DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

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

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

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of Nissan North America, Inc. (Nissan) for an exemption of a high-theft line, the Infiniti M45, from the parts-marking requirements of the Federal motor 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 Theft Prevention Standard. Nissan requested confidential treatment for some of the information and attachments submitted in support of its petition. In a letter to Nissan dated November 25, 2002, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2004.

FOR FURTHER INFORMATION CONTACT: Mrs. Rosalind Proctor, Office of Planning and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mrs. Proctor's phone number is (202) 366–4807. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated October 30, 2002 Nissan North America, Inc. (Nissan), requested an exemption from the parts-marking requirements of 49 CFR part 541, Federal Motor Vehicle Theft Prevention Standard, for the Infiniti M45 vehicle line beginning in MY 2004. 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.

Nissan's submittal 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. Nissan requested confidential treatment for the information submitted in support of its petition. In a letter dated November 25, 2002, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

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 new line. This antitheft device will include both an audible and visual alarm and an engine-immobilizer system. The antitheft device is activated by moving the ignition key to the ''OFF'' position, closing the hood and trunk lid and closing and locking all of the doors. Therefore, once the key is turned to the ''OFF'' position and the ignition key is removed from the key cylinder, the antitheft systems are set.

In order to ensure the reliability and durability of the device, Nissan conducted tests based on its own specified standards. Nissan provided a detailed list of tests conducted and believes that its device is reliable and durable since the device complied with its specified requirements for each test.

Nissan compared the device proposed for its vehicle line with devices, which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft, as would compliance with the parts-marking requirements. Theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Nissan proposes.

On the basis of this comparison, Nissan 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 already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Nissan, the agency believes that the antitheft device for the Nissan Infiniti M45 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 the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate 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.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its device, much of which is confidential. This confidential information included a description of reliability and functional tests conducted by Nissan for the anti-theft device and its components.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the MY 2004 Infiniti M45 vehicle line from the parts-marking requirements of 49 CFR 541. If Nissan 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 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. 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 § 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 19, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–13061 Filed 5–23–03; 8:45 am]

BILLING CODE 4910–59–P