

*Comment:* Commenters inquired whether the TRANServe debit card is compliant with IRS Revenue Ruling 2006–57, as modified, which requires the cards to be restricted to sales terminals selling fare media only?

*Response:* The TRANServe debit card continues to be compliant with Internal Revenue Code Section 132(f) and the applicable regulations, and is consistent with how those requirements are applied in IRS Revenue Ruling 2006–57 to certain factual situations.

*Comment:* Commenters asked about transaction monitoring, the restriction process developed for monitoring compliance, and how the TRANServe card would be protected to reduce fraudulent use.

*Response:* The restriction process was developed through comprehensive analysis of IRS Revenue Ruling 2006–57, which provides guidance on the use of smartcards, debit or credit cards, or other electronic media under various situations to provide qualified transportation fringes, as well as analysis of other governing statutes, regulations, and policies. Consistent with the Office of Management and Budget Circular A–123, Management’s Responsibility for Internal Control, TRANServe and participating agencies have the responsibility for monitoring compliance. Additionally, transaction monitoring takes place through various means, to include but not limited to, system activity monitoring, data mining, anomaly reporting, etc. In order to reduce or mitigate fraudulent activity, the TRANServe debit card is issued with the participant’s name, is restricted to use with transit providers, returns unused funds to the Federal government at the end of each period, and provides detailed reporting of anomalies to permit follow-up action and system adjustments.

*Comment:* Will nationwide rollout of this card, and corresponding monthly sweeping, create additional administrative issues at a time when DOT is seeking to reduce admin costs?

*Response:* No. There are different administrative tasks with the introduction and use of the TRANServe debit card; however, TRANServe anticipates a decrease in administrative costs and better efficiencies in the long run.

*Comment:* How will TRANServe administer its bicycle benefit program using “Electronic Fare Media”?

*Response:* TRANServe does not administer its bicycle benefit program using electronic fare media.

*Comment:* Please indicate how 49 U.S.C. 327, Administrative Working Capital Fund; 26 U.S.C. 132(f), Qualified

Transportation Fringe; 31 U.S.C. 3302, Custodians of Money; Federal Employees Clean Air Incentives Act (Pub. L. 103–172); and Executive Order 13150, Federal Workforce Transportation require DOT to switch to “Electronic Fare Media”?

*Response:* The statutes and regulations mentioned do not require DOT to switch to Electronic Fare Media. In order to better serve its customers, TRANServe is responding to transit authority changes and technological advances, which are expected to reduce administrative costs and aid in the monitoring of the appropriate use of transit benefits.

*Comment:* How will employees using vanpools, buses, etc. be able to access their transit benefits?

*Response:* A growing number of State and local transit authorities are transitioning to electronic methods of payment. As explained above, the TRANServe Debit Card is now being used to distribute the transit benefit to federal employees in several geographic service areas. TRANServe recognizes that some transit providers have not yet implemented technologies that permit electronic payments. In each instance, TRANServe will continue to provide a limited paper voucher process while working with the transit provider towards acceptance of electronic payments, when appropriate.

*Comment:* Commenters asked about the cost to administer the TRANServe program; how it compares with, or whether it is duplicate of, similar programs in the private sector; and whether TRANServe has investigated contracting its transit benefit program to a third party vendor to reduce its administrative costs and overhead.

*Response:* The TRANServe Program is a fee-for service organization, which operates on a breakeven basis. TRANServe along with other Federal government agencies operate under specific statutory restrictions and authorities that only reside with and apply to the Federal government. Thus, TRANServe does not duplicate private sector services. When it is cost effective and programmatically feasible, TRANServe contracts out services that are not inherently governmental. In terms of the transition to electronic fare media, TRANServe is taking advantage of technological advances in the industry that are expected to reduce administrative costs, while assisting in the monitoring of the appropriate use of transit benefits.

Issue date August 6, 2012.

