

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**Petition for a Waiver of Compliance**

In accordance with Title 49, Code of Federal Regulations (CFR), Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of Federal railroad safety regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief requested and the petitioner's arguments in favor of relief.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket No. FRA-1998-4922) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. Communications received before March 17, 1999 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours at the above address. All written communications are also accessible on the Internet at <http://dms.dot.gov>. The waiver petition is as follows:

**Michigan State Trust for Railway Preservation, Inc. (MSTP) FRA Waiver Petition Docket No. FRA-1998-4922**

MSTP seeks a waiver of compliance with 49 CFR Part 240, "Qualification

and Certification of Locomotive Engineers." MSTP is a non-profit educational (501)(c)(3) corporation. It owns and operates a 1941 built steam locomotive. This locomotive, ex-Pere Marquette No. 1225, has operated approximately 5,200 miles since 1988 over the general railroad system. All operations since that time have been in compliance with 49 CFR Part 230.

The organization is located at the steam locomotive repair facility in Owosso, Michigan, and connected to the tracks of the Tuscola and Saginaw Bay Railway (TSBY). MSTP does not own or control any trackage with the exception of two leads extending from their repair shop building, each is approximately 130 feet in length and are leased through the State of Michigan from the TSBY. The petition for waiver is to allow non-certified persons to operate the locomotive as the "locomotive engineer" with various restrictions governing the operation. MSTP intends to operate the locomotive over a tangent "other than main track" called the *San Yard Track*. The track is 4,800 feet long, crosses no public highway crossings at grade and will be protected by derails at both ends. MSTP expects to comply with the restrictions imposed by FRA when it approves MSTP's operation and set conditions as listed in waiver numbers RSEQ 95-3 and RSEQ 96-2. These restrictions include but are not limited to the following: that the TSBY certified and qualified locomotive engineer is to be located in the cab of the locomotive at all times, daylight operation only, absolute block at all times, locomotive is to be inspected daily and an air brake test performed each time the non-certified person at the throttle is changed and other RSB restrictions as appropriate.

MSTP proposes to conduct this program on selected weekends and holidays.

Issued in Washington, DC, on February 10, 1999.

**Grady C. Cothen, Jr.,**  
*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. 99-3843 Filed 2-16-99; 8:45 am]

BILLING CODE 4910-06-M

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

[Docket No. NHTSA-98-4510; notice 2]

**General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance**

General Motors Corporation (GM) has determined that certain 1998 and 1999 GM passenger cars were not in full compliance with 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110, "Tire selection and rims," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." GM has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on October 28, 1998, in the **Federal Register** (63 FR 57744). NHTSA received no comments on this application during the 30-day comment period.

Paragraph S4.3(b) of FMVSS No. 110 states that each vehicle shall have a placard, permanently affixed to the glove compartment door or an equally accessible location, that displays the designated seating capacity, in terms of the total number of occupants and the number of occupants for each seat location.

From May 3, 1998 to August 6, 1998, GM produced 303,936 U.S. passenger cars with errors in the occupant capacity numbers on the tire information placard. GM stated that the errors were caused by unforeseen changes in the computer program that generates the labels. The programming error resulted in the incorrect numbers for the center and rear positions. However, the correct number was provided for the front position. The following table summarizes the information on the subject placard:

	Front	Center	Rear	Total
As produced .....	2	2	0	3
Correct .....	2	0	3	5

GM supports its application for inconsequential noncompliance with the following statements:

1. The vehicle capacity weight, recommended cold tire inflation pressure, and recommended tire size designation information were not

affected by the programming change and that information is correct on the placards of the subject vehicles;

2. Occupant capacity information is provided to help customers avoid exceeding tire load limits. These errors will not contribute to overloading because the correct vehicle weight capacity is provided. The seating capacity is understated. The correct tire pressure information is also provided and the tire load limit will not be exceeded with all seating positions occupied; and

3. A customer would look at the number of seats and the number of safety belts in a car to determine its capacity, rather than look at the placard. If a customer does read the seat capacity numbers on the tire placard, it will be obvious that the numbers are incorrect because the sum of the seat numbers will not equal the total number of the label. It is unlikely that anyone will be confused about the seat capacity of these cars after looking at the seats and safety belts. The purpose for the labeling requirements in FMVSS No. 110 is to provide the vehicle user with information for the safe operation of the vehicle by having a placard, permanently affixed to the glove compartment door or an equally accessible location, that displays the designated seating capacity, in terms of the total number of occupants and the number of occupants for each seat location. This information is used to identify the number of seating positions designed by the vehicle's manufacturer and to prevent overloading. In this case, GM understated the number of occupants that the vehicle can carry; therefore, overloading is not an issue. In addition, the correct vehicle capacity weight, recommended cold tire inflation pressure, and recommended tire size designation information are provided.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, delegations of authority at 49 CFR 1.50 and 501.8).

(49 U.S.C. 30118, 30120, delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: February 10, 1999.

**Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 99-3762 Filed 2-16-99; 8:45 am]

BILLING CODE 4910-59-P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

[Docket No. NHTSA-98-4683; Notice 01]

RIN 2127-AH35

**Preliminary Theft Data; Motor Vehicle Theft Prevention Standard**

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

**ACTION:** Publication of preliminary theft data; request for comments.

**SUMMARY:** This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 1997, including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 1997. The theft data preliminarily indicate that the vehicle theft rate for CY/MY 1997 vehicles (3.11 thefts per thousand vehicles) decreased by 5.2 percent from the theft rate for CY/MY 1996 vehicles (3.28 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

**DATES:** Comments must be submitted on or before April 19, 1999.

**ADDRESSES:** All comments should refer to the docket number and notice number cited in the heading of this document and be submitted, preferably with two copies to: U.S. Department of Transportation, Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 10 am to 5 pm, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-2739.

**SUPPLEMENTARY INFORMATION:** NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and

timely theft data, and publish the data for review and comment. To fulfill the section 33104(b)(4) mandate, this document reports the preliminary theft data for CY 1997, the most recent calendar year for which data are available.

In calculating the 1997 theft rates, NHTSA followed the same procedures it used in calculating the MY 1996 theft rates. (For 1996 theft data calculations, see 63 FR 36478, July 6, 1998). As in all previous reports, NHTSA's data were based on information provided to the agency by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a governmental system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 1997 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 1997 vehicles of that line stolen during calendar year 1997, by the total number of vehicles in that line manufactured for MY 1997, as reported by manufacturers to the Environmental Protection Agency.

The preliminary 1997 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1996. The preliminary theft rate for MY 1997 passenger vehicles stolen in calendar year 1997 decreased to 3.11 thefts per thousand vehicles produced, a decrease of 5.2 percent from the rate of 3.28 thefts per thousand vehicles experienced by MY 1996 vehicles in CY 1996. For MY 1997 vehicles, out of a total of 203 vehicle lines, 71 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 71 vehicle lines with a theft rate higher than 3.5826, 61 are passenger car lines, nine are multipurpose passenger vehicle lines, and one is a light-duty truck line.

In Table I, NHTSA has tentatively ranked each of the MY 1997 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

Comments must not exceed 15 pages in length (49 CFR 553.21). Attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage