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November 22, 2022

VIA SECURE FILE TRANSFER

Gregory Magno
Chief, Vehicle Defects Division D
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20059

Re: Response to Information Request Associated with DP22-002

Dear Chief Magno:

Mercedes-Benz USA, LLC (“MBUSA”) and Mercedes-Benz AG (collectively, for purposes of this letter, “Mercedes-Benz”) respectfully submit this Response to the National Highway Traffic Safety Administration’s (“NHTSA”) Information Request (“IR”) dated September 28, 2022 which is associated with DP22-002. That proceeding (DP22-002) involves the wrist pins of certain Model Year 2015 C300 vehicles manufactured by Mercedes-Benz.

Mercedes-Benz appreciates NHTSA’s interest in gathering information in support of the Office of Defects Investigation’s (“ODI”) analysis of certain MY 2015 vehicles whose engines were equipped with diamond-like carbon (“DLC”) coated wrist pins. As demonstrated in this Response, the limited number of potentially affected wrist pins could contribute to an unintended noise, but they pose no motor vehicle safety risk.

Mercedes-Benz’s request for confidentiality of designated materials and supporting certification are also included with this production. All responses in this production that are designated as confidential are made subject to, contingent upon, and without waiving Mercedes-Benz’s position and assertion that such information is entitled to be protected from disclosure in accordance with 5 U.S.C. §§ 552(b), 18 U.S.C. § 1905, 49 CFR Part 512, and other applicable authority.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Paul A. Hemmersbaugh.

Paul A. Hemmersbaugh

cc: Thomas Healy
R. Thomas Brunner

NHTSA DEFECT PETITION 22-002

**MERCEDES-BENZ
RESPONSE TO INFORMATION REQUEST**

NOVEMBER 22, 2022

Mercedes-Benz USA, LLC (“MBUSA”) and Mercedes-Benz AG (sometimes referred to collectively, for purposes of this submission, as “Mercedes-Benz”) respectfully submit this Response to the National Highway Traffic Safety Administration’s (“NHTSA”) Information Request (“IR”) dated September 28, 2022 and issued in association with Defect Petition DP22-002. As described in detail below, the primary claim in Defect Petition DP22-002 (the “Petition”) concerns allegedly “wrong-sized” wrist pins in certain M274 engines that Mercedes-Benz has replaced under a technical service bulletin to address noise concerns that are entirely unrelated to vehicle safety.

General Objections

Prior to responding to the numbered Requests included in the IR, Mercedes-Benz asserts a few general objections that apply to all of its Responses and clarifies a few facts. Mercedes-Benz objects to the use of absolute terms in the Requests, such as “all,” “any,” and “each” as overly broad and unduly burdensome. Mercedes-Benz also objects to the use of the term “may relate to” as vague, ambiguous, overbroad, subject to different and divergent interpretations, and unduly burdensome. Mercedes-Benz will produce non-privileged documents and information it identifies and gathers in a reasonable search.¹ Mercedes-Benz also objects to the use of the undefined term “mechanical engine damage” as it is vague and ambiguous, imprecise, and subject to multiple different interpretations. For purposes of this Response, Mercedes-Benz will

¹ Mercedes-Benz’s response to the Information Request is based on searches of locations currently in the company’s custody and control, where documents determined to be responsive to the Information Request would normally be found, and in consultation with current personnel knowledgeable about the information requested.

construe the term to mean “physical damage to one or more components of an engine that materially impairs the operation or power of the engine.” When Mercedes-Benz uses the term “mechanical engine damage” in this Response, it will mean and use the definition set forth in the immediately preceding sentence.

General Objection to “Alleged Defect,” and Explanation

Mercedes-Benz generally objects to the Information Request’s definition and use of the term “alleged defect” (hereinafter the “Alleged Defect”) as factually erroneous, and based on an erroneous and potentially misleading premise (which also may be inconsistent with the Petition). The primary claim in the Petition concerns allegedly “wrong-sized” engine wrist pins, which Mercedes-Benz has replaced under a technical service bulletin to address noise concerns that are entirely unrelated to vehicle safety. The Petition alleges that wrong-sized wrist pins can lead to “piston slap” that generates a diesel engine-like noise. It also very briefly – and erroneously – characterizes a Mercedes-Benz service bulletin as “regarding the cause of all the engine failures that came without warning.” NHTSA liberally construed the confused Petition to define the “Alleged Defect” as “incorrectly sized or . . . unsuitable wrist pins causing mechanical engine damage.” *See* IR at 1. However, there is no evidence or reason to believe that the DLC-coated wrist pins at issue would cause mechanical engine damage.

