''highway'' and its subsequent conversion to a toll facility. Bridges and/or tunnels may be included within the ''highway'' segment.

Phase 1—Application Requirements

An application from a State must address those items set forth in Section 1216(b)(3) of TEA–21, as follows:

- An identification of the facility on the Interstate system proposed to be a toll facility, including the age, condition, and intensity of use of the facility.
- In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization established under 23 U.S.C. 134 for the area has been consulted concerning the placement and amount of tolls on the facility.
- An analysis demonstrating that the facility could not be maintained or improved to meet current or future needs from the State's apportionments and allocations made available by the TEA–21, including amendments to the act, and from revenues for highways from any other source without toll revenues.
- A facility management plan that includes:
- A plan for implementing the imposition of tolls on the facility.
- A schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues.
- A description of the public transportation agency that will be responsible for implementation and administration of the pilot project.
- A description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route.

In addition, the application should:

- Show how the plan for implementing tolls takes into account the interests of local, regional and interstate travelers.
- Provide an environmental scoping analysis of the proposed project's impacts to the social, economic, and environmental resources located in the vicinity of the project. The analysis should show what effect the proposed construction, as well as the imposition of tolls, may have on such resources as:
- current or planned land uses,
- historic, cultural, natural, or recreational resources,
- economic or community resources,
- safety and livability,
- ambient light, noise, and air quality levels,
- sensitive receptors, and
- minority and low-income populations.

This scoping analysis should form the basis for the more detailed environmental evaluation done in Phase 2.

The States are also welcome to include with their application whatever additional information they feel would assist us in understanding the merits of their proposal.

Phase 1—Selection Criteria

In selecting up to three candidate projects, the criteria set forth in Section 1216(b)(4) of TEA–21 will be used to evaluate candidates. These criteria are:

- The State is unable to reconstruct or rehabilitate the proposed toll facility using existing apportionments.
- The facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls.
- The State plan for implementing tolls on the facility takes into account the interests of local, regional and interstate travelers.
- The State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable.
- The State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate system.

In addition to the above, the environmental scoping analysis information submitted will be used in evaluating candidate projects. A candidate project perceived to have lesser environmental impacts may be given preference.

Phase 2

It is recognized that the NEPA impacts of a proposed pilot project under this program, not only involve those associated with the proposed reconstruction/rehabilitation activities themselves but also those associated with converting a free Interstate facility to a toll facility, such as potential changes in travel patterns, construction of toll collection facilities, and economic equity issues. The impacts associated with conversion from a free to toll facility as well as the impacts of the physical construction activities of the reconstruction/rehabilitation project need to be addressed before a candidate pilot project is given final approval as a pilot project.

Accordingly, in Phase 2 a State will be required to develop, for FHWA acceptance, appropriate NEPA documentation for the pilot project. Although no specific time limits are established for the NEPA process to be completed for a pilot project, it is expected a State will accomplish it in a timely manner. If this does not occur, a candidate's ''provisional'' acceptance may be withdrawn and offered to another candidate submitted during Phase 1.

Submission Process

A Phase 1 application from a State is to be submitted to the division office. Applications are to be received in Headquarters by March 31, 1999.

The division office is to ensure the application is complete and fully addresses the items noted above for a Phase 1 application. Incomplete applications received by Headquarters will be returned to the division office. In addition, the division office should review the application based on their knowledge of the proposed candidate project and the State's program and provide detailed comments for Headquarters consideration.

Phase 2 tasks will also be coordinated through the division office. We will provide additional guidance on this later.

Questions concerning this memorandum should be directed to Jim Overton (202–366–4653) of the Federal-Aid and Design Division.

Signed by,

Thomas J. Ptak.

[FR Doc. 99–3206 Filed 2–9–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4320; Notice 2]

Shelby American, Inc.; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

We are granting the application by Shelby American, Inc., of Las Vegas, Nevada (''Shelby American''), for an exemption until January 1, 2001, from the automatic restraint provisions of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection* (S4.1.5.3). Shelby American applied for an exemption on the basis that compliance would cause substantial economic hardship to a manufacturer that had tried in good faith to comply with the standard.

We published notice of receipt of the application on August 18, 1998 (63 FR 44302), affording 30 days for comment. However, no comments were received.

