

(C) Agrees to make such adjustments in the TV receivers affected as may be necessary to eliminate interference caused by its operations.

(ix) The licensee must eliminate any interference caused by its operation to TV Channel 7 reception within 30 days after notification in writing by the Commission. If this interference is not removed within this 30-day period, operation of the base station must be discontinued. The licensee is expected to help resolve all complaints of interference.

[FR Doc. E8-24309 Filed 10-10-08; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA-2008-0112]

Final Theft Data; Motor Vehicle Theft Prevention Standard

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

ACTION: Publication of final theft data.

SUMMARY: This document publishes the final data on thefts of model year (MY) 2006 passenger motor vehicles that occurred in calendar year (CY) 2006. The final 2006 theft data indicated an increase in the vehicle theft rate experienced in CY/MY 2006. The final theft rate for MY 2006 passenger vehicles stolen in calendar year 2006 is 2.08 thefts per thousand vehicles. Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data and publish the information for review and comment.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International

Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366-0846. Her fax number is (202) 493-2990.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing and affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data and publish the data for review and comment. To fulfill this statutory mandate, NHTSA has published theft data annually beginning with MYs 1983/84. Continuing to fulfill the § 33104(b)(4) mandate, this document reports the final theft data for CY 2006, the most recent calendar year for which data are available.

In calculating the 2006 theft rates, NHTSA followed the same procedures it used in calculating the MY 2005 theft rates. (For 2005 theft data calculations, see 73 FR 13150, March 12, 2008). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

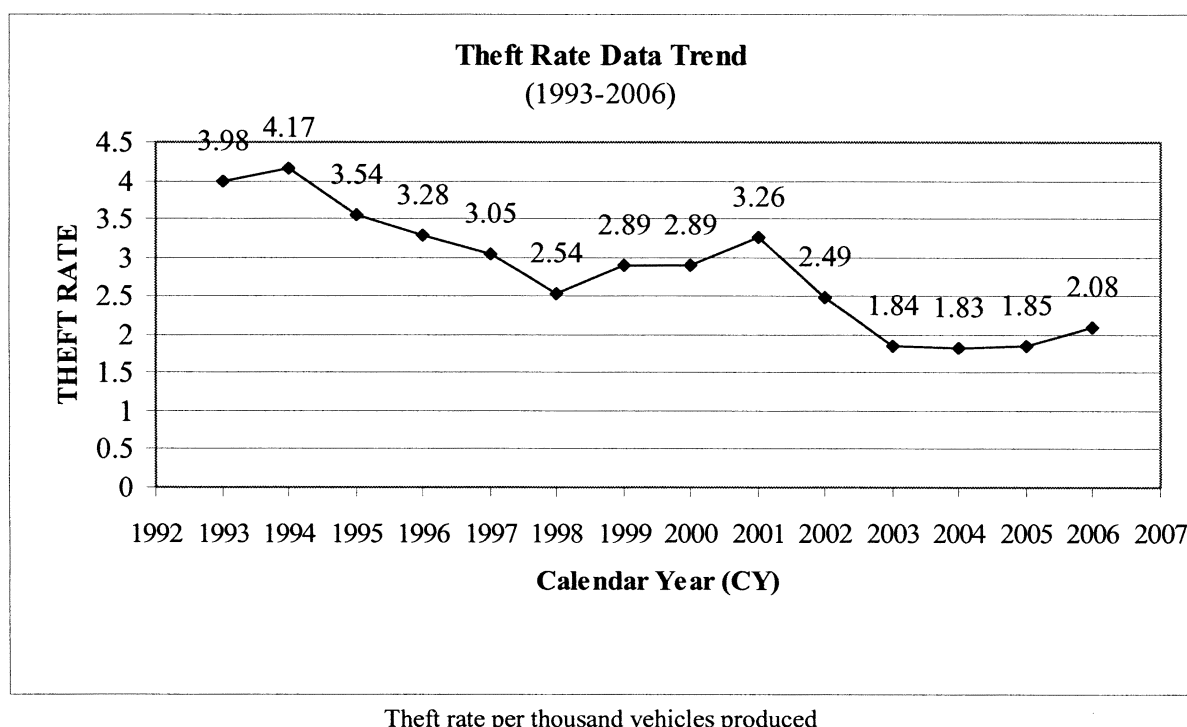
The 2006 theft rate for each vehicle line was calculated by dividing the

