

Issued on: April 27, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98-11783 Filed 5-1-98; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Modification of Exemption From the Vehicle Theft Prevention Standard; General Motors Corp.

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

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of General Motors Corporation (GM) for an exemption of a high-theft line, the Oldsmobile Alero (formerly the Oldsmobile Achieva), from the parts-marking requirements of the Federal Motor Vehicle 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. GM requested confidential treatment for some of the information and attachments submitted in support of its petition. In a letter to GM dated November 26, 1997, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-2739.

SUPPLEMENTARY INFORMATION: In a petition dated October 25, 1997, General Motors Corporation (GM) informed the agency of its planned nameplate change for its Oldsmobile Achieva car line beginning with model year (MY) 1999. GM also informed the agency that the nameplate for the Oldsmobile Achieva will be changed to Oldsmobile Alero, and that the Alero car line will be a continuation of the Achieva line. The Achieva car line is subject to the parts-marking requirements of the theft prevention standard.

In its petition dated October 25, 1997, GM requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541) for the Oldsmobile Alero car line. The petition is pursuant to 49 CFR part 543, Exemption From Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire line.

GM's submittal is considered a complete petition, as required by 49 CFR 543.7, in that it met the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, GM provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. GM will install its "Passlock" antitheft device as standard equipment on its MY 1999 Oldsmobile Alero car line.

In order to ensure the reliability and durability of the device, GM conducted tests based on its own specified standards. GM provided a detailed list of the tests conducted. GM stated its belief that the device is reliable and durable since the device complied with GM's specified requirements for each test.

GM compared the "Passlock" device proposed for the Alero car line with its first generation "PASS-Key" and "PASS-Key II" devices which the agency has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. GM believes that its "Passlock" antitheft device will be at least as effective as the "PASS-Key" and "PASS-Key II" devices.

The following GM car lines have the "Passlock" device as standard equipment and have been granted a full exemption from the parts-marking requirements: The Chevrolet Cavalier, beginning with MY 1997 (see 61 FR 12132, March 25, 1996) and the Pontiac Sunfire, beginning with MY 1998 (see 62 FR 20240, April 25, 1997). The "Passlock" device provides the same kind of functionality as the "PASS-Key" and "PASS-Key II" devices, but features a coded lock cylinder rather than an electrically coded ignition key. The "Passlock" device utilizes an electronic sensor located near the ignition lock instead of a coded key, allowing the device to incorporate a standard key. GM stated that when the sensor detects proper lock rotation, it sends a code to the controller. If the correct code is received, fuel is enabled. If an incorrect code is received, fuel is disabled.

GM also stated that the theft rates, as reported by the National Crime

Information Center, are lower for GM models equipped with "PASS-Key"-like devices which have been granted exemptions from the parts-marking requirements than theft rates for similar, earlier models that have been parts-marked. Therefore, GM concludes that the "PASS-Key"-like devices are more effective in deterring motor vehicle theft than the parts-marking requirements of 49 CFR part 541. GM also concluded that based on the system performance of the "PASS-Key"-like devices on other GM models, and the similarity of design and functionality of the device on the Oldsmobile Alero to the "PASS-Key" device, GM believes that the agency should determine that the "Passlock" device will be at least as effective in reducing and deterring motor vehicle theft as the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

Based on comparison of the reduction in theft rates of Corvettes using a passive antitheft system and audible/visible alarm with the reduction in theft rates for Chevrolet Camaro and Pontiac Firebird models equipped with a passive antitheft device without an alarm, GM believes that an alarm or similar attention attracting device is not necessary and does not compromise the antitheft performance of these systems.

The agency notes that the reason that the vehicle lines whose theft data GM cites in support of its petition received only a partial exemption from parts-marking was that the agency did not believe that the antitheft device on these vehicles ("PASS-Key" and "PASS-Key II") by itself would be as effective as parts-marking in deterring theft because it lacked an alarm system. On that basis, it decided to require GM to mark the vehicle's most interchangeable parts (the engine and the transmission), as a supplement to the antitheft device. Like those earlier antitheft devices GM used, the new "Passlock" device on which this petition is based also lacks an alarm system. Accordingly, it cannot perform one of the functions listed in 49 CFR Part 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle.