The use of the term “Alleged Defect” as defined includes both an alleged defect and its alleged consequence as the baseline premise for the Information Request. This makes it difficult for Mercedes-Benz to respond in a manner that is both meaningful and accurate. Because the wrist pin flaw and alleged engine damage are not cause-and-effect but two distinct and unrelated

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occurrences, questions about the Alleged Defect are based on a proposition that Mercedes-Benz believes, and the evidence shows, is erroneous. In order to respond directly, therefore, the Company is put to a choice between accepting an erroneous premise or denying the premise and providing no responsive information, because there is none. For example, where a Request seeks the number of warranty claims it has received regarding the Alleged Defect, Mercedes-Benz believes the accurate answer is zero because it has received no warranty claims alleging that a DLC-coated wrist pin caused mechanical engine damage.

In order to cooperate with NHTSA's inquiry and evaluation of whether the "Alleged Defect" exists, however, Mercedes-Benz has endeavored to develop and produce related and adjacent information that will facilitate making that determination. Throughout this Response and Defect Petition proceeding, however, the Company maintains its objection to the term "Alleged Defect" as the Agency has defined it. Mercedes-Benz's firm and unwavering position is that the "Alleged Defect" does not exist and the term as defined in DP22-002 and the associated IR does not make sense. All responses are made subject to and without waiving that objection.

Clarifications and Explanations

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Specific Responses

Request No. 1:

State, by model and model year, the number of subject vehicles Mercedes-Benz has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Mercedes-Benz, state the following:

- a. Vehicle identification number (17-character VIN);**
- b. Model;**
- c. Model Year;**
- d. Subject component part number and design version installed as original equipment;**
- e. Date of manufacture (MM/DD/YYYY);**
- f. Date warranty coverage commenced (MM/DD/YYYY); and**
- g. The State in the United States where the vehicle was originally sold or leased, or delivered for sale or lease (postal abbreviation).**

Provide the table in Microsoft Access 2010, or a compatible format, entitled “PRODUCTION DATA.” A pre-formatted data collection file, which provides further details regarding this submission, will be provided to you.

Response to Request No. 1:

Mercedes-Benz has provided the requested information in a spreadsheet file in Conf Bus

Info_DP22-002_PRODUCTION DATA.xlsx. [

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] The information responsive to this request was last gathered on or before November 1,
2022, by [].

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Request No. 2:

State the number of each of the following, received by Mercedes-Benz, or of which Mercedes-Benz is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles:

- a. Consumer complaints, including those from fleet operators;**
- b. Field reports, including dealer field reports;**
- c. Reports involving a crash, injury or fatality;**
- d. Reports involving a fire;**
- e. Property damage claims; and**
- f. Third-party arbitration proceedings, both pending and closed, where Mercedes-Benz is or was a party to the arbitration; and**
- g. Lawsuits, both pending and closed, in which Mercedes-Benz is or was a defendant or codefendant.**

For subparts “a” through “g” state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for items “c” through “g” provide a summary description of the alleged problem and causal and contributing factors and Mercedes-Benz’s assessment of the problem, with a summary of the significant underlying facts and evidence. For items “f” and “g” identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

Response to Request No. 2:

The numbers provided below are also summarized in the accompanying Conf Bus Info_DP22-002_REQUEST NUMBER TWO DATA.xlsx. In addition to responding to this Request No. 2, the following discussion provides information responsive to data source and search components of other overlapping Requests, including Requests 1, 3 and 4.

Mercedes-Benz has searched for, collected, and combined data from multiple sources in order to create a single complete listing of relevant complaints and field reports available in its

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records. For purposes of this Response, Mercedes-Benz construes “consumer” to mean the person or entity – whether they own, lease, or operate a Subject Vehicle – who contacts Mercedes-Benz about an issue with a Subject Vehicle. [

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a. Consumer complaints, including those from fleet operators;

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b. Field reports, including dealer field reports;

[

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c. Reports involving a crash, injury or fatality;

[

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d. Property damage claims;

[

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- e. Third-party arbitration proceedings where MBUSA is or was a party to the arbitration;**

[

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- f. Pre-litigation demands, matters not yet in suit, or by whatever name called by MBUSA, which were resolved or concluded before the commencement of a filed lawsuit;**

[

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- g. Lawsuits, both pending and closed, in which MBUSA is or was a defendant or codefendant.**

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]

Information responsive to this request was last provided by the [

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Request No. 3:

Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:

- a. Mercedes-Benz's file number or other identifier used;**
- b. The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);**
- c. Vehicle owner or fleet name (and fleet contact person), email address and telephone number (please use distinct fields for each data type);**
- d. Vehicle owner or fleet street address, city, state (postal abbreviation), and ZIP code (please use distinct fields for each data type);**
- e. Vehicle's 17-character VIN;**
- f. Vehicle's make, model and model year (please use distinct fields for each data type);**
- g. Vehicle's mileage at time of incident;**
- h. Incident date (MM/DD/YYYY);**
- i. Report or claim date (MM/DD/YYYY);**
- j. Whether a crash is alleged;**
- k. Whether a fire is alleged;**
- l. Whether property damage is alleged;**
- m. Number of alleged injuries, if any; and**
- n. Number of alleged fatalities, if any.**

Provide this information in Microsoft Access 2010, or a compatible format, entitled "REQUEST NUMBER TWO DATA." A pre-formatted data collection file, which provides further details regarding this submission, will be provided to you.

