

that it flashes during emergency braking. We note, however, that some of the benefits associated with signal lamps relate to standardization. We have not made any determination as to whether it would be appropriate to permit flashing stop lamps more generally. Instead, the granting of this petition will help the agency gather additional information necessary to evaluate more fully the effects of flashing brake signaling systems on motor vehicle safety.

As required by § 555.6(b), MBUSA described the flashing brake signaling system and provided research, development, and testing documentation. This information included a detailed description of how a vehicle equipped with the MBUSA flashing brake signaling system differs from one that complies with the standard. MBUSA also explained how an exemption would facilitate their safety research efforts. Specifically, MBUSA will gather information about rear-end collisions of vehicles equipped with the system. This information will be combined with the parallel results from the European fleet in order to provide data upon which the agency may base its evaluation of potential safety benefits of flashing brake signals.

Based on the petitioner's driver behavior study and other supporting research, we tentatively conclude that the flashing brake signaling system provides the level of safety that is at least equal to that of systems that comply with FMVSS No. 108.

Finally, we believe that an exemption is in the public interest because the new field data obtained through this temporary exemption would enable the agency to make more informed decisions regarding the effect of flashing brake signaling systems on motor vehicle safety.

With respect to Mr. Van Iderstine's comments, we note that the agency decision is fully consistent with our previous decision not to amend FMVSS No. 108. Instead of a broad and permanent change in the long-standing policy regarding flashing stop lamps, this document grants a narrow temporary exemption to a discreet group of (at most) 5,000 vehicles. In denying the petition to amend FMVSS No. 108, we indicated that NHTSA has been conducting research related to signal enhancements at the Virginia Tech Transportation Institute, and also analyzing crash and "close call" data from a 100-car naturalistic driving study to determine the potential of enhanced rear signaling as a means to reduce rear crashes. Together with that information, we believe that the field data obtained

through this temporary exemption would enable the agency to make more informed decisions regarding the effect of flashing brake signaling systems on motor vehicle safety. We also believe that more recent data on the effectiveness of flashing stop lamps (compared to NHTSA's 1981 large scale field study) would be beneficial.

With respect to Candlepower comments, we first note that the statutory temporary exemption provisions found in 49 U.S.C. 30113 provide for more than one basis for granting a temporary exemption and specifically contemplate limited temporary exemptions for the purposes of field evaluation of new motor vehicle safety features.⁹ We also note that vehicles equipped with this safety feature are already being sold in Europe. Therefore, this petition is not an attempt to circumvent more restrictive European regulations, as suggested by Candlepower. Finally, we note that the statute authorizing the agency to grant temporary exemptions for the purposes of field evaluation of new motor vehicle safety features specifically contemplates their use on U.S. roads. As the petitioner indicated, considerable research has already been performed. However, to aid the agency in evaluating the potential safety benefits of brake lights that flash during extreme deceleration, it would be beneficial to obtain field data from a discreet group of motor vehicles. This temporary exemption, which would apply to up to 5,000 vehicles, affords the agency this opportunity.

Candlepower raised certain concerns regarding potential negative safety consequences of the brake flashing signaling system contemplated by the petitioner. However, Candlepower has not provided any data in support of their position.

In consideration of the foregoing, the agency is granting the MBUSA petition for a temporary exemption from the requirements of S5.5.10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment* in order to facilitate the development and field evaluation of new motor vehicle safety feature providing a level of safety at least equal to that of the standard.

In accordance with 49 U.S.C. 30113(b)(3)(B)(ii), MBUSA is granted NHTSA Temporary Exemption No. EX 05-6, from Paragraph S5.5.10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. The exemption

will remain in effect until January 23, 2008.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on: January 23, 2006.

Jacqueline Glassman,

Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition To Modify an Exemption of a Previously Approved Antitheft Device; General Motors Corporation

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

ACTION: Grant of a petition to modify an exemption from the Parts Marking Requirements of a previously approved antitheft device.

SUMMARY: On July 12, 2005, the National Highway Traffic Safety Administration (NHTSA) granted in full General Motors Corporation's (GM) petition to exempt the Chevrolet Cobalt vehicle line from the parts-marking requirements of the vehicle theft prevention standard (*See* 70 FR 40102). The exemption was granted because the agency determined that the antitheft device proposed to be placed on the line as standard equipment was likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. On August 24, 2005, GM petitioned the agency to amend the exemption currently granted for the Chevrolet Cobalt vehicle line. NHTSA is granting in full GM's petition to modify the exemption because it has determined that the modified antitheft device to be placed on the Chevrolet Cobalt line as standard equipment will also likely be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366-0846. Her fax number is (202) 493-2290.

SUPPLEMENTARY INFORMATION: On July 12, 2005, NHTSA published in the

⁹ See 49 U.S.C. § 30113(b)(3)(B)(ii).

Federal Register a notice granting in full the petition from GM for an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR 541) for the MY 2005 Chevrolet Cobalt vehicle line. The Chevrolet Cobalt is equipped with the Passlock III anti-theft device (*See* 70 FR 40102).

This notice grants in full GM's August 24, 2005, petition to modify the exemption of the previously granted petition for the MY 2006 Chevrolet Cobalt. GM's August 24, 2005, submission is a complete petition, as required by 49 CFR Part 543.9(d), in that it meets the general requirements contained in 49 CFR Part 543.5 and the specific content requirements of 49 CFR Part 543.6. GM's petition provides a detailed description of the identity, design and location of the components of the anti-theft system proposed for installation beginning with the 2006 model year.

The current anti-theft device (Passlock III) installed on the Chevrolet Cobalt is a passively activated, transponder-based electronic immobilizer system. GM stated that its current device uses a standard ignition key to rotate a specially coded ignition switch. Before the vehicle can be operated, the electrical code in the ignition switch must be read and determined to match the value stored in the decoder module.

The electrical code in the ignition switch is provided by resistive elements enabled by the lock cylinder. When a key with the proper mechanical cut is inserted in the lock cylinder and rotated from "RUN" to "Crank", the resistive code will become readable by the decoder module. When the decoder module recognizes a valid code, fuel flow is enabled and the vehicle can be operated.

In its petition to modify its exemption, GM stated that it proposes to install its Chevrolet Cobalt vehicle line with its PASS-Key III+ anti-theft device for MY 2006. The PASS-Key III+ device is designed to be active at all times without direct intervention by the vehicle operator. The anti-theft device is fully armed immediately after the ignition has been turned off and the key removed and it will continue to provide protection against unauthorized starting and fueling of the vehicle engine.

Components of the modified anti-theft device include a special ignition key and decoder module. Before the vehicle can be operated, the key's electrical code must be properly sensed and decoded by the PASS-Key III+ control module. The ignition key contains electronics molded into the key head. These electronics receive energy and data from the control module. Upon

receipt of the data, the key will calculate a response to the data using secret information and an internal encryption algorithm, and transmit the response back to the vehicle. The controller module translates the radio frequency signal received from the key into a digital signal and compares the received response to an internally calculated value. If the values match, the key is recognized as valid, and vehicle starting is allowed.

GM stated that although its modified anti-theft device provides protection against unauthorized starting and fueling of the vehicle, it does not provide any visible or audible indication of unauthorized entry by means of flashing vehicle lights or sounding of the horn. Since the system is fully operational once the vehicle has been turned off, specific visible or audible reminders beyond key removal reminders have not been provided.

Based on comparison of the reduction in the theft rates of GM vehicles using a passive theft deterrent device with an audible/visible alarm system to the reduction in theft rates for GM vehicle models equipped with a passive anti-theft device without an alarm, GM finds that the lack of an alarm or attention attracting device does not compromise the theft deterrent performance of a system such as PASS-Key III+. The agency has previously agreed with the finding that the absence of a visible or audible alarm has not prevented these anti-theft devices from being effective protection against theft.

In addressing the specific content requirements of 543.6, GM provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, GM conducted tests based on its own specified standards. GM also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test. Additionally, GM stated that its proposed device is reliable and durable because the components are validated for a vehicle life of 10 years and 150,000 miles of performance. GM stated that for reliability/durability purposes, its key and key cylinders must also meet unique strength tests against attempts of mechanical overriding. The PASS-Key III+ device performs the same function as its predecessors, however it uses a higher level of electrical sophistication to provide a key, which is protected from electrical duplication.

