installation flight attendant seats that do not provide direct view, the installation of interior doors between passenger compartments, and interior materials that do not comply with heat release smoke emissions requirements on a Boeing 737–700 Increased Gross Weight Airplane.

Partial Grant, October 5, 1998, Exemption N. 6820.

Docket No.: 29266.

Petitioner: Embry-Riddle Aeronautical University.

Sections of the FAR Affected: 14 CFR 141 4(b)(1)(ii) of appendix D.

Description of Relief Sought/ Disposition: To permit Embry-Riddle Aeronautical University to allow its students who are adding a single-engine rating to a commercial pilot certificate with a multiengine rating to use time logged in a multiengine aircraft with retractable landing gear, flaps, and a controllable pitch propeller, or in a turbine-powered airplane to satisfy the requirements of Subpart F of 14 CFR part 61.

Denial, October 14, 1998, Exemption No. 6828.

Docket No.: 29285.

Petitioner: Mr. Peter F. Fichter.

Sections of the FAR Affected: 14 CFR 61.153(a).

Description of Relief Sought/ Disposition: To permit Mr. Fitcher to obtain an airline transport pilot (ATP) certificate before reaching 23 years of age.

Denial, October 14, 1998, Exemption No. 6828.

Docket No.: 29296.

Petitioner: Sky Walk, Inc.

Sections of the FAR Affected: 14 CFR Appendix B paragraph 2.

Description of Relief Sought/ Disposition: To permit Sky Walk to enroll a person without a student pilot certificate in the flight portion of Sky Walk's FAA-approved part 141 private pilot certificate (1) before the 11th flight hour of the course and (2) before any solo flight.

Denial, October 14, 1998, Exemption No. 6824.

Docket No.: 29301.

Petitioner: Raytheon E–Systems.

Sections of the FAR Affected: 14 CFR 25.562(c)(2) through (c)(4), 25.785(h)(2), 25813(e) and 25.853(d).

Description of Relief Sought/ Disposition: To permit installation of interior doors between passenger compartments, side facing divans, flight attendant seats that do not provide direct view, and interior materials that do not comply with heat release smoke emissions requirements on a Boeing 737–700 Increase Gross Weight (IGW) airplane.

Partial Grant, October 8, 1998, Exemption No. 6822.

Docket No.: 29326.

Petitioner: JetSun Aviation Centre.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit JetSun Aviation Centre operate its Beechcraft C–55 Baron (Registration No. N782B, Serial No. TE–247) without a TSO–C112 (Mode S) transponder installed.

Grant, October 27, 1998, Exemption No. 6838.

Docket No.: 29339.

Petitioner: Mr. Peter Fleischhacker.

Sections of the FAR Affected: 14 CFR 121.338(c).

Description of Relief Sought/ Disposition: To permit Mr. Fleischhacker to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

Denial, October 23, 1998, Exemption No. 6837.

Docket No.: 29359.

Petitioner: Cedar Rapid Air Ambulance.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Cedar Rapids Air Ambulance to operate its Bell 407 helicopter (Registration No. N407LG, Serial No. 53143) without a TSO–C112 (Mode S) transponder installed.

Grant, October 15, 1998, Exemption No. 6829.

[FR Doc. 99–7630 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

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

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

ACTION: Grant of petition for modification of a previously approved antitheft device.

SUMMARY: On May 15, 1995, NHTSA granted in full General Motors Corporation's (GM) petition for exemption from the parts-marking requirements of the vehicle theft prevention standard for the Chevrolet Lumina/Monte Carlo and Buick Regal car lines. This notice grants in full GM's petition for modification of the previously approved antitheft device for the Chevrolet Lumina/Monte Carlo line. This notice also acknowledges GM's notification that the nameplate for the Chevrolet Lumina/Monte Carlo line will be changed to the Chevrolet Impala/ Monte Carlo line beginning with model year (MY) 2000. The agency grants this petition for modification because it has determined that the modified antitheft device described in GM's petition to be placed on the car 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) 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, Safety Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–0846, and her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: In May of 1995, NHTSA published in the **Federal Register** a notice granting in full the petition from General Motors Corporation (GM) for an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the MY 1996 Chevrolet Lumina/ Monte Carlo and Buick Regal car lines. (See 60 FR 25938, May 15, 1995). The agency determined that the ''PASS-Key II'' antitheft device, which GM intended to install on the Chevrolet Lumina/ Monte Carlo and Buick Regal lines as standard equipment, was likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

In its petition for MY 1996, GM included a detailed description of the components of PASS-Key II, including diagrams of components and their location in the vehicle. GM described PASS-Key II as passively activated. It also stated that the device utilized an electrically-coded ignition key, an ignition lock-cylinder and a decoder module.

