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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 541**

[Docket No. NHTSA-2008-0049]

RIN 2127-AK31

Federal Motor Vehicle Theft Prevention Standard; Final Listing of 2009 Light Duty Truck Lines Subject to the Requirements of This Standard and Exempted Vehicle Lines for Model Year 2009

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

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination that there are no new model year (MY) 2009 light duty truck lines subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard because they have been determined by the agency to be high-theft or because they have a majority of interchangeable parts with those of a passenger motor vehicle line. This final rule also identifies those vehicle lines that have been granted an exemption from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria.

DATES: *Effective Date:* The amendment made by this final rule is effective August 15, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Consumer Standards Division, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, 1200 New Jersey Avenue, SE., (NVS-131, Room W43-302), Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-0073.

SUPPLEMENTARY INFORMATION: On April 6, 2004, the agency published in the **Federal Register** (69 FR 17960) a final rule extending the parts-marking requirements to certain vehicle lines that were not previously subject to these requirements, specifically (1) all low-theft passenger car lines; (2) all low-theft multipurpose passenger vehicle (MPV) lines with a gross vehicle weight rating (GVWR) of 6,000 pounds or less;

and (3) low-theft light-duty truck (LDT) lines with a GVWR of 6,000 pounds or less that have major parts that are interchangeable with a majority of the covered major parts of passenger cars or MPVs. The high-theft vehicle lines that were previously exempted under 49 CFR part 543 on the grounds that they were equipped with an antitheft device as standard equipment were unaffected by the April 2004 final rule. The agency also stated that it would continue to grant exemptions for one vehicle line per manufacturer per model year. The final rule was effective September 1, 2006. The final rule included a phase-in provision which required at least 50 percent of the production volume not subject to the current parts marking requirements (excluding light duty trucks) to have been marked by September 1, 2006. The remaining production volume not subject to the current parts marking requirements must have been marked by September 1, 2007 (see 70 FR 28843, May 19, 2005).

The purpose of the theft prevention standard (49 CFR part 541) is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines subject to the requirements of the standard.

Section 33104(d) provides that once a line has become subject to the theft prevention standard, the line remains subject to the requirements of the standard unless it is exempted under § 33106. Section 33106 provides that a manufacturer may petition to have a line exempted from the requirements of § 33104, if the line is equipped with an antitheft device as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of those vehicle lines that have been determined to be high theft pursuant to 49 CFR part 541 and those that are exempted from the theft prevention standard under section 33104. Appendix A to Part 541

identifies those new light-duty truck lines listed for the first time that will be subject to the theft prevention standard beginning in a given model year. Appendix A-I to Part 541 identifies those vehicle lines that are or have been exempted from the theft prevention standard.

On September 26, 2007, the final listing of MY 2008 high-theft vehicle lines was published in the **Federal Register** (72 FR 54600). The final listing identified that there again were no new vehicle lines that became subject to the theft prevention standard beginning with the 2008 model year. For MY 2009, there were no new light-duty truck lines identified that became subject to the theft prevention standard in accordance with the procedures published in 49 CFR part 542.

For MY 2009, the list of lines that have been exempted by the agency from the parts-marking requirements of Part 541 includes nine vehicle lines newly exempted in full. The nine exempted vehicle lines are the Hyundai Genesis, Mazda 5, Subaru Forester, Jeep Wrangler, Chevrolet Equinox, Daimler smart USA fortwo, Nissan Rogue, Ford Escape, and Audi Q5.

We note that the agency removes from the list being published in the **Federal Register** each year certain vehicles lines that have been discontinued more than 5 years ago. Therefore, the Chevrolet Lumina/Monte Carlo (1996-1999) and the Chevrolet Malibu (2001-2003) have been removed from the Appendix A-I listing. The agency will continue to maintain a comprehensive database of all exemptions on our Web site. However, we believe that re-publishing a list containing vehicle lines that have not been in production for a considerable period of time is unnecessary.

The vehicle lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR part 543 and 49 U.S.C., 33106. Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331. For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

Regulatory Impacts

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rule was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It will not impose any new burdens on vehicle manufacturers. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency no new costs or burdens will result.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their rules on small businesses, small organizations and small governmental jurisdictions. I have considered the effects of this rulemaking action under

the Regulatory Flexibility Act and certify that it would not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is only to inform the public of agency's previous actions.

C. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment. Accordingly, no environmental assessment is required.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (\$120.7 million as adjusted annually for inflation with base year of 1995). The assessment may be combined with other assessments, as it is here.

This final rule will not result in expenditures by State, local or tribal governments or automobile manufacturers and/or their suppliers of more than \$120.7 million annually. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency, no new costs or burdens will result.

F. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, "Civil Justice Reform,"¹ the agency has considered whether this final rule has any retroactive effect. We conclude that it would not have such an effect. In accordance with § 33118 when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

The Department of Transportation has not submitted an information collection request to OMB for review and clearance under the Paperwork reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). This rule does not impose any new information collection requirements on manufacturers.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR part 541 is amended as follows:

PART 541—[AMENDED]

■ 1. The authority citation for part 541 continues to read as follows:

Authority: 49 U.S.C. 33101, 33102, 33103, 33104, 33105 and 33106; delegation of authority at 49 CFR 1.50.

■ 2. In part 541, Appendix A-I is revised to read as follows:

Appendix A—I to Part 541—Lines With Antitheft Devices Which Are Exempted From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturer	Subject lines
BMW	MINI. X5. Z4. 1 Car Line. 3 Car Line. 5 Car Line. 6 Car Line. 7 Car Line.
CHRYSLER	300C. Jeep Grand Cherokee.

¹ See 61 FR 4729, February 7, 1996.

Manufacturer	Subject lines
FORD MOTOR CO	Jeep Wrangler. ¹ Conquest. Town and Country MPV. Dodge Charger. Dodge Magnum. Escape. ¹ Ford Five Hundred. Ford Focus. Lincoln Town Car. Mustang. Mercury Sable (2001–2004). Mercury Grand Marquis. Taurus (2000–2004). Taurus X.
GENERAL MOTORS	Buick Lucerne. Buick LeSabre. Buick LaCrosse/Century. Buick Park Avenue. Buick Regal/Century. Cadillac DTS/Deville. Cadillac STS/Seville. Chevrolet Cavalier. Chevrolet Classic. Chevrolet Cobalt. Chevrolet Corvette. Chevrolet Equinox. ¹ Chevrolet Impala/Monte Carlo. Chevrolet Malibu/Malibu Maxx. Chevrolet Uplander. Chevrolet Venture (2002–2004). Oldsmobile Alero. Oldsmobile Aurora. Pontiac Bonneville. Pontiac G6. Pontiac Grand Am. Pontiac Grand Prix. Pontiac Sunfire. Saturn Aura.
HONDA	Acura CL. Acura NSX. Acura RL. Acura TL.
HYUNDAI	Azera. Genesis. ³
ISUZU	Axiom.
JAGUAR	XK.
MAZDA	3. 5. ¹ 6. CX–7. CX–9. MX–5 Miata. Millenia.
DAIMLER ²	Smart USA Fortwo. ¹ SL-Class (the models within this line are): 300SL, 500SL, 600SL, SL500, SL550, SL600, SL55, SL65. S-Class/CL-Class (the models within this line are): S450, S500, S550, S600, S55, S65, CL500, CL600, CL55, CL65. C-Class/CLK-Class (the models within this line are): C240, C300, C350, CLK 350, CLK 550, CLK 63AMG. E-Class/CLS Class (the models within this line are): E320/E320DT CDI, E350/E500/E55, CLS500/CLS55.
MITSUBISHI	Eclipse. Endeavor. Galant.
NISSAN	Diamante. Altima. Maxima. Pathfinder. Quest. Rogue. ¹ Sentra. Versa 350Z. Infiniti G35. Infiniti I30. Infiniti J30.