Response to Request No. 3:

Information responsive to Request No. 3 is compiled in Conf Bus Info_DP22-002_REQUEST NUMBER TWO DATA.xlsx. [

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The information responsive to this request was last gathered on or before October 13, 2022,

by [

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Request No. 4:

Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method Mercedes-Benz used for organizing the documents. Describe in detail the search methods and search criteria used by Mercedes-Benz to identify the items in response to Request No. 2.

Response to Request No. 4:

- a. Consumer complaints, including those from fleet operators.**

[

] Again, for purposes of this Response,

Mercedes-Benz construes “consumer” as a person or entity – whether they own, lease, or operate a Subject Vehicle -- who contacts Mercedes-Benz to describe a problem.

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b. Field reports, including dealer field reports

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c. Reports involving a crash, injury, or fatality.

[

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d. Reports involving a fire.

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e. Property damage claims.

[

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f. Third-party arbitration proceedings, both pending and closed, where Mercedes-Benz is or was a party to the arbitration

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g. Lawsuits, both pending and closed, in which Mercedes-Benz is or was a defendant or codefendant

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The information responsive to this request was last provided by [
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Request No. 5:

State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by Mercedes-Benz to date that relate to, or may relate to, the alleged defect in the subject vehicles: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.

Separately, for each such claim, state the following information:

- a. Mercedes-Benz's claim number;
- b. Vehicle owner or fleet name (and fleet contact person), email address and telephone number (please use distinct fields for each data type);
- c. Vehicle owner or fleet street address, city, state (postal abbreviation), and ZIP code (please use distinct fields for each data type);
- d. 17-character VIN;
- e. Repair date (MM/DD/YYYY);
- f. Vehicle mileage at time of repair;
- g. Repairing dealer's or facility's name, telephone number, city and state or ZIP code (please use distinct fields for each data type);
- h. Labor operation number(s);
- i. Problem code(s);
- j. Diagnostic trouble code(s);
- k. Replacement part number(s) and description(s);
- l. Concern stated by customer;
- m. Cause as stated on the repair order;
- n. Correction as stated on the repair order; and
- o. Additional comments, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "WARRANTY DATA." A pre-formatted data collection file, which provides further details regarding this submission, will be provided to you.

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Response to Request No. 5:

Mercedes-Benz objects to the use of the term “may relate to” in this Request. The term is vague and overbroad, ambiguous, indefinite, subject to different interpretations, and unduly burdensome. Mercedes-Benz’s response to this Request No. 5 is based on a reasonable search for claims that relate to the Alleged Defect as that term is defined in the Information Request. The Defect Petition proceeding and this IR define the Alleged Defect as (i) “incorrectly sized or otherwise unsuitable wrist pins (ii) causing mechanical engine damage” in the subject vehicles.

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Request No. 6:

Describe in detail the search methods and search criteria used by Mercedes-Benz to identify the claims in response to Request No. 5, including the labor operations, problem codes, diagnostic trouble codes, part numbers and any other pertinent parameters used.

Response to Request No. 6:

[

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] The information responsive to this request was last gathered on or before October 14, 2022, by []

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Request No. 7:

Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions, diagnostic trouble codes and diagnostic trouble code descriptions applicable to the alleged defect in the subject vehicles. State whether the diagnostic trouble codes are automatically reported to the warranty database electronically or manually entered into the warranty database by a claims administrator.

Response to Request No. 7:

[

]

The foregoing information was developed by [

]

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Request No. 8:

State, by make and model year, the terms of the new vehicle warranty coverage offered by Mercedes-Benz on the subject vehicles (i.e., the number of months and mileage for which coverage is provided and the vehicle systems that are covered). Describe any extended warranty coverage option(s) that Mercedes-Benz offered for the subject vehicles and state by option, model, and model year, the number of vehicles that are covered under each such extended warranty.

Response to Request No. 8:

The standard warranty for all Subject Vehicles is 4 years or 50,000 miles (the “New Vehicle Limited Warranty”). Additional warranties are offered in accordance with federal and state laws, including: Federal Emissions Performance of 2 years or 24,000 miles for emissions related parts, the Federal Emissions Performance of 8 years or 80,000 miles for the Subject Vehicle’s converter and engine control unit, and various Emissions Performance Warranties specific to certain U.S. states.

