navigation; hazardous materials; cultural and historic resources; visual and aesthetic resources; and other topics associated with the proposed action. The FONSI is based on the analysis presented in the Cherry Hill Material Extraction and Transport EA.

The FONSI and the EA are available for review at Loussac Library in Anchorage or online at *http://www.portofanchorage.org* and *http://www.dms.dot.gov.*

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: January 24, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–1077 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–22653, Notice 2]

Mercedes-Benz, U.S.A. LLC; Grant of Application for a Temporary Exemption From Federal Motor Vehicle Safety Standard No. 108

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of Application for a Temporary Exemption from S5.5.10 of Federal Motor Vehicle Safety Standard No. 108.

SUMMARY: This notice grants the Mercedes-Benz, U.S.A. LLC (''MBUSA'') application 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 accordance with 49 CFR Part § 555.6(b), the basis for the grant is 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. Pursuant to § 555.6(b)(5), MBUSA is permitted to sell not more than 2,500 exempted vehicles in any twelve-month period of the exemption. Because the exemption period is 24 months, this grant affects up to a total of 5,000 vehicles.

DATES: The exemption from S5.5.10 of FMVSS No. 108 is effective from January 23, 2006 until January 23, 2008.

FOR FURTHER INFORMATION CONTACT: George Feygin in the Office of Chief Counsel, NCC–112 Room 5215, 400 7th Street, SW., Washington, DC 20590 (Phone: 202–366–2992; Fax: 202–366–3820; E-Mail: *George.Feygin@nhtsa.dot.gov*).

I. Background

MBUSA petitioned the agency on behalf of its parent corporation, DaimlerChrysler AG.[1] The petition seeks a temporary exemption from S5.5.10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108. In short, S5.5.10 specifies that with certain exceptions not applicable to this petition, all lamps, including stop lamps must be wired to be steady-burning.[2] In order to develop and evaluate an innovative flashing brake signaling system in the United States, MBUSA sought a temporary exemption from the ''steady-burning'' requirement as it applies to stop lamps. This system is currently available in Europe on the S-class, CL-class, and SL-class Mercedes vehicles.

MBUSA stated that the system enhances the emergency braking signal by flashing three stop lamps required by FMVSS No. 108 during strong deceleration. In addition, after emergency braking, the flashing brake signaling system automatically activates the hazard warning lights of the stopped vehicle until it starts to move again or the lights are manually switched off. The petitioner stated that this signaling system reduces the following drivers' reaction time by attracting their attention, and also enhances visibility of the stopped vehicle, thus helping to reduce the incidence and severity of rear end collisions.

NHTSA previously denied petitioner's request to amend FMVSS No. 108 to allow flashing brake signaling systems. Among the reasons for the denial was the need for additional data on safety benefits of flashing brake lamps. The petitioner argued that granting this temporary exemption would allow them to provide the information NHTSA found lacking.

MBUSA requested a two-year exemption period. In accordance with the requirements of 49 CFR § 555.6(b)(5), MBUSA will not sell more than 2,500 exempted vehicles in any twelve-month period within the two-year exemption period. For additional details, please see the MBUSA petition at *http://dms.dot.gov/search/searchFormSimple.cfm*, Docket No. NHTSA–2005–22653. The following (Parts II–VI) summarizes MBUSA's petition in relevant part.

[1] For more information on MBUSA, go to *http://www.mbusa.com.*

[2] *See* S5.5.10 of 49 CFR 571.108. Turn signal lamps, hazard warning signal lamps, school bus warning lamps must be wired to flash. Headlamps and side marker lamps may be wired to flash for signaling purposes. Motorcycle headlamps may be wired to modulate.

II. Description of the New Motor Vehicle Safety Feature

The petitioner states that its flashing brake signaling system provides two innovative safety-enhancing features.

First, three stop lamps required by FMVSS No. 108 flash at a frequency of 5 Hz in the event of strong deceleration. This occurs if the velocity is >50 km/h (31 mph) and at least one of the following conditions is met:

1. Deceleration is >7 m/s^2; or
2. The brake assist function is active; or
3. The Electronic Stability Program (ESP) control unit detects a panic braking operation.

The petitioner states that the activation criteria ensures that the flashing brake signaling system is only activated when truly needed. Thus, the brake lights will flash only in severe braking situations, and will flash at a relatively high frequency that allows for fast recognition. Further, using the panic brake signal from the ESP control unit as a trigger would activate the system only when the achievable deceleration is substantially smaller than the demanded one. Thus, the stop lamps would not flash in routine situations.

Second, after emergency braking, the system automatically activates the hazard warning lights of the stopped vehicle until it starts to move again, or the lights are manually switched off.

III. Potential Benefits of the New Motor Vehicle Safety Feature

The petitioner states that the flashing brake signaling system provides important safety enhancements not found in a vehicle equipped with a traditional brake signaling system. First, the flashing system reduces the following driver's reaction time and encourages maximum deceleration of following vehicles. The petitioner expects especially strong benefits during adverse weather conditions and for inattentive drivers. Second, the activation of hazard warning lamps on the stopped vehicle also enhances vehicle recognition after it comes to a complete stop. The petitioner believes that together, these features will help to reduce rear end collisions and improve safety.

The petitioner acknowledged the agency's longstanding restriction on flashing stop lamps, in the interest of standardized, instantly recognizable lighting functions. However, MBUSA indicated that its system will be easily recognizable, and would not interfere with NHTSA's objectives since activation of the flashing brake signaling system would be infrequent.

IV. The Petitioner's Research and Testing

The petitioner stated that the development of the flashing brake signaling system is based on careful research and testing. The activation criteria for the flashing brake lights were established with the help of a driver behavior study. The petitioner further states that field studies have demonstrated that the brake light system can significantly reduce driver reaction times.

MBUSA used a driver braking behavior study to understand how often rapid deceleration braking occurs in the United States. The study followed 96 subjects using 15 Mercedes-Benz vehicles equipped with a driver behavior and vehicle dynamics recorder. The study indicated that one emergency braking maneuver occurred for every 2,291 miles driven. The study also suggested that, based on the criteria described in the previous section, only 23 out of 100,000 braking maneuvers would activate the flashing stop lamps. The petitioner concludes that the flashing brake light will occur rarely, which will help to avoid ''optical pollution'' and enhance the effectiveness of the brake light system.[3]

MBUSA sponsored additional field and driving simulator studies, which showed that ''appropriately designed flashing brake lights significantly reduce drivers'' reaction times and thus can reduce the incidence and severity of rear-end collisions.'' [4] Specifically, the study compared reaction times in emergency braking situations among conventional brake lights, conventional brake lights combined with hazard warning lights, flashing brake lights with a flashing frequency of 4 Hz, and flashing brake lights with a flashing frequency of 7 Hz.

The petitioner states that the study showed that flashing brake lights reduce driver reaction time by an average of 0.2 seconds, which is a reduction sufficient to reduce meaningfully the number and/or severity of rear-end collisions. MBUSA argues that even greater reduction in reaction time would occur under real-world driving conditions, where drivers are less focused on the driving task and subject to more sources of distraction. The study also showed positive effects from the flashing brake light signal under adverse weather conditions and in distraction situations. Finally, the test subjects expressed a preference for flashing brake lights when compared to other brake light signals.

The petitioner states that the Japanese Ministry of Land, Infrastructure and Transportation conducted a study to evaluate the validity and operating conditions of two types of emergency brake light displays, one that flashes upon sudden braking, and one that enlarges the lighting area of the brake lamps. The study found that flashing brake lamps reduced following drivers' response time in the drivers' peripheral fields of vision. The study also showed that shorter flashing intervals are more effective. Finally, the study indicated that an emergency brake light display that enlarges the lighting area is not as effective as a flashing brake lamp.

