(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments and other materials.

**Comments**

Interested persons are invited to submit written data, views and arguments on the petition of GM, described above. Comments should refer to the Docket Number and be submitted to: Docket Management, Room PL 401, 400 Seventh Street SW, Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent practicable. When the application is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

*Comment closing date:* August 7, 2002.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: July 2, 2002.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 02–17010 Filed 7–5–02; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2002–12544; Notice 1]**

### Mercedes-Benz, U.S.A., Inc., Receipt of Application for Decision of Inconsequential Noncompliance

Mercedes-Benz, U.S.A., Inc., (MBUSA) has determined that a limited number of model year 2003 Mercedes-Benz SL-Class, E-Class and CLK-Class vehicles it produced and sold is not in full compliance with 49 CFR 571.135, Federal Motor Vehicle Safety Standard (FMVSS) No. 135, ''Passenger Car Brake Systems,'' and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' MBUSA has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application 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 application.

The noncompliant vehicles were produced and sold with brake warning indicators that do not meet certain requirements mandated by FMVSS No. 135. Paragraph S5.5.5(a) of FMVSS No. 135 requires that all vehicles be equipped with a brake warning indicator lamp. The standard enumerates specific minimum parameters applicable to the warning:

> Each visual indicator shall display a word or words in accordance with the requirements of Standard No. 101 (49 CFR 571.101) [i.e., ''Brake''] and this section, 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 (⅛ inch) high and the letters and background shall be of contrasting colors, one of which is red. Words and symbols in addition to those required by Standard No. 101 and this section may be provided for purposes of safety.

The affected vehicles are equipped with a ''Brake'' indicator warning lamp located in the upper right hand corner of the speedometer display. The letters in the indicator warning ''BRAKE'' were changed from all upper case letters to mixed upper and lower case letters. As a result, the letters ''B'' and ''k'' in the ''Brake indicator lamp meet the minimum height requirements of FMVSS No. 135, but the letters ''r,'' ''a,'' and ''e'' are 7/10 mm shorter than the minimum 3.2 mm requirements. MBUSA does not believe that the 7/10 mm difference is discernable by the average driver for the following reasons:

1. The ''Brake'' warning indicator is still easily recognizable due to its positioning on the dashboard, the color of the indicator and other factors.

2. In addition to the ''Brake'' warning indicator, each of the affected Mercedes-Benz vehicles is also equipped with a dual screen message center that provides brake system information in a highly visible and audible manner.

MBUSA believes that the noncompliance is inconsequential to motor vehicle safety, and no corrective action is warranted. Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: August 7, 2002.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 2, 2002.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 02–17011 Filed 7–5–02; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Petition for Exemption from the Vehicle Theft Prevention Standard; BMW

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

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the petition of BMW of North America, LLC (BMW) for an exemption of a high-theft line, the BMW [confidential nameplate], from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. The BMW vehicle line will replace the current Z3 vehicle line. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. BMW requested confidential treatment for some of the information submitted in support of its petition. The agency will address BMW's request for confidential treatment by separate letter.

**DATES:** The exemption granted by this notice is effective beginning with the 2003 model year (MY).

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street SW, Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

**SUPPLEMENTAL INFORMATION:** In a petition dated May 17, 2002, BMW of North America, LLC (BMW), requested

exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the BMW [confidential] vehicle line, beginning with MY 2003. The petition has been filed pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for an entire vehicle line. Based on the evidence submitted by BMW, the agency believes that the antitheft device for the BMW [confidential] vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

Section 33106(b)(2)(D) of Title 49, United States Code, authorized the Secretary of Transportation to grant an exemption from the parts-marking requirements for not more than one additional line of a manufacturer for MYs 1997–2000. However, it does not address the contingency of what to do after model year 2000 in the absence of a decision under Section 33103(d). 49 U.S.C. 33103(d)(3) states that the number of lines for which the agency can grant an exemption is to be decided after the Attorney General completes a review of the effectiveness of antitheft devices and finds that antitheft devices are an effective substitute for parts-marking. The Attorney General has not yet made a finding and has not decided the number of lines, if any, for which the agency will be authorized to grant an exemption. Upon consultation with the Department of Justice, we determined that the appropriate reading of Section 33103(d) is that the National Highway Traffic Safety Administration (NHTSA) may continue to grant parts-marking exemptions for not more than one additional model line each year, as specified for model years 1997–2000 by 49 U.S.C. 33106(b)(2)(C). This is the level contemplated by the Act for the period before the Attorney General's decision. The final decision on whether to continue granting exemptions will be made by the Attorney General at the conclusion of the review pursuant to Section 330103(d)(3).