number of reported thefts of MY 2006 vehicles of that line stolen during calendar year 2006 by the total number of vehicles in that line manufactured for MY 2006, as reported to the Environmental Protection Agency (EPA).

The final 2006 theft data show an increase in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2005. The final theft rate for MY 2006 passenger vehicles stolen in calendar year 2006 increased to 2.08 thefts per thousand vehicles produced, an increase of 12.4 percent from the rate of 1.85 thefts per thousand vehicles experienced by MY 2005 vehicles in CY 2005. NHTSA is not overly concerned about this increase in the overall theft rate. The data has shown an overall decreasing trend in theft rates since CY 1993, with periods of increase from one year to the next. As explained in the publication of preliminary theft data, if the final data, for calendar year/model year (CY/MY) 2006 showed a second year of increase, the agency would explore what could be the possible causes for these elevations. The agency also welcomed comments on the cause for this increase but no comments were received. Therefore, as indicated by the publication of preliminary theft rate data, the agency will continue to monitor this theft rate pattern and explore the possible reasons for the elevation in theft rates experienced during MY/CY 2005-2006.

For MY 2006 vehicles, out of a total of 223 vehicle lines, 19 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 19 vehicle lines with a theft rate higher than 3.5826, 18 are passenger car lines, one is a multipurpose passenger vehicle lines, and none are light-duty truck lines.

Figure 1: Theft Rate Data Trend (1993-2006)



On Monday, July 14, 2008, NHTSA published the preliminary theft rates for CY 2006 passenger motor vehicles in the **Federal Register** (73 FR 40278). The agency tentatively ranked each of the MY 2006 vehicle lines in descending order of theft rate. The public was requested to comment on the accuracy of the data and to provide final production figures for individual vehicle lines. The agency used written comments to make the necessary adjustments to its data. As a result of the adjustments, some of the final theft rates and rankings of vehicle lines changed from those published in the July 2008 notice.

The agency received a written comment from Volkswagen Group of America, Inc. (VW). In its comments, VW informed the agency that the listing did not include the Volkswagen Touareg vehicle line. In response to this comment, the agency notes the Touareg vehicle line has a gross vehicle weight rating (GVWR) over 6,000 pounds, therefore, since the scope of the Federal

Motor Vehicle Theft Prevention Standard only includes vehicles with a GVWR of 6,000 pounds or less, the Volkswagen Touareg will not be included on the listing. VW also informed the agency that the entries for the Volkswagen Bentley Arnage and the Volkswagen Bentley Continental were listed with incorrect manufacturer designations. The final theft data has been revised to reflect that Bentley Motors is the manufacturer for the Arnage and the Continental vehicles. Additionally, VW noted errors in the ranking order of some of the vehicle lines having 0.0000 theft rates. As a result of this error, the final theft data has been revised to correct the ranking order of those vehicle lines having a 0.0000 theft rate. VW also informed the agency that the production volume listed for the Audi TT vehicle line was incorrect. After further review of the final production volumes VW reported to the EPA, the production volume for the Audi TT has been corrected and the final theft list has been revised

accordingly. As a result of the correction, the Audi TT previously ranked No. 203 with a theft rate of 0.0000 is now ranked No. 204 with a theft rate of 0.0000.

Further reanalysis of the theft rate data revealed that the Jaguar Vanden Plas/Super V8 entry was inadvertently listed as two entries with different production volumes. The entry for Jaguar Vanden Plas/Super V8 has been corrected to list the as one entry and the production volumes have been combined. As a result of this correction, the final theft data has been revised accordingly.