Additionally, for an additional fee Customers could purchase an extended limited warranty (“Extended Limited Warranty”) at the time of purchase of the Subject Vehicle. The Extended Limited Warranty offers warranty coverage for an additional 2 years and unlimited miles. The available Certified-Preowned Limited Warranty (for CPO vehicles), increases the time and mileage coverage to a total of 7 years or 70,000 miles (3 years or 20,000 miles beyond the New Vehicle Limited Warranty coverage). [

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The information responsive to this request was last gathered on or before November 16th,
2022, by [
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Request No. 9:

Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles, that Mercedes-Benz has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that Mercedes-Benz is planning to issue within the next 120 days.

Response to Request No. 9:

Mercedes-Benz objects to the term “may relate to” as extremely broad, vague, ambiguous, indefinite, subject to different interpretations, and unduly burdensome. This Response includes and describes information and communications that are referenced in the Defect Petition. However, that information does not pertain to the Alleged Defect as defined in the Information Request. Subject to and without waiving its objections, [

]

The information responsive to this request was last gathered on or before November 7, 2022, by [

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Request No. 10:

Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, “actions”) that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, Mercedes-Benz. For each such action, provide the following information:

- a. Action title or identifier;**
- b. The actual or planned start date;**
- c. The actual or expected end date;**
- d. Brief summary of the subject and objective of the action;**
- e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and**
- f. A brief summary of the findings and/or conclusions resulting from the action.**

For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

Response to Request No. 10:

Mercedes-Benz objects to the use of the term “may relate to” in this Request No. 10, and anywhere it is used in this Information Request. The term is overbroad, ambiguous, indefinite, subject to different interpretations, and unduly burdensome. Mercedes-Benz also repeats its objection to the term “Alleged Defect” [

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a. Action title or identifier;

[

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b. The actual or planned start date;

[

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c. The actual or expected end date;

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d. Brief summary of the subject and objective of the action;

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- e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action;**

[

]

- f. A brief summary of the findings and/or conclusions resulting from the action.**

[

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The information responsive to this request was last gathered on or before November 17,
2022, by []

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Request No. 11:

Describe all modifications or changes made by, or on behalf of, Mercedes-Benz in the design, material composition, manufacture, quality control, supply, or installation of the subject component, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles. For each such modification or change, provide the following information:

- a. The date or approximate date on which the modification or change was incorporated into vehicle production;**
- b. A detailed description of the modification or change;**
- c. The reason(s) for the modification or change;**
- d. The part number(s) (service and engineering) of the original component;**
- e. The part number(s) (service and engineering) of the modified component;**
- f. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;**
- g. When the modified component was made available as a service component; and**
- h. Whether the modified component can be interchanged with earlier production components.**

Also, provide the above information for any modification or change that Mercedes-Benz is aware of which may be incorporated into vehicle production within the next 120 days.

Response to Request No. 11:

Mercedes-Benz objects to the use of the term “may relate to” in this Request. The term is overbroad, ambiguous, indefinite, subject to different interpretations and unduly burdensome.

Mercedes-Benz also reiterates its objections and explanations regarding the terms “Alleged Defect” and mechanical engine damage and their application in this Information Request.

Subject to and without waiving its objections, [

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- a. The date or approximate date on which the modification or change was incorporated into vehicle production;**

[

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- b. A detailed description of the modification or change;**

[

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- c. The reason(s) for the modification or change;**

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d. The part number(s) (service and engineering) of the original component;

[

]

e. The part number(s) (service and engineering) of the modified component;

[

]

f. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;

[

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g. When the modified component was made available as a service component;

[

]

h. Whether the modified component can be interchanged with earlier production components.

[

]

Information responsive to this request was last gathered on or before November 14, 2022,
by [

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Request No. 12:

Furnish Mercedes-Benz's assessment of the alleged defect in the subject vehicles, including:

- a. The causal or contributory factor(s);**
- b. The failure mechanism(s);**
- c. The failure mode(s);**
- d. The risk to motor vehicle safety that it poses; and**
- e. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring, or subject component was malfunctioning; and**
- f. The reports included with this inquiry.**

Response to Request No. 12:

Mercedes-Benz specifically further objects to the definition of "Alleged Defect" because it is based on the erroneous premise that complaints and claims involving a clattering/rattling noise from "incorrectly sized or otherwise unsuitable wrist pins" [] also involve actual or alleged mechanical engine damage. [

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The term “Alleged Defect” here refers to engine mechanical damage caused by uneven coating application on wrist pins in some of the M274 LS engines equipped in 2015 C300 vehicles, built prior to May 2, 2015. [

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a. The causal or contributory factor(s);

[

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]

b. The failure mechanism(s)

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]

c. The failure mode(s)

[

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]

d. The risk to motor vehicle safety that it poses

[

]

e. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring, or subject component was malfunctioning

[

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f. The reports included with this inquiry

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Conclusion

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The Defect Petition is baseless and should be denied.