**Marie Petrosino-Woolverton**,  
Director, Office of Financial Management &  
Transit Benefit Programs.

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BILLING CODE 4910–9X–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No FMCSA–2011–0097]

#### Pilot Program on NAFTA Trucking Provisions

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice; request for public comment.

**SUMMARY:** FMCSA announces and requests public comment on data and information concerning the Pre-Authorization Safety Audit (PASA) for GCC Transportes SA de CV (GCC) which applied to participate in the Agency’s long-haul pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the municipalities on the international border or the commercial zones of such municipalities. This action is required by the “U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007” and all subsequent appropriations.

**DATES:** Comments must be received on or before August 20, 2012.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA–2011–0097 by any one of the following methods: *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1–202–493–2251.

- *Mail:* Docket Management Facility, (M–30), U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Ground Floor, Room 12–140, Washington, DC 20590–0001.

- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. All submissions must include the Agency name and docket number for this notice. See the “Public Participation” heading below for instructions on submitting comments and additional information.

Note that all comments received, including any personal information provided, will be posted without change to <http://www.regulations.gov>. Please see the "Privacy Act" heading below.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to Room W12-140 on the ground floor of the DOT Headquarters Building at 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act System of Records Notice for the DOT Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

**Public Participation:** The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site. Comments received after the comment closing date will be included in the docket, and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Marcelo Perez, FMCSA, North American Borders Division, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Telephone (512) 916-5440 Ext. 228; email [marcelo.perez@dot.gov](mailto:marcelo.perez@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 25, 2007, the President signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (the Act), (Pub. L. 110-28, 121 Stat. 112, 183, May 25, 2007). Section 6901 of the Act requires that certain actions be taken by the Department of Transportation (the Department) as a condition of obligating or expending appropriated funds to grant authority to Mexico-domiciled motor carriers to operate beyond the municipalities in the United States on the United States-Mexico international border or the commercial zones of such municipalities (border commercial zones).

On July 8, 2011, FMCSA announced in the **Federal Register** [76 FR 40420] its

intent to proceed with the initiation of a U.S.-Mexico cross-border long-haul trucking pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the border commercial zones as detailed in the Agency's April 13, 2011, **Federal Register** notice [76 FR 20807]. The pilot program is a part of FMCSA's implementation of the North American Free Trade Agreement (NAFTA) cross-border long-haul trucking provisions in compliance with section 6901(b)(2)(B) of the Act. FMCSA reviewed, assessed, and evaluated the required safety measures as noted in the July 8, 2011, notice and considered all comments received on or before May 13, 2011, in response to the April 13, 2011, notice. Additionally, to the extent practicable, FMCSA considered comments received after May 13, 2011.

In accordance with section 6901(b)(2)(B)(i) of the Act, FMCSA is required to publish in the **Federal Register**, and provide sufficient opportunity for public notice and comment comprehensive data and information on the PASAs conducted of motor carriers domiciled in Mexico that are granted authority to operate beyond the border commercial zones. This notice serves to fulfill this requirement.

FMCSA is publishing for public comment the data and information relating to one PASA that was completed on February 10, 2012. FMCSA announces that the Mexico-domiciled motor carrier in Table 1 successfully completed the PASA. Notice of this completion was also published in the FMCSA Register.

Tables 2, 3 and 4 all titled ("Successful Pre-Authorization Safety Audit (PASA) Information") set out additional information on the carrier(s) noted in Table 1. A narrative description of each column in the tables is provided as follows:

A. *Row Number in the Appendix for the Specific Carrier:* The row number for each line in the tables.

B. *U.S. DOT Number:* The legal name of the Mexico-domiciled motor carrier that applied for authority to operate in the United States (U.S.) beyond the border commercial zones and was considered for participation in the long-haul pilot program.

C. *U.S. DOT Number:* The identification number assigned to the Mexico-domiciled motor carrier and required to be displayed on each side of the motor carrier's power units. If granted provisional operating authority, the Mexico-domiciled motor carrier will be required to add the suffix "X" to the ending of its assigned U.S. DOT Number

for those vehicles approved to participate in the pilot program.

