

- Objectives,
- Implementation strategies,
- Performance measures, and
- Monitoring and evaluation plan.

Upon receipt, the applications will be reviewed by FMCSA and prioritized for potential funding. Applicants approved for funding will be required to enter into a grant agreement with FMCSA. A Division Administrator will execute the grant agreement with the applicant on behalf of FMCSA.

If funds remain available after allocations are made for applications submitted by April 28, 2006, additional applications may be submitted and will be considered for funding until all available funds have been allocated.

A copy of the MCSAP-1 grant application form is available and can be downloaded from <http://www.fmcsa.dot.gov/safety-security/safety-initiatives/mcsap/mcsapforms.htm>.

It is anticipated the grants.gov application process will be available for use by applicants applying for MCSAP New Entrant and High Priority grants by April 28, 2006.

Addresses of the FMCSA Division Offices are available on the Internet at <http://www.fmcsa.dot.gov/about/contact/offices/displayfieldroster.asp>.

Issued on: March 20, 2006.

**Annette M. Sandberg,**

*Administrator.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Denial of Motor Vehicle Defect Petition

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

**ACTION:** Denial of petition for a defect investigation.

**SUMMARY:** This notice sets forth the reasons for the denial of a petition submitted by Ms. Elyse Gerber to NHTSA's Office of Defects Investigation (ODI), received October 13, 2005, under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety with respect to electrical system shut down on model year (MY) 2000 Mercedes Benz E430 vehicles. After a review of the petition and other information, NHTSA has concluded that further expenditure of the agency's investigative resources on the issues

raised by the petition does not appear to be warranted. The agency accordingly has denied the petition. The petition is hereinafter identified as DP05-007.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steve Chan, Defects Assessment Division, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-8537.

**SUPPLEMENTARY INFORMATION:** By letter dated September 20, 2005, Ms. Gerber of Belleair Beach, FL, submitted a petition requesting that the agency investigate electrical system shut down on MY 2000 Mercedes Benz E430 vehicles. The petitioner alleges that coffee from a cup, placed in the cup holder, spilled onto the gear shifter and shut down the vehicle's entire electrical system. The petitioner indicated that the vehicle jerked and slowed down, but she was able to maneuver the vehicle off the highway and into a shopping center parking lot.

The concern raised by the petitioner was investigated by the Office of Defects Investigation (ODI) of NHTSA. The investigation (SQ01-010) was opened on September 25, 2001 on MY 2000 through 2001 Mercedes Benz SLK, C, CLK, and E Series vehicles. NHTSA opened the investigation after receiving three complaints concerning liquid spillage onto the transmission shifter (center console) area, which reportedly caused the vehicle to stall or shut down, and a related technical service bulletin (TSB) issued by Mercedes Benz. The TSB identifies improved "Touch-Shifters" (ESM-Electronic Selector Modules) that were more resistant to fluid contamination, which were installed on vehicles produced after March 2001.

Mercedes Benz's letter dated January 24, 2002, sent in response to a request for information by ODI, identified 164 consumer complaints and 241 non-duplicate warranty claims concerning liquid spillage onto the transmission shifter. The response showed that in many cases, depending on the severity of the spill, fluid spills onto the transmission shifter/center console of the subject vehicles will have no effect on drivability. Where a substantial amount of fluid is spilled, the fluid may penetrate the console and contaminate the ESM circuitry located under the console. In certain cases, this can result in a shifter malfunction. Owners reported that they have experienced that the shifter is stiff or difficult to operate, or that the shifter could not be shifted out of the "Park" position. In the event of a fluid spill while the vehicle is moving, the damaged ESM will activate

the electronic transmission's "limp-home" mode. This mode will prevent the transmission from shifting past second gear while averting a stall or shut-down so that the vehicle can still be driven at a lower speed. Furthermore, Mercedes Benz's response indicated that there are no electronics related to the power brakes, power steering, or engine under the center console, and the company was unaware of any engineering basis for fluid spills in this area having any effect on those vehicle functions. No related crashes or injuries were identified during SQ01-010. Based on Mercedes' response and ODI's analysis of the facts, ODI closed its inquiry in February 2002. ODI concluded that the facts did not demonstrate a safety-related defect.

ODI has subsequently received nine more complaints alleging fluid contamination of the transmission shifter since the investigation was closed, none of which report crashes or injuries. These nine complainants mainly expressed dissatisfaction with the design of the cup holder and the cost of replacing the contaminated ESM. Similarly, in petitioner's case she was able to operate the vehicle to a place where it could be safely stopped after the liquid spillage. The petitioner has not provided any evidence of a safety-related defect.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of the alleged defect as defined by the petitioner at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

**Authority:** 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: March 21, 2006.

**Daniel Smith**

*Associate Administrator for Enforcement.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34843]

#### Union Pacific Railroad Company— Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant temporary overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's lines