

Honolulu and Pago Pago since 1984, is the only airline currently providing scheduled passenger service between American Samoa and another U.S. state or territory. Governor Tulafono has expressed his dissatisfaction with the quality and price of Hawaiian's service. On July 26, 2006, he issued an executive order stating that American Samoa intends to find another airline to replace Hawaiian's service and that he will issue a second executive order barring Hawaiian from continuing to operate to American Samoa when a replacement airline is ready to begin flying between Honolulu and Pago Pago.

On August 10, 2006, Hawaiian filed a petition for a declaratory order in Docket OST-2006-25612 that contends that the Governor may not lawfully block Hawaiian from serving the Honolulu-Pago Pago market. Hawaiian argues in particular that a Federal statute, 49 U.S.C. 41713, bars American Samoa and all other states and territories from regulating the routes, rates, and services of interstate airlines and that American Samoa therefore may not stop Hawaiian from serving Pago Pago. Hawaiian, noting that the Governor has stated that his proposed action is within American Samoa's customs and border control authority, contends that that authority would not support the Governor's plans. Hawaiian's petition includes as attachments the Governor's July 26, 2006 order and the Governor's response to a letter from the Manager of the Federal Aviation Administration's Airports District Office, Western-Pacific Region, that had suggested that the Governor's proposed action appeared to be unlawful.

No one has answered Hawaiian's petition. We do not wish to rule on the petition for a declaratory order without obtaining the views of American Samoa. Hawaiian itself states that it "requests that the government of American Samoa be given the opportunity to participate in this matter." We therefore invite American Samoa and all other interested persons to submit comments on the Hawaiian petition for a declaratory order. Comments should address the issues raised in Hawaiian's petition and the Governor's response to the FAA official's letter as well as any other relevant matters of concern to the commenter. We are placing a copy of the FAA official's letter in the docket. Hawaiian's petition and the letter are accessible on-line at the Web site for the Department's Docket Management System at <http://dms.dot.gov>.

To ensure that American Samoa and other interested persons have an adequate opportunity to prepare and

submit comments, we will allow them to file their comments by September 15, 2006. Interested persons, including Hawaiian, may then file replies to the comments by September 22, 2006.

Dated: August 28, 2006.

**Michael W. Reynolds,**

*Acting Assistant Secretary for Aviation and International Affairs.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Petition for Exemption From the Vehicle Theft Prevention Standard; Ford Motor Company

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

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the petition of Ford Motor Company, (Ford) in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard*, for the Five Hundred 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. Deborah Mazyck, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated April 28, 2006, Ford requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the MY 2007 Five Hundred vehicle line. The petition requested exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for an 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, Ford provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Five Hundred vehicle line. Ford will install its antitheft device, the SecuriLock Passive Anti-Theft Electronic Powertrain Immobilizer System (SecuriLock) as standard equipment on the Ford Five Hundred vehicle line beginning with MY 2007. Features of the antitheft device will include an electronic key, ignition lock, and a passive immobilizer. Additionally, the Ford Five Hundred will have an optional perimeter alarm system which will monitor all the doors, decklid and hood of the vehicle. Ford'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 Ford SecuriLock is a transponder-based electronic immobilizer system. Ford stated that the integration of the transponder into the normal operation of the ignition key assures activation of the system. When the ignition key is turned to the start position, the transceiver module reads the ignition key code and transmits an encrypted message to the cluster. Validation of the key is determined and start of the engine is authorized once a separate encrypted message is sent to the powertrain's electronic control module (PCM). The powertrain will function only if the key code matches the unique identification key code previously programmed into the PCM. If the codes do not match, the powertrain engine starter will be disabled.

The effectiveness of Ford's SecuriLock device was first introduced as standard equipment on its MY 1996 Mustang GT and Cobra. In My 1997, the SecuriLock system was installed on the entire Mustang vehicle line as standard equipment. Ford stated that the 1997 model year Mustang with SecuriLock shows a 70% reduction in theft compared to the MY 1995 Mustang, according to National Insurance Crime Bureau (NICB) theft statistics. There were 149 reported theft for 1997 compared to 500 reported thefts in 1995.

In addressing the specific content requirements of 543.6, Ford provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Ford conducted tests based on its own specified standards. Ford also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test. Ford also

stated that the SecuriLock electronic engine immobilizer device makes conventional theft methods such as hot-wiring or attacking the ignition lock cylinder ineffective and virtually eliminates drive-away thefts.

Ford also compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Ford finds that the lack of an alarm or attention attracting device does not compromise the theft deterrent performance of a system such as the SecuriLock. Ford stated that its proposed device is functionally equivalent to the systems used in previous vehicle lines which were deemed effective and granted exemptions from the parts-marking requirements of the theft prevention standard. Additionally, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Ford proposes to install on the new line. 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, Ford has concluded that the antitheft device proposed for its Five Hundred 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 Ford, the agency may grant a petition for an exemption from the parts-marking requirements of 541 if it determines that the standard antitheft device for the 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 Part 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency finds that Ford has provided adequate reasons for its belief that the antitheft device for the Five Hundred vehicle line will reduce and deter theft. This conclusion is based on the information Ford 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 Ford's petition for exemption from the Five Hundred 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 Ford 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 Ford 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 anti-theft 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: August 29, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34918]

#### Keokuk Junction Railway Co., d/b/a Peoria & Western Railway—Lease and Operation Exemption—BNSF Railway Company

Keokuk Junction Railway Co., d/b/a Peoria & Western Railway (PWRY),<sup>1</sup> a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from BNSF Railway Company (BNSF) and operate an approximately 42.1-mile portion of BNSF's line of railroad known as the Yates City Subdivision, extending between milepost 94.3 at Vermont, and milepost 52.20 at Farmington, in Fulton County, IL, including the Dunfermline industrial spur.

PWRY certifies that its projected annual revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier.

PWRY had intended to consummate the transaction on August 15, 2006. However, by decision served on August 10, 2006, the effective date of the exemption was stayed until further order of the Board. Accordingly, consummation of the transaction cannot occur until further order of the Board. Also on that date, a motion for protective order was filed. A protective order was served on August 25, 2006.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34918, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Daniel A. LaKemper, General Counsel, Keokuk Junction Railway Co., d/b/a Peoria & Western Railway, 1318 S. Johanson Road, Peoria, IL 61607.

Board decisions and notices are available on our Web site at [www.stb.dot.gov](http://www.stb.dot.gov).

Decided: August 25, 2006.

<sup>1</sup> PWRY is controlled by Pioneer Railcorp. See *Pioneer Railcorp—Continuance in Control Exemption—Gettysburg & Northern Railroad Co.*, STB Finance Docket No. 34010 (STB served Feb. 27, 2001).