



U.S. DEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety Administration
Petition for Exemption from the
Federal Motor Vehicle Theft Prevention Standard;
FUJI HEAVY INDUSTRIES U.S.A., INC.

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

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full Fuji Heavy Industries U.S.A., Inc.'s (FUSA) petition for exemption of the Subaru Ascent vehicle line in accordance with 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). FUSA also requested confidential treatment for specific information in its petition. Therefore, no confidential information provided for purposes of this notice has been disclosed.

DATES: The exemption granted by this notice is effective beginning with the 2019 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43-439, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Ms. Ballard's phone number is 202-366-5222. Her fax number is 202-493-2990.

SUPPLEMENTARY INFORMATION: In a petition dated July 10, 2017, FUSA requested an exemption from the parts-marking requirements of the Theft Prevention Standard for its Subaru Ascent vehicle line beginning with MY 2019. 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, FUSA provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Subaru Ascent vehicle line. FUSA stated that its MY 2019 Subaru Ascent vehicle line will be installed with an immobilizer device as standard equipment on the entire vehicle line. FUSA stated that it will also offer an audible and visual alarm with a panic mode feature as standard equipment on its Ascent vehicle line. FUSA stated that its alarm system will monitor the vehicle's door status, key identification and any unauthorized effort to open a door, enter, or move the vehicle. FUSA further stated that any of the unauthorized efforts will activate the alarm system causing the vehicle's horn to sound and the hazard lamps to flash.

FUSA's submission is considered a complete petition as required by 49 CFR 543.7 in that it meets the general requirements contained in 49 CFR 543.5 and the specific content requirements of 49 CFR 543.6.

In addressing the specific content requirements of 49 CFR 543.6, FUSA provided information on the reliability and durability of the proposed device. FUSA conducted tests based on its own specified standards and provided a list of the tests it conducted. FUSA believes that its device is reliable and durable because the device complied with its own specific requirements for each test. Additionally, FUSA stated that because the immobilization features are designed

and constructed within the vehicle's overall Controller Area Network Electrical Architecture, the anti-theft device cannot be separated and controlled independently of this network. FUSA further stated that its immobilizer device prevents the engine from unauthorized operation such as "hot-wiring". FUSA further stated that the engine will not start or run unless the registered ID code in the transponder key or ignition key coincides with the code registered in the immobilizer module or the immobilizer ECU installed on the vehicle.

System operation occurs when the ignition key is put into the key cylinder and battery power is supplied to the immobilizer module. When the battery power is supplied to the immobilizer module, the immobilizer module sends an electromagnetic signal to the transponder through the key ring antenna to supply power and send data to the transponder by electromagnetic coupling. The transponder then sends the ID code to the immobilizer module. The ID code sent from the transponder and the meter ECU compares codes with the code registered in the immobilizer ECU. If the codes do not match or are not received, the engine ECU prohibits engine starting. If the codes do match, the engine ECU will allow engine fuel delivery, ignition and starting/operation of the vehicle. FUSA stated that integration of the anti-theft device immobilization with the overall vehicle CAN BUS electrical architecture and control modules makes it nearly impossible for the immobilization features to be disabled or bypassed without disabling all other body and engine controls. Therefore, FUSA stated that the availability of a correct key will not defeat the electronic immobilization features of the vehicle's anti-theft device interface.

In support of its petition, FUSA provided a comparative table showing how its device is similar to other manufacturer's devices that have already been granted an exemption by NHTSA. In its comparison, FUSA makes note of federal notices published by NHTSA in which

manufacturers have stated that they have seen reductions in theft due to the immobilization systems being used. Specifically, FUSA note claims by Ford Motor Company that its 1997 Mustangs (with immobilizers) saw a 70% reduction in theft compared to its 1995 Mustangs (without immobilizers). FUSA also mentioned its reliance on theft rates published by the agency showing that theft rates were lower for Jeep Grand Cherokee immobilizer-equipped vehicles (model year 1999 through 2003) compared to older parts-marked Jeep Grand Cherokee vehicles (model year 1995 through 1998). FUSA stated that it believes its device is likely to be no less effective than those installed on lines for which the agency has already granted full exemption from the parts-marking requirements. FUSA also referenced information on the recent state-by-state theft results from the National Insurance Crime Bureau reporting that in only 6 of the 50 states listed in its results, and the District of Columbia, not any Subaru vehicle appeared in its top 10 list of stolen vehicles. FUSA also stated that it believes that historically, NHTSA has seen a decreasing trend in theft rates for vehicles when electronic immobilization has been added to its alarm systems.

FUSA stated that it presently has immobilizer devices on all of its product lines (Forester, Impreza, XV Crosstrek, Legacy, Outback and WRX models) and it believes the data shows immobilization has had a demonstrable effect in lowering its theft rates. The theft rate data reported in Federal Register notices published by the agency show theft rates for the Forester, 0.4252, Impreza, 0.5282, Crosstrek, 0.4395, Legacy, 0.6155 and Outback, 0.3825 vehicle lines, using an average of 3 MYs data (2012-2014) is significantly lower than the median theft of 3.5826 established by the agency.

Based on the evidence submitted by FUSA, the agency believes that the antitheft device for the Subaru Ascent 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 an exemption from the parts-marking requirements of 49 CFR Part 541, either in whole or in part, if it determines that, based upon supporting 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 49 CFR Part 541. The agency finds that FUSA has provided adequate reasons for its belief that the antitheft device for the Subaru Ascent 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 FUSA provided about its device.

For the foregoing reasons, the agency hereby grants in full FUSA's petition for exemption for its Subaru Ascent vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with its MY 2019 Subaru Ascent 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 49 CFR 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 FUSA decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if FUSA 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. 49 CFR 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, §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 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, D.C., under authority delegated in 49 CFR part 1.95.

Raymond R. Posten,
Associate Administrator for Rulemaking.

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