Shelby American is a Texas corporation, privately held and wholly

owned by Carroll Shelby. Its current business activities are conducted by three wholly owned subsidiaries. The first of these subsidiaries is Shelby Series One, Inc., the unit that will produce a new sports car which is the subject of the application for a temporary exemption. At the time the application was filed, these vehicles existed in prototype form only, and none had been produced. The second subsidiary is Shelby CSX4000, Inc., which produces ''a component vehicle sold without engine or transmission,'' to individuals who will install the power train of their choice. In 1997, 75 of these Cobra replica assemblies were sold. The third subsidiary is Shelby Original 427S/Cs, Inc., whose business is to assemble automobiles ''from certain new old stock parts surviving from the original 1965 Shelby Cobra production run * * * supplemented by newly manufactured parts utilizing original tooling.'' Two such vehicles have been assembled and sold as of the date of the application.

The Series I is a two-passenger open convertible sports car, powered by the Oldsmobile Aurora engine. The first prototypes were shown in early 1997. Shelby American has asked to be excused from compliance with the automatic restraint requirements of Standard No. 208, relating that it is working ''with many outside companies'' to complete the vehicle development and certification. Development of the Series I started in March 1995 (i.e., engineering tasks subsequent to initial design development). As of the filing of its application, Shelby American had spent an estimated total of 400 man hours and $75,000 related to air bag development. As with development of the engine and interior, the applicant must contract the air bag development to an outside company. This cost will total $4,643,500 over the period of time for which it has asked for an exemption. Additional expenditures of $546,000 will be necessary to cover the costs of testing, and integration of airbag wiring. In the interim, the Series I will be equipped with a three-point driver and passenger restraint system. The applicant is optimistic that it can sell 500 Series I cars in the period for which it has requested exemption. With these sales ''Shelby American will be able to support the estimated $216,229 monthly development expenditure necessary for implementation of the airbag at the end of the two year period.''

Shelby American had no material operations in 1995. Its unaudited consolidated balance sheet showed a net loss of $738,415 for 1996, and a net income of $147,904 for 1997.

The applicant argued that ''the production of the Shelby Series I is in the best interest of the public and the US economy.'' At the time of its application, the company planned to open a new 100,000 square foot facility in June 1998 in Las Vegas to produce the Series I. The new facility ''will provide direct employment to approximately 200 employees.'' In addition, ''there are approximately 25 development/partner companies working with Shelby American on the development of the Shelby Series I, providing indirect employment for those companies' personnel * * *'' The car will be sold through select Oldsmobile dealers * * * providing employment to many sales and service personnel at the dealership level.'' Most major components are produced in the United States, including the engine (Oldsmobile), tires (Goodyear), and transmission (ZF, from RBT, a US company). The Series I is technically advanced, combining ''an aluminum chassis with a carbon-fiber body, a new concept amongst production vehicles, which provides strength and durability while minimizing weight.'' Shelby American believes that ''the reduced weight achieved with this vehicle will translate into a new standard for improved emissions and fuel efficiency. Aside from Standard No. 208, the car will be certified as conforming to all applicable Federal motor vehicle safety standards.

As noted earlier, we received no comments on the application. However, several aspects of Shelby American's operations concerned us, and we commented on these in letters to the company on July 17, 1998, and October 15, 1998. The company responded to our concerns on November 25, 1998.

Shelby American's application informed us that its subsidiary, Shelby Original 427S/Cs, Inc., had assembled two vehicles, termed Continuation Cars, ''from certain new old stock parts surviving from the original 1965 Shelby Cobra production run * * * supplemented by newly manufactured parts utilizing original tooling.'' We informed the company that, in our opinion, vehicles produced under these facts must comply with all Federal motor vehicle safety standards in effect at the time of their assembly, and that its application had not covered these vehicles. The company replied that its Continuation Cars ''will only be sold as race cars, not as licensed vehicles for use on the public roads'' and that ''to the extent Shelby issues any statements of origin for these vehicles, it will be stated that the vehicles are not titled for highway use.''

We were also concerned about the operations of Shelby CSX4000, Inc., which produces ''a component vehicle sold without engine or transmission.'' We informed the company that we would regard it as the ''manufacturer'' and responsible for safety standard compliance certification if it offered an engine and transmission concurrently with the component vehicle or as part of the sales transaction. Shelby American responded that ''these are being sold by Shelby only as component vehicles, without engine and transmission, which are to be installed by the owner or at his or her direction. * * *'' While this falls short of a positive statement that the company is not furnishing an engine and transmission as part of the sales transaction, Shelby American's statement that the vehicles are sold only as component vehicles can reasonably be interpreted as meaning that it is not furnishing an engine and transmission for these vehicles.

