motor carrier safety statutes and regulations, to "prescribe recordkeeping and reporting requirements" and to "perform other acts the Secretary considers appropriate" (49 U.S.C. 31133(a)(8) and (10)). The FMCSA Administrator has been delegated authority under 49 CFR 1.73(g) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 311, subchapters I and III, relating to CMV programs and safety regulation.

Members of the motor carrier industry and other interested parties may access FMCSA's guidance through FMCSA's Internet site at *http://www.fmcsa.dot.gov.* Specific questions addressing any of the interpretive material withdrawn in this document should be directed to the contact person listed earlier under **FOR FURTHER INFORMATION CONTACT**, or to the FMCSA Division Office in each State.

Basis for the Notice

On February 12, 2008, the Commercial Vehicle Safety Alliance (CVSA) petitioned FMCSA to withdraw certain regulatory guidance concerning 49 CFR part 393. The regulatory guidance that was the subject of the petition had been made obsolete by final rules concerning (1) protection against shifting and falling cargo, and (2) general amendments to Part 393 of the FMCSRs.

For the reasons set forth below, FMCSA granted the CVSA's petition on July 9, 2009:

Protection Against Shifting and Falling Cargo

FMCSA published a final rule on September 27, 2002 (67 FR 61212), revising the regulations in 49 CFR part 393 concerning protection against shifting and falling cargo for CMVs engaged in interstate commerce. The previous cargo securement regulations required all cargo-carrying CMVs to be equipped with devices that provided protection against shifting or falling cargo and that met the requirements of one of four "options" (Options A, B, C, or D). The September 2002 cargo securement final rule replaced Options A through D with: (1) More comprehensive, performance-based, general requirements; and (2) detailed requirements for a number of specific commodities, the proper securement of which generated the most disagreement between industry and enforcement agencies. Because Options A through D are no longer a part of the cargo securement regulations, the regulatory guidance provided in questions 2, 5, and 6 to section 393.100 (reference 62 FR 16419, dated April 4, 1997) is no longer valid and is hereby withdrawn.

General Amendments to Part 393

FMCSA published a final rule on August 15, 2005 (70 FR 48008), amending part 393 of the FMCSRs. As part of this rule, FMCSA clarified that CMVs must have both windshield wiping and windshield washing systems that meet the requirements of Federal Motor Vehicle Safety Standard No. 104, "Windshield wiping and washing systems." As such, the regulatory guidance provided in question 1 to section 393.78 (reference 62 FR 16418, dated April 4, 1997) is no longer valid and is hereby withdrawn.

FMCSA further clarified that the requirements of section 393.201 apply to all CMVs, including trailers, and not only buses, trucks, and truck tractors. As such, the regulatory guidance provided in question 2 to section 393.201 (reference 62 FR 16419, dated April 4, 1997) is no longer valid and is hereby withdrawn.

FMCSA also revised section 393.201(d) to make the regulation more practical. Paragraph (d) was intended to prohibit welding on vehicle frames constructed of certain types of steel that are weakened by the welding process. However, the previous wording was overly restrictive. To address this issue, paragraph (d) now allows welding which is performed in accordance with the vehicle manufacturer's recommendations, and therefore, the regulatory guidance provided in question 3 to section 393.201 is now redundant, no longer necessary, and hereby withdrawn.

Decision

For the reasons presented above, FMCSA removes the following regulatory guidance: Section 393.78, question 1; section 393.100, questions 2, 5, and 6; and section 393.201, questions 2 and 3, published online at *http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/FmcsrGuideDetails.aspx?menukey=393.*

Issued on: May 26, 2010.

Anne S. Ferro,

Administrator.

[FR Doc. 2010–13401 Filed 6–3–10; 8:45 am]

BILLING CODE 4910–EX–P

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 Mercedes-Benz USA, LLC (MBUSA) petition for an exemption of the SL–Class Line Chassis vehicle line in accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard.* 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 (49 CFR part 541).

