

consult the agency before preparing and submitting a petition to modify.

Authority: 49 CFR 1.95.

Raymond R. Posten,
Associate Administrator for Rulemaking.
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; American Honda Motor Co., 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 American Honda Motor Co., Inc.'s (Honda) petition for exemption of the Acura MDX 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 the 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard).

DATES: The exemption granted by this notice is effective beginning with the 2018 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, 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 November 22, 2016, Honda requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Acura MDX vehicle line beginning with MY 2018. 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, Honda

provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Acura MDX vehicle line. Honda stated that its vehicle line will offer a front-wheel drive and an all-wheel drive variation. Honda further stated that its MY 2018 Acura MDX vehicle line will be installed with a transponder-based, engine immobilizer antitheft device as standard equipment. Honda also stated that the MDX vehicle line will be equipped with a "smart entry with push button start" ignition system ("smart entry") and an audible and visible vehicle security system as standard equipment on the entire line. Key components of the antitheft device will include a passive immobilizer, "smart entry" remote, powertrain control module (PCM) and an Immobilizer Entry System (IMOES).

Honda'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.

In addressing the specific content requirements of § 543.6, Honda provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Honda conducted tests based on its own specified standards. Honda provided a detailed list of the tests it used to validate the integrity, durability and reliability of the device and believes that it follows a rigorous development process to ensure that its antitheft device will be reliable and robust for the life of the vehicle. Honda stated that its device does not require the presence of a "smart entry" remote battery to function nor does it have any moving parts (*i.e.*, the PCM, IMOES, ignition key, "smart entry" remote and the electrical components are found within its own housing units), which it believes reduces the chance for deterioration and wear from normal use.

Honda stated that its immobilizer device is always active without requiring any action from the vehicle operator, until the vehicle is started using a matching "smart entry" remote. Deactivation occurs when a "smart entry" remote with matching codes is placed within operating range and the vehicle is started by pushing the engine start/stop button. Specifically, Honda stated that the immobilizer device automatically checks for the immobilizer code when the "smart entry" remote is within operating range (inside the vehicle, close to the doors or window or in close proximity outside the vehicle's exterior) and the vehicle is

started by pushing the engine start/stop button located to the right of the steering wheel on the vehicle dashboard. The matching code is validated by the IMOES, allowing the engine to start. Honda further states that if a "smart entry" remote without a matching code is placed inside the operating range and the engine start/stop button is pushed, the PCM will prevent fueling and starting of the engine. Additionally, the ignition immobilizer telltale indicator will begin flashing on the meter panel.

Honda stated that it will install an audible and visible vehicle security system as standard equipment on all its MDX vehicles to monitor any attempts of unauthorized entry and to attract attention to an unauthorized person attempting to enter its vehicles without the use of a "smart entry" remote or its built-in mechanical door key.

Specifically, Honda stated that whenever an attempt is made to open one of its vehicle doors, hood or trunk without using the "smart entry" remote or turning a key in the key cylinder to disarm the vehicle, the vehicle's horn will sound and its lights will flash. The vehicle security system is activated when all of the doors are locked and the hood and trunk are closed and locked. Honda's vehicle security system is deactivated by using the key fob buttons to unlock the vehicle doors or having the "smart entry" remote within operating range when the operator grabs either of the vehicle's front door handles.

Honda believes that additional levels of reliability, durability and security will be accomplished because its "smart entry" remote will utilize rolling codes for the lock and unlock functions of its vehicles. Honda stated that it will also equip its vehicle line with a hood release located inside the vehicle, counterfeit resistant vehicle identification number (VIN) plates and secondary VINs as standard equipment.

In support of its belief that its antitheft device will be as or more effective in reducing and deterring vehicle theft than the parts-marking requirement, Honda referenced data showing several instances of the effectiveness of its proposed immobilizer device. Honda first installed an immobilizer device as standard equipment on its MY 2001 Acura MDX vehicles and referenced NHTSA's theft rate data for MYs 2003–2012 showing a consistent rate of thefts well below the median of 3.5826 since the installation of its immobilizer device. NHTSA notes that the theft rates for MYs 2013 and 2014 MDX vehicle line are 0.5936 and 0.3209 respectively.

Using an average of three MYs' theft data (2012–2014), the theft rate for the MDX vehicle line is well below the median at 0.4630. Additionally, Honda referenced the Highway Loss Data Institute's 2001–2014 Insurance Theft Report showing an overall reduction in theft rates for the Honda MDX vehicles after introduction of its immobilizer device on the line.

Additionally, Honda stated that the immobilizer device proposed for the 2018 MDX is similar to the design offered on its Honda Civic, Honda Accord, Honda CR-V and Honda Pilot vehicles. The agency granted the petitions for the Honda Civic vehicle line in full beginning with MY 2014 (see 61 FR 19363, March 29, 2013), the Honda Accord vehicle line beginning with MY 2015 (see 79 FR 18409, April 1, 2014), the Honda CR-V vehicle line beginning with MY 2016 (see 80 FR 3733, January 23, 2015) and the Honda Pilot beginning with MY 2017 (see 81 FR 12197, March 8, 2016). The agency notes that the average theft rate for the Honda Civic, Accord, CR-V and Pilot vehicle lines using three MYs' data (MYs 2012 through 2014) are 0.6611, 0.7139, 0.3203 and 0.9134 respectively.

Based on the supporting evidence submitted by Honda on its device, the agency believes that the antitheft device for the Acura MDX 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). 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.

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 Honda has provided adequate reasons for its belief that the antitheft device for the Acura MDX 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 Honda provided about its device.

For the foregoing reasons, the agency hereby grants in full Honda's petition for exemption for the Acura MDX vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with the 2018 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 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 Honda 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 parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Honda 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.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95.

Raymond R. Posten,
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; Tesla

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 Tesla Motors Inc's., (Tesla) petition for an exemption of the Model 3 vehicle line in accordance with the *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 the *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). Tesla also requested confidential treatment for specific information in its petition. While official notification on granting or denying Tesla's request for confidential treatment will be addressed by separate letter, no confidential information provided for purposes of this document has been disclosed.

DATES: The exemption granted by this notice is effective beginning with the 2017 model year (MY).

FOR FURTHER INFORMATION CONTACT: Mr. Hisham Mohamed, Office of International Policy, Fuel Economy and Consumer Standards, NHTSA, W43-437, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Mohamed's phone number is (202) 366-0307. His fax number is (202) 493-2990.

SUPPLEMENTARY INFORMATION: In a petition dated September 16, 2016, Tesla requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Model 3 vehicle line beginning with MY 2017. 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.