assembly materials as a composite material.

2. FMVSS No. 302 type tests (cover, plus pad, and foam) simulating cut or torn materials:

a. Cut the cover layer longitudinally,

b. Cut a hole in the cover layer, and

c. Cut through the cover layer and the ''plus pad'' longitudinally.

3. FMVSS No. 302 type tests (plus pad and foam)—with the cover layer completely removed to simulate a worst case scenario.

4. Cut a complete armrest assembly in half along the lateral-vertical plane:

a. Exposed the opposite of the cut end to the flame, and

b. Exposed the cut cross-section to the flame.

All tested results satisfied the FMVSS No. 302 burn rate requirements.

In conclusion, Ford requested NHTSA to grant the inconsequentiality petition since the ''plus pad'' complied with FMVSS No. 302's requirements in every other test except that when tested by itself. Ford's request was based on the facts that the ''plus pad'' represents an insignificant adverse effect on interior material burn rate and the potential for occupant injury due to interior fire and that the noncompliance presents no reasonably anticipated risk to motor vehicle safety.

Interested persons are invited to submit written data, views, and arguments on the application of Ford described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested, but not required, that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 26, 1997.

For further information contact the following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590. For non-legal issues: Dr. William J.J. Liu, Office of Crashworthiness Standards (Telephone: 202–366–4923). For legal issues: Mr. Z. Taylor Vinson, Office of the Chief Counsel (Telephone: 202–366–5263).

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: November 19, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–30904 Filed 11–24–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3052; Notice 1]

Kolcraft Enterprises, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Kolcraft Enterprises of Chicago, Illinois, has determined that approximately 107,000 child restraint systems fail to comply with 49 CFR 571.213, Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child Restraint Systems,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defects and Noncompliance Reports.'' Kolcraft has also petitioned to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

FMVSS No. 213, Paragraph S5.7 requires that each material used in a child restraint system shall conform to the requirements of S4 of FMVSS No. 302, ''Flammability of Interior Materials.'' This requires that any material that does not adhere to other material(s) at every point of contact shall meet the burn rate requirements of S4.3 when tested separately. Materials are to be tested as a composite only if the material adheres to other material(s) at every point of contact.

At issue in this petition are seat covers on certain models of Kolcraft child restraints that do not meet the flammability requirements of FMVSS Nos. 213 and 302. The Kolcraft child restraints affected and the dates of production are as follows: Plus 4, Infant Rider (Models 36822–HY and 13x22–HY; 1/96 to 4/97); Plus 4, Infant Rider (Models 36820–LM and 13822–LM; 2/96 to 4/97); Plus 4, Travel-About, Infant Rider (Models 36820–RF and 138x2–RF; 3/96 to 4/97); Plus 4, Plus 5, Infant Rider, Travel-About (Models 368xx-SE and 13xx2–SE; 2/96 to 12/96); Rock n' Ride (Model 13100–PJ; 1/96 to 5/97; no longer in production); and Performa (Model 23305–TU; 3/96 to 10/96). The seat covers are constructed either of fabric, fiberfill and backing (scrim) or of vinyl, foam, and vinyl backing. In each of the affected models, one or more of the filling, face, or backing materials exceeded the 4 inches per minute burn rate when tested in accordance with S5 of FMVSS No. 302. Kolcraft estimates that about 107,000 child restraints potentially contain the non-compliant materials.

Kolcraft supports its application for inconsequential noncompliance with the following:

Kolcraft tested all potentially affected child restraint seat covers in the composite state and disaggregated state, and confirmed that all seat covers comply with the flammability standards of FMVSS No. 302 when tested in the composite state (as incorporated into FMVSS No. 213). Kolcraft also found that all potentially affected child restraint seat covers passed the cigarette burn test contained in California Technical Bulletin 116 when tested in the composite state.

Kolcraft maintains that the construction of the potentially affected seat covers makes it very unlikely that the various layers of its child restraint seat covers would ever be exposed to fire separately. The layers of fabric are securely bonded or sewn together around the entire perimeter of the seat cover and other areas. Kolcraft contends that it is unlikely that a large section of the fabric would be torn away, and extremely remote that that particular portion would be exposed to a potential ignition source. The most common source of ignition, and the source that FMVSS No. 302 is primarily designed to protect against, is a lighted cigarette. As stated above, all of Kolcraft's child restraints passed the cigarette burn test contained in California Technical Bulletin 116.

Kolcraft also contends that the frequency of incidents involving nonconforming materials or equipment should be a factor in determining whether noncompliance has an impact on safety. Kolcraft notes that, to their knowledge, there has not been one incident of a child injured by a fire that originated in a child restraint in the last 19 years.