The following list represents NHTSA's final calculation of theft rates for all 2006 passenger motor vehicle lines. This list is intended to inform the public of calendar year 2006 motor vehicle thefts of model year 2006 vehicles and does not have any effect on the obligations of regulated parties under 49 U.S.C. Chapter 331, Theft Prevention.

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2006 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2006

Manufacturer	Make/model (line)	Thefts 2006	Production (Mfr's) 2006	2006 Theft rate (per 1,000 vehicles produced)
1. DAIMLERCHRYSLER	DODGE MAGNUM	407	46501	8.7525

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2006 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR
2006—Continued

Manufacturer	Make/model (line)	Thefts 2006	Production (Mfr's) 2006	2006 Theft rate (per 1,000 ve- hicles pro- duced)
2. DAIMLERCHRYSLER	DODGE CHARGER	963	130892	7.3572
3. DAIMLERCHRYSLER	DODGE STRATUS	569	79998	7.1127
4. GENERAL MOTORS	PONTIAC GRAND PRIX	802	116458	6.8866
5. LAMBORGHINI	MURCIELAGO	1	159	6.2893
6. GENERAL MOTORS	CHEVROLET MONTE CARLO	239	38136	6.2670
7. ROLLS ROYCE	PHANTOM	2	339	5.8997
8. DAIMLERCHRYSLER	CHRYSLER SEBRING	250	43115	5.7984
9. DAIMLERCHRYSLER	CHRYSLER SEBRING CONVERTIBLE	150	27685	5.4181
10. HONDA	ACURA RSX	69	15111	4.5662
11. DAIMLERCHRYSLER	CHRYSLER 300	991	217754	4.5510
12. GENERAL MOTORS	PONTIAC G6	716	170394	4.2020
13. MITSUBISHI	GALANT	118	28101	4.1991
14. GENERAL MOTORS	CHEVROLET MALIBU	740	177262	4.1746
15. SUZUKI	FORENZA	175	42550	4.1128
16. FORD MOTOR CO	FORD TAURUS	638	156882	4.0668
17. GENERAL MOTORS	CHEVROLET IMPALA	1044	262823	3.9723
18. GENERAL MOTORS	CHEVROLET COBALT	844	229576	3.6763
19. NISSAN	SENTRA	500	136351	3.6670
20. KIA	AMANTI	29	8133	3.5657
21. HYUNDAI	SONATA	605	170783	3.5425
22. MERCEDES-BENZ	215 (CL-CLASS)	79	22411	3.5251
