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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0118; Notice 1]

BMW of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: BMW of North America, LLC, (BMW) a subsidiary of BMW AG in Munich, Germany, has determined that certain Model year (MY) 2015 BMW model X5 xDrive35i and model X5 xDrive35d multipurpose passenger vehicles (MPV) do not fully comply with paragraph S4.3.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less*. BMW has filed an appropriate report dated October 22, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590.
- **Hand Deliver:** Deliver comments by hand to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590. The Docket
Section is open on weekdays from 10 am to 5 pm except
Federal Holidays.
- **Electronically:** Submit comments electronically by:
logging onto the Federal Docket Management System
(FDMS) website at <http://www.regulations.gov/>. Follow
the online instructions for submitting comments.
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments

are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

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

SUPPLEMENTARY INFORMATION:

I. BMW's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), BMW submitted a

petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

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

II. Vehicles Involved: Affected are approximately 68 MY 2015 BMW model X5 xDrive35i and model X5 xDrive35d MPVs manufactured between October 3, 2014 through October 7, 2014.

III. Noncompliance: BMW explains that the vehicle certification labels required by 49 CFR Part 567, and some of the tire information labels required by FMVSS No. 110, affixed to the subject vehicles show that vehicles were originally equipped with 18-inch tires and rims. The vehicles were actually originally quipped with 19-inch tires and rims. BMW believes that the noncompliance is that the certification label required by 49 CFR part 567, and in some cases the tire information labels required by FMVSS No. 110, do not list rim information for the tires installed on the vehicles as original equipment as required by paragraph S4.3.3 of FMVSS No. 110.

Rule Text: Paragraph S4.3.3 of FMVSS No. 110 requires in pertinent part:

S4.3.3 *Additional labeling information for vehicles other than passenger cars.* Each vehicle shall show the size designation and, if applicable, the type designation of rims (not necessarily those on the vehicle) appropriate for the tire appropriate for use on that vehicle, including the tire installed as original equipment on the vehicle by the vehicle manufacturer, after each GAWR listed on the certification label required by §567.4 or §567.5 of this chapter...

V. Summary of BMW's Analyses: BMW stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

In the case of the subject vehicles with an incorrect Part 567 certification label but a correct FMVSS No. 110 tire information label, BMW states that when a person checks or adjusts the inflation of a tire and uses this (correct) FMVSS No. 110 tire information label, the person will have the correct inflation pressure available from that label. If, however, the person only looks at the certification label, or both the certification and tire information labels, BMW states that the person may then become unsure of what tires have been installed on the vehicle. Should this occur, BMW states that a number of information sources and services are available which can be used to determine the correct tire size and recommended cold inflation pressure. BMW states that these information sources include the tires installed on the vehicle which have the tire size information contained on their sidewalls, the vehicle's

Owner's Manual which contains information pertaining to the various tire sizes and tire pressure for use on the affected vehicles, and BMW's Roadside AssistanceTM program which is available 24 hours/day and provides representatives who have information on all available tire sizes and specifications for a given model and model year of BMW. BMW states its belief that all of the above listed sources would lead the driver to obtaining the correct recommended cold inflation pressure when attempting to inflate the tires mounted on their vehicle.

For the subject vehicles containing both incorrect 49 CFR part 567 certification labels and incorrect FMVSS No. 110 tire information labels BMW states that the driver can use the labeling on the sidewall of the installed tires, the vehicle's owner's manual, and BMW Roadside AssistanceTM to determine the recommended cold inflation pressure for the tires installed on their vehicle.

BMW also maintains that if a driver were to use the cold inflation pressure shown on the incorrect labels for the for 18-inch tires when inflating the 19-inch tires, that pressure would be sufficient to support vehicle loading. Their calculations using the MY 2015 X5 xDrive35i for example show that the determined load rating for two 19-inch tires inflated to the pressure meant for 18-inch tires is 1,572 kg. Because the front gross axle weight rating (GAWR) is 1,279 kg, BMW concludes that

the 19-inch tires would be adequately inflated. BMW also included calculations to demonstrate that the information on the certification labels is correct for the 18-inch tires mounted on the subject vehicles.

BMW states that BMW Customer Relations have not received any contact from vehicle owners regarding this issue and, therefore, are unaware that any vehicle owner has encountered this issue in the field. They state that they are also unaware of any accident or injuries that have occurred as a result of this noncompliance.

BMW has additionally informed NHTSA that it has corrected the subject noncompliance.

In summation, BMW believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt BMW from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or

noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,
Director,
Office of Vehicle Safety Compliance.

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