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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the

Federal Motor Vehicle Theft Prevention Standard;

VOLKSWAGEN GROUP OF AMERICA, INC.

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

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Volkswagen Group of America, Inc.'s (Volkswagen) petition for exemption of the mid-size sports utility vehicle (SUV) line in accordance with 49 CFR Part 543, Exemption from the 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 49 CFR Part 541, Federal Motor Vehicle Theft Prevention Standard (Theft Prevention Standard). Volkswagen also requested confidential treatment for specific information in its petition. While official notification granting or denying its request for confidential treatment will be addressed by separate letter, no confidential information provided for purposes of this document has been disclosed.

DATES: The exemption granted by this notice is effective beginning with the 2018 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.

SUPPLEMENTAL INFORMATION: In a petition dated April 28, 2016, Volkswagen requested an exemption from the parts-marking requirements of the Theft Prevention Standard for its mid-size SUV line beginning with MY 2018. 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, Volkswagen provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its mid-size SUV line. Volkswagen stated that its MY 2018 mid-size SUV line will be installed with its fifth generation, transponder-based electronic engine immobilizer antitheft device as standard equipment on the entire vehicle line. Key components of the antitheft device will include an immobilizer, engine control unit (ECU), instrument cluster, warning sign, reading coil and an adapted transponder ignition key (key fob). Volkswagen also stated that it will offer an audible and visible alarm system as optional equipment on its mid-size SUV line.

Volkswagen'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.

In addressing the specific content requirements of 543.6, Volkswagen provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Volkswagen stated that the antitheft device has been tested for

compliance to its corporate requirements, including those for electrical and electronic assemblies in motor vehicles related to performance.

Volkswagen stated that its immobilizer device is aimed to actively incorporate the engine control unit into the evaluation and monitoring process. Volkswagen also stated that activation of its immobilizer device occurs automatically after the engine is switched off. Deactivation of the immobilizer device occurs when the ignition is turned on or the key fob is recognized by the immobilizer control unit. Specifically, when turning on the ignition on/off switch, 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. Volkswagen stated that a secret arithmetic process is then started according to a set of specific equations and that a new variable code is generated every time the immobilizer goes through the secret computing process. The results of the computing process are evaluated in the control unit and if verified, the vehicle key is acknowledged as correct. The engine control unit then sends a variable code to the immobilizer control unit for mutual identification. If all the data matches, the vehicle can be started.

In support of its belief that its antitheft device will be as or more effective in reducing and deterring vehicle theft than the parts-marking requirement, Volkswagen referenced the effectiveness of immobilizer devices installed on other vehicles for which NHTSA has granted exemptions. Specifically, Volkswagen referenced information from the Highway Loss Data Institute which showed that 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. Volkswagen also stated that the National Crime Information Center's (NCIC) theft data showed that there was a 70% reduction in theft

experienced when comparing the MY 1987 Ford Mustang vehicle thefts (with immobilizers) to MY 1995 Ford Mustang vehicle thefts (without immobilizers). Additionally, Volkswagen stated that the proposed device is similar to the antitheft device installed on the Audi Q5 and the Lexus RX vehicle lines. The agency granted in full the petition for the Audi Q5 vehicle line beginning with model year 2009, (see 73 FR 18606, April 4, 2008), and the Lexus RX vehicle line beginning with MY 2017, (see 81 FR 8592, February 19, 2016). The agency notes that the average theft rate for the Audi Q5 vehicle line using three MYs' data (MYs 2012 through 2013) is 0.5014 respectively. There is no current theft rate data available for Volkswagen's new mid-size SUV line. The agency agrees that the device is substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions.

Based on the evidence submitted by Volkswagen, the agency believes that the antitheft device for the mid-size SUV 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 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.

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 Volkswagen has provided adequate reasons for its belief that the antitheft device for the mid-size SUV 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 Volkswagen provided about its antitheft device.

For the foregoing reasons, the agency hereby grants in full Volkswagen's petition for exemption for the Volkswagen mid-size SUV 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. As a condition to the formal granting of Volkswagen's petition for exemption from the parts-marking requirements of 49 CFR Part 541 for the MY 2018 mid-size SUV line, the agency fully expects Volkswagen to notify the agency of the nameplate for the vehicle line prior to its introduction into the United States commerce for sale.

If Volkswagen 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 Volkswagen 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 antitheft 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.

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under authority delegated in 49 CFR part 1.95

Raymond R. Posten
Associate Administrator for Rulemaking

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