



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0018]

Volkswagen Group of America;

Receipt of Petition for Temporary Exemption from FMVSS No. 108

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

ACTION: Notice of receipt of a petition for a temporary exemption from certain headlamp requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, Lamps, Reflective devices, and Associated Equipment.

SUMMARY: In accordance with the procedures, Volkswagen Group of America (Volkswagen, or Petitioner) has petitioned the agency for a temporary exemption from certain headlamp requirements of FMVSS No. 108 to allow the use of adaptive driving beam headlights. Volkswagen requests the exemption on the basis that it would facilitate the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to that of the standard. NHTSA has made no judgment on the merits of the application. This notice of receipt of an application for a temporary exemption is published in accordance with statutory and administrative provisions.

DATES: You should submit your comments not later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: John Piazza, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590. Telephone: (202) 366-2992; Fax: (202) 366-3820.

ADDRESSES: We invite you to submit comments on the application described above. You may submit comments identified by docket number in the heading of this notice by any of the following methods:

- Fax: 1-202-493-2251.
- Mail: U.S. Department of Transportation, Docket Operations, M-30, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue, SE, West

Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal Holidays. Telephone: (202) 366-9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR Part 512).

SUPPLEMENTARY INFORMATION:

I. Statutory Authority for Temporary Exemptions

The National Traffic and Motor Vehicle Safety Act (“Safety Act”), codified at 49 U.S.C. Chapter 301, provides the Secretary of Transportation authority to exempt, on a temporary basis and under specified circumstances, motor vehicles from a motor vehicle

safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.

The Safety Act authorizes the Secretary to grant a temporary exemption to a vehicle manufacturer under certain conditions. Under the conditions relevant to this petition, the Secretary may grant a petition on finding that the exemption is consistent with the public interest and with the Safety Act, and that the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard.¹

NHTSA established 49 CFR Part 555, Temporary Exemption from Motor Vehicle Safety and Bumper Standards, to implement the statutory provisions concerning temporary exemptions. The requirements specified in 49 CFR 555.5 state that the petitioner must set forth the basis of the application by providing the information required under Part 555.6, and the reasons why the exemption would be in the public interest and consistent with the objectives of 49 U.S.C. Chapter 301.

A petition on the basis that the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard must include the information specified in 49 CFR 555.6(b). The main requirements of that section include:

(1) A description of the safety or impact protection features, and research, development, and testing documentation establishing the innovational nature of such features;

(2) An analysis establishing that the level of safety or impact protection of the feature is equivalent to or exceeds the level of safety or impact protection

¹ 49 U.S.C. 30113(3).

established in the standard from which exemption is sought, including the following: A detailed description of how a vehicle equipped with the safety or impact protection feature differs from one that complies with the standard; if applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard; and the results of tests conducted on the safety or impact protection features that demonstrates performance which meets or exceeds the requirements of the standard;

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle;

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform to the standard, apply for a further exemption, or petition for rulemaking to amend the standard to incorporate the safety or impact protection features; and

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph.

II. Overview of Petition

Volkswagen has submitted a petition asking the agency for a temporary exemption from certain headlamp requirements of FMVSS No. 108 for vehicles equipped with adaptive driving beam (“ADB”) headlamps. ADB is defined by SAE International (“SAE”) as a long-range forward visibility light beam that adapts to the presence of opposing (i.e., approaching from the opposite direction) and preceding vehicles by

modifying portions of the projected light in order to reduce glare to the drivers and riders of those vehicles. Volkswagen wishes to install its “Matrix Beam” ADB system on Audi A7 models, which may also include S7 and Rs7 variants (collectively, “subject vehicles”).

In order to do so, Volkswagen requests an exemption from S9.4 and S10.14.6 of FMVSS No. 108. S9.4 requires that a vehicle have a means of switching between lower and upper beams designed and located so that it may be operated conveniently by a simple movement of the driver's hand or foot; that the switch have no dead point; and, except as provided by S6.1.5.2, that the lower and upper beams must not be energized simultaneously except momentarily for temporary signaling purposes or during switching between beams. S10.14.6 specifies the photometry requirements for integral beam headlighting systems. Volkswagen indicates that Matrix Beam may not comply with these requirements.

The basis for the application is that the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to that of the standard. Volkswagen explains how the Matrix Beam system operates and the safety benefits it believes the system would offer. Volkswagen states that the safety benefit is that ADB enhances nighttime visibility for the driver while at the same time reducing glare (relative to the glare that would be caused by headlamps on upper beam) to oncoming and preceding vehicles. In order to establish the innovational and safety-improving nature of the Matrix Beam system, Volkswagen summarizes, refers to, and submits research, development, and testing documentation, including the following: a recent technical paper summarizing the safety benefits of ADB

systems; Toyota's pending petition for rulemaking to amend FMVSS No. 108 to allow ADB (Docket No. NHTSA-2013-0004); an excerpt from the United Kingdom version of the Audi owner's manual explaining the Matrix Beam system; and an Audi Matrix LED headlight training document.

Volkswagen states that it has received EU Type Approval for its system and is currently installing the system on the following EU Audi models: A4, A6, A7, A8, TT, and Q7. Volkswagen explains that Audi has sold 122,979 vehicles equipped with the Matrix Beam in 55 markets outside the United States. Of the 77,014 model year 2016 vehicles, only 69 warranty cases were found involving a customer complaint related to the adjustment or functionality of the Matrix Beam headlamps (a repair per 1000-vehicle rate of 0.90 R/1000 (0.09%)). Volkswagen states that this shows that the Matrix Beam is very reliable. Volkswagen states that the Matrix Beam system complies with a recently-published SAE standard for ADB systems, SAE J3069 JUN2016. Volkswagen also provides compliance test reports to demonstrate that the non-exempt subject vehicles comply with the headlamp-related requirements of FMVSS No. 108.

Petitioner states that a temporary exemption would facilitate the development and field evaluation of the Matrix Beam system. Volkswagen explains that it intends to collect feedback from customers who purchase the exempt vehicles and to obtain data multiple times throughout the duration of the exemption. Each time the customer brings their vehicle to the dealer for service or routine maintenance, the customer will be given a survey. The survey will inquire about the customer's typical driving characteristics, satisfaction with the Matrix Beam, overall Matrix Beam performance, and views on the safety of the Matrix Beam. Volkswagen believes that this will enable it to both achieve a

relatively high response rate as well as monitor changes in customer responses based on length of time of ownership and mileage. Volkswagen requests that it be permitted to import and sell 2,500 exempted vehicles during each of the 12-month periods covered by the exemption. Petitioner states that on or before the end of the exemption period, it hopes that the pending Toyota petition for rulemaking will be granted, and that FMVSS No. 108 will be amended to allow ADB. If by the end of the exemption period, FMVSS No. 108 has not been so amended, then Volkswagen intends either to cease offering the system in the United States or request an extension.

III. Completeness and Comment Period

Upon receiving a petition, NHTSA conducts an initial review of the petition with respect to whether the petition is complete and whether the petitioner appears to be eligible to apply for the requested exemption. The agency has tentatively concluded that the petition from Volkswagen is complete and that Volkswagen is eligible to apply for a temporary exemption. The agency has not made any judgment on the merits of the application, and is placing a copy of the petition and other related materials in the docket.

The agency seeks comment from the public on the merits of Volkswagen's application for a temporary exemption from S9.4 and S10.14.6 of FMVSS No. 108. We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

Issued on September 5, 2017

Raymond R. Posten
Associate Administrator
for Rulemaking

Billing Code 4910-59-P

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