V. How Will a Temporary Exemption Facilitate the Development and Field Evaluation of a New Motor Vehicle Safety Feature?

The petitioner stated that it intends to monitor the exempted vehicles and study the effectiveness of the flashing brake signaling system. First, 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 and, according to the petitioner, should prove to be valuable in evaluating the anticipated safety benefits of the new brake light system. Second, the test fleet should enable MBUSA to evaluate acceptance of the flashing stop lamps among the American public.

VI. Why Granting the Petition for Exemption Is in the Public Interest

As indicated above, the petitioner argued that granting the requested exemption from FMVSS No. 108 would enable them to continue developing and evaluating its innovative flashing brake signaling system, thus contributing substantially to ongoing efforts to consider the effectiveness of enhanced lighting systems in reducing rear-end crashes. MBUSA believes that the system will help to reduce significantly following driver reaction times, thus reducing rear end collisions.

The petitioner also noted that rear end collisions are a significant traffic safety concern,[5] particularly in dense traffic areas, and an important cause of rear end collisions is a following driver's failure to detect that a leading vehicle has performed an emergency braking action. MBUSA believes that an enhanced braking signal that alerts following drivers to urgent braking situations has the potential to significantly enhance safety.

VII. Comments Regarding the MBUSA Petition

NHTSA published a notice of receipt of the application on October 7, 2005, and afforded an opportunity for comment.[6] The agency received two comments, from Candlepower, Inc.[7] and Richard L. Van Iderstine.[8]

In his comments, Mr. Van Iderstine argued that NHTSA only recently denied a petition to amend S5.5.10 of FMVSS No. 108 in order to allow flashing brake signaling systems being considered in this document. In short, Mr. Van Iderstine asked what has changed since the denial of that petition.

In its comments, Candlepower argued that temporary exemptions should be granted ''only in extreme and unusual circumstances, *e.g.*, evidenced, demonstrable manufacturer hardship.'' It also argued that MBUSA's petition is ''tantamount to requesting permission to use American roads as a research laboratory, possibly because European regulations in force in most of the rest of the world are more restrictive regarding nonstandard lighting functions.'' Further, it argued that a novel, nonstandard signal, such as flashing stop lamp, would cause the observing driver involuntarily to pause and attempt to comprehend the signal. It also argued that unlike Europe where turn signals must be amber and not red, in U.S., a flashing stop signal could be mistaken for a turn signal. Finally, Candlepower cautioned that new lighting devices tend to spawn ''poor-quality, noncompliant, unsafe copies in the aftermarket.''

VIII. The Agency's Decision and Response to Public Comments

The petitioner has met the burden of showing that an exemption would make easier the field evaluation of a new motor vehicle safety feature providing, within the context of 49 CFR part 555, ''a safety level at least equal to that of the standard.'' This new safety device is the same as current stop lamps, except

[3] MBUSA submitted supporting documentation, including the driver behavior study, under the claim of confidentiality. NHTSA granted the confidentiality request in part and denied it in part. The time for MBUSA to seek reconsideration of our confidentiality determination has not elapsed. In accordance with our regular procedures, the supporting documentation has not been placed in the public docket.

[4] The study was conducted by Dr. Joerg Breuer and Thomas Unselt.

[5] NCSA 2004 Traffic Safety Facts show 1,334,000 rear collisions involvoing passenger cars and 1,060,000 rear collisions involving light trucks (*see* Tables 42 and 44 at: *http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/TSFAnn/TSF2004EE.pdf*).

[6] *See* 70 FR 58786.

[7] *See* Docket Nos. NHTSA–2005–22653–4.

[8] *See* Docket Nos. NHTSA–2005–22653–3.

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.

[FR Doc. E6–1079 Filed 1–27–06; 8:45 am]

BILLING CODE 4910–59–P

[9] *See* 49 U.S.C. § 30113(b)(3)(B)(ii).

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