Since deciding those petitions, however, the agency became aware that theft data shows declining theft rates for GM vehicles equipped with either version of the "PASS-Key" system. Based on that data, it concluded that the lack of a visual or audio alarm had not prevented the antitheft system from being effective protection against theft and granted two GM petitions for full exemptions for car lines equipped with "PASS-Key II". See 60 FR 25939 (May 15, 1995) granting in full the petition for

Chevrolet Lumina and Buick Regal car lines equipped with "PASS-Key II"; and 58 FR 44874 (August 25, 1993), granting in full the petition for exemption of Buick Riviera and Oldsmobile Aurora car lines equipped with "PASS-Key II". In both of those instances, the agency concluded that a full exemption was warranted because "PASS-Key II" had shown itself as likely as parts-marking to be effective protection against theft despite the absence of a visual or audio alarm.

The agency concludes that, given the similarities between the "Passlock" device and the "PASS-Key" and "PASS-Key II" systems, it is reasonable to assume that "Passlock", like those systems, will be as effective as parts-marking in deterring theft. Accordingly, it has granted this petition for exemption in full and will not require any parts to be marked on the Oldsmobile Alero car line beginning with MY 1999.

The agency believes that the device will provide the types of performance listed in 49 CFR 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.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that GM has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information GM provided about its antitheft device. This confidential information included a description of reliability and functional tests conducted by GM for the antitheft device and its components.

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the MY 1999 Oldsmobile Alero car line from the parts-marking requirements of 49 CFR part 541.

If GM decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM 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. § 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 antitheft device on which the line's exemption is based. Further, § 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 which § 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.

Issued on: April 29, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98-11782 Filed 5-1-98; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

[STB Ex Parte No. 627]

Market Dominance Determinations— Product and Geographic Competition

AGENCY: Surface Transportation Board.
ACTION: Notice of Proposal to Eliminate Product and Geographic Competition From Consideration in Market Dominance Determinations.

SUMMARY: Pursuant to its decision in *Review of Rail Access and Competition Issues*, STB Ex Parte No. 575 (STB served Apr. 17, 1998), the Board is instituting a proceeding to consider removing product and geographic competition as factors in market dominance determinations in railroad rate proceedings. The Board requests that persons intending to participate in this proceeding notify the agency of that intent. A separate service list will be issued based on the notices of intent to participate that the Board receives.

DATES: Notices of intent to participate in this proceeding are due May 12, 1998. Comments on this proposal are due May 29, 1998. Replies are due June 29, 1998.

ADDRESSES: An original plus 12 copies of all comments and replies, referring to STB Ex Parte No. 627, must be sent to the Office of the Secretary, Case Control Unit, ATTN: STB Ex Parte No. 627, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

Copies of the written comments will be available from the Board's contractor, D.C. News and Data, Inc., located in Room 210 in the Board's building. D.C. News can be reached at (202) 289-4357. The comments will also be available for viewing and self copying in the Board's Microfilm Unit, Room 755.

In addition to an original and 12 copies of all paper documents filed with the Board, the parties shall submit their pleadings, including any graphics, on a 3.5-inch diskette formatted for WordPerfect 7.0 (or in a format readily convertible into WordPerfect 7.0). All textual material, including cover letters, certificates of service, appendices and exhibits, shall be included in a single file on the diskette. The diskettes shall be clearly labeled with the filer's name, the docket number of this proceeding, STB Ex Parte No. 627, and the name of the electronic format used on the diskette for files other than those formatted in WordPerfect 7.0. All pleadings submitted on diskettes will be posted on the Board's website (www.stb.dot.gov). The electronic submission requirements set forth in this notice supersede, for the purposes of this proceeding, the otherwise applicable electronic submission requirements set forth in the Board's regulations. See 49 CFR 1104.3(a), as amended in *Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings*, STB Ex Parte No. 527, 61 FR 52710, 711 (Oct. 8, 1996), 61 FR 58490, 58491 (Nov. 15, 1996).¹

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695.]

SUPPLEMENTARY INFORMATION: In STB Ex Parte No. 575, the Board conducted two days of informational hearings, on April 2 and 3, 1998, to examine issues of rail access and competition in today's railroad industry, and the statutory remedies and agency regulations and procedures that relate to those matters. As a result of those hearings, we announced, *inter alia*, that we would commence a proceeding to consider eliminating the product and geographic competition factors of our market dominance guidelines in cases challenging the reasonableness of rail rates.²

Under 49 U.S.C. 10707, the Board can entertain a challenge to the reasonableness of a rail rate only if we

¹ A copy of each diskette submitted to the Board should be provided to any other party upon request.

² The current market dominance guidelines are set forth in *Product and Geographic Competition*, 2 I.C.C.2d 1, 20-22 (1985) (*Market Dominance III*).