

inconsequential to motor vehicle safety. Accordingly, Coupled Products' appeal of NHTSA's decision on inconsequential noncompliance is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: May 25, 2005.

**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-21270; Notice 1]

#### Mercedes-Benz USA LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

Mercedes-Benz USA LLC (Mercedes) has determined that the designated seating capacity placards for certain vehicles that it produced in 2004 do not comply with S4.3(b) of 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110, "Tire selection and rims." Mercedes has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Mercedes 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 Mercedes' 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.

Affected are a total of approximately 1,576 SLK class vehicles produced between March 24, 2004 and December 15, 2004. S4.3(b) of FMVSS No. 110 requires that a "placard, permanently affixed to the glove compartment door or an equally accessible location, shall display the \* \* \* [d]esignated seating capacity \* \* \* ." The noncompliant vehicles have placards stating that the seating capacity is four, when in fact the seating capacity is two.

Mercedes believes that the noncompliance is inconsequential to motor vehicle safety and that no

corrective action is warranted. Mercedes states:

\* \* \* most, if not all, consumers will look at the number of seats in the vehicle and the number of safety belts to determine its capacity, rather than looking at the tire information placard. Because the SLK Roadster is a two-seater vehicle with no rear seat, it is immediately obvious that the seating capacity is two and not four, and that it is not possible to seat four occupants in the vehicle.

Mercedes further states:

Because it is impossible for the SLK to hold four occupants, the seating capacity labeling error has no impact on the vehicle capacity weight, recommended cold tire inflation pressure and recommended size designation information. All of this information is correct on the tire information placard. Moreover, the purpose of providing seating capacity information is to prevent vehicle overloading. Because the SLK holds only two occupants, it is not possible to overload the vehicle due to reliance on the tire information placard.

Interested persons are invited to submit written data, views, and arguments on the petition described above. 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. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL-401, 400 Seventh Street, SW., Washington, DC, 20590-0001. Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help" to obtain instructions for filing the document electronically. Comments may be faxed to 1-202-493-2251, or may be submitted to the Federal eRulemaking Portal: go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

*Comment closing date:* July 5, 2005.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: May 25, 2005.

**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2005-20782; Notice 2]

#### Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Dr. Ing. h.c.F Porsche AG has determined that certain vehicles that it manufactured for model years 2003, 2004 and 2005 do not comply with S4.2.2(a) of 49 CFR 571.114, Federal Motor Vehicle Safety Standard (FMVSS) No. 114, "Theft protection." Pursuant to 49 U.S.C. 30118(d) and 30120(h), on behalf of Dr. Ing. h.c.F Porsche AG, Porsche Cars North America, Inc. (Porsche) has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Notice of receipt of a petition was published, with a 30-day comment period, on April 11, 2005, in the **Federal Register** (70 FR 18459). NHTSA received no comments.

Approximately 28,949 model year 2003, 2004, and 2005 Porsche Cayenne, Cayenne S and Cayenne Turbo vehicles are affected. S4.2.2(a) of FMVSS No. 114 requires that

\* \* \* provided that steering is prevented upon the key's removal, each vehicle \* \* \* [which has an automatic transmission with a "park" position] may permit key removal when electrical failure of this [key-locking] system \* \* \* occurs or may have a device which, when activated, permits key removal.

In the affected vehicles, the steering does not lock when the ignition key is removed from the ignition switch using the optionally provided device that permits key removal in the event of electrical system failure or when the transmission is not in the "park" position.

Porsche believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Porsche states the following in its petition: