U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

MAR 1 8 2004

400 Seventh Street, S.W.
Washington, D.C. 20590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Maddox, Product Compliance Officer
Volkswagen of America, Inc.
3800 Hamlin Road
Auburn Hills, MI 48326

NVS-213cla
PE04-023

Dear Mr. Maddox:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened a Preliminary Evaluation (PE04-023) to investigate allegations of throttles failing to return to idle in low ambient temperature driving conditions in model year (MY) 1998 through 1999 Audi A6 vehicles manufactured by Volkswagen, and to request certain information.

This office has received 16 reports alleging incidents of throttles failing to return to idle while driving in cold ambient temperatures. All of the complaints are from states in the Northeast region of the United States and six have been received by ODI since January 2004. Six of the complaints allege multiple failures and four alleged that the only means of controlling engine speed was turning the ignition OFF. A copy of each of the reports is enclosed for your information.

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject vehicles:** all MY 1998 through 1999 Audi A6 vehicles that have been manufactured for sale or lease in the United States.

- **Subject components:** all throttle body, throttle body temperature management, throttle linkage, and air induction components used as original equipment or service parts on MY 1998 through 1999 Audi A6 vehicles.

- **Volkswagen:** Volkswagen AG, Audi AG and Volkswagen of America, Inc., all of its past and present officers and employees, whether assigned to its principal offices or any of its field or other locations, including all of its divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Volkswagen, who are or, in or after January 1,

1993, were involved in any way with any of the following related to the alleged defect in the subject vehicles:

a. Design, engineering, analysis, modification or production (e.g. quality control);
b. Testing, assessment or evaluation;
c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management, (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
d. Communication to, from or intended for zone representatives, fleets, dealers, or other field locations, including but not limited to people who have the capacity to obtain information from dealers.

- **Alleged defect:** throttle fails to return to idle.

- **Document:** "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by Volkswagen, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)"also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by Volkswagen or not. If a document is not in the English language, provide both the original document and an English translation of the document.

- **Other Terms:** To the extent that they are used in these information requests, the terms "claim," "consumer complaint," "dealer field report," "field report," "fire," "fleet," "good will," "make," "model," "model year," "notice," "property damage," "property damage claim," "rollover," "type," "warranty," "warranty adjustment," and "warranty claim," whether used in singular or in plural form, have the same meaning as found in 49 CFR 579.4.

In order for my staff to evaluate the alleged defect, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Volkswagen has previously provided a document to ODI, Volkswagen may produce it again or identify the document, the document submission to ODI in which it was included and the precise location in that submission where the document is located. When documents are produced, the documents shall be produced in an identified, organized manner that corresponds with the organization of this information request letter (including all individual requests and subparts). When documents are produced and the documents would not stand alone, or be self-explanatory, the production of documents shall be supplemented and accompanied by explanation.

Please repeat the applicable request verbatim above each response. After Volkswagen's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model, engine, and model year, the number of subject vehicles Volkswagen has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Volkswagen, state the following:
   a. Vehicle identification number (VIN);
   b. Make;
   c. Model;
   d. Engine;
   e. Model Year;
   f. Date of manufacture;
   g. Date warranty coverage commenced; and
   h. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).

   Provide the table in Microsoft Access 2000, or a compatible format, entitled "PRODUCTION DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table that provides further details regarding this submission.

2. State the number of each of the following, received by Volkswagen, or of which Volkswagen are otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles:
   a. Consumer complaints, including those from fleet operators;
   b. Field reports, including dealer field reports;

c. Reports involving a crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;
d. Reports involving a fire, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;
e. Property damage claims; and
f. Third-party arbitration proceedings where Volkswagen is or was a party to the arbitration; and
g. Lawsuits, both pending and closed, in which Volkswagen is or was a defendant or codefendant.

For subparts "a" through "d, / e," state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for items "c" through "d/e/f/g," provide a summary description of the alleged problem and causal and contributing factors and Volkswagen's assessment of the problem, with a summary of the significant underlying facts and evidence. For items f and g, identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

3. Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:
   a. Volkswagen's file number or other identifier used;
   b. The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);
   c. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;
   d. Vehicle's VIN;
   e. Vehicle's make, model and model year;
   f. Vehicle's mileage at time of incident;
   g. Incident date;
   h. Report or claim date;
   i. Whether a crash is alleged;
   j. Whether property damage is alleged;
   k. Number of alleged injuries, if any; and
   l. Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2000, or a compatible format, entitled "REQUEST NUMBER TWO DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table that provides further details regarding this submission.

4. Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method Volkswagen used for organizing the documents. Also, provide dealer copies of the full service histories of each vehicle identified in the enclosed complaints and in the vehicles identified in Volkswagen's information responsive the Request No. 2.

5. State, by model, engine, and model year, a total count for all of the following categories of claims, collectively, that have been paid by Volkswagen to date that relate to, or may relate to, the alleged defect in the subject vehicles: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.

   Separately, for each such claim, state the following information:
   a. Volkswagen's claim number;
   b. Vehicle owner or fleet name (and fleet contact person) and telephone number;
   c. VIN;
   d. Repair date;
   e. Vehicle mileage at time of repair;
   f. Repairing dealer's or facility's name, telephone number, city and state or ZIP code;
   g. Labor operation number;
   h. Problem code;
   i. Replacement part number(s) and description(s);
   j. Concern stated by customer; and
   k. Comment, if any, by dealer/technician relating to claim and/or repair.

