



## **National Highway Traffic Safety Administration**

### **Petitions 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 from the Federal Motor Vehicle Theft Prevention Standard (theft prevention standard) for its Taos vehicle line beginning in model year (MY) 2022.

**DATES:** The exemption granted by this notice is effective beginning with the 2022 model year.

**FOR FURTHER INFORMATION CONTACT:** Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Programs, NHTSA, West Building, W43-439, NRM-310, 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.

### **SUPPLEMENTARY INFORMATION**

Under 49 U.S.C. Chapter 331, the Secretary of Transportation (and the National Highway Traffic Safety Administration (NHTSA) by delegation) is required to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. NHTSA promulgated regulations at part 541 (theft prevention standard) to require parts-marking for specified passenger motor vehicles and light trucks. Pursuant to 49 U.S.C. 33106, manufacturers that are subject to the parts-marking requirements may petition the Secretary of Transportation for an exemption for a line of passenger motor vehicles equipped as standard equipment with an antitheft device that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. In accordance with this statute, NHTSA

promulgated 49 CFR part 543, which establishes the process through which manufacturers may seek an exemption from the theft prevention standard.

49 CFR 543.5 provides general submission requirements for petitions and states that each manufacturer may petition NHTSA for an exemption of one vehicle line per model year. Among other requirements, manufacturers must identify whether the exemption is sought under section 543.6 or section 543.7. Under section 543.6, a manufacturer may request an exemption by providing specific information about the antitheft device, its capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements. Section 543.7 permits a manufacturer to request an exemption under a more streamlined process if the vehicle line is equipped with an antitheft device (an “immobilizer”) as standard equipment that complies with one of the standards specified in that section.

Section 543.8 establishes requirements for processing petitions for exemption from the theft prevention standard. As stated in section 543.8(a), NHTSA processes any complete exemption petition. If NHTSA receives an incomplete petition, NHTSA will notify the petitioner of the deficiencies. Once NHTSA receives a complete petition it will process it and, in accordance with section 543.8(b), will grant the petition 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.

Section 543.8(c) requires NHTSA to issue its decision either to grant or to deny an exemption petition not later than 120 days after the date on which a complete petition is filed. If NHTSA does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the

petition for the subsequent model year.<sup>1</sup> Exemptions granted under part 543 apply only to the vehicle line or lines that are subject to the grant and that are equipped with the antitheft device on which the line's exemption was based, and are effective for the model year beginning after the model year in which NHTSA issues the notice of exemption, unless the notice of exemption specifies a later year.

Sections 543.8(f) and (g) apply to the manner in which NHTSA's decisions on petitions are to be made known. Under section 543.8(f), if the petition is sought under section 543.6, NHTSA publishes a notice of its decision to grant or deny the exemption petition in the Federal Register and notifies the petitioner in writing. Under section 543.8(g), if the petition is sought under section 543.7, NHTSA notifies the petitioner in writing of the agency's decision to grant or deny the exemption petition.

This grant of petition for exemption considers Volkswagen Group of America, Inc.'s (Volkswagen) petition for its Taos vehicle line beginning in MY 2022. Volkswagen's petition is granted under 49 U.S.C. 33106 and 49 CFR 543.8(c), which state that if the Secretary of Transportation (NHTSA, by delegation) does not make a decision about a petition within 120 days of the petition submission, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year. Separately, based on the information provided in Volkswagen's petition, NHTSA has determined that the antitheft device to be placed on its vehicle 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.

#### **I. Specific Petition Content Requirements under 49 CFR 543.6**

Pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention, Volkswagen petitioned for an exemption for its specified vehicle line from the parts-marking requirements of

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<sup>1</sup> 49 U.S.C. 33106(d).

the theft prevention standard, beginning in MY 2022. Volkswagen petitioned under 49 CFR 543.6, Petition: Specific content requirements, which, as described above, requires manufacturers to provide specific information about the antitheft device installed as standard equipment on all vehicles in the line for which an exemption is sought, the antitheft device's capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements.

