

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

Issued on: December 7, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; General Motors Corporation

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

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of General Motors Corporation, (GM) for an exemption in accordance with § 543.9(c)(2) of 49 CFR part 543, *Exemption from the Theft Prevention Standard*, for the Pontiac G6 vehicle line beginning with model year (MY) 2007. 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.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2007.

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 phone number is (202) 366-5222. Her fax number is (202) 493-2290.

SUPPLEMENTARY INFORMATION: In a petition dated July 19, 2005, GM requested an exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Pontiac G6 vehicle line beginning with MY 2007. The petition requested an exemption from parts-marking pursuant to 49 CFR 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the 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, GM provided a detailed description and diagram of the identity, design, and location of the components

of the antitheft device for the new vehicle line. The antitheft device is a transponder-based, electronic, immobilizer system. GM will install its antitheft device as standard equipment on its Pontiac G6 vehicle line beginning with MY 2007. GM'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.

The antitheft device to be installed on the MY 2007 Pontiac G6 is the PASS-Key III+. The PASS-Key III+ device is designed to be active at all times without direct intervention by the vehicle operator. The system is fully armed immediately after the ignition has been turned off and the key removed. The system will provide protection against unauthorized starting and fueling of the vehicle engine. Components of the antitheft device include a special ignition key and decoder module. Before the vehicle can be operated, the key's electrical code must be sensed and properly decoded by the PASS-Key III+ control module. The ignition key contains electronics molded into the key head. These electronics receive energy and data from the control module. Upon receipt of the data, the key will calculate a response to the data using secret information and an internal encryption algorithm, and transmit the response back to the vehicle. The controller module translates the radio frequency signal received from the key into a digital signal and compares the received response to an internally calculated value. If the values match, the key is recognized as valid and the vehicle can be operated.

GM indicated that the theft rates, as reported by the Federal Bureau of Investigation's National Crime Information Center, are lower for GM models equipped with the "PASS-Key"-like systems which have exemptions from the parts-marking requirements of 49 CFR part 541, than the theft rates for earlier, similarly-constructed models which were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III systems on other GM models, and the advanced technology utilized by the modification, GM believes that the MY 2007 antitheft device will be more effective in deterring theft than the parts-marking requirements of 49 CFR Part 541. Additionally, GM stated that the PASS-Key III+ system has been designed to enhance the functionality and theft protection provided by GM's first, second, and third generation PASS-Key,

PASS-Key II, and PASS-Key III systems.

In addressing the specific content requirements of 543.6, GM provided information on the reliability and durability of the proposed device. To ensure reliability and durability of the device, GM conducted tests based on its own specified standards. GM provided a detailed list of the tests conducted on the components of its immobilizer device and believes that the device is reliable and durable since it complied with the specified requirements for each test. Specifically, GM stated that the components of the device were tested and met compliance in climatic, mechanical and chemical environments, and immunity to various electromagnetic radiation.

GM also stated that although its antitheft device provides protection against unauthorized starting and fueling of the vehicle, it does not provide any visible or audible indication of unauthorized entry by means of flashing vehicle lights or sounding of the horn. Since the system is fully operational once the vehicle has been turned off, specific visible or audible reminders beyond key removal reminders have not been provided.

Based on comparison of the reduction in the theft rates of GM vehicles using a passive theft deterrent device with an audible/visible alarm system to the reduction in theft rates for GM vehicle models equipped with a passive antitheft device without an alarm, GM finds that the lack of an alarm or attention attracting device does not compromise the theft deterrent performance of a system such as PASS-Key III+.

GM's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lack an audible or visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR part 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with devices similar to that which GM proposes. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, GM has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by GM, the agency believes that the antitheft device for the GM 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 541).

The agency concludes that the device will provide four of the five types of performance listed in § 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 part 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 device.

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the Pontiac G6 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 part 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard.

If GM decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 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. Part 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, part 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 Part 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.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-6 (Sub-No. 434X)]

BNSF Railway Company— Abandonment Exemption—in Fergus County, MT

BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a line of railroad between milepost 9.50 near Moore, MT, and milepost 28.35 near Lewiston, MT, the 1.30-mile Berg Lumber Spur (milepost 0.00–milepost 1.30), and the Heath Spur (milepost 0.00–milepost 1.10), a total distance of 21.25 miles in Fergus County, MT. The line traverses United States Postal Service Zip Codes 59457 and 59464.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication) and 49 CFR

1152.50 (d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 13, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 U.S.C. 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29³ must be filed by December 27, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 3, 2006, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Michael Smith, 311 S. Wacker Dr., Suite 3000, Chicago, IL 60606-6677.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BNSF has filed an environmental and historic report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 19, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each OFA must be accompanied by the filing fee, which currently is set at \$1,200. See 49 CFR 1002.2(f)(25).

³ Each trail use request must be accompanied by the filing fee, which currently is set at \$200. See 49 CFR 1002.2(f)(27).