Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 04–25426 Filed 11–15–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2004–17939; Notice 2]

Bentley Motors, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Bentley Motors, Inc. (Bentley) has determined that certain vehicles that it manufactured in 2004 do not comply with S4.2.2(a) of 49 CFR 571.114, Federal Motor Vehicle Safety Standard (FMVSS) No. 114, ''Theft protection.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Bentley has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on June 1, 2004, in the **Federal Register** (69 FR 30990). NHTSA received no comments.

Approximately 464 model year 2004 Bentley Continental GT vehicles are affected. S4.2.2(a) of FMVSS No. 114 requires that

> * * * provided that steering is prevented upon the key's removal, each vehicle * * * [which has an automatic transmission with a ''park'' position] may permit key removal when electrical failure of this [key-locking] system * * * occurs or may have a device which, when activated, permits key removal.

In the affected vehicles, the steering does not lock when the ignition key is removed from the ignition switch using the optionally provided device that permits key removal in the event of electrical system failure or when the transmission is not in the ''park'' position.

Bentley believes the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Bentley explained:

> In the Bentley Continental GT, for which this petition is submitted, the ability to remove the ignition key using the key removal device is a primary security and safety feature (to the extent that it prevents the vehicle from being driven) because the vehicle is equipped with an electronic immobilizer which prevents starting of the engine unless the electronically coded ignition key provided for that vehicle is used in the electronic steering column/ignition switch. The ''code'' to start the engine and activate the fuel and ignition system is embedded in the engine control module and therefore cannot be bypassed or defeated. If the ignition key cannot be removed in the event of vehicle power failure, the driver will not be able to lock the vehicle and the car may be capable of being started and driven by anyone who can repair it (which may be as simple as use of an external electrical supply/battery), because the electronically coded ignition key remains in the steering column/ignition switch.

Bentley explained that when there is no vehicle power failure and the override device is used to remove the key when the transmission is not in ''park,'' there is no risk to motor vehicle safety because this would occur only in a repair shop or under supervised conditions when the vehicle must be moved but it is desired to remove the key for security reasons. Bentley stated that in this case, the electronic immobilizer provides anti-theft protection and the steering lock is not significant.

The agency agrees with Bentley. The owner's manuals for these vehicles state as follows:

> There is a chip in the [ignition] key. It automatically deactivates the immobilizer when the key is inserted into the ignition lock. The electronic immobilizer is automatically activated when you take the key out of the ignition lock.

NHTSA issued an interpretation letter to an unnamed person on September 24, 2004, which stated in pertinent part as follows:

> The engine control module immobilizer described in your letter satisfies the requirements of S4.2(b) because it locks out the engine control module if an attempt is made to start the vehicle without the correct key or to bypass the electronic ignition system. When the engine control module is locked, the vehicle is not capable of forward self-mobility because it is incapable of moving forward under its own power.

Theft protection of vehicles is addressed under S4.2 of the standard. Section 4.2(b) can be met by preventing either steering or forward self-mobility. Therefore, an equivalent level of theft protection is provided by ''either steering or forward self-mobility.''

NHTSA amended FMVSS No. 114 in 1990 to require that vehicles with an automatic transmission and a ''park'' position be shifted to ''park'' or become locked in park before the key can be removed to reduce incidents of vehicle rollaway. S4.2.2(a) was added in 1991 to permit key removal when an electrical failure occurred and the transmission could not be manually shifted into park, provided that steering was prevented for theft protection.

The forward self-mobility feature does not prevent vehicle rollaway by itself. However, the parking brake used in combination with the forward self-mobility feature will prevent rollaway. The owner's manuals for these vehicles include the following information:

> The parking brake can be used to prevent the vehicle from moving unintentionally. Always apply the parking brake when you leave your vehicle and when you park.

If an electrical failure occurs when the transmission is not in park, the driver may be able to remove the ignition key using the information in the owner's manual, but will more likely contact the manufacturer's hotline or dealer for assistance. Bentley is instructing its hotline staff and advising its dealers via a service bulletin to ask the caller to ensure that the parking brake is firmly applied before attempting to remove the key.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Bentley's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8.

Issued on: November 10, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04–25423 Filed 11–15–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2004–17902; Notice 2]

Volkswagen of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Volkswagen of America, Inc. (Volkswagen) has determined that certain vehicles that were produced by Volkswagen AG and AUDI AG in 2004 do not comply with S4.2.2(a) of 49 CFR 571.114, Federal Motor Vehicle Safety Standard (FMVSS) No. 114, ''Theft protection.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Volkswagen has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR

part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on May 28, 2004, in the **Federal Register** (69 FR 30745). NHTSA received no comments.

Approximately 47,962 model year 2004 vehicles are affected including approximately 37,663 Touareg, approximately 2,268 Phaeton and approximately 8,031 Audi A8L vehicles. S4.2.2(a) of FMVSS No. 114 requires that

> * * * provided that steering is prevented upon the key's removal, each vehicle * * * [which has an automatic transmission with a ''park'' position] may permit key removal when electrical failure of this [key-locking] system * * * occurs or may have a device which, when activated, permits key removal.

In the affected vehicles, the steering does not lock when the key is removed using the override system provided to permit key removal when the transmission is not in the ''park'' position.

Volkswagen believes the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Volkswagen explained:

> In the Volkswagen and Audi car lines for which this petition is submitted, the ability to remove the key with the override system is the priority security and safety feature (to the extent that it prevents a stolen vehicle from being driven) because the vehicles are equipped with an electronic immobilizer which prevents starting of the vehicle unless the electronically coded key provided for that vehicle is used. The code to start the engine and activate the fuel and ignition system is embedded in the engine control module and therefore cannot be bypassed or defeated. If the key cannot be removed in the event of vehicle power failure, the owner will not be able to lock the vehicle and the car can be started and driven by anyone who can get it repaired, which is as simple as a jump start.

Volkswagen explained that when there is no vehicle power failure and the override device is used to remove the key when the transmission is not in ''park,'' there is no risk to motor vehicle safety because this would occur only in a repair shop or under supervised conditions when the vehicle must be moved but it is desired to remove the key for security reasons. Volkswagen stated that in this case, the electronic immobilizer provides anti-theft protection and the steering lock is not significant.

The agency agrees with Volkswagen. The owner's manuals for these vehicles state as follows:

> There is a chip in the [ignition] key. It automatically deactivates the immobilizer when the key is inserted into the ignition lock. The electronic immobilizer is automatically activated when you take the key out of the ignition lock.

NHTSA issued an interpretation letter to an unnamed person on September 24, 2004, which stated in pertinent part as follows:

> The engine control module immobilizer described in your letter satisfies the requirements of S4.2(b) because it locks out the engine control module if an attempt is made to start the vehicle without the correct key or to bypass the electronic ignition system. When the engine control module is locked, the vehicle is not capable of forward self-mobility because it is incapable of moving forward under its own power.

Theft protection of vehicles is addressed under S4.2 of the standard. Section 4.2(b) can be met by preventing either steering or forward self-mobility. Therefore, an equivalent level of theft protection is provided by ''either steering or forward self-mobility.''

NHTSA amended FMVSS No. 114 in 1990 to require that vehicles with an automatic transmission and a ''park'' position be shifted to ''park'' or become locked in park before the key can be removed to reduce incidents of vehicle rollaway. S4.2.2(a) was added in 1991 to permit key removal when an electrical failure occurred and the transmission could not be manually shifted into park, provided that steering was prevented for theft protection.

The forward self-mobility feature does not prevent vehicle rollaway by itself. However, the parking brake used in combination with the forward self-mobility feature will prevent rollaway. The owner's manuals for these vehicles include the following information:

> The parking brake can be used to prevent the vehicle from moving unintentionally. Always apply the parking brake when you leave your vehicle and when you park.

If an electrical failure occurs when the transmission is not in park, the driver may be able to remove the ignition key using the information in the owner's manual, but will more likely contact the manufacturer's hotline or dealer for assistance. Volkswagen is instructing its hotline staff and advising its dealers via a service bulletin to ask the caller to ensure that the parking brake is firmly applied before attempting to remove the key.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Volkswagen's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8.

Issued on: November 10, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04–25422 Filed 11–15–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–04–18607; Notice 2]

Pipeline Safety: Grant of Waiver; Alyeska Pipeline Service Company

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; grant of waiver.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) is granting Alyeska Pipeline Service Company's (Alyeska) petition for a waiver of the pipeline safety regulation that requires an operator to reduce the pressure of a pipeline to not more than 50 percent of the maximum operating pressure whenever the line pipe is moved.

SUPPLEMENTARY INFORMATION:

Background

Alyeska petitioned RSPA/OPS for a waiver from compliance with the requirements of 49 CFR 195.424(a) for 420 miles of aboveground line pipe in the Trans Alaska Pipeline System (TAPS). TAPS was designed and constructed between 1973 and 1977 to transport oil 800 miles from Prudhoe Bay, Alaska, to Alyeska's marine terminal at Valdez, Alaska. Over half of the TAPS pipeline was constructed aboveground. Section 195.424(a) does not allow a pipeline operator to move any line pipe unless the pressure in the pipeline section is reduced to not more than 50 percent of the maximum operating pressure (MOP). Alyeska argues that lowering the pressure on the aboveground portion of TAPS is not necessary and is disruptive and burdensome to its pipeline operations.

The requested waiver would apply whenever routine maintenance necessitates that the aboveground line pipe be moved laterally, longitudinally or vertically, to relieve pipe stresses and restore the pipe to its intended position. On July 22, 2004, RSPA/OPS published a notice in the **Federal Register** requesting public comment on Alyeska's waiver request (69 FR 43880). No