D. *FMCSA Register Number:* The number assigned to the Mexico-domiciled motor carrier's operating authority as found in the FMCSA Register.

E. *PASA Initiated:* The date the PASA was initiated.

F. *PASA Completed:* The date the PASA was completed.

G. *PASA Results:* The results upon completion of the PASA. The PASA receives a quality assurance review before approval. The quality assurance process involves a dual review by the FMCSA Division Office supervisor of the auditor assigned to conduct the PASA and by the FMCSA Service Center New Entrant Specialist designated for the specific FMCSA Division Office. This dual review ensures the successfully completed PASA was conducted in accordance with FMCSA policy, procedures and guidance. Upon approval, the PASA results are uploaded into the FMCSA's Motor Carrier Management Information System (MCMIS). The PASA information and results are then recorded in the Mexico-domiciled motor carrier's safety performance record in MCMIS.

H. *FMCSA Register:* The date FMCSA published notice of a successfully completed PASA in the FMCSA Register. The FMCSA Register notice advises interested parties that the application has been preliminarily granted and that protests to the application must be filed within 10 days of the publication date. Protests are filed with FMCSA Headquarters in Washington, DC. The notice in the FMCSA Register lists the following information:

- a. Current registration number (e.g., MX-123456);
- b. Date the notice was published in the FMCSA Register;
- c. The applicant's name and address; and
- d. Representative or contact information for the applicant.

The FMCSA Register may be accessed through FMCSA's Licensing and Insurance public Web site at <http://li-public.fmcsa.dot.gov/>, and selecting FMCSA Register in the drop down menu.

I. *U.S. Drivers:* The total number of the motor carrier's drivers approved for long-haul transportation in the United States beyond the border commercial zones.

J. *U.S. Vehicles:* The total number of the motor carrier's power units approved for long-haul transportation in

the United States beyond the border commercial zones.

K. *Passed Verification of 5 Elements (Yes/No)*: A Mexico-domiciled motor carrier will not be granted provisional operating authority if FMCSA cannot verify all of the following five mandatory elements. FMCSA must:

a. Verify a controlled substances and alcohol testing program consistent with 49 CFR part 40.

b. Verify a system of compliance with hours-of-service rules of 49 CFR part 395, including recordkeeping and retention;

c. Verify the ability to obtain financial responsibility as required by 49 CFR part 387, including the ability to obtain insurance in the United States;

d. Verify records of periodic vehicle inspections; and

e. Verify the qualifications of each driver the carrier intends to use under such authority, as required by 49 CFR parts 383 and 391, including confirming the validity of each driver's *Licencia Federal de Conductor* and English language proficiency.

L. *If No, Which Element Failed*: If FMCSA cannot verify one or more of the five mandatory elements outlined in 49 CFR part 365, Appendix A, Section III, this column will specify which mandatory element(s) cannot be verified.

Please note that for items L through P below, during the PASA, after verifying the five mandatory elements discussed in item K above, FMCSA will gather information by reviewing a motor carrier's compliance with "acute and critical" regulations of the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs). Acute regulations are those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier. Critical regulations are those where noncompliance relates to management and/or operational controls. These regulations are indicative of breakdowns in a carrier's management controls. A list of acute and critical regulations is included in 49 CFR part 385, Appendix B, Section VII.

Parts of the FMCSRs and HMRs having similar characteristics are combined together into six regulatory areas called "factors." The regulatory factors are intended to evaluate the

adequacy of a carrier's management controls.

M. *Passed Phase 1, Factor 1*: A "yes" in this column indicates the carrier has successfully met Factor 1 (listed in part 365, Subpart E, Appendix A, Section IV(f)). Factor 1 includes the General Requirements outlined in parts 387 (Minimum Levels of Financial Responsibility for Motor Carriers) and 390 (Federal Motor Carrier Safety Regulations—General).

