

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****Petition for Exemption From the Vehicle Theft Prevention Standard; Volkswagen**

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

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the petition of Volkswagen Group of America (VW) in accordance with § 543.9(c)(2) of 49 CFR part 543, *Exemption from the Theft Prevention Standard*, for the Audi Q5 vehicle line beginning with model year (MY) 2009. 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.

**DATES:** The exemption granted by this notice is effective beginning with model year (MY) 2009.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., West Building, W43-439, Washington, DC 20590. Ms. Ballard's phone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated February 15, 2008, VW requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541) for the Audi Q5 vehicle line beginning with MY 2009. 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 an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one of its vehicle lines per year. VW'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.

VW's petition provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its new multipurpose vehicle line. VW will install its passive, transponder-based, electronic immobilizer antitheft device

as standard equipment on its Audi Q5 vehicle line beginning with MY 2009. Key components of the antitheft device will include a passive immobilizer, an immobilizer control unit, an electronic ignition lock, an adapted ignition key, an engine control unit, an electronic steering column lock (ELV), and an automatic gear (if available). VW stated that the device is activated by turning the key in either of the front door locks to the "lock" position or by locking the vehicle with the remote key fob or an optional keyless entry and locking control. The antitheft device will also include an audible and visible alarm feature that will monitor and protect the doors, rear hatch, and hood against unauthorized entry. If an unauthorized entry is attempted, the horn will sound and the vehicle's lights will flash. VW also stated that the vehicle's radio, amplifier and multi-media interface are theft deterrent protected and if removed from the car, the components will not operate unless re-activated by an authorized dealer.

VW stated that the Audi Q5's immobilizer prevents the vehicle from being operated by unauthorized persons. When the ignition key is turned to the "on" position, the key's transponder, the immobilizer control unit, the ELV, and the engine control unit initiate a complex set of tests to determine if vehicle start-up should be enabled. If the tests fail, the vehicle cannot be started. The ignition system is monitored in the sense that if an external voltage is applied in an attempt to by-pass the immobilizer system, the alarm is triggered.

In addressing the specific content requirements of 543.6, VW provided its own test information on the reliability and durability of its device. VW conducted tests based on its own specified standards and believes that the device is reliable and durable since the device complied with its specified requirements for each test.

In its petition, VW further stated that because the Audi Q5 is a new vehicle line, there is no historic theft data published for a similar Audi vehicle line. VW also stated that its antitheft system will be at least as, or more, effective in reducing and deterring theft as other comparable vehicles installed with an alarm and engine immobilizer. VW further stated that the theft reduction benefits from immobilizer systems cited in recently granted petitions for exemptions have included a 70% reduction in 1997 immobilizer-equipped Ford Mustang thefts compared to 1995 models without an immobilizer. Based on Highway Loss Data Institute (HLDI) data, 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. The agency agrees that the device is substantially similar to devices in these and other vehicle lines for which the agency has already granted exemptions.

The agency also notes 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 VW has provided adequate reasons for its belief that the antitheft device for the Audi Q5 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 VW provided about its device.

For the foregoing reasons, the agency hereby grants in full VW's petition for exemption for the Audi Q5 vehicle line from the parts-marking requirements of 49 CFR part 541. 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 VW 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 541.5 and 541.6 (marking of major

component parts and replacement parts).

NHTSA notes that if VW 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 anti-theft device on which the line's exemption is based. Further, section 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 section 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: March 31, 2008.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E8-7098 Filed 4-3-08; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 290 (Sub-No. 5) (2008-2)]

#### Quarterly Rail Cost Adjustment Factor

**AGENCY:** Surface Transportation Board.

**ACTION:** Approval of rail cost adjustment factor.

**SUMMARY:** The Board has approved the second quarter 2008 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 2008 RCAF (Unadjusted) is 1.077. The second quarter 2008 RCAF (Adjusted) is 0.497. The second quarter 2007 RCAF-5 is 0.471.

**EFFECTIVE DATE:** March 31, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Pedro Ramirez, (202) 245-0333. [Federal

Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

#### SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's decision, which is available on our Web site <http://www.stb.dot.gov>. To purchase a copy of the full decision, write to, e-mail or call the Board's contractor, ASAP Document Solutions; 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail [asapdc@verizon.net](mailto:asapdc@verizon.net); phone (202) 306-4004. [Assistance for the hearing impaired is available through FIRS: 1-800-877-8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 31, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey and Commissioner Buttery.

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8-7079 Filed 4-3-08; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35119]

#### Nittany and Bald Eagle Railroad Company—Temporary Trackage Rights Exemption—Norfolk Southern Railway Company

Norfolk Southern Railway Company (NSR) has agreed to grant non-exclusive, temporary overhead trackage rights to Nittany and Bald Eagle Railroad Company (N&BE) over a portion of NSR's line between milepost 194.2, Lock Haven, PA, and milepost 139.2, Driftwood, PA, a distance of approximately 55 miles.<sup>1</sup>

The transaction is scheduled to be consummated on or after April 23, 2008, the effective date of the exemption (30 days after the exemption was filed). The temporary trackage rights will expire on December 30, 2008.

The purpose of the temporary trackage rights is to allow N&BE adequate bridge train service for

<sup>1</sup> A redacted version of the trackage rights agreement between N&BE and NSR was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. The request for a protective order is being addressed in a separate decision.

temporary, seasonal traffic originating on the N&BE for delivery to an off-line destination.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Any stay petition must be filed on or before April 16, 2008 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law No. 110-161, 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35119, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Richard R. Wilson, 127 Lexington Ave., Suite 100, Altoona, PA 16601.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: March 28, 2008.

By the Board, David M. Konschnick, Director, Office of Proceedings.

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8-6865 Filed 4-3-08; 8:45 am]

**BILLING CODE 4915-01-P**