BMW's submittal is considered a complete petition, as required by 49 CFR part 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. BMW will install its antitheft device as standard equipment on the MY 2003 BMW [confidential] vehicle line. The antitheft device is a passive, electronically-coded vehicle immobilizer (EWS) system. The device will prevent the vehicle from being driven away under its own engine power in the event the ignition lock and doors have been manipulated. The device is automatically activated when the engine is shut off and the vehicle key is removed from the ignition lock cylinder. In addition to the key, the antitheft device can be activated by the use of its radio frequency remote control. Locking the vehicle door and trunk by using the key cylinder or the radio frequency remote control will further secure the vehicle. BMW stated that the frequency codes for the remote control constantly change to prevent an unauthorized person from opening the vehicle by intercepting the signals of its remote control.

The EWS system consists of a key with a transponder, a loop antenna (coil) around the steering lock cylinder, an EWS control unit and an engine control unit (DME/DDE) with encoded start release input.

BMW stated that in the key is a transponder, a special transmitter/receiver that communicates with the EWS control through the transceiver module. The transponder chip which is integrated in the key consists of a transmitter/receiver, a small antenna coil, and a memory which can be written to and read from. The memory contains its own unique key and customer service data.

BMW states that the EWS control unit provides the interface to the loop antenna (coil), engine control unit and starter. BMW also states that the engine control unit with coded start release input has been designed in such a manner that the ignition and the fuel supply are only released when a correct release signal has been sent by the EWS control unit. The EWS control unit inspects the key data for correctness and allows the ignition to operate and fuel supply to be released when a correct signal has been received.

The vehicle is also equipped with a central locking system which locks all doors, the hood, the trunk and fuel filler lid. The central locking system also allows the driver to unlock the driver's door while the passenger doors remain locked. This feature offers additional security by preventing unauthorized entry of the vehicle through the passenger doors. BMW also states that it is also possible to unlock all doors via the central locking system. To prevent locking the keys in the car upon exiting, the driver's door can only be locked with a key or by use of the radio frequency remote control after it is closed. This also locks the other doors. If the doors are open at the time of locking, they are automatically locked when they are closed.

BMW discussed the uniqueness of its locks and its ignition key. The keys have guide-ways milled in the middle of both sides of the key bit. The same key operates the door locks and the ignition/steering lock and it can be inserted in a keyhole in either direction. However, BMW stated that its vehicle's locks are almost impossible to pick, and its ignition key cannot be duplicated on the open market.

BMW also stated that a special key blank, key-cutting machine and owner's individual key code are needed to cut a new key, and that its key blanks, machines and codes will be closely controlled. Additionally, new keys will only be issued to authorized persons and spare keys can only be obtained through the dealership because they are not copies of lost originals, but new keys with their original electronic identification. As an additional security measure, lost keys can be disabled at the vehicle and enabled again. BMW also stated that every key request is documented so that any inquiries by insurance companies and investigative authorities can be followed up on.

BMW states that the steering/ignition lock is hardened against the grip of a screw and the housing is reinforced to prevent removal of the lock. When the key is removed, a mechanism causes the lock to engage, thereby preventing steering wheel movement without any additional action. Additionally, vehicles equipped with automatic transmission have an ignition/transmission interlock that prevents ignition key removal unless the shift lever is in the ''Park'' position preventing movement of the shift lever until the key is turned in the lock.

The BMW [confidential nameplate] battery will be covered and inaccessibly located. Disconnecting the battery will not unlock the doors. However, in the event of an accident, an inertia switch will automatically unlock all the doors.