N. *Passed Phase 1, Factor 2*: A "yes" in this column indicates the carrier has successfully met Factor 2, which includes the Driver Requirements outlined in parts 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards; Requirements and Penalties) and 391 (Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors).

O. *Passed Phase 1, Factor 3*: A "yes" in this column indicates the carrier has successfully met Factor 3, which includes the Operational Requirements outlined in parts 392 (Driving of Commercial Motor Vehicles) and 395 (Hours of Service of Drivers).

P. *Passed Phase 1, Factor 4*: A "yes" in this column indicates the carrier has successfully met Factor 4, which includes the Vehicle Requirements outlined in parts 393 (Parts and Accessories Necessary for Safe Operation) and 396 (Inspection, Repair and Maintenance) and vehicle inspection and out-of-service data for the last 12 months.

Q. *Passed Phase 1, Factor 5*: A "yes" in this column indicates the carrier has successfully met Factor 5, which includes the hazardous material requirements outlined in parts 171 (General Information, Regulations, and Definitions), 177 (Carriage by Public Highway), 180 (Continuing Qualification and Maintenance of Packagings) and 397 (Transportation of Hazardous Materials; Driving and Parking Rules).

R. *Passed Phase 1, Factor 6*: A "yes" in this column indicates the carrier has successfully met Factor 6, which includes Accident History. This factor is the recordable accident rate during the past 12 months. A recordable "accident" is defined in 49 CFR 390.5, and means an accident involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in a fatality; a bodily injury to a person who, as a

result of the injury, immediately received medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

S. *Number U.S. Vehicles Inspected*: The total number of vehicles (power units) the motor carrier is approved to operate in the United States beyond the border commercial zones that received a vehicle inspection during the PASA. During a PASA, FMCSA inspected all power units to be used by the motor carrier in the pilot program and applied a current Commercial Vehicle Safety Alliance (CVSA) inspection decal, if the inspection is passed successfully. This number reflects the vehicles that were inspected, irrespective of whether the vehicle received a CVSA inspection at the time of the PASA decal as a result of a passed inspection.

T. *Number U.S. Vehicles Issued CVSA Decal*: The total number of inspected vehicles (power units) the motor carrier is approved to operate in the United States beyond the border commercial zones that received a CVSA inspection decal as a result of an inspection during the PASA.

U. *Controlled Substances Collection*: Refers to the applicability and/or country of origin of the controlled substance and alcohol collection facility that will be used by a motor carrier that has successfully completed the PASA.

a. "US" means the controlled substance and alcohol collection facility is based in the United States.

b. "MX" means the controlled substance and alcohol collection facility is based in Mexico.

c. "Non-CDL" means that during the PASA, FMCSA verified that the motor carrier is not utilizing commercial motor vehicles subject to the commercial driver's license requirements as defined in 49 CFR 383.5 (Definition of Commercial Motor Vehicle). Any motor carrier that does not operate commercial motor vehicles as defined in § 383.5 is not subject to DOT controlled substance and alcohol testing requirements.

V. *Name of Controlled Substances and Alcohol Collection Facility*: Shows the name and location of the controlled substances and alcohol collection facility that will be used by a Mexico-domiciled motor carrier who has successfully completed the PASA.

TABLE 1

Row number in Tables 2, 3 and 4 of the Appendix to today's notice	Name of carrier	USDOT No.
1 .....	GCC Transportes SA de CV .....	650155

TABLE 2—SUCCESSFUL PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION  
[See also Tables 3 and 4]

Column A—row No.	Column B—Name of carrier	Column C—U.S. DOT No.	Column D—FMCSA register No.	Column E—PASA initiated	Column F—PASA completed	Column G—PASA results	Column H—FMCSA register	Column I—U.S. drivers	Column J—U.S. vehicles
1 .....	GCC Transportes SA de CV ...	650155	MX-7001100	12/8/11	3/14/12	Pass .....	7/27/12	9	13

TABLE 3—SUCCESSFUL PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION  
[See also Tables 2 and 4]

Column A—row No.	Column B—name of carrier	Column C—U.S. DOT No.	Column D—FMCSA register No.	Column K—Passed verification of 5 elements (yes/no)	Column L—if no, which element failed	Column M—passed phase 1 factor 1	Column N—passed phase 1 factor 2	Column O—passed phase 1 factor 3	Column P—passed phase 1 factor 4
1 .....	GCC Transportes SA de CV	650155	MX-701100	Yes .....	N	Pass .....	Pass .....	Pass .....	Pass.