23. MITSUBISHI	ENDEAVOR	51	14546	3.5061
24. SUZUKI	VERONA	7	2000	3.5000
25. HONDA	HONDA CIVIC	362	103981	3.4814
26. DAIMLERCHRYSLER	CHRYSLER PT CRUISER	457	131960	3.4632
27. DAIMLERCHRYSLER	JEEP GRAND CHEROKEE	303	88383	3.4283
28. BMW	M3	15	4394	3.4137
29. FORD MOTOR CO	LINCOLN LS	29	8499	3.4122
30. NISSAN	MAXIMA	210	63663	3.2986
31. NISSAN	350Z	100	30640	3.2637
32. FORD MOTOR CO	FORD FOCUS	436	135929	3.2076
33. FORD MOTOR CO	FORD CROWN VICTORIA	35	10955	3.1949
34. HYUNDAI	ACCENT	59	18685	3.1576
35. KIA	OPTIMA	143	45859	3.1183
36. MAZDA	6	190	67327	2.8220
37. FORD MOTOR CO	FORD MUSTANG	431	153977	2.7991
38. SUZUKI	RENO	22	7900	2.7848
39. MITSUBISHI	LANCER	121	43750	2.7657
40. GENERAL MOTORS	CHEVROLET AVEO	142	51353	2.7652
41. BMW	7	77	28012	2.7488
42. SUBARU	LEGACY/OUTBACK	59	21696	2.7194
43. DAIMLERCHRYSLER	CHRYSLER PACIFICA	224	82451	2.7168
44. MITSUBISHI	ECLIPSE	79	29582	2.6705
45. KIA	RIO	91	34103	2.6684
46. GENERAL MOTORS	CADILLAC DTS	173	65335	2.6479
47. BMW	M5	11	4309	2.5528
48. GENERAL MOTORS	CHEVROLET TRAILBLAZER	373	148522	2.5114
49. FORD MOTOR CO	LINCOLN TOWN CAR	97	40317	2.4059
50. TOYOTA	SCION TC	189	80576	2.3456
51. GENERAL MOTORS	CHEVROLET HHR	267	113967	2.3428
52. KIA	SPECTRA	184	79152	2.3246
53. TOYOTA	LEXUS LS	40	17220	2.3229
54. SUZUKI	VITARA/GRAND VITARA	107	46223	2.3149
55. GENERAL MOTORS	CADILLAC CTS	125	55066	2.2700
56. GENERAL MOTORS	BUICK RAINIER	26	11503	2.2603
57. NISSAN	ALTIMA	648	294015	2.2040
58. ISUZU	I SERIES PICKUP	10	4546	2.1997
59. BMW	6	17	7893	2.1538
60. TOYOTA	LEXUS SC	15	7008	2.1404
61. LOTUS	ELISE	3	1424	2.1067
62. GENERAL MOTORS	PONTIAC MONTANA VAN	44	20984	2.0968
63. GENERAL MOTORS	PONTIAC GTO	29	13857	2.0928
64. KIA	SORENTO	116	55515	2.0895
65. TOYOTA	TOYOTA CAMRY/SOLARA	517	252690	2.0460
66. JAGUAR	S-TYPE	14	6855	2.0423
67. AUDI	A8	11	5404	2.0355
68. BMW	M6	2	990	2.0202

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2006 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR
2006—Continued

Manufacturer	Make/model (line)	Thefts 2006	Production (Mfr's) 2006	2006 Theft rate (per 1,000 ve- hicles pro- duced)
69. DAIMLERCHRYSLER	JEEP WRANGLER	155	77976	1.9878
70. GENERAL MOTORS	CHEVROLET UPLANDER VAN	122	62521	1.9513
71. TOYOTA	TOYOTA COROLLA	653	336871	1.9384
72. GENERAL MOTORS	SATURN ION	186	96227	1.9329
73. GENERAL MOTORS	BUICK RENDEZVOUS	96	50649	1.8954
74. VOLVO	S80	14	7567	1.8501
75. DAIMLERCHRYSLER	JEEP LIBERTY	266	146897	1.8108
76. NISSAN	INFINITI G35	107	59442	1.8001
77. TOYOTA	LEXUS GS	92	51221	1.7961
78. HYUNDAI	TIBURON	41	22959	1.7858
79. NISSAN	INFINITI FX45	3	1693	1.7720
80. GENERAL MOTORS	CADILLAC XLR	7	3963	1.7663
81. HONDA	HONDA S2000	10	5666	1.7649
82. AUDI	A6/A6 QUATTRO/S6/S6 AVANT	32	18143	1.7638
83. DAIMLERCHRYSLER	DODGE CARAVAN/GRAND CARAVAN	416	235960	1.7630
84. HYUNDAI	ELANTRA	174	99126	1.7553
85. FORD MOTOR CO	FORD FUSION	217	125335	1.7314
86. MAZDA	5	35	20328	1.7218
87. JAGUAR	X-TYPE	10	5994	1.6683
88. NISSAN	QUEST VAN	42	25378	1.6550
89. FORD MOTOR CO	FORD FREESTAR VAN	84	51143	1.6425
90. MERCEDES-BENZ	203 (C-CLASS)	89	54492	1.6333
91. FORD MOTOR CO	FORD FIVE HUNDRED	134	83031	1.6139
92. HUMMER	H3	116	72227	1.6060
93. MAZDA	RX-8	10	6415	1.5588
94. MERCEDES-BENZ	220 (S-CLASS)	22	14472	1.5202
95. GENERAL MOTORS	PONTIAC VIBE	77	51168	1.5048
96. FORD MOTOR CO	MERCURY MOUNTAINEER	46	30676	1.4995
97. NISSAN	FRONTIER PICKUP	112	75112	1.4911
98. TOYOTA	SCION XB	125	87219	1.4332
99. GENERAL MOTORS	BUICK LACROSSE/ALLURE	107	76029	1.4074
100. JAGUAR	XKR	1	713	1.4025
101. TOYOTA	TOYOTA TUNDRA PICKUP	36	25764	1.3973
102. GENERAL MOTORS	GMC ENVOY	68	48745	1.3950
103. VOLVO	S60	30	21734	1.3803
104. GENERAL MOTORS	CHEVROLET EQUINOX	170	124123	1.3696
105. JAGUAR	XK8	2	1463	1.3671
106. VOLKSWAGEN	PASSAT	85	63019	1.3488
107. NISSAN	MURANO	105	77852	1.3487
108. NISSAN	PATHFINDER	100	74219	1.3474
109. BMW	5	62	46563	1.3315
110. FORD MOTOR CO	FORD RANGER PICKUP	110	83737	1.3136
111. MAZDA	3	125	95420	1.3100
112. NISSAN	XTERRA	78	59988	1.3003
113. MAZDA	MPV VAN	13	10054	1.2930
114. FORD MOTOR CO	MERCURY GRAND MARQUIS	64	49578	1.2909
115. VOLKSWAGEN	GOLF/RABBIT/GTI	24	18806	1.2762
116. MITSUBISHI	OUTLANDER	13	10190	1.2758
117. FORD MOTOR CO	FORD ESCAPE	194	152125	1.2753
118. TOYOTA	TOYOTA MATRIX	70	56291	1.2435
119. GENERAL MOTORS	CHEVROLET COLORADO PICKUP	129	104675	1.2324
120. HONDA	HONDA ACCORD	391	328780	1.1892
121. TOYOTA	TOYOTA TACOMA PICKUP	221	195700	1.1293
122. HONDA	ACURA TSX	44	40480	1.0870
123. GENERAL MOTORS	GMC CANYON PICKUP	29	26744	1.0844
124. GENERAL MOTORS	SATURN VUE	103	95178	1.0822
125. AUDI	A3/A3 QUATTRO	12	11162	1.0751
126. MAZDA	TRIBUTE	35	33565	1.0428
127. TOYOTA	LEXUS ES	32	30735	1.0412
128. MERCEDES-BENZ	129 (SL-CLASS)	7	6731	1.0400
129. FORD MOTOR CO	FORD FREESTYLE	57	54980	1.0367
130. NISSAN	INFINITI M35/M45	42	40627	1.0338
131. TOYOTA	TOYOTA 4RUNNER	108	104758	1.0309
132. AUDI	A4/A4 QUATTRO/S4/S4 AVANT	49	48023	1.0203
133. FORD MOTOR CO	MERCURY MILAN	35	34506	1.0143
134. DAIMLERCHRYSLER	CHRYSLER TOWN & COUNTRY	177	175760	1.0071
135. TOYOTA	SCION XA	50	49664	1.0068

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2006 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR
2006—Continued