Finally, we had been concerned with an article appearing in the September 21, 1998, issue of Business Week on the Shelby Series 1. This article, ''Road Rockets for the Jaded,'' stated that ''Shelbys are selling briskly. In Vegas, [the author] met one high roller who has bought five of them for resale.'' Shelby American has informed us that it has only taken deposits on the Series 1, and that ''no Series 1 vehicles, in whole or in part, have left the possession of Shelby American, Inc.'' ''No cars have been delivered, and no cars will be delivered'' unless and until we grant its application for exemption ''and all appropriate engine/emissions certifications are obtained and affixed to the vehicles.''

In order to grant Shelby American's application, 49 U.S.C. 30113 requires us to make two findings. The first is that compliance with Standard No. 208 would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. The second finding is that a temporary exemption is consistent with the public interest and the objectives of 49 U.S.C. Chapter 301—Motor Vehicle Safety.

In determining the existence of hardship, we begin by balancing a small manufacturer's recent annual net income history against its estimates of costs to comply, and continue by considering intangibles such as loss of market if an exemption is not granted. Shelby had no material operations in 1995. Its net loss in 1996 was only slightly offset by its net income in 1997,

for a cumulative loss of $590,511. On the other hand, development and testing costs are estimated to exceed $5,000,000. We believe it manifest that to require immediate compliance with automatic protection specifications would cause Shelby ''substantial economic hardship'' within the meaning of the statute. We note that an exemption will allow sales generating to ''support the estimated $216,229 monthly development expenditure'' to comply with Standard No. 208 at the end of the exemption period.

In finding whether an applicant has tried to comply with a standard in good faith, we ask an applicant to provide a chronological outline of its efforts. In this case, development is said to have begun in March 1995, and the company has learned that it must use outside assistance to comply. We are informed that the company, as of the date of its application, had ''spent an estimated total of 400 man hours and $75,000 related to development.'' Given its limited resources, we believe that the company's effort shows the requisite good faith attempt to meet Standard No. 208.

Shelby supports its argument that an exemption is consistent with the public interest by citing that its new facility will create jobs for 200 people, that 25 other companies are helping it to produce the Series 1, that the Series 1 will be sold through Oldsmobile dealers, and that the vehicle employs new materials techniques that ''will translate into a new standard for improved emissions and fuel efficiency.'' We have frequently found in the past that the public interest is served by providing employment opportunities and technological advancement, cogent arguments here as well. Finally, in support of an argument that an exemption is consistent with objectives of motor vehicle safety, Shelby American confirms that the Series 1 will be certified as conforming to all Federal motor vehicle safety standards other than Standard No. 208, and will be fitted with a three-point driver and passenger restraint system. We note, also, that there will be only a very limited number of exempted vehicles on the roads, only 500 by July 1, 2001.

Therefore, in consideration of the foregoing, and as required by 49 U.S.C. 30113, I find that compliance with Standard No. 208 would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith, and that an exemption is consistent with the public interest and 49 U.S.C. Chapter 301—Motor Vehicle Safety. Accordingly, Shelby American, Inc., is hereby granted NHTSA Temporary Exemption No. 99–1, expiring January 1, 2001, from S4.1.5.3 Passenger cars manufactured on or after September 1, 1997, of 49 CFR 571.208 Standard No. 208, *Occupant Crash Protection*.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

Issued: February 5, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99–3293 Filed 2–9–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–68 (Sub-No. 3X)]

Lake Superior & Ishpeming Railroad Company—Abandonment Exemption—in Marquette County, MI

On January 21, 1999, Lake Superior & Ishpeming Railroad Company (LS&I) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 3.54-mile line of railroad located wholly within the city and county of Marquette, MI, extending from milepost 50.23, near the Highway 41/Hampton Street intersection, to milepost 53.77, near the Hawley Street crossing. The line traverses United States Postal Service Zip Code 49855 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co. Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 11, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than March 2, 1999. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–68 (Sub-No. 3X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Phillip B. Maxwell, Hackett & Maxwell, P.C., 888 W. Big Beaver, Suite 1470, Troy, MI 48084. Replies to the LS&I petition are due on or before March 2, 1999.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]