TABLE 4—SUCCESSFUL PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION AS OF SEPTEMBER 9, 2011  
[See also Tables 2 and 3]

Column A—row No.	Column B—name of carrier	Column C—U.S. DOT No.	Column D—FMCSA register No.	Column Q—passed phase 1 factor 5	Column R—passed phase 1 factor 6	Column S—number U.S. vehicles inspected	Column T—number U.S. vehicles issued CVSA decal	Column U—controlled substance collection	Column V—name of controlled substances and alcohol collection facility
1 .....	GCC Transportes SA de CV.	650155	MX-701100	N/A	Pass .....	13	13	U.S. ....	RI-Tech Drug Testing.

The Agency acknowledges that through the PASA process it determined that GCC has affiliations with additional companies. An attachment to the PASA provides information regarding these affiliations. During the carrier vetting and PASA process, FMCSA reviewed its records related to the affiliates, and confirmed that the companies are in good standing.

In an effort to provide as much information as possible for review, the application and PASA results for this carrier are posted at the Agency's Web site for the pilot program at <http://www.fmcsa.dot.gov/intl-programs/trucking/Trucking-Program.aspx>. For carriers that participated in the Agency's demonstration project that ended in 2009, copies of the previous PASA and compliance review, if conducted, are also posted. All documents were redacted so that personal information regarding the drivers is not released. Sensitive business information, such as the carrier's tax identification number, is also redacted. In response to previous comments received regarding the PASA notice process, FMCSA also posted copies of the vehicle inspections

conducted during the PASA in the PASA document.

A list of the carrier's vehicles approved by FMCSA for use in the pilot program is also available at the above referenced Web site.

FMCSA notes that the drivers proposed by the carrier for participation in the pilot program were tested for English language proficiency during the PASA and were found to be proficient. However, two of the proposed drivers have been recently cited for violations of 49 CFR 392.11(b)(2) during transportation in the border commercial zone. FMCSA brought this issue to GCC's attention, and GCC advised FMCSA that it sent the drivers to additional training to improve their English language proficiency.

The Agency also notes that GCC has been cited for violations of the FMCSRs during the last 24 months and the company is above the Agency's intervention threshold in the Driver Fitness basic within the Agency's Safety Measurement System. This Driver Fitness score generally results from citations for drivers failing to adequately communicate in English. As noted

above FMCSA has determined that each of the drivers designated to participate in the Pilot Program is able to read and speak the English language sufficiently to comply with our regulation. In addition GCC has advised FMCSA that it is providing additional training to their drivers to improve their English language proficiency. Therefore, while the SMS score above the intervention threshold is a concern that will be monitored, under these circumstances, we do not believe it constitutes an indication that the carrier is not willing or able to comply with our regulations and the requirements of the Pilot Program. The majority of the remaining cited violations relate to vehicle maintenance issues. Further, FMCSA reviewed the violations cited, and determined that the only violation on a vehicle proposed for the pilot program was due to low air in a tire and this defect was remedied.

Lastly, FMCSA is aware that companies affiliated with GCC have had SMS alerts. However, the Agency has confirmed that GCC Transportes was not established to evade or conceal a negative safety performance history by

those companies. The Agency monitors the safety of the affiliated carriers through SMS and will take action on those carriers, as appropriate.

To date, no carriers have failed the PASA. The Act only requires publication of data for carriers receiving operating authority, as failure to successfully complete the PASA precludes the carrier from being granted authority to participate in the long-haul pilot program. FMCSA will publish this information to show motor carriers that failed to meet U.S. safety standards.