Manufacturer	Make/model (line)	Thefts 2006	Production (Mfr's) 2006	2006 Theft rate (per 1,000 ve- hicles pro- duced)
136. MERCEDES-BENZ	208 (CLK-CLASS)	17	17150	0.9913
137. GENERAL MOTORS	PONTIAC TORRENT	48	48750	0.9846
138. NISSAN	INFINITI FX35	17	17326	0.9812
139. SUBARU	IMPREZA	41	41987	0.9765
140. SUZUKI	AERIO	17	17417	0.9761
141. HYUNDAI	SANTA FE	32	32802	0.9756
142. HONDA	ACURA 3.2 TL	74	77849	0.9506
143. GENERAL MOTORS	CHEVROLET CORVETTE	30	31595	0.9495
144. GENERAL MOTORS	BUICK LUCERNE	81	85961	0.9423
145. HYUNDAI	TUCSON	52	55399	0.9386
146. TOYOTA	TOYOTA AVALON	90	97247	0.9255
147. ASTON MARTIN	DB9	1	1085	0.9217
148. GENERAL MOTORS	CADILLAC FUNERAL COACH/HEARSE	1	1096	0.9124
149. MERCEDES-BENZ	210 (E-CLASS)	55	61563	0.8934
150. VOLVO	V50	4	4480	0.8929
151. VOLKSWAGEN	JETTA	108	123317	0.8758
152. FORD MOTOR CO	MERCURY MONTEGO	17	19464	0.8734
153. JAGUAR	XJ8/XJ8L	3	3444	0.8711
154. TOYOTA	LEXUS IS	43	49960	0.8607
155. BMW	3	127	151673	0.8373
156. FORD MOTOR CO	LINCOLN ZEPHYR	26	31265	0.8316
157. TOYOTA	TOYOTA RAV4	94	114912	0.8180
158. VOLVO	S40	20	24505	0.8162
159. ISUZU	ASCENDER	3	3857	0.7778
160. HYUNDAI	AZERA	19	24492	0.7758
161. PORSCHE	BOXSTER	4	5314	0.7527
162. PORSCHE	CAYMAN	4	5360	0.7463
163. SUBARU	B9 TRIBECA	22	30027	0.7327
164. BENTLEY MOTORS	CONTINENTAL	3	4097	0.7322
165. VOLVO	XC90	24	32962	0.7281
166. KIA	SPORTAGE	30	42832	0.7004
167. FORD MOTOR CO	MERCURY MARINER	21	30137	0.6968
168. GENERAL MOTORS	PONTIAC SOLSTICE	13	18748	0.6934
169. VOLKSWAGEN	NEW BEETLE	27	41361	0.6528
170. HONDA	HONDA ELEMENT	29	45132	0.6426
171. GENERAL MOTORS	CADILLAC STS	20	31368	0.6376
172. BMW	Z4/M	7	10981	0.6375
173. TOYOTA	TOYOTA SIENNA VAN	120	192771	0.6225
174. TOYOTA	LEXUS RX	48	77147	0.6222
175. DAIMLERCHRYSLER	DODGE VIPER	1	1630	0.6135
176. PORSCHE	911	8	13407	0.5967
177. SAAB	9-2X	1	1731	0.5777
178. KIA	SEDONA VAN	30	52064	0.5762
179. MITSUBISHI	MONTERO	1	1778	0.5624
180. TOYOTA	TOYOTA HIGHLANDER	96	176213	0.5448
181. BMW	X3	15	27743	0.5407
182. MAZDA	MX-5 MIATA	11	20688	0.5317
183. SUBARU	FORESTER	28	54405	0.5147
184. FORD MOTOR CO	MERCURY MONTEREY VAN	2	4017	0.4979
185. HONDA	HONDA PILOT	73	147629	0.4945
186. SAAB	9-3	11	22542	0.4880
187. HONDA	ACURA 3.5 RL	6	12556	0.4779
188. VOLVO	V70	3	6355	0.4721
189. HONDA	HONDA CR-V	70	149659	0.4677
190. VOLVO	XC70	6	12895	0.4653
191. GENERAL MOTORS	SATURN RELAY	2	4935	0.4053
192. HONDA	HONDA ODYSSEY VAN	75	192364	0.3899
193. HONDA	ACURA MDX	20	51380	0.3893
194. BMW	MINI COOPER	17	51271	0.3316
195. SUBARU	BAJA	2	7498	0.2667
196. MAZDA	B SERIES PICKUP	1	4229	0.2365
197. GENERAL MOTORS	BUICK TERRAZA VAN	3	12767	0.2350
198. DAIMLERCHRYSLER	CHRYSLER CROSSFIRE	1	6186	0.1617
199. TOYOTA	TOYOTA PRIUS	14	87310	0.1603
200. MERCEDES-BENZ	170 (SLK-CLASS)	2	13475	0.1484
201. SUBARU	OUTBACK	5	57806	0.0865
202. ASTON MARTIN	VANQUISH	0	467	0.0000