Based on the above factors, Kolcraft contends that their child restraint seat pads—by virtue of complying with the flammability requirements of FMVSS No. 302 when tested in the composite state and by passing the cigarette burn test contained in California Technical Bulletin 116—comply with the purpose and intent of FMVSS Nos. 213 and 302, and therefore, their noncompliance is inconsequential as it relates to motor vehicle safety.

Interested persons are invited to submit written data, views, and arguments on the application of Kolcraft described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC

20590. It is requested, but not required, that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 26, 1997.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: November 20, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–30905 Filed 11–24–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; BMW

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

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of BMW of North America, Inc., (BMW) for an exemption of a high-theft line, the Carline 3, from the parts-marking requirements of the vehicle 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.

DATES: The exemption granted by this notice is effective beginning with the 1999 model year (MY).

FOR FURTHER INFORMATION CONTACT: Mr. Sanjay Patel, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Mr. Patel's telephone number is (202) 366–0846. His fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: In a petition dated August 28, 1997, BMW of North America, Inc. (BMW), requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the Carline 3, beginning with MY 1999. The petition has been filed 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.

BMW's submittal is considered a complete petition, as required by 49 CFR Part 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. In its petition, BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. This antitheft device includes an electronic immobilizer system, consisting of a key with a transponder (a transmitter/receiver) that is a microchip that is integrated into the key. This transponder will allow the ignition to operate and fuel supply to be released when a correct signal has been received. BMW states that its electronically-coded vehicle immobilizer (EWS) will prevent the vehicle from being driven away under the power of its own engine by manipulations on the ignition lock and on the doors. The immobilizer device is automatically activated when the engine is shut off and the vehicle key is removed from the ignition lock cylinder. In addition to the key, the antitheft device can be activated by use of its radio frequency remote control. The frequency codes of the remote control are ever-changing which prevents an unauthorized person from opening the vehicle by intercepting the signals.

The vehicle is also equipped with a central-locking system which locks all doors, the hood, the trunk and fuel filler lid. To prevent locking the keys in the car upon exiting, the driver door can only be locked with a key or by the radio frequency remote control after it is closed. This also locks the other doors, and if they are open at the time of locking, the doors are locked when they are closed.

BMW mentioned the uniqueness of its locks and its ignition key. BMW stated that its vehicle's locks are almost impossible to pick, and its ignition key cannot be duplicated on the open market. BMW also stated that a special key blank, key-cutting machine and owner's individual code are needed to cut a new key and that its key blanks, machines and codes will be closely controlled and new keys will only be issued to authorized persons. Additionally, spare keys can only be obtained through the BMW dealer because they are not a copy of lost originals, but new keys with their original electronic identification. Every key request is also documented so that any inquiries by insurance companies and investigative authorities can be followed up on.

The battery for BMW's Carline 3 will be inaccessibly located and covered as an additional security measure. Therefore, even if a thief does manage to penetrate and disconnect the battery, it will not unlock the doors. However, in the event of a crash, an inertia switch will automatically unlock all the doors.

BMW also stated that its antitheft device does not incorporate any audible or visual alarms. However, based on the declining theft rate experience of other vehicles equipped with devices that do not have an audio or visual alarm for which NHTSA has already exempted from the parts-marking requirements, the agency has concluded that the data indicate that lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

BMW compared the device proposed for its new line 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, and has concluded that the antitheft device proposed for this new line is no less effective than those devices in the lines for which NHTSA has already granted exemptions from the parts-marking requirements. The antitheft system that BMW intends to install on its Carline 3 for the MY 1999 is exactly the same system that BMW installed on its Carline 5 for MY 1997. The agency granted BMW's petition for exemption of its Carline 5 in full beginning with the 1997 model year (See 61 FR 6292, February 16, 1996).

In order to ensure reliability and durability of the device, BMW stated that it conducted performance tests under BMW Standard 600 13.0, Parts 1 and 2, e.g., climatic tests, high temperature endurance run, thermoshock test in water, chemical resistance, vibrational load, electrical ranges, mechanical shock tests, and electromagnetic field compatibility.

Additionally, BMW stated that its immobilizer system fulfills the requirements of the European vehicle insurance companies which became standard as of January 1995. The requirements prescribe that the vehicle must be equipped with an electronic vehicle immobilizing device which works independently from the mechanical locking system and prevents the operation of the vehicle through the use of coded intervention in the engine management system. In addition, the device must be self-arming (passive),