

The theft rate for MY 2004 Cadillac SRX is 0.7789. GM stated that the theft rates experienced by these lines with installation of the PASS-Key III+ device demonstrate the effectiveness of the device. The agency agrees that the device is substantially similar to devices for which the agency has previously approved exemptions.

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. 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+. In past petitions, 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 believes that the antitheft device (PASS-Key III+) for model years 2010 and later will provide essentially the same functions and features as found on its MY 2005–2009 PASS-Key III device and therefore, its modified device will provide at least the same level of theft prevention as parts-marking. GM believes that the antitheft device proposed for installation on its MY 2010 Buick LaCrosse is likely to be as effective in reducing thefts as compliance with the parts marking requirements of part 541.

In addressing the specific content requirements of part 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 and believes that the device is reliable and durable since it complied with the specified requirements for each test. GM also stated that since the authorization code is not handled or contacted by the vehicle operator, the reliability of the PASS-Key III+ is significantly improved over the PASS-Key and PASS-Key II devices. This reliability allows the system to return to the "Go/No Go" based system,

eliminating the "fail enabled" mode of operation.

The agency has evaluated GM's MY 2010 petition to modify the exemption for the Buick LaCrosse vehicle line from the parts-marking requirements of 49 CFR part 541, and has decided to grant it. It has determined that the PASS-Key III+ system is likely to be as effective as parts-marking in preventing and deterring theft of these vehicles, and therefore qualifies for an exemption under 49 CFR part 543. The agency believes that the proposed device will continue to 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.

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 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 27, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E9–2106 Filed 1–30–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Mitsubishi Motors

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

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Mitsubishi Motors R&D of America (Mitsubishi) petition for exemption of the Mitsubishi Lancer vehicle line in accordance with 49 CFR part 543, *Exemption from the 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 (49 CFR part 541). Mitsubishi requested confidential treatment for some of the information and attachments it submitted in support of its petition. The agency will address Mitsubishi's request for confidential treatment by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2010 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated September 26, 2008, Mitsubishi requested exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541) for the Mitsubishi Lancer vehicle line beginning with MY 2010. 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 an exemption for one vehicle line per model year. In its petition, Mitsubishi provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Lancer vehicle line. Mitsubishi will install a passive, transponder-based, electronic engine immobilizer device as standard equipment on its Lancer vehicle line beginning with MY 2010. Features of the antitheft device will include an electronic key, electronic control unit (ECU), and a passive immobilizer. Mitsubishi will also incorporate an alarm system as standard equipment on all Lancer models, except for the DE models, which will offer an optional alarm system. However, based on the declining theft rate experience of other vehicles equipped with devices that do not have an audio or visual alarm for which NHTSA has already exempted from the parts-marking requirements, the agency has concluded that the absence of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft. Mitsubishi'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.

Mitsubishi further explained that entry models for the Lancer vehicle line will be equipped with an immobilizer that functions via a Wireless Control Module (WCM). Mitsubishi stated that this is a keyless entry system in which the transponder is located in a traditional key that must be inserted into the key cylinder in order to activate the ignition. All other models of the Lancer vehicle line are equipped with an immobilizer that functions via a Keyless Operation System (KOS), which utilizes a keyless system that allows the driver to push a knob in the steering lock unit to activate the ignition (instead of using a traditional key in the key cylinder) as long as the transponder is located in close proximity to the driver inside the vehicle. Mitsubishi stated that the construction and performance of the immobilizer will be the same in all models whether the vehicle has a WCM or KOS entry system. Mitsubishi further stated that the only difference between the two keyless entry systems is the "key" and the method used to transmit the information from the key to the immobilizer.

Specifically, once the ignition switch is turned to the "on" position, the transceiver module reads the specific ignition key code for the vehicle and transmits an encrypted message containing the key code to the electronic control unit (ECU). The immobilizer receives the key code signal transmitted from either type of key (WCM or KOS) and verifies that the key code signal is correct. The immobilizer then sends a separate encrypted start-code signal to the engine ECU to allow the driver to start the vehicle. The power train only will function if the key code matches the unique identification key code previously programmed into the ECU. If the codes do not match, the power train engine and fuel system will be disabled.

In addressing the specific content requirements of 543.6, Mitsubishi provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Mitsubishi conducted tests based on its own specified standards. Mitsubishi provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specific requirements for each test. Mitsubishi additionally stated that its immobilizer system is further enhanced by several factors making it very difficult to defeat. Specifically, Mitsubishi stated that communication between the transponder and the ECU are encrypted and have trillions of different possible

key codes that make successful key code duplication virtually impossible.

Mitsubishi also stated that its immobilizer system and the ECU share security data during vehicle assembly that make them a matched set. These matched modules will not function if taken out and reinstalled separately on other vehicles. Mitsubishi also stated that it is impossible to mechanically override the system and start the vehicle because the vehicle will not be able to start without the transmission of the specific code to the electronic control module. Lastly, Mitsubishi stated that the antitheft device is extremely reliable and durable because there are no moving parts, nor does the key require a separate battery.