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2006 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2006—Continued

Manufacturer	Make/model (line)	Thefts 2006	Production (Mfr's) 2006	2006 Theft rate (per 1,000 vehicles produced)
203. ASTON MARTIN	VANTAGE	0	161	0.0000
204. AUDI	TT	0	1199	0.0000
205. BENTLEY MOTORS	ARNAGE	0	228	0.0000
206. BUGATTI	VEYRON	0	17	0.0000
207. FERRARI	MARANELLO/F1	0	1392	0.0000
208. FORD MOTOR CO	FORD GT	0	1729	0.0000
209. GENERAL MOTORS	CADILLAC LIMOUSINE	0	922	0.0000
210. HONDA	HONDA INSIGHT	0	803	0.0000
211. JAGUAR	VANDEN PLAS/SUPER V8	0	1761	0.0000
212. JAGUAR	XJR	0	307	0.0000
213. LAMBORGHINI	GALLARDO	0	392	0.0000
214. MASERATI	GRANSPORT	0	51	0.0000
215. MASERATI	QUATTROPORTE	0	1609	0.0000
216. MASERATI	SPYDER/F1	0	777	0.0000
217. NISSAN	INFINITI Q45	0	140	0.0000
218. SAAB	9-5	0	11620	0.0000
219. SAAB	9-7X	0	5484	0.0000
220. SALEN	S7	0	16	0.0000
221. SPYKER	C8	0	13	0.0000
222. TOYOTA	TOYOTA YARIS	0	2571	0.0000
223. VOLKSWAGEN	PHAETON	0	259	0.0000

Issued on: October 7, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8-24231 Filed 10-10-08; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 0810061316-81321-01]

RIN 0648-XL11

Sea Turtle Conservation; Shrimp Trawling Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: NMFS issues this temporary rule for a period of 30 days, to allow shrimp fishermen to use limited tow times as an alternative to Turtle Excluder Devices (TEDs) in state and Federal waters offshore of Texas (from the Texas/Louisiana boundary southward to the boundary shared by Matagorda and Brazoria Counties; approximately 95° 32'W. long.) extending offshore 20 nautical miles. This action is necessary because environmental conditions resulting from

Hurricane Ike are preventing some fishermen from using TEDs effectively.

DATES: Effective from October 8, 2008 through November 7, 2008.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727-551-5794.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Sea turtles are incidentally taken, and some are killed, as a result of numerous activities, including fishery-related trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, the taking of sea turtles is prohibited, with exceptions identified in 50 CFR 223.206(d), or according to the terms and conditions of a biological opinion issued under section 7 of the ESA, or according to an incidental take permit issued under section 10 of the ESA. The incidental taking of turtles during shrimp or summer flounder trawling is exempted from the taking

prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223) are followed. The regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic area, Gulf area, and summer flounder sea turtle protection area, see 50 CFR 223.206) to have a NMFS-approved TED installed in each net that is rigged for fishing to allow sea turtles to escape. TEDs currently approved by NMFS include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, the flounder TED, and one type of soft TED the Parker soft TED (see 50 CFR 223.207).

TEDs incorporate an escape opening, usually covered by a webbing flap, which allows sea turtles to escape from trawl nets. To be approved by NMFS, a TED design must be shown to be 97 percent effective in excluding sea turtles during testing based upon specific testing protocols (50 CFR 223.207(e)(1)). Most approved hard TEDs are described in the regulations (50 CFR 223.207(a)) according to generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape.

The regulations governing sea turtle take prohibitions and exemptions provide for the use of limited tow times as an alternative to the use of TEDs for vessels with certain specified