



This document is scheduled to be published in the Federal Register on 08/29/2012 and available online at <http://federalregister.gov/a/2012-21266>, and on FDsys.gov

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the Vehicle Theft Prevention Standard; BMW of North America, LLC

AGENCY: National Highway Traffic Safety Administration (NHTSA)

Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the BMW of North America, LLC (BMW) petition for exemption of the Carline 4 vehicle 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 the Theft Prevention Standard (49 CFR Part 541). BMW requested confidential treatment for specific information in its petition that the agency will address by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2014 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., West Building, Room W43-439, Washington, DC 20590. Ms. Ballard's telephone number is (202) 366-5222. Her fax number is (202) 493-2990.

SUPPLEMENTAL INFORMATION: In a petition dated June 4, 2012, BMW requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the Carline 4 vehicle line beginning with MY 2014. The petition requested 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 an entire vehicle line.

Under §543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Carline 4 vehicle line. BMW stated that all Carline 4 vehicles will be equipped with a passive antitheft device as standard equipment beginning with MY 2014. The immobilizer device is automatically activated when the engine is shut off and the vehicle key is removed from the ignition lock cylinder. Key features of the antitheft device will include a key with a transponder, loop antenna (coil), engine control unit (DME/DDE) with encoded start release input, an electronically-coded vehicle immobilizer/car access system (EWS/CAS) control unit and a passive immobilizer. BMW'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.

BMW stated that the EWS immobilizer device prevents the vehicle from being driven away under its own engine power. Its transponder contains a chip which is integrated in the key, powered by a battery and consists of a transmitter/receiver which communicates with the EWS control unit. The EWS control unit provides the interface to the loop antenna (coil), engine control unit and starter. The ignition and fuel supply are only released when a correct coded

release signal has been sent by the EWS control unit to allow the vehicle to start. When the EWS control unit has sent a correct release signal, and after the initial starting value, the release signal becomes a rolling, ever-changing, random code that is stored in the DME/DDE and EWS (CAS control modules). The DME/DDE must identify the release signal and only then will the ignition signal and fuel supply be released. Deactivation of the device cannot be carried out with the mechanical key, but must occur electronically. The vehicle is also equipped with a central-locking system that can be operated to lock and unlock all doors or to unlock only the driver's door, preventing forced entry into the vehicle through the passenger doors. The vehicle can be further secured by locking the doors and hood using either the key lock cylinder on the driver's door or the remote frequency remote control. BMW stated that the frequency for the remote control constantly changes to prevent an unauthorized person from opening the vehicle by intercepting the signals of its remote control. BMW also stated that the proposed antitheft device does not provide any visible or audible indication of unauthorized entry.

BMW compared the effectiveness of its antitheft device with devices which NHTSA has previously determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of Part 541. The antitheft device that BMW intends to install on its Carline 4 vehicle line for MY 2014 is the same device that BMW has installed on its X1, X3 and X5 vehicle lines, as well as its Carline 1, 3, 5, 6, 7, Z4, and MINI vehicle lines. BMW asserts that theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which it proposes to install on the Carline 4 vehicle line. Specifically, BMW stated that for MY/CY 2009, the agency's data show that theft rates for its lines are: 0.3926 (1-series), 0.5216 (3-series), 0.4098 (5-series), 1.6529 (6-series), 0.6617 (7-series), 0.3671 (X3), 0.2750 (Z4/M), and 0.1155 (MINI Cooper). Using an

average of 3 MYs data (2007-2009), theft rates for those lines are: 0.2383, 0.7029, 0.7988, 2.3463, 2.0683, 0.5146, 0.5309 and 0.2386 respectively.

In addressing the specific content requirements of 543.6, BMW provided information on the reliability and durability of its device. To ensure reliability and durability of the device, BMW conducted tests based on its own specified standards and believes that the device is reliable and durable since the device complied with its specified requirements for each test. BMW provided a detailed list of the tests conducted in its June 2012 request for exemption from the parts-marking requirements. Further assuring the reliability and durability of the Carline 4 antitheft device, BMW notes that the mechanical keys for the Carline 4 are unique. A special key blank, a special key cutting machine and the vehicle's unique code are needed to duplicate a key. BMW stated that new keys will only be issued to authorized persons.

Based on the supporting evidence submitted by BMW, the agency believes that the antitheft device for the BMW Carline 4 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 (49 CFR Part 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 supporting 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 BMW has provided adequate

reasons for its belief that the antitheft device for the Carline 4 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 (49 CFR Part 541). This conclusion is based on the information BMW provided about its device.

For the foregoing reasons, the agency hereby grants in full BMW's petition for exemption for the MY 2014 Carline 4 vehicle 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 MY. 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.

If BMW 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 as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if BMW 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 anti-theft device on which the line's exemption is based. Further, §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 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.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: August 21, 2012

Mary L. Versailles
Senior Policy Advisor for International Policy,
Fuel Economy and Consumer Programs

BILLING CODE: 4910-59-P

[FR Doc. 2012-21266 Filed 08/28/2012 at 8:45 am; Publication Date: 08/29/2012]