More specifically, section 543.6(a)(1) requires petitions to include a statement that an antitheft device will be installed as standard equipment on all vehicles in the line for which the exemption is sought. Under section 543.6(a)(2), each petition must list each component in the antitheft system, and a diagram showing the location of each of those components within the vehicle. As required by section 543.6(a)(3), each petition must include an explanation of the means and process by which the device is activated and functions, including any aspect of the device designed to: (1) facilitate or encourage its activation by motorists; (2) attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; (3) prevent defeating or circumventing the device by an unauthorized person attempting to enter a vehicle by means other than a key; (4) prevent the operation of a vehicle which an unauthorized person has entered using means other than a key; and (5) ensure the reliability and durability of the device.<sup>2</sup>

In addition to providing information about the antitheft device and its functionality, petitioners must also submit the reasons for the petitioner's belief that the antitheft device will be effective in reducing and deterring motor vehicle theft, including any theft data and other data that are available to the petitioner and form a basis for that belief,<sup>3</sup> and the reasons for the petitioner's belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements of part 541 in reducing and

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<sup>2</sup> 49 CFR 543.6(a)(3).

<sup>3</sup> 49 CFR 543.6(a)(4).

detering motor vehicle theft, including any statistical data that are available to the petitioner and form the basis for the petitioner’s belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles of the same, or a similar, line which have parts marked in compliance with part 541.<sup>4</sup>

The following sections describe Volkswagen’s petition information provided pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention. To the extent that specific information in Volkswagen’s petition is subject to a properly filed confidentiality request, that information was not disclosed as part of this notice. *See* 49 CFR 512.20(a).

In a petition dated May 29, 2020, Volkswagen requested an exemption from the parts-marking requirements of the theft prevention standard for its Taos vehicle line beginning with MY 2022. Pursuant to section 543.6(a)(1), Volkswagen stated that the antitheft device described in its petition will be installed as standard equipment its Taos vehicles starting with MY 2022.<sup>5</sup>

In accordance with section 543.6(a)(2), Volkswagen provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Taos vehicle line. Volkswagen stated that its fifth generation transponder-based electronic engine immobilizer antitheft device will be installed as standard equipment on the entire MY 2022 Taos vehicle line. Key components of the antitheft device will include an adapted ignition key (ID-transmitter or “key fob”), instrument cluster, gateway (cluster to CAN bus, only routing function) and an engine control unit.

Volkswagen provided information on the reliability and durability of its proposed device as required by section 543.6(a)(3)(v). To ensure reliability and durability of the device,

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<sup>4</sup> 49 CFR 543.6(a)(5).

<sup>5</sup> Volkswagen also stated that it will offer an audible and visible alarm as optional equipment on its Taos vehicle line. Per 49 U.S.C. 33106 (b), manufacturers may petition NHTSA for an exemption “for a line of passenger motor vehicles equipped *as standard equipment* with an antitheft device that [NHTSA] decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with” the theft prevention standard (emphasis added). Per 49 U.S.C. 33106(a)(2), “standard equipment” means equipment already installed in a motor vehicle when it is delivered from the manufacturer and not an accessory or other item that the first purchaser customarily has the option to have installed. Therefore, for purposes of Volkswagen’s petition, NHTSA is only considering the device equipped on the vehicle as standard equipment.

Volkswagen stated that the antitheft device has been tested for compliance with its corporate requirements, including those for electrical and electronic assemblies in motor vehicles related to performance requirements including electrical system temperature stability, mechanical integrity, electrical performance, electromagnetic compatibility (EMC), environmental compatibility and service life.

Volkswagen stated that its immobilizer device actively incorporates the power 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 effective as or more effective than the parts-marking requirement in reducing and deterring vehicle theft, and in accordance with 49 CFR 543.6(a)(5), Volkswagen provided data on the theft rate of similarly-sized vehicle lines that had been granted an exemption from the parts-marking requirement. Volkswagen also 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).

### III. Decision to Grant the Petition

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.8(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. As discussed above, in this case, Volkswagen's petition is granted under 49 U.S.C. 33106(d). Separately, NHTSA finds that Volkswagen has provided adequate reasons for its belief that the antitheft device for its 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. This conclusion is based on the information the Volkswagen provided about its antitheft device. NHTSA believes, based on the supporting evidence submitted by Volkswagen, that the antitheft device described for its 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.

The agency concludes that Volkswagen's antitheft device will provide the five types of performance features listed in section 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.

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 543.8(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 Volkswagen decides not to use the exemption for its requested vehicle line, the manufacturer must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR 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. Section 543.8(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, section 543.10(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 the exemption."

The agency wishes to minimize the administrative burden that section 543.10(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 Volkswagen 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.

For the foregoing reasons, the agency hereby grants in full Volkswagen's petition for exemption for the Taos vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with its MY 2022 vehicles.



Issued under authority delegated in 49 CFR 1.95 and 501.8.

**Raymond R. Posten,**

*Associate Administrator for Rulemaking.*

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