Manufacturer	Subject lines
PORSCHE	Infiniti M30. Infiniti M45. Infiniti QX4. Infiniti Q45. 911. Boxster/Cayman.
SAAB	9–3.
SUBARU	Forester. ¹ Impreza. B9 Tribeca.
SUZUKI	XL–7.
TOYOTA	Lexus ES. Lexus GS. Lexus LS. Lexus SC.
VOLKSWAGEN	Audi 5000S. Audi A4. Audi Allroad. Audi A6. Audi Q5. ¹ New Beetle. Cabrio. Golf/GTI. Jetta. Passat.

¹ Granted an exemption from the parts marking requirements beginning with MY 2009.

² Formerly known as Mercedes-Benz.

Issued on: August 11, 2008.

Nathaniel M. Beuse,

*Office of Crash Avoidance Standards,
Director.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043–4043–01]

RIN 0648–X145

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper- grouper Fishery of the South Atlantic; Closure of the 2008 Commercial Fishery for Golden Tilefish in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial
fishery for golden tilefish in the
exclusive economic zone (EEZ) of the
South Atlantic. NMFS has determined
that the quota for the commercial
fishery for golden tilefish will have been
reached by August 17, 2008. This
closure is necessary to protect the
golden tilefish resource.

DATES: Closure is effective 12:01 a.m.,
local time, August 17, 2008, until 12:01
a.m., local time, on January 1, 2009.

FOR FURTHER INFORMATION CONTACT:

Britni Tokotch, telephone 727–824–
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SUPPLEMENTARY INFORMATION: The
snapper-grouper fishery of the South
Atlantic is managed under the Fishery
Management Plan for the Snapper-
Grouper Fishery of the South Atlantic
Region (FMP). The FMP was prepared
by the South Atlantic Fishery
Management Council and is
implemented under the authority of the
Magnuson-Stevens Fishery
Conservation and Management Act
(Magnuson-Stevens Act) by regulations
at 50 CFR part 622. Those regulations
set the commercial quota for golden
tilefish in the South Atlantic at 295,000
lb (133,810 kg) for the current fishing
year, January 1 through December 31,
2008.

Under 50 CFR 622.43(a), NMFS is
required to close the commercial fishery
for a species or species group when the
quota for that species or species group
is reached, or is projected to be reached,
by filing a notification to that effect with
the Office of the Federal Register. Based
on current statistics, NMFS has
determined that the available
commercial quota of 295,000 lb (133,810
kg) for golden tilefish will be reached on
or before August 17, 2008. Accordingly,
NMFS is closing the commercial fishery
for golden tilefish in the South Atlantic

EEZ from 12:01 a.m., local time, on
August 17, 2008, until 12:01 a.m., local
time, on January 1, 2009. The operator
of a vessel with a valid commercial
vessel permit for snapper-grouper
having golden tilefish aboard must have
landed and bartered, traded, or sold
such golden tilefish prior to 12:01 a.m.,
local time, August 17, 2008.

During the closure, the bag and
possession limits specified in 50 CFR
622.39(b) apply to all harvest or
possession of golden tilefish in or from
the South Atlantic EEZ, and the sale or
purchase of golden tilefish taken from
the EEZ is prohibited. The prohibition
on sale or purchase does not apply to
sale or purchase of golden tilefish that
were harvested, landed ashore, and sold
prior to 12:01 a.m., local time, August
17, 2008, and were held in cold storage
by a dealer or processor.

Classification

This action responds to the best
available information recently obtained
from the fishery. The Assistant
Administrator for Fisheries, NOAA,
(AA), finds good cause to waive the
requirement to provide prior notice and
opportunity for public comment
pursuant to the authority set forth at 5
U.S.C. 553(b)(B) as such prior notice
and opportunity for public comment is
unnecessary and contrary to the public
interest. Such procedures would be
unnecessary because the rule itself has
already been subject to notice and
comment, and all that remains is to
notify the public of the closure.