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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 Nissan North America, Inc.'s (Nissan) petition for exemption of the Infiniti QX60 (formerly known as the Infiniti JX) 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 2014 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, S.E., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-0073.

SUPPLEMENTAL INFORMATION: In a petition dated November 29, 2012, Nissan requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the MY 2014 QX60 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 Infiniti QX60 vehicle line. Nissan will install its passive transponder-based, electronic immobilizer antitheft device as standard equipment on its Infiniti QX60 vehicle line beginning with MY 2014. Major components of the antitheft device will include a body control module/immobilizer control (BCM), an immobilizer antenna, security indicator light, electronic immobilizer and an engine control module (ECM). Nissan will also install an audible and visible alarm system on the Infiniti QX60 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. Specifically, Nissan stated that when the brake switch or clutch switch is on and the vehicle’s key fob is near the engine start switch, the body control module generates an electric field between the immobilizer antenna and the microchip incorporated in the ignition key. The microchip then transmits the “key-ID” by radio wave and is received by the antenna, amplified and transmitted to the BCM. The ECM then requests the BCM to start the

encrypted communication. If the encrypted code is correct, the BCM sends an “OK-code” and encrypted code to the ECM. If the code is not correct, the immobilizer control unit sends a “NG-code” to the ECM. The ECM then correlates the received encrypted code with the previously determined encrypted code. If the code is correct, the ECM allows the engine to keep running and if the code is incorrect, the ECM will render the engine inoperable.

Nissan further stated that incorporation of the theft warning alarm system into its device is 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 deactivation of the alarm can occur only 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 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 provided data on the effectiveness of the antitheft device installed on its Infiniti QX60 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 (with immobilizer device) showed 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 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 manufacturers' 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.

Based on the supporting evidence submitted by Nissan on the device, the agency believes that the antitheft device for the Infiniti QX60 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 Infiniti QX60 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 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.

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Christopher J. Bonanti
Associate Administrator for
Rulemaking

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