

Cobra vehicles with an immobilizer device installed, shows a reduction in thefts of approximately 70% for the vehicles with the immobilizer. With the introduction of SecuriLock on all 2000 Taurus models, the NCIC data show a 63% drop in theft rate compared with the non-SecuriLock equipped 1999 Taurus models.

As part of its submission, Ford also provided a Highway Loss Data Institute (HLDI) theft loss bulletin, Vol. 15, No. 1, September 1997, which evaluated 1996 Ford Mustang and Taurus models fitted with the SecuriLock device and corresponding 1995 models without the SecuriLock device. The results as reported by HLDI indicated a reduction in overall theft losses by approximately 50% for both Mustang and Taurus models.

Additionally, Ford stated that its SecuriLock device has been demonstrated to various insurance companies, and as a result AAA Michigan and State Farm now give an antitheft discount for all Ford vehicles equipped with the SecuriLock device.

Ford's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lacks an audible or visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR part 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, 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. 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 comparison, Ford 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 granted full exemptions from the parts-marking requirements.

Based on the evidence submitted by Ford, the agency believes that the antitheft device for the Lincoln Town Car 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).

The agency believes that the device will provide four of the five 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 Ford has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Ford provided about its antitheft device.

For the foregoing reasons, the agency hereby grants in full Ford Motor Company's petition for an exemption for the MY 2003 Lincoln Town Car vehicle line from the parts-marking requirements of 49 CFR part 541.

If Ford decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, must fully mark the line as required by 49 CFR 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. Section 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 § 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: May 13, 2002.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Petition for Exemption from the Federal Motor Vehicle Motor Theft Prevention Standard; Mazda

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

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

**SUMMARY:** This document grants in full the petition of Mazda Motor Corporation, (Mazda) for an exemption of a high-theft line, the Mazda 6, from the parts-marking requirements of the Federal motor vehicle theft prevention standard. The Mazda 6 vehicle line will replace the current 626 line. 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. Mazda requested confidential treatment for some of the information submitted in support of its petition. In a letter to Mazda dated January 24, 2002 and April 4, 2002, the agency addressed its request for confidential treatment.

**DATES:** The exemption granted by this notice is effective beginning with model year (MY) 2003.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington DC 20590. Ms. Proctor's phone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated December 27, 2001, Mazda Motor Corporation (Mazda), requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Mazda 6 vehicle line beginning with MY 2003. The petition requested an 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 the entire vehicle line.

Section 33106(b)(2)(D) of Title 49, United States Code, authorized the Secretary of Transportation to grant an exemption from the parts-marking requirements for not more than one additional line of a manufacturer for MYs 1997—2000. However, it does not address the contingency of what to do after model year 2000 in the absence of

a decision under section 33103(d). 49 U.S.C. 33103(d)(3) states that the number of lines for which the agency can grant an exemption is to be decided after the Attorney General completes a review of the effectiveness of antitheft devices and finds that antitheft devices are an effective substitute for parts-marking. The Attorney General has not yet made a finding and has not decided the number of lines, if any, for which the agency will be authorized to grant an exemption. Upon consultation with the Department of Justice, we

determined that the appropriate reading of section 33103(d) is that the National Highway Traffic Safety Administration (NHTSA) may continue to grant parts-marking exemptions for not more than one additional model line each year, as specified for model years 1997–2000 by 49 U.S.C. 33106(b)(2)(C). This is the level contemplated by the Act for the period before the Attorney General's decision. The final decision on whether to continue granting exemptions will be made by the Attorney General at the conclusion of the review pursuant to section 33103(d)(3).

Mazda'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. Mazda requested confidential treatment for some of the information submitted in support of its petition. In a letter to Mazda dated January 24, 2002, the agency addressed its request for confidential treatment.

In its petition, Mazda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. The antitheft device is a transponder-based electronic immobilizer system. Mazda will install its antitheft device, a transponder based electronic engine immobilizer antitheft system as standard equipment on its 6 carline beginning with MY 2003.

In order to ensure the reliability and durability of the device, Mazda conducted tests based on its own specified standards. Mazda provided a detailed list of the tests conducted and stated its belief that the device is reliable and durable since it has complied with Mazda's specified requirements for each test.

Mazda's antitheft device is activated when the driver/operator turns off the engine using the properly coded ignition key. When the ignition key is turned to the start position, the transponder (located in the head of the key) transmits a code to the powertrain's electronic control module. The vehicle's engine can only be started if the

transponder code matches the code previously programmed into the powertrain's electronic control module. If the code does not match, the engine will be disabled. Mazda stated that there are approximately 18 quintillion different codes and at the time of manufacture, each transponder is hard-coded with a unique code. Additionally, Mazda stated that encrypted communications exist between the immobilizer system control function and the powertrain's electronic control module.

Mazda also stated that its immobilizer system incorporates a light-emitting diode (LED) that provides information to the driver/operator as to the "set" and "unset" condition of the device. When the ignition is initially turned to the "ON" position, a 3-second continuous LED indicates the proper "unset" state of the device. When the ignition is turned to "OFF", a flashing LED indicates the "set" state of the device and provides visual information that the vehicle is protected by the immobilizer system. Mazda states that the integration of the setting/unsetting device (transponder) into the ignition key prevents any inadvertent activation of the device.

Mazda believes that it would be very difficult for a thief to defeat this type of electronic immobilizer system. Mazda believes that its new device is reliable and durable because it does not have any moving parts, nor does it require a separate battery in the key. If the correct code is not transmitted to the electronic control module (accomplished only by having the correct key), there is no way to mechanically override the system and start the vehicle. Furthermore, Mazda stated that drive-away thefts are virtually eliminated with the sophisticated design and operation of the electronic engine immobilizer system which makes conventional theft methods (i.e., hot-wiring or attacking the ignition-lock cylinder) ineffective. Mazda reemphasized that any attempt to slam-pull the ignition-lock cylinder will have no effect on the thief's ability to start the vehicle.

Mazda reported that in MY 1996, the proposed system was installed on certain U.S. Ford vehicles as standard equipment (i.e. on all Ford Mustang GT and Cobra models, Ford Taurus LX, SHO and Sable LS models). In MY 1997, the immobilizer system was installed on the Ford Mustang vehicle line as standard equipment. When comparing 1995 model year Mustang vehicle thefts (without immobilizer), with MY 1997 Mustang vehicle thefts (with immobilizer), data from the National Insurance Crime Bureau showed a 70%

reduction in theft. (Actual NCIC reported thefts were 500 for MY 1995 Mustang, and 149 thefts for MY 1997 Mustang.)

Mazda'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 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with devices similar to that which Mazda proposes. 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, Mazda has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Mazda, the agency believes that the antitheft device for the Mazda 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).

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons; 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 Mazda has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Mazda provided about its device. This confidential information included a description of reliability and functional tests conducted by Mazda for the antitheft device and its components.

For the foregoing reasons, the agency hereby grants in full Mazda's petition for exemption for its vehicle line from the parts-marking requirements of 49 CFR Part 541.

If Mazda 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 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Mazda 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. Section 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 § 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: May 13, 2002.

**Stephen R. Kratzke,**

Associate Administrator for Safety  
Performance Standards.

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

[Preemption Determination No. PD-18(R);  
Docket No. RSPA-98-3577 (PDA-18(R))]

### Broward County, Florida's Requirements on the Transportation of Certain Hazardous Materials To or From Points in the County

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

**ACTION:** Decision on petition for reconsideration of an administrative determination of preemption.

**Petitioner:** Broward County, Florida (the County).

**Local Laws Affected:** Broward County, Florida Code of Ordinance No. 1999-53, §§ 27-352; 27-355(a)(1); 27-

356(b)(4)d.1; 27-436; 27-439(b); 27-439(f)(1); 27-439(g)(1) and 27-439(g)(2).

#### *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 and rail.

**SUMMARY:** The County's petition for reconsideration is denied, and RSPA affirms its December 27, 2000 determination that Federal hazardous materials transportation law preempts the County's Ordinance No. 1999-53 on the following subjects to the extent that, as applied and enforced, they relate to transportation in commerce: certain hazardous materials definitions and the requirements that rely on those definitions; written notification of a hazardous materials release; retention of shipping papers; licensing fees for hazardous waste transporters; and monthly reports of transportation activity.

#### **FOR FURTHER INFORMATION CONTACT:**

Donna L. O'Berry, 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**

###### *A. Preemption Determination (PD) No. 18(R)*

In April 1998, the Association of Waste Hazardous Materials Transporters (AWHMT) applied for a determination that Federal hazardous material transportation law preempts 10 specific provisions of Chapter 27 of the Broward County Ordinance (Ordinance) that defined hazardous materials and set requirements for their transportation to and from points within the County. These provisions were contained in Article XII (entitled "Hazardous Material") of Chapter 27.

On August 6, 1998, RSPA published in the **Federal Register** a public notice and invitation to comment on AWHMT's application (63 FR 42098). RSPA received comments from Nufarm, the Hazardous Materials Advisory Council (now the Dangerous Goods Advisory Council), Freehold Cartage, Inc., the Association of American Railroads (AAR), Mr. Tony Tweedale, and the Institute of Makers of Explosives (IME). AWHMT submitted rebuttal comments.

On September 28, 1999, the Broward County Commissioners amended Chapter 27 by adopting Ordinance No. 1999-53 (the revised Ordinance). Some

of the regulations originally challenged in AWHMT's application were modified and moved by the County to new Article XVII (entitled "Waste Transporters"); some were deleted from the revised Ordinance; and others remained where they were in the previous Ordinance.

Because the County had substantially modified the Ordinance, RSPA asked AWHMT to supplement its application to reflect the revisions to the Ordinance, and invited interested parties to comment on the County's revised Ordinance. 64 FR 59231. (Nov. 2, 1999). On behalf of AWHMT, the American Trucking Associations (herein referred to as ATA/AWHMT) submitted the revised application. In addition, IME and AAR submitted comments. On March 22, 2000, the County submitted its comments to the revised Ordinance. On May 5, 2000, ATA/AWHMT submitted rebuttal comments to the County's comments.

As a result of the County's changes to the revised Ordinance, ATA/AWHMT withdrew its challenge to four of the County's requirements. ATA/AWHMT continued to challenge the County's definitions of certain hazardous materials in §§ 27-352 and 27-436, and the County's requirements for release reporting in §§ 27-355(a)(1) and 27-439(f)(1), packaging standards in § 27-439(e)(2), fees in § 439(a), monthly reporting in § 27-439(g), and vehicle inspection in § 27-439(e)(3). In addition, AAR continued to challenge the County's shipping paper requirements in § 27-439(g)(1), and vehicle marking requirements in § 27-439(e)(4). RSPA's December 27, 2000 decision addressed only the challenges to the revised Ordinance.

In its decision, RSPA determined that Federal hazardous material transportation law preempts County requirements pertaining to certain hazardous material definitions, all requirements that rely on those definitions, written notification of a hazardous material release, shipping paper retention for certain hazardous materials transporters, licensing fees for hazardous waste transporters and monthly transportation activity reporting. 65 FR 81950-60. RSPA stated that these requirements were preempted only to the extent that they related to transportation in commerce or differed from the HMR or other Federal requirements. *Id.* In addition, RSPA determined that Federal hazardous material transportation law did not preempt County requirements pertaining to oral notification of a hazardous material release, packaging standards for hazardous waste transport vehicles, shipping paper retention for