

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 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: January 4, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Petition for Exemption From the Vehicle Theft Prevention Standard; Nissan

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

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the petition of Nissan North America, Inc., (Nissan) in accordance with § 543.9(c)(2) of 49 CFR Part 543, *Exemption from the Theft Prevention Standard*, for the Quest vehicle line. 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. Nissan requested confidential treatment for the information and attachments it submitted in support of its petition. In a letter dated August 4, 2005, 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) 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms.

Ballard's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated July 19, 2005, Nissan requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Nissan Quest vehicle line beginning with MY 2006. The petition requested 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 exemptions for one line of its vehicle lines per year. In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. Nissan will install its antitheft device as standard equipment beginning with MY 2006. Nissan'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.

In addressing the specific content requirements of 543.6, Nissan provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Nissan conducted tests based on its own specified standards. Nissan also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test.

Nissan also compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Nissan stated that its proposed device is functionally equivalent to the systems used in previous vehicle lines which were deemed effective and granted exemptions from the parts-marking requirements of the theft prevention standard. Additionally, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Nissan proposes to install on the new line.

On the basis of this comparison, Nissan has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has already

granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Nissan, the agency believes that the antitheft device for the Quest 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 the five types of performance listed in § 543.6(a)(3): promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; 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 Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its device, much of which is confidential. This confidential information included a description of reliability and functional tests conducted by Nissan for the antitheft device and its components.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Quest vehicle line from the parts-marking requirements of 49 CFR part 541. 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 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard. Therefore, although Nissan has been granted confidential treatment for most aspects of its petition, the agency notes that the information that may be published in the **Federal Register** includes the make and model of the vehicle, the model year for which the exemption is granted and a general description of the proposed antitheft device, with a mention of such elements as key activation, starter motor interrupt, and the general location of the sensors triggering the alarm.

If Nissan decides not to use the exemption for the Quest vehicle 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 Nissan 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. Section 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, § 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 § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend 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.

We note that Nissan requested confidential treatment for the information and attachments it submitted in support of its petition. While the agency granted the petitioner's request for confidential treatment of most aspects of its petition, we have released the model year for which the exemption is granted. This information is necessary for the law enforcement efforts to combat motor vehicle theft. That is, law enforcement officials need to know whether a given motor vehicle line was subject or exempted from the parts-marking requirements for a given model year.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: January 4, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34803]

#### The Town of Corinth, NY—Acquisition and Operation Exemption—Canadian Pacific Railway

The Town of Corinth, NY (Town), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Delaware and Hudson Railway Company, Inc., doing business as Canadian Pacific Railway (CPR), certain assets of an approximately 16.45-mile rail line between Adirondack Branch milepost 39.44 at or near Saratoga Springs, NY, and Adirondack Branch milepost 55.89 at or near Corinth, NY. In addition, the Town will acquire from CPR approximately .69 miles of incidental trackage rights, extending from milepost 37.10 to milepost 38.20 in Saratoga Springs, NY.

At the time of filing of the verified notice, the Town and CPR were in the process of finalizing one or more agreements whereby the Town will acquire the right-of-way, track and other rail assets associated with the line, subject to CPR's reservation of an exclusive and permanent freight easement. The Town states that it will have neither the right nor the obligation to perform common carrier freight service over the line, but instead intends to provide intrastate scenic tour passenger operations.<sup>1</sup>

The Town certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier.

The transaction was expected to be consummated on or after December 31, 2005.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34803, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Rose-Michele Nardi, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036-1609.

<sup>1</sup>For these reasons, the Town has simultaneously filed a motion to dismiss the notice of exemption in this proceeding. The Board will address the motion in a separate decision.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: January 4, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34798]

#### City of Alameda—Acquisition Exemption—Alameda Beltline Railroad

The City of Alameda (the City), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the line of railroad owned by the Alameda Beltline Railroad (ABL).

The earliest the transaction could have been consummated was December 16, 2005 (7 days after filing the notice), but, as noted below, the effectiveness of the exemption has been stayed pending further order of the Board.

The City certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

On December 15, 2005, ABL filed a petition to stay the effectiveness of the exemption sought by the City through the filing of its notice under section 1150.31. On December 15, 2005, the Board granted a housekeeping stay of the effective date of the exemption in this proceeding to allow time for the parties to provide additional information, and for the Board to consider the issues presented in the stay request. The exemption is stayed until further order of the Board, and each party has been given until January 17, 2006, to file additional pleadings.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34798, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: (1) Charles A. Montange, 426 NW., 162nd Street, Seattle, WA 98177; and (2) Sidney L. Strickland, Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.