road you should reduce your speed to 40 mph, and on a snow-packed road you should reduce your speed to 30 mph). When you come upon slick, icy roads you should drive slowly and cautiously and pull off the road if you can no longer safely control the vehicle."*

In addition to the lack of safety impact from brake illumination under the various ATC activation conditions – taking off from stop; low speed; or high speed – DTNA is not aware of any accidents, injuries, owner complaints or field reports for brake light illumination for ATC events concerning the subject vehicles.

NHTSA Precedents

DTNA notes that NHTSA has previously granted petitions for decisions of inconsequential noncompliance for lighting requirements where a technical non-compliance exists, but does not create a negative impact on safety.

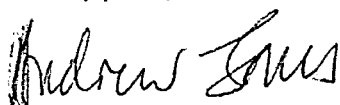
In Docket No. NHTSA-2000-7312 (published on June 18, 2001) a Petition for Inconsequentiality by GM was granted by NHTSA. In this instance, certain models could have unintended CHMSL illumination briefly if the hazard warning lamp switch is depressed to its limit of travel. NHTSA stated: *"The intended use of a hazard warning lamp and the momentary activation of a CHMSL do not provide a conflicting message. The illumination of the CHMSL is intended to signify that the vehicles brakes are being applied and that the vehicle might be decelerating. Hazard warning lamps are intended as a more general message to nearby drivers that extra attention should be given to the vehicle. A brief illumination of the CHMSL while activating the hazard warning lamps would not confuse the intended general message, nor would the brief illumination in the absence of the other brake lamps cause confusion that the brakes were unintentionally applied."*

DTNA believes that the same situation exists in the present case, with temporary illumination of the brake lamps during ATC activation. The temporary brake light illumination serves to emphasize the message to following drivers that adverse or unusual road conditions may exist and they should pay close attention.

In Docket No. NHTSA-2014-0125 (published on Feb 02, 2018) a Petition for Inconsequentiality by GM was granted by NHTSA. In this instance, under certain conditions the parking lamps on the subject vehicles fail to meet the requirement that parking lamps must be activated when headlamps are activated in a steady burning state. NHTSA stated: *"...The Agency agrees with GM that in this case this situation would have a low probability of occurrence and, if it should occur, it would neither be long lasting nor likely to occur during a period when parking lamps are generally in use. Importantly, when the noncompliance does occur, other lamps remain functional. The combination of all of the factors, specific to this case, abate the risk to safety."*

Please contact me if you have any questions, or concerns.

Sincerely yours,



Andrew Jones

Defect Information Report

(Section 573.6)

FL-792

Date of Submission: *September, 18, 2018*

Manufacturer: Daimler Trucks North America LLC
P.O. BOX 3849
Portland, Oregon 97208

Type of Report: Safety Defect Non-Compliance

Vehicle Information

Model Yr. Start: 2011 Model Yr. End: 2019
Make: *Freightliner, Western Star*
Model: *Business Class M2, 114 SD, 108 SD, 122 SD, Coronado, 4700, 4900*
Production Dates: Begin: *05/4/2010*
End: *08/23/2018*

Descriptive Information:

Certain straight trucks built with Electronic Stability Control that cause the brake lights to illuminate during an automatic traction control (ATC) event.

Number potentially involved: *14,340* Estimated percentage of involve with defect: *100%*

Defect / Noncompliance Description

For this Defect/Noncompliance:

Describe the defect or noncompliance:

Brake lights illuminate with activation of ATC.

If a noncompliance, provide the applicable FMVSS:

FMVSS 108

Describe the safety risk:

DTNA intends to petition the agency pursuant to 49 CFR 556 for exemption from the notice and remedy provisions of the Safety Act on the grounds this noncompliance is inconsequential as it relates to motor vehicle safety.

If applicable, identify the manufacture of the defective or noncompliant component.

N/A

Chronology of Defect / Noncompliance Determination

Provide the chronology of events leading up to the defect decision or test data for the noncompliance decision:

In February 2018, DTNA began an extensive investigation into a possible non-compliance where the brake lights illuminate with ATC activation. February to May 2018, DTNA continued to gather facts to understand the nature and scope of the issue. May 2018, DTNA internal committee met to discuss the brake light illumination strategy. Committee requested that a comprehensive review of the relevant regulations and legal interpretations be undertaken. August 2018, DTNA discussed the issue with counsel and found that more information was needed to interpret the regulations on this topic. September 2018, DTNA determined that a noncompliance existed and decided to file a Part 573 noncompliance information report and petition for exemption from the notice and remedy provisions of the Safety Act for this issue on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Identify the Remedy

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

DTNA intends to petition the agency pursuant to 49 CFR 556 for exemption from the notice and remedy provisions of the Safety Act on the grounds this noncompliance is inconsequential as it relates to motor safety.

Identify the Recall Schedule

Describe the recall schedule for notifications:

DTNA intends to petition the agency pursuant to 49 CFR 556 for exemption from the notice and remedy provisions of the Safety Act on the grounds this noncompliance is inconsequential as it relates to motor safety.

Planned Dealer Notification Begin Date: *mm/dd/yyyy*

Planned Dealer Notification End Date: *mm/dd/yyyy*

Planned Owner Notification Begin Date: *mm/dd/yyyy*

Planned Owner Notification End Date: *mm/dd/yyyy*

Manufacture's identification code for this recall (if applicable): *FL-792*

DTNA Representative;



Andy Jones
Manager
Compliance and Regulatory Affairs

Part 573 Safety Recall Report

18V-645

Manufacturer Name : Daimler Trucks North America LLC**Submission Date :** SEP 19, 2018**NHTSA Recall No. :** 18V-645**Manufacturer Recall No. :** FL-792**Manufacturer Information :**

Manufacturer Name : Daimler Trucks North America LLC

Address : 4747 N. Channel Avenue

Portland OR 97217-3849

Company phone : 800-745-8000

Population :

Number of potentially involved : 14,340

Estimated percentage with defect : 100 %

Vehicle Information :

Vehicle 1 : 2011-2019 Freightliner Business Class M2

Vehicle Type :

Body Style :

Power Train : NR

Descriptive Information : Certain straight trucks built with Electronic Stability Control that cause the brake lights to illuminate during an automatic traction control (ATC) event.

Production Dates : MAY 04, 2010 - AUG 23, 2018

VIN Range 1 : Begin : NR End : NR Not sequential

Vehicle 2 : 2011-2019 Freightliner 114 SD

Vehicle Type :

Body Style :

Power Train : NR

Descriptive Information : Certain straight trucks built with Electronic Stability Control that cause the brake lights to illuminate during an automatic traction control (ATC) event.

Production Dates : MAY 04, 2010 - AUG 23, 2018

VIN Range 1 : Begin : NR End : NR Not sequential

Vehicle 3 : 2011-2019 Freightliner 108 SD

Vehicle Type :

Body Style :

Power Train : NR

Descriptive Information : Certain straight trucks built with Electronic Stability Control that cause the brake lights to illuminate during an automatic traction control (ATC) event.

Production Dates : MAY 04, 2010 - AUG 23, 2018

VIN Range 1 : Begin : NR End : NR Not sequential

Vehicle 4 : 2011-2019 Freightliner 122 SD

Vehicle Type :

Body Style :

Power Train : NR

Descriptive Information : Certain straight trucks built with Electronic Stability Control that cause the brake lights to illuminate during an automatic traction control (ATC) event.

Production Dates : MAY 04, 2010 - AUG 23, 2018

VIN Range 1 : Begin :

NR

End : NR

Not sequential

Vehicle 5 : 2011-2019 Freightliner Coronado

Vehicle Type :

Body Style :

Power Train : NR

Descriptive Information : Certain straight trucks built with Electronic Stability Control that cause the brake lights to illuminate during an automatic traction control (ATC) event.

Production Dates : MAY 04, 2010 - AUG 23, 2018

VIN Range 1 : Begin :

NR

End : NR

Not sequential

Vehicle 6 : 2011-2019 Western Star 4700

Vehicle Type :

Body Style :

Power Train : NR

Descriptive Information : Certain straight trucks built with Electronic Stability Control that cause the brake lights to illuminate during an automatic traction control (ATC) event.

Production Dates : MAY 04, 2010 - AUG 23, 2018

VIN Range 1 : Begin :

NR

End : NR

Not sequential

Vehicle 7 : 2011-2019 Western Star 4900

Vehicle Type :

Body Style :

Power Train : NR

Descriptive Information : Certain straight trucks built with Electronic Stability Control that cause the brake lights to illuminate during an automatic traction control (ATC) event.

Production Dates : MAY 04, 2010 - AUG 23, 2018

VIN Range 1 : Begin :

NR

End : NR

Not sequential

Description of Noncompliance :

Description of the Noncompliance : Brake lights illuminate with activation of ATC.

FMVSS 1 : 108 - Lamps, reflective devices, and assoc. Equipment

FMVSS 2 : NR

Description of the Safety Risk : DTNA intends to petition the agency pursuant to 49 CFR 556 for exemption from the notice and remedy provisions of the Safety Act on the grounds this noncompliance is inconsequential as it relates to motor vehicle safety.

Description of the Cause : NR

Identification of Any Warning that can Occur : NR

Supplier Identification :

Component Manufacturer

Name : NR

Address : NR

NR

Country : NR

Chronology :

In February 2018, DTNA began an extensive investigation into a possible non-compliance where the brake lights illuminate with ATC activation. February to May 2018, DTNA continued to gather facts to understand the nature and scope of the issue. May 2018, DTNA internal committee met to discuss the brake light illumination strategy. Committee requested that a comprehensive review of the relevant regulations and legal interpretations be undertaken. August 2018, DTNA discussed the issue with counsel and found that more information was needed to interpret the regulations on this topic. September 2018, DTNA determined that a noncompliance existed and decided to file a Part 573 noncompliance information report and petition for exemption from the notice and remedy provisions of the Safety Act for this issue on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Description of Remedy :

Description of Remedy Program : DTNA intends to petition the agency pursuant to 49 CFR 556 for exemption from the notice and remedy provisions of the Safety Act on the grounds this noncompliance is inconsequential as it relates to motor safety.

How Remedy Component Differs from Recalled Component : NR

Identify How/When Recall Condition was Corrected in Production : NR

Recall Schedule :

Description of Recall Schedule : DTNA intends to petition the agency pursuant to 49 CFR 556 for exemption from the notice and remedy provisions of the Safety Act on the grounds this noncompliance is inconsequential as it relates to motor safety.

Planned Dealer Notification Date : NR - NR

Planned Owner Notification Date : NR - NR

* NR - Not Reported