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 New Generation Compact Car (NGCC) 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 2014 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA,1200 New Jersey Avenue, S.E., West Building, W43-439 Washington, D.C. 20590. Ms. Ballard's telephone number is (202) 366-5222. Her fax number is (202) 493-2990.

SUPPLEMENTAL INFORMATION: In a petition dated October 26, 2012, MBUSA requested an exemption from the parts marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the new MY 2014 NGCC 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 stated that its MY 2014 NGCC Line Chassis will include CLA-Class vehicles (CLA250, CLA250 4MATIC and CLA45 4MATIC AMG) that will be equipped with a passive ignition immobilizer (FBS III/FBS IV) and an access code-protected locking system as standard equipment. The immobilizer, transmitter key, electronic ignition starter switch control unit (EIS), the engine control module (ECM) and the transmission control module (TCM) collectively perform the immobilizer function. 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, EIS, transmitter key, TCM and ECM (including the fuel injection system) which independently calculates and matches a unique code. MBUSA stated that it is impossible to read the code from the vehicle in order to defeat the system. MBUSA stated that if a relevant query from the vehicle to the transmitter key is valid, operation of the vehicle will be authorized. MBUSA stated that the device will not be equipped with an audible or visible alarm feature. 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 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 when both codes match, the locking system will unlock the doors, tailgate and fuel filler cover.

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 the Economic Commission for Europe's specified standards. MBUSA provided a detailed list of the tests conducted and believes that the device is reliable and durable because the device complied with the specified requirements for each test. MBUSA also stated that it believes that the immobilizer device offered on the NGCC Line Chassis 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 Audi A3, Audi A4, and the Volkswagen Passat vehicle lines.

MBUSA referenced theft data published by the agency showing that the average theft rate for the Audi A3 with an immobilizer was 1.4875 in MY/CY 2008 and 1.3294 in MY/CY 2009. MBUSA stated that it believes that this data also indicates that the immobilizer device was effective in contributing to a 10.6% reduction in the theft rate of the Audi A3 vehicle line. MBUSA also referenced theft rate data published by the agency for the Audi A4 and Volkswagen Passat vehicle lines (with an immobilizer) which showed a theft rate of 1.1317 and 0.6007 for MY/CYs 2008 and 2009 for the AudiA4 and 0.8197 and 0.5110 for MY/CY's 2008 and 2009 for the Volkswagen Passat respectively.

MBUSA stated that its proposed device is also functionally similar to the antitheft devices installed on the Mercedes-Benz S-Class, E-Class, C-Class, SL-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 that the data indicated its immobilizer device was effective in contributing to an average reduction of 31.8% in the theft rate of the SL-Line Chassis when theft rates for the vehicle line dropped from 1.0460 (CY 2007) to 0.7938 (CY 2009).

Based on the supporting evidence submitted by MBUSA on the device, the agency believes that the antitheft device for the NGCC 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 four of the five types of performance listed in §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.

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 NGCC Line Chassis vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2014 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 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. If such a decision is made, the line must be fully marked according to the requirements under 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, Part 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.

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Christopher J. Bonanti
Associate Administrator for
Rulemaking

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