

project-level air quality conformity regulation of the U.S. Environmental Protection Agency (EPA) (40 CFR part 93); the Section 404(b)(1) guidelines of EPA (40 CFR part 230); the regulation implementing Section 106 of the National Historic Preservation Act (36 CFR part 800); the regulation implementing Section 7 of the Endangered Species Act (50 CFR part 402); section 4(f) of the Department of Transportation Act (23 CFR part 774); and Executive Orders 12898 on environmental justice, 11988 on floodplain management, and 11990 on wetlands.

Issued on: April 9, 2010.

Leslie T. Rogers,

Regional Administrator, Region IX, Federal Transit Administration.

[FR Doc. 2010-8529 Filed 4-13-10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Nissan

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 exemption of the Cube 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 Theft Prevention Standard (49 CFR Part 541).

DATES: The exemption granted by this notice is effective beginning with the 2011 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43-302, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-0073.

SUPPLEMENTARY INFORMATION: In a petition dated March 2, 2010, Nissan requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the MY 2011 Nissan Cube vehicle

line. 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 § 543.5(a), a manufacturer may petition NHTSA to grant exemptions 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 Cube vehicle line. Nissan will install its passive transponder-based, electronic immobilizer antitheft device as standard equipment on its Cube vehicle line beginning with MY 2011. Major components of the antitheft device will include a body control module (BCM), an immobilizer antenna, security indicator light, electronic immobilizer and an engine control module. Nissan will also install an audible and visible alarm system on the Cube as standard equipment. Nissan stated that activation of the immobilization device occurs when the ignition is turned to the "OFF" position and all the doors are closed and locked through the use of the key or the remote control mechanism. Deactivation occurs when all the doors are unlocked with the key or remote control mechanism. 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.

Nissan stated that the immobilizer device prevents normal operation of the vehicle without use of a special key. Nissan further stated that incorporation of the theft warning alarm system in the device has been designed to protect the belongings within the vehicle and the vehicle itself from being stolen when the back door and all of the side doors are closed and locked. If any of the doors are unlocked through an inside door lock knob or any attempts are made to reconnect the device after it has been disconnected, the device will also activate the alarm. Nissan stated that upon alarm activation, the head lamps will flash and the horn will sound, and the alarm can only be deactivated by unlocking the driver's side door with the key or the remote control device.

In addressing the specific content requirements of 543.6, Nissan provided information on the reliability and durability of the 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 provided data on the effectiveness of the antitheft device installed on its Cube 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 the MY 1997 Ford Mustang (with a standard immobilizer) to the MY 1995 Ford Mustang (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 a theft rate experience for the Nissan Pathfinder of 1.9146, 1.8011, 1.1482, 0.8102, 1.7298 and 1.3474, respectively.

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 a full exemption to General Motors Corporation for the Buick Riviera, Oldsmobile Aurora (58 FR 44872, August 25, 1993) and Cadillac Seville vehicle lines (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 such as the "PASS-Key III" device used on the 1997 Buick Park Avenue, the 1998 Cadillac Seville and, the 2000 Cadillac DeVille, Pontiac Bonneville, Buick LeSabre and Oldsmobile Aurora lines, the reduced theft rates of the "PASS-Key" and "PASS-Key II" equipped vehicle lines and the advanced technology of transponder electronic security, the Nissan immobilizer device has the potential to achieve the level of

effectiveness equivalent to the "PASS-Key III device.

Based on the supporting evidence submitted by Nissan on the device, the agency believes that the antitheft device for the Cube 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; 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.

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 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.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Nissan Cube vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2011 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 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 Parts 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 anti-theft 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.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: April 8, 2010.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 2010-8451 Filed 4-13-10; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2010-13]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary

is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before May 4, 2010.

ADDRESSES: You may send comments identified by Docket Number FAA-2010-0179 using any of the following methods:

- **Government-wide rulemaking Web site:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- **Mail:** Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

- **Fax:** Fax comments to the Docket Management Facility at 202-493-2251.

- **Hand Delivery:** Bring comments to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

Docket: To read background documents or comments received, go to <http://www.regulations.gov> at any time or to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Laverne Brunache (202) 267-3133 or Tyneka Thomas (202) 267-7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on April 8, 2010.

Pamela Hamilton-Powell,
Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA-2010-0179.