BMW also stated that its antitheft device does not incorporate any audible or visual alarms. However, based on the declining theft rate experience of other vehicles equipped with devices that do not have an audio or visual alarm for which NHTSA has already exempted from the parts-marking requirements, the agency has concluded that the data indicate that lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

BMW compared the device proposed for its new line with devices which NHTSA has previously determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of part 541, and has concluded that the antitheft device proposed for this line is no less effective than those devices in the lines for which NHTSA has already granted exemptions from the parts-marking requirements. The antitheft system that BMW intends to install on its new vehicle line for MY 2003 exactly the same system that is currently installed on its Carline 3, Carline 5, Carline 7, X5 and MINI vehicle lines. The agency granted BMW's petition for modification of its Carline 7 beginning with MY 1995 (*See* 59 FR 47973, September 19, 1994); and its petitions for exemptions granted in full for Carline 5 beginning with MY 1997, Carline 3 beginning with MY 1999, the X5 vehicle line beginning with MY 2000, and the MINI beginning with MY 2002. (*See* 61 FR 6292, February 16, 1996, 62 FR 62800, November 25, 1997, 64 FR 33947, June 24, 1999 and 66 FR 33604, June 22, 2001 respectively).

In order to ensure reliability and durability of the device, BMW conducted performance tests based on its own specified standards. BMW provided a detailed list of the following tests conducted: climatic tests, high temperature endurance run, thermoshock test in water, chemical resistance, vibrational load, electrical ranges, mechanical shock tests, and electromagnetic field compatibility.

Additionally, BMW stated that its immobilizer system fulfills the requirements of the European vehicle insurance companies which became standard as of January 1995. The requirements prescribe that the vehicle must be equipped with an electronic vehicle immobilizing device which works independently from the mechanical locking system and prevents the operation of the vehicle through the use of coded intervention in the engine management system. In addition, the device must be self-arming (passive), become effective upon leaving the vehicle, or not later than the point at which the vehicle is locked, and allow deactivation of the vehicle by electronic means and not by use of the mechanical key.

Based on evidence submitted by BMW, the agency believes that the antitheft device for the vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

The agency believes that the device will provide four of the five types of performance listed in 49 CFR part 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device. The device lacks the ability to attract attention to the efforts of unauthorized persons to enter or operate a vehicle by a means other than a key (§ 541.6(a)(3)(ii)).

As required by 49 U.S.C. 33106 and 49 CFR part 543.6(a)(4) and (5), the agency finds that BMW has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information BMW provided about its antitheft device. For the foregoing reasons, the agency hereby grants in full BMW of North America's petition for an exemption for the MY 2003 vehicle line from the parts-marking requirements of 49 CFR part 541. If BMW decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if BMW wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.'' The agency wishes to minimize the administrative burden that part 543.9(c)(2) could place on exempted vehicle manufacturers and itself.

The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: July 2, 2002.

**Stephen R. Kratzke,**

*Associate Administrator for Safety, Performance Standards.*

[FR Doc. 02–17008 Filed 7–5–02; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2002–12367; Notice 1]**

### Toyota Motor Corporation; Receipt of Application for Determination of Inconsequential Non-Compliance

Toyota Motor Corporation (TMC) of Toyota-cho, Aichi-ken, Japan, has applied to be exempted from the notification and remedy requirements of the 49 U.S.C. Chapter 301 ''Motor Vehicle Safety'' for noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 205 ''Glazing Materials,'' on the basis that the noncompliance is inconsequential to motor vehicle safety. TMC has filed a report of noncompliance pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of the application 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 application. *See* 49 U.S.C. 30118(d) and 30120(h).

TMC submitted the following information in accordance with the requirements of 49 CFR part 556, ''Exemption for Inconsequential Defect or Noncompliance.''

**Summary of the Petition**

TMC has determined that certain 2002 model year Lexus SC430 vehicles are equipped with an airdam which fails to meet the marking requirement of FMVSS No. 205 ''Glazing Materials.'' Based on production records, TMC has determined the affected vehicle population includes model year 2002 Lexus SC430 vehicles produced by TMC between January 8, 2001 and May 17, 2001. The total number of vehicles potentially affected is 5,789.

Certain Lexus SC430 vehicles were equipped with an airdam, which was not marked as specified in Section 6 of ANS Z26 (incorporated by reference in FMVSS No. 205), with the ''DOT'' symbol and a manufacturer's code marking. According to TMC, during its design and testing process, it confirmed that the airdam meets the performance requirements of ANS Z26 for item 4 and item 5 glazing as referenced by FMVSS