On December 7, 1998, GM petitioned to modify the exemption granted for the Chevrolet Lumina/Monte Carlo car line to allow its new ''Passlock'' antitheft device to be used in place of the PASS-Key II device. GM's submission is considered a complete petition, as required by 49 CFR Part 543.9(d), in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. GM requested confidential treatment for some of the information and

attachments submitted in support of its petition. In a letter to GM dated February 12, 1999, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

GM's petition also informed the agency of its planned nameplate change for the four-door Chevrolet Lumina to the Chevrolet Impala nameplate beginning with the 2000 model year. GM stated that while the MY 2000 Impala will feature a new name and new styling, it will remain a continuation of the Chevrolet ''W'' platform and target the same market segment. GM also stated that the original Impala nameplate was discontinued in MY 1997 with the discontinuance of the Impala SS model, a performance model of its Caprice line. GM further stated that the resurrection of the Impala nameplate for application to its four-door Lumina would complete the renaming of the line which began with the renaming of its 2-door model as the Monte Carlo.

GM stated that for MY 2000, the Chevrolet Lumina/Monte Carlo (renamed Chevrolet Impala/Monte Carlo) line will utilize its ''Passlock'' antitheft device as standard equipment. The Passlock device provides the functionality of the ''PASS-Key'' devices but features a coded-lock cylinder instead of an electrically-coded ignition key. When the electronic sensor detects proper lock rotation, it sends a code to the body function controller. If the correct code is received, the controller enables fuel and starting of the vehicle. If an incorrect code is received, the controller disables fuel and starting of the vehicle for ten minutes and prevents any other attempts to start the vehicle during this time. The Passlock device is designed to be active at all times without direct intervention by the vehicle operator. The device is fully functional immediately after the ignition has been turned off, requiring no other operator action other than removing the key.

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 believes that its device is reliable and durable since the device complied with its specified requirements for each test. Additionally, GM believes that the security of the vehicle will be protected in many ways by the installation of its modified device. Specifically, the Passlock device will protect the vehicle from any attempts to override the lock assembly by using an external magnet, forcibly removing the ignition lock cylinder, forcibly rotating the lock, bypassing the lock assembly electronics with an external lock assembly, or removing and subsequently applying the vehicle's battery power.

GM compared the Passlock device proposed for the Impala/Monte Carlo car line with its first generation PASS-Key, PASS-Key II, and PASS-Key III 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 device will be at least as effective as its PASS-Key, PASS-Key II, and PASS-Key III devices. However, as in the first and second-generation PASS-Key devices, as well as other comparable devices that have received full exemptions from the parts-marking requirements, the Passlock device does not provide an audible or visual alarm. Therefore, as with those, this device cannot perform one of the functions listed in 49 CFR § 543.6(a)(3)(ii), that is, to attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key. To substantiate its belief that an alarm system is not necessary for effective deterrence of vehicle theft, GM compared the reduction in thefts for Corvettes equipped *with* a passive antitheft device with an audible/visible alarm feature, and the Chevrolet Camaro and Pontiac Firebird lines equipped *with* a passive antitheft device *without* an alarm feature.

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 devices on these vehicles (PASS-Key and PASS-Key II) by themselves would be as effective as parts-marking in deterring theft because they lacked an alarm system. On that basis, NHTSA decided to require GM to mark the vehicle's most interchangeable parts (the engine and the transmission), as a supplement to the antitheft device.

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 device. 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 five GM petitions for full exemptions for car lines equipped with the PASS-Key II device. The following lines have been granted full exemptions: the Buick Riviera and Oldsmobile Aurora, beginning with MY 1995 (See 58 FR 44874; August 25, 1993); the Chevrolet Lumina/Monte Carlo and Buick Regal, beginning with MY 1996 (See 60 FR 25939; May 15, 1995) and the Cadillac Seville (antitheft device modification), beginning with MY 1998 (See 62 FR 20058; April 24, 1997). In all five of these 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.

Additionally, the agency has granted four full exemptions for car lines equipped with the Passlock device. The following lines have been granted full exemptions: the Chevrolet Cavalier, beginning with MY 1997 (See 61 FR 12132; March 25, 1996); the Pontiac Sunfire, beginning with MY1998 (See 62 FR 20240; April 25, 1997); the Oldsmobile Alero, beginning with MY 1999 (See 63 FR 24587; May 4, 1998); and the Pontiac Grand Am, beginning with MY 2000 (See 63 FR 68503; December 11, 1998).

The agency concludes that, given the similarities between the Passlock device and the PASS-Key, PASS-Key II and PASS-Key III systems, it is reasonable to assume that the Passlock device, 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 Chevrolet Impala/Monte Carlo car line beginning with MY 2000.