Mitsubishi informed the agency that the Lancer vehicle line was first equipped with the proposed device beginning with its MY 2008 vehicles. Additionally, Mitsubishi informed the agency that its Eclipse vehicle line has been equipped with the device beginning with its MY 2000 vehicles. Mitsubishi stated that the theft rate for the MY 2000 Eclipse decreased by almost 42% when compared with that of its MY 1999 Mitsubishi Eclipse (unequipped with an immobilizer device). Mitsubishi also revealed that the Galant and Endeavor vehicle lines have been equipped with a similar type of immobilizer device since January and April 2004 respectively. The Mitsubishi Galant and Endeavor vehicle lines were both granted parts-marking exemptions by the agency and the average theft rates using 3 MY's data is 4.4173 and 2.9564 respectively. Therefore, Mitsubishi 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 Mitsubishi, the agency believes that the antitheft device for the Lancer 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.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for an exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Mitsubishi has provided adequate reasons for its

belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Mitsubishi provided about its device.

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.

For the foregoing reasons, the agency hereby grants in full Mitsubishi's petition for exemption for the Lancer 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 Mitsubishi 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 parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Mitsubishi 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, § 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 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 27, 2009.

Stephen R. Kratzke,
Associate Administrator for Rulemaking.
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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 664 (Sub-No. 1)]

Use of a Multi-Stage Discontinued Cash Flow Model in Determining the Railroad Industry's Cost of Capital

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Final Decision.

SUMMARY: By a decision served on January 28, 2009, the Board modified its methodology for determining the cost of capital for the railroad industry by adopting the average of the estimates produced by its Capital Asset Pricing Model (CAPM) with the Morningstar/Ibbotson multi-stage Discontinued Cash Flow (DCF) model to estimate the railroad industry's cost of equity.

DATES: This action is effective on January 28, 2009.

FOR FURTHER INFORMATION CONTACT: Timothy J. Stafford, (202) 245-0356. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: The Board has been thoroughly reviewing its regulatory processes for determining the railroad industry's cost of capital. The overall cost of capital is determined through the use of two figures: The cost of debt and the cost of equity. The cost of debt is readily available and observable; however, the cost of equity is not and must be estimated using a finance model. The Board determined in a decision served on January 28, 2009, the combination of finance models that it found best depicts the cost of equity, and thereby the cost of capital. In that decision, the Board revised its methodology for determining the cost of capital for the railroad industry by adopting the average of CAPM and the Morningstar/Ibbotson multi-stage DCF model.

Additional information is contained in the Board's decision. A copy of the

Board's decision is available for inspection or copying at the Board's Public Docket Room, Room 131, 395 E Street, SW., Washington, DC 20423-0001, and is posted on the Board's Web site, <http://www.stb.dot.gov>.

Pursuant to 5 U.S.C. 605(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10101(14); 49 U.S.C. 10704(a)(2)-(3).

Decided: January 23, 2009.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Jeffrey Herzig,
Clearance Clerk.
[FR Doc. E9-2185 Filed 1-30-09; 8:45 am]
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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, and Wisconsin)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 17, 2009.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley at 1-888-912-1227, or (414) 231-2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 4 Taxpayer Advocacy Panel will be held Tuesday, March 17, 2009, at 1 p.m. Central Time. For more information, please contact Ellen Smiley. Ms. Smiley may be reached at 1-888-912-1227, or (414) 231-2360, or you can submit written comments to the panel by faxing the comments to (414) 231-2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203-2221, or you can

post comments to the Web site at <http://www.improveirs.org>.

The agenda will include the following: Various IRS issues.

Dated: January 27, 2009.

Shawn F. Collins,
Acting Director, Taxpayer Advocacy Panel.
[FR Doc. E9-2101 Filed 1-30-09; 8:45 am]

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U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—March 4, 2009, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Carolyn Bartholomew, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, and report to Congress annually on "the national security implications of the economic relationship between the United States and the People's Republic of China."

Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on March 4, 2009 to address "China's Military and Security Activities Abroad."

Background

This event is the second in a series of public hearings the Commission will hold during its 2009 report cycle to collect input from leading academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. The March 4 hearing will examine the People's Liberation Army's domestic and foreign activities and orientation, China's expanding military and security influence, China's military operations abroad, and China's conventional arm sales.

The March 4 hearing will be Co-chaired by Commission Chairman Carolyn Bartholomew and Vice Chairman Larry M. Wortzel.

Information on hearings, as well as transcripts of past Commission hearings, can be obtained from the USCC Web site <http://www.uscc.gov>.

Copies of the hearing agenda will be made available on the Commission's Web site <http://www.uscc.gov> as soon as available. Any interested party may file