DATES: The exemption granted by this notice is effective beginning with the 2011 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA,1200 New Jersey Avenue, SE., West Building, W43–302, Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–0073.

SUPPLEMENTARY INFORMATION: In a petition dated April 26, 2010, MBUSA requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541) for the new MY 2011 SL–Class Line Chassis vehicle line. The petition requested an 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 an exemption for one vehicle line per model 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 its new vehicle line. MBUSA will install a passive ignition immobilizer (FBS III) and access code protected locking system as standard equipment on its new vehicle line beginning with MY 2011. MBUSA stated that its immobilizer device is an interlinked system of control units which

collectively perform the immobilizer function. The interlinked system includes the engine, electronic ignition starter, transmitter key, electronic control unit and the fuel injection system which independently calculates and matches a unique code. MBUSA stated that if a relevant query from the vehicle to the transmitter key is valid, operation of the vehicle is authorized. MBUSA stated that the device will also incorporate an audible and visible alarm feature as standard equipment. 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 activation of the device occurs automatically when the key is removed from the ignition switch, whether the doors are open or not. Once activated, only a valid key with the correct code inserted into the ignition switch will disable immobilization and allow the vehicle to start and operate. MBUSA further stated that no other action by the operator other than turning the key is required to activate or deactivate the immobilizer.

In its submission, MBUSA stated that a locking/unlocking function is also incorporated into the device. The data exchange between the transmitter key and the vehicle's central controller for the lock/unlock function is carried out by radio signal. The unlocking signal from the remote key sends a message to the vehicle's central electronic control unit and a permanent code is verified and compared to the stored code in the Signal Acquisition Module (SAM). MBUSA stated that the locking system will only unlock the doors, tailgate and fuel filler cover when both codes match.

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 immobilizer device, MBUSA conducted performance tests based on its Economic Commission for Europe (ECE) specified standards. MBUSA provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with the specified requirements for each test. MBUSA also stated that it believes that the immobilizer device offered on the SL-class vehicle will be at least as effective as compliance with the parts-marking requirements of the theft prevention standard and as effective in deterring theft as it has been in other MBUSA vehicle lines for which theft data has been published. MBUSA submitted theft rate data published by the agency comparing its proposed device to antitheft devices already installed in the Aston Martin Vantage, BMW 6-series and Porsche 911 vehicle lines. MBUSA stated it believes that an immobilizer device was effective in contributing to a 63.5% reduction in the theft rate for the Aston Martin Vantage Line. Specifically, data published by the agency showed a theft rate of 0.0000 for the calendar year (CY) 2006 Aston Martin Vantage vehicle line and 0.6784 for the MY 2007. MBUSA also referenced theft data published by the agency which showed that the average theft rate for the BMW 6-series with an immobilizer was 2.3505 in MY/CY 2005 and 1.6227 in MY/CY 2007. MBUSA stated that it believes that this data also indicates that the immobilizer device was effective in contributing to an additional (31%) reduction in the theft rate of the BMW 6-series vehicle line. MBUSA also referenced theft rate data published by the agency for the Porsche 911 vehicle line (with an immobilizer) showing a theft rate experience of 0.8342 and 0.000 for MY/CY's 2005 and 2006 respectively. MBUSA stated that it believes that the data indicates that the immobilizer device was effective in contributing to a 13.8% reduction in the theft rate of the Porsche 911 vehicle line.

MBUSA stated that its proposed device is also functionally similar to the antitheft devices installed on the Mercedes-Benz E–Class, C–Class and SLK Class chassis vehicles which the agency has already exempted from the parts-marking requirements. In its submission, MBUSA concluded that lower theft rates could be expected from vehicles equipped with immobilizer devices as standard equipment. MBUSA stated it believes that the data indicated the immobilizer device was effective in contributing to an average reduction of 29.9% in the theft rate of the SL–Line Chassis when theft rates for the vehicle line dropped from 1.4170 (CY 2005) to 1.0460 (CY 2007).