The agency believes that the modified device will provide the other 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 the Passlock device.

For the foregoing reasons, the agency hereby grants in full GM's petition for modification of an existing exemption for the MY 2000 Chevrolet Impala/Monte Carlo car line from the parts-marking requirements of 49 CFR Part 541.

If, in the future, GM decides not to use the exemption for these car lines, it must formally notify the agency, and, thereafter, the car lines must be fully marked as required by 49 CFR 541.5 and 49 CFR 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: March 23, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–7606 Filed 3–26–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–97–2968 (PDA–17(R))]

Preemption Determination No. PD–15(R); Public Utilities Commission of Ohio, Requirements for Cargo Tanks

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of administrative determination of preemption by RSPA's Associate Administrator for Hazardous Materials Safety.

APPLICANTS: William E. Comley, Inc. (WECCO) and TWC Transportation Corporation (TWC).

LOCAL LAWS AFFECTED: Ohio Admin. Code § 4901:2–05–02.

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.,* and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171–180.

MODES AFFECTED: Highway.

SUMMARY: Written requirements of the State of Ohio applicable to the transportation of hazardous materials are consistent with the HMR. There is insufficient evidence that the Public Utilities Commission of Ohio (PUCO) has applied or enforced requirements governing the transportation of hypochlorite solutions in any different manner than provided in the HMR.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Background

WECCO and TWC have applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.,* preempts certain requirements of the State of Ohio, enforced by PUCO, with respect to cargo tank motor vehicles used to transport hypochlorite solutions. According to WECCO and TWC, PUCO has brought enforcement cases against these companies based on their use of a non-DOT specification cargo tank motor vehicle to transport hypochlorite solutions containing more than 5% but less than 16% available chlorine. On October 10, 1997, RSPA published a notice in the **Federal Register** inviting interested parties to submit comments on whether PUCO has required the use of a DOT specification cargo tank motor vehicle for transportation of hypochlorite solutions containing more than 5% but less than 16% available chlorine, after January 1, 1991. 62 FR 53049.

In that notice, RSPA also discussed the separate assertions by WECCO and TWC that PUCO has required cargo tank motor vehicles built under the MC 312 specification, that are unloaded at a pressure less than 15 psig, to be (1) designed and constructed in accordance with the ASME Code and (2) certified in some manner other than as specified in the HMR. That notice referred to the absence of any statement by WECCO and TWC that their trucks actually meet DOT's MC 312 specification; rather they indicated that they applied specification plates to their trucks to satisfy PUCO's alleged requirement for the use of a specification cargo tank motor vehicle to transport sodium hypochlorite with less than 16% available chlorine. As RSPA stated there:

> the misrepresentation of any packaging as qualified for the transportation of a hazardous material is a serious violation of both 49 U.S.C. 5104(a) and the HMR, whether or not that packaging is actually used for the transportation of hazardous materials. However, because there is no evidence that PUCO has enforced design, construction, and operational requirements for MC 312 specification cargo tanks against these companies in any manner different from that specified in the HMR, issues related to PUCO's assessment of penalties for misrepresenting cargo tank motor vehicles as meeting the MC 312 specification are not part of this proceeding.

62 FR at 53050.

In response to the October 10, 1997 public notice, PUCO and the National Tank Truck Carriers, Inc. submitted comments in opposition to the application. No comments were submitted by WECCO or TWC. No party submitted rebuttal comments, although PUCO submitted a further letter asking for a prompt dismissal of the application.

II. Federal Preemption

The Hazardous Materials Transportation Act (HMTA) was enacted in 1975 to give the Department of Transportation greater authority ''to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce.'' Pub. L. 93–633 Section 102, 88 Stat. 2156, amended by Pub. L. 103–272 and codified as revised in 49 U.S.C. 5101. The HMTA ''replace[d] a patchwork of state and federal laws and regulations * * * with a scheme of uniform, national regulations.'' *Southern Pac. Transp. Co.* v. *Public Serv. Comm'n,* 909 F.2d 352, 353 (9th Cir. 1980). On July 5, 1994, the HMTA was among the many Federal laws relating to transportation that were revised, codified and enacted ''without substantive change'' by Public Law 103–272, 108 Stat. 745. The Federal hazardous material transportation law is now found in 49 U.S.C. Chapter 51.

A statutory provision for Federal preemption was central to the HMTA. In 1974, the Senate Commerce Committee ''endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation.'' S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). More recently, a Federal Court of Appeals found that uniformity was the ''linchpin'' in the design of the HMTA, including the 1990 amendments which expanded the preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon,*