

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.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: January 23, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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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 of America, Inc. (VW) in accordance with § 543.9(c)(2) of 49 CFR Part 543, *Exemption from the Theft Prevention Standard*, for the Audi A4 vehicle line beginning with model year (MY) 2007. 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. In a letter dated October 19, 2005, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

**DATES:** The exemption granted by this notice is effective beginning with model year (MY) 2007.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer

Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated September 26, 2005, VW requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the MY 2007 Audi A4 vehicle line. The petition requested 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 exemptions for one line of its vehicle lines per 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 the new vehicle line. VW will install its passive, antitheft device as standard equipment beginning with MY 2007. Features of the antitheft device will include the immobilizer control unit, the reading coil on the ignition lock, the engine control unit, a transponder-based ignition key, a remote key fob and a visible and audible alarm. 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 proposed device incorporates an immobilizer feature, tow away protection and an audible and visual alarm system. VW stated that the device is switched on 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. The A4's immobilizer prevents the vehicle from being operated by unauthorized persons. When the ignition key is turned to the "on" position, the key's transporter, the immobilizer control unit, 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. Additionally, the audible alarm and emergency flashers are activated if any of the protected areas of the vehicle are violated. The protected areas include the doors, trunk or hatch, hood, activation of ignition lock voltage and tilt.

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, including those for electrical and mechanical durability and believes that the device is reliable and durable since it complied with VW's specified requirements for each test.

VW also provided information on the theft rate history for previous MY vehicles installed with a similar device as that proposed. VW indicated that the theft rates for the Audi A4 vehicle line have been significantly below the median. NHTSA's theft rates for the A4 vehicle for model years 2000 through 2003 were 1.2433, 1.6561, 1.8970, and 0.8418, respectively.

On the basis of this comparison, VW has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by VW, the agency believes that the antitheft device for the A4 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).

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.

As required by 49 U.S.C. 33106 and 49 CFR 543.6 (a)(4) and (5), the agency finds that VW has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information VW provided about its device, much of which is confidential. For the foregoing reasons, the agency hereby grants in full VW's petition for exemption for the A4 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 exemption is granted and a general description of the 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. Therefore, although VW has been granted confidential treatment for most aspects of its petition, the agency notes certain information that may be published in the **Federal Register**. If VW 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 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, § 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.

We note that VW requested confidential treatment for the information and attachments it

submitted in support of its petition. While the agency granted the petitioner's request for confidential treatment of most aspects of its petition, we have released the model year for which the exemption is granted. This information is necessary for the law enforcement efforts to combat motor vehicle theft. That is, law enforcement officials need to know whether a given motor vehicle line was subject or exempted from the parts-marking requirements for a given model year.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: January 23, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E6-1073 Filed 1-27-06; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34820]

#### Union Pacific Railroad Company— Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) pursuant to a written trackage rights agreement entered into between BNSF and Union Pacific Railroad Company (UP) has agreed to grant temporary overhead trackage rights to UP over BNSF's line of railroad between Hobart Tower, CA (milepost 146.0), and Riverside, CA (milepost 9.8), a distance of approximately 57.7 miles.<sup>1</sup>

The transaction was scheduled to be consummated on January 16, 2006, but consummation could lawfully occur no earlier than January 17, 2006, the

<sup>1</sup> Total mileage does not correspond to the milepost designations of the endpoints because the trackage rights involve BNSF subdivisions with non-contiguous mileposts.

effective date of the exemption (7 days after the exemption was filed). The temporary trackage rights will expire on or about March 22, 2006. The purpose of the temporary trackage rights is to facilitate maintenance work on UP lines.

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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34820, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Gabriel S. Meyer, Assistant General Attorney, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

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

Decided: January 23, 2006.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 06-761 Filed 1-27-06; 8:45 am]

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