GM compared its MY 2006 anti-theft device with devices which NHTSA has already determined to be as effective in

reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. To substantiate its beliefs as to the effectiveness of the new device, GM compared the MY 2006 modified device to its "PASS-Key"-like systems. GM indicated that the theft rates, as reported by the Federal Bureau of Investigation's National Crime Information Center, are lower for GM models equipped with the "PASS-Key"-like systems which have exemptions from the parts-marking requirements of 49 CFR Part 541, than the theft rates for earlier models with similar appearance and construction which were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III systems on other GM models, and the advanced technology utilized by the modification, GM believes that the MY 2006 anti-theft device will be more effective in deterring theft than the parts-marking requirements of 49 CFR Part 541.

Additionally, GM stated that the PASS-Key III+ system has been designed to enhance the functionality and theft protection provided by GM's first, second, and third generation PASS-Key, PASS-Key II, and PASS-Key III systems.

On the basis of this comparison, GM stated that the anti-theft device (PASS-Key III+) for model years 2006 and later will provide essentially the same functions and features as found on its MY 2005 Passlock III device and therefore, its modified device will provide at least the same level of theft prevention as parts-marking. GM believes that the anti-theft device proposed for installation on its MY 2006 Chevrolet Cobalt vehicle line is likely to be as effective in reducing thefts as compliance with the parts-marking requirements of Part 541.

The agency has evaluated GM's MY 2006 petition to modify the exemption for the Chevrolet Cobalt vehicle line from the parts-marking requirements of 49 CFR Part 541, and has decided to grant it. It has determined that the PASS-Key III+ system is likely to be as effective as parts-marking in preventing and deterring theft of these vehicles, and therefore qualifies for an exemption under 49 CFR Part 543. The agency believes that the modified device will continue to provide four of the five types of performance listed in Section 543.6(b)(3): Promoting activation; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

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: January 23, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Mercedes-Benz

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 Mercedes-Benz USA, LLC., (MBUSA) in accordance with § 543.9(c)(2) of 49 CFR part 543, *Exemption from the Theft Prevention Standard*, for the E-Line Chassis vehicle line beginning with model year (MY) 2006. 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.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Ballard's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

SUPPLEMENTARY INFORMATION: In a petition dated September 16, 2005, MBUSA requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the MY 2006 E-Line Chassis vehicle line. The petition requested exemption from parts-marking 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.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one line of its vehicle lines per year. In

its petition, MBUSA provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the E-Line Chassis vehicle line. MBUSA will install its passive, antitheft device as standard equipment beginning with MY 2006. Features of the antitheft device will include an electronic key and ignition lock, a passive immobilizer and a visible and audible alarm. MBUSA's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

MBUSA stated that the proposed device would utilize a transmitter key, an electronic ignition starter control unit and an engine control unit, which will work collectively to perform the immobilizer function. The immobilizer will prevent the engine from running unless a valid key is used. Immobilization is activated when the key is removed from the ignition switch, whether the doors are open or closed. Once activated, a valid, coded-key must be inserted into the ignition switch to disable immobilization and permit starting of the vehicle.

In addressing the specific content requirements of 543.6, MBUSA provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, MBUSA conducted tests based on its own specified standards. MBUSA also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test.

MBUSA also compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. MBUSA stated that its proposed device is functionally equivalent to the systems used in previous vehicle lines which were deemed effective and granted exemptions from the parts-marking requirements of the theft prevention standard. Additionally, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which MBUSA proposes to install on the new line.

On the basis of this comparison, MBUSA has concluded that the antitheft device proposed for its E-Line Chassis vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full

exemption from the parts-marking requirements.

Based on the evidence submitted by MBUSA, the agency believes that the antitheft device for the E-Line Chassis 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 concludes that the device will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; 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.

As required by 49 U.S.C. 33106 and 49 CFR 543.6 (a)(4) and (5), the agency finds that MBUSA has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information MBUSA provided about its device, much of which is confidential.

For the foregoing reasons, the agency hereby grants in full MBUSA's petition for exemption for the vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If MBUSA 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 MBUSA 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 anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission