



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

**Petition to Modify an Exemption of a
Previously Approved Antitheft Device;
Mitsubishi Motors R&D of America**

AGENCY: National Highway Traffic Safety Administration (NHTSA)

Department of Transportation (DOT).

ACTION: Grant of petition to modify an exemption of a previously approved antitheft device.

SUMMARY: On February 2, 2009, the National Highway Traffic Safety Administration (NHTSA) granted in full Mitsubishi Motors R&D (Mitsubishi) of America's petition for an exemption from the Federal Motor Vehicle Theft Prevention Standard (theft prevention standard) for its Mitsubishi Outlander vehicle line beginning in model year (MY) 2011. On November 12, 2012, the agency granted Mitsubishi's first petition to modify its previously approved exemption for the Outlander vehicle line beginning with MY 2014. On August 1, 2019, Mitsubishi submitted a second petition to modify its previously approved exemption for the Outlander vehicle line beginning with MY 2022. On February 17, 2021, Mitsubishi submitted a third petition to modify its previously approved exemption for a confidential variant of the Outlander vehicle line beginning with MY 2023. Mitsubishi 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 modification granted by this notice is effective beginning with the 2023 MY.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43-439, NRM-310, 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.

SUPPLEMENTAL INFORMATION: On February 2, 2009, NHTSA published in the Federal Register a notice granting in full a petition from Mitsubishi for an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR 541) for the Outlander vehicle line beginning with its MY 2011 vehicles (see 74 FR 5891). Mitsubishi equipped the MY 2011 Outlander vehicles with a passive, transponder-based, electronic engine immobilizer device and an audible and visible alarm.

On August 6, 2012, Mitsubishi submitted a petition to modify the previously approved exemption for the Outlander vehicle line. On November 28, 2012 (see 77 FR 71030), the agency granted the petition for modification of the previously granted exemption for the Outlander vehicle line beginning with its MY 2014 vehicles. On August 1, 2019, Mitsubishi submitted a second petition to modify the previously approved exemption for the Outlander vehicle line. On May 11, 2020 (see 85 FR 27798), the agency granted the petition for modification of the previously granted exemption for the Outlander vehicle line beginning with its MY 2021 vehicles, although Mitsubishi later notified the agency that the modification would be applied starting with its MY 2022 vehicles. On February 17, 2021, Mitsubishi submitted a third petition to modify the previously approved exemption for a confidential variant of the Outlander vehicle line beginning with its MY 2023 vehicles.

Mitsubishi's submission is a complete petition, as required by 49 CFR Part 543.10(d), in that it meets the general requirements contained in 49 CFR Part 543.5 and the specific content requirements of 49 CFR Part 543.6. Mitsubishi's petition for modification provides a detailed description and diagram of the identity, design, and location of the components of the antitheft device proposed for installation beginning with the 2023 MY.

The details of Mitsubishi's first three previously-approved antitheft devices are described in the February 2009, November 2012, and May 2020 Federal Register notices granting their petitions for exemption (see 74 FR 5891, 77 FR 71030, and 85 FR 27798), as discussed above.

In its third modification for its 2023 vehicles, Mitsubishi stated that it will offer the one touch starting system (OSS 3) as standard equipment for all confidential variants of the Outlander vehicles. The OSS 3 is a transponder-based electronic immobilizer system that starts the engine without using a mechanical key as long as the registered iKey Fob is located in close proximity to the driver.

When the ignition switch is pushed to the “on” position, the transceiver module reads the specific ignition key code for the vehicle and transmits an encrypted message containing the key code to the electronic control unit (ECU) or hands free module (HFM), which verifies that the key is correct. The immobilizer then sends a separate encrypted start-code signal to the engine ECU or HFM to allow the driver to start the vehicle. The powertrain will function only if the key code matches the unique identification key code previously programmed into the ECU or HFM. If the codes do not match, the powertrain engine/motor will be disabled.

Mitsubishi stated that its immobilizer system is further enhanced by several features that make it impossible to defeat, including encrypted communication between the transponder and the ECU (HFM). There are millions of different possible key codes for the new OSS 3 system making a successful key code duplication nearly impossible. Mitsubishi stated that the immobilizer device and the ECU or HFM share security data when first installed during vehicle assembly, making them a matched set. These matched modules will not function if taken out and reinstalled separately on other vehicles. Mitsubishi also stated that the device is extremely reliable and durable because there are no moving parts, the key does not require a separate battery and it is impossible to mechanically override the device and start the vehicle.

Mitsubishi stated that the Mitsubishi Outlander has been equipped with the immobilizer device since MY 2007. Mitsubishi also stated that the Eclipse, Galant, Endeavor, Lancer, Outlander Sport, I-MiEv, Mirage, and the Eclipse Cross vehicle lines have been equipped with a similar type of immobilizer device since January 2000, January 2004, April 2004, March 2007, September 2010, October 2011, July 2013 and December 2017 respectively, and they have all

been granted parts-marking exemptions by the agency. Mitsubishi further stated that its Eclipse vehicle line has been equipped with a similar device since introduction of its MY 2000 vehicles. Mitsubishi further stated that the theft rate for the MY 2000 Eclipse decreased by almost 42% when compared with that of its MY 1999 Mitsubishi Eclipse (unequipped with an immobilizer device).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.8(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. In this case, Mitsubishi's petition is granted under 49 U.S.C. 33106(d) and 49 CFR 543.8(c), which state that if the Secretary of Transportation (NHTSA, by delegation) does not make a decision about a petition within 120 days of the petition submission, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.

Separately, the agency finds that Mitsubishi has provided adequate reasons for its belief that the antitheft device for its 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 Mitsubishi provided about its antitheft device. NHTSA believes, based on the supporting evidence submitted by Mitsubishi and other information NHTSA has received about the effectiveness of antitheft devices, that the antitheft device for the confidential variant of the Outlander 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.

The agency concludes that Mitsubishi's antitheft device will continue to 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.

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 543.8(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 Mitsubishi 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 as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Mitsubishi 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 543.8(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, section 543.10(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 the exemption."

The agency wishes to minimize the administrative burden that section 543.10(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 Mitsubishi 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.

For the foregoing reasons, the agency hereby announces a grant in full Mitsubishi's petition to modify the exemption for the confidential variant of the Outlander vehicle line, beginning with its MY 2023 vehicles. NHTSA has determined that the modified 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.

.

Jane Doherty,
Acting Associate Administrator for Rulemaking.

BILLING CODE: 4910-59-P

[FR Doc. 2021-18801 Filed: 8/31/2021 8:45 am; Publication Date: 9/1/2021]