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Neil Moyer,

Chief, Intercity Passenger Rail Analysis Division.

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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 A3 vehicle line beginning with model year (MY) 2010. 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) 2010.

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) 493-2990.

SUPPLEMENTARY INFORMATION: In a petition dated November 10, 2008, VW requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541) for the Audi A3 vehicle line beginning with MY 2010. 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 vehicle line per model year. In its petition, VW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its new Audi A3 vehicle line. VW will install its passive, transponder-based, electronic immobilizer antitheft device as standard equipment on its Audi A3 vehicle line beginning with MY 2010. Key components of the antitheft device will include a passive immobilizer, an immobilizer control unit, a mechanical ignition lock with immobilizer reading coil, an adapted ignition key, and an engine control unit. The antitheft device will not include an audible or visible alarm feature as standard equipment. 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 stated that once the driver/operator turns on the ignition, the key transponder sends a fixed code to the immobilizer control unit. If this is identified as the correct code, a variable code is generated in the immobilizer control unit and sent to the transponder. A secret arithmetic process is then started in the transponder and the control unit according to a set of specific equations. The results of the computing process is evaluated in the control unit and if they tally, the vehicle key is acknowledged as correct. The engine control unit then sends a variable code to the immobilizer control unit, enabling start up of the vehicle. VW stated that a new variable code is generated each time during this secret computing process. Therefore, VW believes that the code is undecipherable and impossible to duplicate.

In addressing the specific content requirements of 543.6, VW provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, VW conducted tests based on its own specified standards. VW provided a detailed list of the tests conducted (i.e., electrical system temperature stability, mechanical integrity, electrical performance, environmental compatibility and service life) and believes that the device is reliable and durable since the device complied with its specific requirements for each test. Additionally, VW stated that after adapting in the electronic module of the key transponder has been initiated, a pairing between the key and the

immobilizer occurs at which point the key can no longer be used for any other immobilizer.

In supplementary information submitted to the agency on January 12, 2009, VW stated that since the Audi A3 has only been equipped with a standard immobilizer and alarm since its introduction in MY 2006, there is no comparative Audi data available for the Audi A3 without an immobilizer. VW also stated that the agency's MY 2006 theft data published in the **Federal Register** on October 14, 2008, reported that the Audi A3 had a theft rate of 1.0751 which is below the median. VW also provided data on the theft reduction benefits experienced by other vehicle lines installed with immobilizer devices that have recently been granted petitions for exemptions by the agency. VW has concluded that the antitheft device proposed for its Audi A3 vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements. 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.

Based on the evidence submitted by VW, the agency believes that the antitheft device for the Audi A3 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.

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 A3 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.

The agency concludes that the device will provide four of the five types of performance listed in 543.6(a)(3): Promoting activation; 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.

For the foregoing reasons, the agency hereby grants in full VW's petition for exemption for the Audi A3 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 parts 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. 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: March 10, 2009.

Stephen R. Kratzke,
Associate Administrator for Rulemaking.
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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Actions on Special Permit Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on Special Permit Applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on special permits applications in (June to March 2009). The mode of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5 Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Special Permits. It should be noted that some of the sections cited were those in effect at the time certain special permits were issued.

Issued in Washington, DC, on March 3, 2009.

Delmer F. Billings,
Director, Office of Hazardous Materials, Special Permits and Approvals.

S.P No.	S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
MODIFICATION SPECIAL PERMIT GRANTED				
14656-M .....	.....	PurePak Technology, Chandler, AZ.	49 CFR 173.158(f)(3)	To modify the special permit to authorize a smaller Corporation outer packaging.
14488-M	PHMSA-08-0190 ..	Sanofi Pasteur, Swiftwater, PA.	49 CFR 173.24(b)(1)	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of an influenza vaccine in a custom stainless steel batch reactor and to allow for renewal.
13133-M	RSPA-02-13796 ...	Department of Energy, Albuquerque, NM.	49 CFR 172.320; 173.54(a); 173.56(b); 173.57; 173.58; 173.62.	To modify the special permit to remove the sample limitation.
14694-M	PHMSA-08-0113 ..	Department of Defense, Scott AFB, IL.	49 CFR 173.62	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of certain equipment contaminated with explosives in non-DOT specification packaging.
12155-M .....	.....	S&C Electric Company, Chicago, IL.	49 CFR 172.301(c); 173.304.	To modify the special permit to remove the placarding requirement when transporting by motor vehicle.
11379-M .....	.....	TRW Occupant Safety Systems, Washington, MI.	49 CFR 173.301(h), 173.302.	To modify the special permit to allow the transportation in commerce of an additional Division 1.4G and Division 2.2 material.
14576-M .....	.....	Structural Composites Industries (SCI), Pomona, CA.	49 CFR 173.302a and 173.304a.	To modify the special permit to authorize an increase in the maximum water volume from 300 liters to 315 liters.