   Provide this information in Microsoft Access 2000, or a compatible format, entitled "W ARRANTY DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table that provides further details regarding this submission.

6. Describe in detail the search criteria used by Volkswagen to identify the claims identified in response to Request No. 5, including the labor operations, problem codes, part numbers and any other pertinent parameters used. Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions applicable to the alleged defect in the subject vehicles. State, by make and model year, the terms of the new vehicle warranty coverage offered by Volkswagen on the subject vehicles (i.e., the number of months and mileage for which coverage is provided and the vehicle systems that are covered). Describe any extended warranty coverage option(s) that Volkswagen offered for the subject vehicles and state by option, model, and model year, the number of vehicles that are covered under each such extended warranty.

7. Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles, that Volkswagen has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also include

the latest draft copy of any communication that Volkswagen is planning to issue within the next 120 days.

8. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, Volkswagen. For each such action, provide the following information:
   a. Action title or identifier;
   b. The actual or planned start date;
   c. The actual or expected end date;
   d. Brief summary of the subject and objective of the action;
   e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
   f. A brief summary of the findings and/or conclusions resulting from the action.

   For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

9. Describe all modifications or changes made by, or on behalf of, Volkswagen in the design, material composition, manufacture, quality control, supply, or installation of the subject components, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles. For each such modification or change, provide the following information:
   a. The date or approximate date on which the modification or change was incorporated into vehicle production;
   b. A detailed description of the modification or change;
   c. The reason(s) for the modification or change;
   d. The part numbers (service and engineering) of the original component;
   e. The part number (service and engineering) of the modified component;
   f. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
   g. When the modified component was made available as a service component; and
   h. Whether the modified component can be interchanged with earlier production components.

   Also, provide the above information for any modification or change that Volkswagen is aware of which may be incorporated into vehicle production within the next 120 days.

10. Produce one of each of the following:
    a. Exemplar samples of each design version of the subject components; and
    b. Any kits that have been released, or developed, by Volkswagen for use in service repairs to the subject components/assembly which relate, or may relate, to the alleged defect in the subject vehicles.

11. State the number of each of the following that Volkswagen has sold that may be used in the subject vehicles by component name, part number (both service and engineering/production), model and model year of the vehicle in which it is used and month/year of sale (including the cut-off date for sales, if applicable):
    a. Subject components; and
    b. Any kits that have been released, or developed, by Volkswagen for use in service repairs to the subject components/assembly.

    For each component part number, provide the supplier's name, address, and appropriate point of contact (name, title, and telephone number) Also identify by make, model, engine, and model year, any other vehicles of which Volkswagen is aware that use the same component, whether installed in production or in service, and state the applicable dates of production or service usage.

12. Provide a schematic and description showing all aspects of the design of the subject components that relate to the control/prevention of throttle icing. Provide Volkswagen's assessment of the environmental and operating conditions that can produce throttle icing in the subject vehicles when subject components are functioning properly. Provide Volkswagen's assessment of factors that affect throttle ice prevention functionality as a vehicle accumulates time/miles in service.

13. Furnish Volkswagen's assessment of the alleged defect in the subject vehicle, including:
    a. The causal or contributory factor(s);
    b. The failure mechanism(s);
    c. The failure mode(s);
    d. The risk to motor vehicle safety that it poses;
    e. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring or subject components was malfunctioning; and
    f. The reports included with this inquiry.

This letter is being sent to Volkswagen pursuant to 49 U.S.C. § 30166, which authorizes NHTSA to conduct any investigation that may be necessary to enforce Chapter 301 of Title 49 and to request reports and the production of things. It constitutes a new request for information. Volkswagen's failure to respond promptly and fully to this letter could subject Volkswagen to civil penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief pursuant to 49 U.S.C. § 30163. (Other remedies and sanctions are available as well.) Please note that maximum civil penalties under 49 U.S.C. § 30165 have increased as a result of the recent enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, Public Law No. 106-414 (signed November 1, 2000). Section 5(a) of the TREAD Act, codified at 49 U.S.C. § 30165(b), provides for civil penalties of up to $5,000 per day, with a maximum of $15 million for a related series of violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. This includes failing to respond to ODI information requests.

If Volkswagen cannot respond to any specific request or subpart(s) thereof, please state the reason why it is unable to do so. If on the basis of attorney-client, attorney work product, or other privilege, Volkswagen does not submit one or more requested documents or items of information in response to this information request, Volkswagen must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, the name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

Volkswagen's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by May 7, 2004. Please refer to PE04-023 in Volkswagen's response to this letter. If Volkswagen finds that it is unable to provide all of the information requested within the time allotted, Volkswagen must request an extension from me at (202) 366-5207 no later than five business days before the response due date. If Volkswagen is unable to provide all of the information requested by the original deadline, it must submit a partial response by the original deadline with whatever information Volkswagen then has available, even if an extension has been granted.

If Volkswagen claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, Volkswagen must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 CFR Part 512, as amended (68 Fed. Reg. 44209 et seq; July 28, 2003), to the Office of Chief Counsel (NCC-113), National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590. Volkswagen is required to submit two copies of the documents containing allegedly confidential information (except only one copy of blueprints) and one copy of the documents from which information claimed to be confidential has been deleted.

If you have any technical questions concerning this matter, please call Chris Lash of my staff at (202) 366-2370.

Sincerely,

Jeffery L. Quandt, Chief
Vehicle Control Division
Office of Defects Investigation

Enclosure 1, One CD ROM titled Data Collection Disc containing three files
Enclosure 2, VOQ Reports