

on electronic functions and not mechanical functions, and therefore expects the components to last at least the life of the vehicle or longer.

Tesla also compared the device proposed for its vehicle line with other devices which NHTSA has already determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of the Theft Prevention Standard (i.e., the Audi Q5, GM Cadillac SRX, Volvo XC90, Ford Lincoln MKX and the Toyota Lexus RX vehicle lines). Specifically, the agency's data show that using an average of 3 MYs (2009–2011) theft rate data, the average theft rates for the Audi Q5 is (0.5756), GM Cadillac SRX (0.5888), Volvo XC90 (0.2582), Ford Lincoln MKX (0.6046) and the Toyota Lexus RX (0.4034) which are all well below the median theft rate of 3.5826.

Based on the evidence submitted by Tesla, the agency believes that the antitheft device for the Model X 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 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Tesla has provided adequate reasons for its belief that the antitheft device for the Model X 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. This conclusion is based on the information Tesla provided about its device.

The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; 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 Tesla's petition for exemption for the Model X vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with the

2014 model year vehicles. 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 MY. 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 Tesla 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 parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Tesla 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 antitheft device on which the line's exemption is based. Further, Part 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 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.

Under authority delegated in 49 CFR part 1.95.

David M. Hines,

Acting Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Vehicle Theft Prevention Standard; Nissan North America, Inc.

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

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Nissan North America, Inc.'s, (Nissan) petition for an exemption of the NV200 Taxi vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard*. 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 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). Nissan also requested confidential treatment of specific information in its petition. The agency will address Nissan's request for confidential treatment by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2015 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, W43-443, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366-4139. Her fax number is (202) 493-2990.

SUPPLEMENTARY INFORMATION: In a petition dated May 30, 2014, Nissan requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Nissan NV200 Taxi vehicle line beginning with MY 2015. 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.

Under 49 CFR part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the NV200 Taxi vehicle line. Nissan stated that the MY 2015 NV200 Taxi vehicle line will be equipped with a passive, transponder

based, electronic engine immobilizer antitheft device as standard equipment. Key components of its antitheft device will include a body control module (BCM), engine control module (ECM), security indicator light, immobilizer antenna, and a specially-designed key with a microchip. Nissan will not provide any visible or audible indication of unauthorized vehicle entry on the NV200 Taxi vehicle line. Nissan'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 immobilizer device is automatically armed when the ignition switch is turned to the "OFF" position. Authentication to deactivate the immobilizer occurs when the doors are unlocked with the key, the correct key is inserted into the key cylinder and the ignition switch is turned to the "ON" position. Nissan stated that the immobilizer device prevents normal operation of the vehicle without using a specially-designed microchip key with a pre-registered "Key-ID". Specifically, Nissan stated that, when the key is inserted into the key cylinder and the ignition switch is turned to the "ON" position, the BCM generates an electric field between the immobilizer antenna and the microchip incorporated into the ignition key. The microchip in the key transmits the Key-ID to the BCM, beginning an encrypted communication process. If the Key-ID and encrypted code are correct, the ECM will allow the engine to keep running and the driver to operate the vehicle. If the Key-ID and encrypted code are not correct, the ECM will cause the engine to shut down.

In addressing the specific content requirements of § 543.6, Nissan provided information on the reliability and durability of its proposed device. Nissan stated that its antitheft device is tested for specific parameters to ensure its reliability and durability. Nissan 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. Nissan further stated that its immobilizer device satisfies the European Directive ECE R116, including tamper resistance and that all control units for the device are located inside the vehicle, providing further protection from unauthorized accessibility of the device from outside the vehicle.

Nissan stated that the proposed device is functionally equivalent to the antitheft device installed on the Nissan Cube vehicle line which was granted a

parts-marking exemption by the agency on April 14, 2010 (75 FR 19458). The agency notes that the theft rates for the Nissan Cube using an average of 3 MYS data (2009–2011), are 0.2124, 0.7728 and 1.1893 respectively.

Nissan provided data on the effectiveness of the antitheft device installed on its NV200 Taxi vehicle line in support of the belief that its antitheft device will be highly effective in reducing and deterring theft. Nissan referenced the National Insurance Crime Bureau's data which it stated showed a 70% reduction in theft when comparing MY 1997 Ford Mustangs (with a standard immobilizer) to MY 1995 Ford Mustangs (without an immobilizer). Nissan also referenced the Highway Loss Data Institute's data which reported that BMW vehicles experienced theft loss reductions resulting in a 73% decrease in relative claim frequency and a 78% lower average loss payment per claim for vehicles equipped with an immobilizer. Additionally, Nissan stated that theft rates for its Pathfinder vehicle experienced reductions from model year (MY) 2000 to 2001 with implementation of the engine immobilizer device as standard equipment and further significant reductions subsequent to MY 2001. Specifically, Nissan noted that the agency's theft rate data for MY's 2001 through 2006 reported theft rates of 1.9146, 1.8011, 1.1482, 0.8102, 1.7298 and 1.3474 respectively for the Nissan Pathfinder.

In support of its belief that its antitheft device will be as effective as compliance with the parts marking requirements in reducing and deterring vehicle theft, Nissan compared its device to other similar devices previously granted exemptions by the agency. Specifically, it referenced the agency's grant of full exemptions to General Motors Corporation for its Buick Riviera and Oldsmobile Aurora vehicle lines (58 FR 44872, August 25, 1993) and its Cadillac Seville vehicle line (62 FR 20058, April 24, 1997) from the parts-marking requirements of the theft prevention standard. Nissan stated that it believes that since its device is functionally equivalent to other comparable manufacturer's devices that have already been granted parts-marking exemptions by the agency, along with the evidence of reduced theft rates for vehicle lines equipped with similar devices and advanced technology of transponder electronic security, the Nissan immobilizer device will have the potential to achieve the level of effectiveness equivalent to those vehicles already exempted the agency. The agency agrees that the device is

substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions.

Based on the supporting evidence submitted by Nissan on its device, the agency believes that the antitheft device for the NV200 Taxi 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 grants a petition for exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Nissan has provided adequate reasons for its belief that the antitheft device for the Nissan NV200 Taxi 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). This conclusion is based on the information Nissan 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 Nissan's petition for exemption for the Nissan NV200 Taxi 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 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 Nissan decides not to use the exemption for this line, it must 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 Nissan 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 antitheft device on which the line's exemption is based. Further, part 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 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.

Under authority delegated in 49 CFR part 1.95.

David M. Hines,

Acting Associate Administrator for Rulemaking.

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