Based on the supporting evidence submitted by MBUSA on the device, the agency believes that the antitheft device for the SL–Class 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 an unauthorized person to enter or move 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.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that MBUSA has provided adequate reasons for its belief that the antitheft device for the MBUSA new 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). This conclusion is based on the information MBUSA provided about its device.

For the foregoing reasons, the agency hereby grants in full MBUSA's petition for exemption for the SL–Class line Chassis vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with the 2011 model year vehicles. 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 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. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 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. Section 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 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 § 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: June 1, 2010.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 2010–13466 Filed 6–3–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0060; Notice 1]

Ford Motor Company, Receipt of Petition for Decision of Inconsequential Noncompliance

The Ford Motor Company (Ford) [1] has determined that certain model year 2010 Ford Taurus passenger cars, built from June 1, 2009, through October 5, 2009, and certain model year 2010 Lincoln MKT multi-purpose vehicles, built from June 29, 2009, through October 8, 2009, do not fully meet the windshield marking requirements of paragraph S6.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205 *Glazing Materials.* On November 12, 2009, Ford filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Ford has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Ford's petition 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 petition.

Ford estimates approximately 15,663 model year 2010 Ford Taurus passenger car models, built from June 1, 2009, through October 5, 2009, at Ford's Chicago Assembly Plant, and approximately 3,565 model year 2010 Lincoln MKT multi-purpose vehicle models, built from June 29, 2009, through October 8, 2009, at Ford's Oakville Assembly Plant, a total of approximately 19,228 vehicles are not in compliance with paragraph S6.2 of FMVSS No. 205 relating to windshield marking.[2]

Paragraph S6.2 of FMVSS No. 205 requires in pertinent part:

S6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1–1996, in letters and numerals of the same size, the symbol "DOT" and a manufacturer's code mark that NHTSA assigns to the manufacturer. * * *

Ford describes the noncompliance as the improper location of the "AS1" glazing marking. The standard requires that the "AS1" glazing marking be located in close proximity to the official designated trademark area (lower portion) of the windshield. However, Ford said that the "AS1" symbol is marked in the upper portion of the windshield, on both sides of the affected windshields and that the windshields conform to all other FMVSS No. 205 requirements.

Ford states the basis for why they believe this noncompliance is inconsequential to motor vehicle safety as:

No other Ford vehicles are affected by this condition and we are not aware of any field or owner complaints related to this condition. In our judgment, the condition does not present a risk to motor vehicle safety because the windshield fully meets the performance and physical requirements of FMVSS [No.] 205. Additionally repair service will be unaffected because the selection of replacement windshields is typically done utilizing a distributor, a catalog, or NAGS [National Auto Glass Specification] number. Furthermore, repairers will be able to determine the appropriate glazing because the upper portions of the windshield are properly labeled with the "AS1," designation, the glazing is clearly marked as "Laminated," and all other markings required by FMVSS [No.] 205 are properly labeled.

Additionally, Ford stated that Zeledyne discovered the noncompliance during its trademark content project study in which its laboratory personnel noticed that the "AS1" symbol was missing from the designated trademark location on the lower corner of the windshields for the affected vehicles.

Ford also has informed NHTSA that it has corrected the problem that caused these errors so that they will not be repeated in future production.

Therefore, Ford believes that the described noncompliance does not present a risk to motor vehicle safety. Thus, Ford requests that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

c. *Electronically:* by logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to 1–202–493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive

[1] Ford is a domestic manufacturer of motor vehicles, incorporated under the laws of the State of Delaware, with offices at The American Road, Dearborn, Michigan.

[2] Ford additionally notes that the nonconforming windshields installed in the subject vehicles were manufactured by Zeledyne, Inc. (Zeledyne), at their facility located at 7200 W. Centennial Boulevard, Nashville, TN 37209.