#### Request for Comments

In accordance with the Act, FMCSA requests public comment from all interested persons on the PASA information presented in this notice. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, the FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

FMCSA notes that under its regulations, preliminary grants of authority, pending the carrier's showing of compliance with insurance and process agent requirements and the resolution of any protests, are publically noticed through publication in the FMCSA Register. Any protests of such grants must be filed within 10 days of publication of notice in the FMCSA Register.

Larry W. Minor,

Associate Administrator, Office of Policy,  
Federal Motor Carrier Safety Administration.

[FR Doc. 2012-19564 Filed 8-8-12; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0006; Notice 1]

#### General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of Petition.

**SUMMARY:** General Motors, LLC (GM)<sup>1</sup> has determined that certain model year 2012; Cadillac SRX, Chevrolet Equinox, GMC Terrain and Saab 9-4x multipurpose passenger vehicles, and Chevrolet Cruze passenger cars, do not fully comply with paragraph S19.2.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*. GM has filed an appropriate report dated September 6, 2011, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

*Vehicles involved:* approximately 3,599 Cadillac SRX, 11,459 Chevrolet Equinox, 5,080 GMC Terrain and 24 Saab 9-4x multipurpose passenger vehicles; and 27,392 Chevrolet Cruze passenger cars. All of the vehicles are model year 2012 and were manufactured within the period from April 6, 2011 through August 20, 2011.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 47,554<sup>2</sup> model year vehicles that GM no longer controlled at the time it determined that the noncompliance existed.

<sup>1</sup> General Motors, LLC, is a manufacturer of motor vehicles and is registered under the laws of the state of Michigan.

<sup>2</sup> GM's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt GM as a motor vehicles manufacturer from the notification and recall responsibilities of 49 CFR part 573 for the 47,554 affected vehicles. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

*Noncompliance:* GM explains that the noncompliance is that on rare occasions, the air bag suppression telltale on the subject vehicles may remain illuminated during a particular ignition cycle and indicate that the passenger air bag is OFF regardless of whether the air bag is or is not suppressed.

GM further explains that for this noncompliance condition to exist, the following must occur:

- (1) The engine must be restarted within approximately 24 seconds of having been turned OFF;
- (2) The key<sup>3</sup> must be turned rapidly, spending less than 10 milliseconds (0.01 seconds) in the RUN position before it reaches the START position; and
- (3) The crank power mode (approximately how long the starter motor runs) must be less than 1.2 seconds. GM's data predicts that the conditions for a noncompliance to occur will happen, on average, approximately once every 18 months, independent of whether the front seat is occupied or not.

*Rule text:* Paragraph S19 of FMVSS No. 208 requires in pertinent part:

S19 Requirements to provide protection for infants in rear facing and convertible child restraints and car beds.

S19.1 Each vehicle certified as complying with S14 shall, at the option of the manufacturer, meet the requirements specified in S19.2 or S19.3, under the test procedures specified in S20.

S19.2 Option 1—Automatic suppression feature. Each vehicle shall meet the requirements specified in S19.2.1 through S19.2.3. \* \* \*

S19.2.2 The vehicle shall be equipped with at least one telltale which emits light whenever the passenger air bag system is deactivated and does not emit light whenever the passenger air bag system is activated, except that the telltale(s) need not illuminate when the passenger seat is unoccupied. Each telltale: \* \* \*

(h) The telltale must not emit light except when the passenger air bag is turned off or during a bulb check upon vehicle starting.

#### Summary of GM's Analysis and Arguments

GM stated its belief that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

*A. The noncompliance does not increase the risk to motor vehicle safety because it has no effect on occupant restraint.* The noncompliant condition has absolutely no effect on the proper operation of the occupant classification system. If the telltale error occurs when

<sup>3</sup> Cadillac SRX and Saab 9-4X vehicles have a push button start/stop switch.